



Cannabis Seminar Dona Ana County Cannabis Amendment

Thursday, January 6, 2022—10:00am—City Hall Council Chambers

Community Development
Desarrollo Comunitario

DAC County Ordinance No. 324-2021

- On December 14, 2021 the Board of County Commissioners (“BOCC”) amended the Unified Development Code, Chapter 350, of the Code of Doña Ana County (“UDC”) to regulate Cannabis Establishments.
- This amendment repealed and replaced the following sections: Section 350-501 (Zoning Districts); Section 350-502 (Regulations General to all Zones; Section 350-510 (Home Occupation Permits); and Section 350-702 (Glossary).

Cannabis Amendments to the UDC

The major items of the proposed amendment are summarized below:

- Specific definitions related to cannabis and cannabis establishments
- Cannabis related uses added to Table 5.1 Land Use Classification Matrix
- Distance requirements, hours of operation, and best management practices for Cannabis related businesses added to Section 350-502 Regulations General to all Zones under Section 350-502.G Cannabis Establishments
- Prohibiting a cannabis establishment and cannabis consumption area as a Home Occupation Permit, Section 350-510.

UDC Zoning Districts Allowing Cannabis Uses

Amendment No. 324-2021: Zoning Districts Allowing Cannabis Uses

Use	T2	T3	T4	T5	R5	R5L	D1	D1L	D2	D2L	D3	DM	MU	C1	C2	C3	I1	I2	I3
Cannabis Industry	S															P	P	P	P
Cannabis Microbusiness	P	S	S	P	S	S	S	S					S	P	P	P	P		
Cannabis Microbusiness Producer	A	A	A	A	A	A	A	A	A	A	A	A	A	P	P	P	P	P	P
Cannabis Producer	A	A	A	A	A	A	A	A	A	A	A	A	A	P	P	P	P	P	P
Cannabis Research or Testing Laboratory			S	P										P	P	P	P	P	P
Cannabis Retailer	S	S	S	P									S	P	P	P			

P Permitted

S Special Use Permit required

A Permitted if assessed as agriculture for on-farm operations only; an SUP is required if not assessed as agriculture.

Summary:

- All uses 300' from school or daycare, excludes commercial schools and places of higher learning serving those 18 and older
- Cannabis Retailers and Cannabis Consumption Areas 300' from single family residential districts (can apply for SUP to reduce)
- Cannabis Retailers and Cannabis Consumption Areas 300' between each other
- Consumption areas limited to indoors only

See the following link for the Doña Ana County interactive zoning map:

<https://gis.donaanacounty.org/maps/>

§ 350-702 Glossary

As used in this chapter, the following terms shall have the meanings indicated:

CANNABIS

All parts of the plant genus Cannabis containing a delta-9- tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and does not include:

- A. the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination; or
- B. the weight of any other ingredient combined with cannabis products to prepare topical or oral administrations, food, drink or another product.

CANNABIS CONSUMPTION AREA

An area where cannabis products may be served and consumed.

§ 350-702 Glossary

CANNABIS COURIER

A licensed person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

CANNABIS CULTIVATION

Any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis.

CANNABIS ESTABLISHMENT

A cannabis testing laboratory, cannabis manufacturer, cannabis producer, cannabis retailer, cannabis research laboratory, or cannabis microbusiness.

CANNABIS EXTRACT

(1) A product obtained by separating resins, tetrahydrocannabinols or other substances from cannabis by extraction methods approved by the division; and (2) does not include the weight of any other ingredient combined with cannabis extract to prepare topical or oral administrations, food, drink or another product.

CANNABIS INDUSTRY

A licensed person that: (1) cultivates cannabis plants; (2) has unprocessed cannabis products tested by a cannabis testing laboratory; (3) transports unprocessed cannabis products only to other cannabis establishments; (4) sells cannabis products wholesale; (5) manufactures cannabis products; (6) packages cannabis products; (7) has cannabis products tested by a cannabis testing laboratory; (8) purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments; or (9) a cannabis industry facility may include a small-scale accessory retail area.

§ 350-702 Glossary

CANNABIS MANUFACTURE

To compound, blend, extract, infuse, package or otherwise prepare a cannabis product.

CANNABIS MANUFACTURER

A licensed person that: (1) manufactures cannabis products; (2) packages cannabis products; (3) has cannabis products tested by a cannabis testing laboratory; or (4) purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments.

CANNABIS MICROBUSINESS

A licensed person that is authorized to conduct one or more of the following: (1) production of cannabis at a single licensed premises; provided that the person shall not possess more than two hundred total mature cannabis plants at any one time; (2) manufacture of cannabis products at a single licensed premises; (3) sales and transportation of only cannabis products produced or manufactured by that person; (4) operation of only one retail establishment; and (5) couriating of cannabis products to qualified patients, primary caregivers, reciprocal participants or directly to consumers.

CANNABIS MICROBUSINESS PRODUCER

A cannabis producer at a single licensed premises that cultivates and possesses no more than two hundred total mature cannabis plants at any one time.

§ 350-702 Glossary

CANNABIS PRODUCER

A licensed person that: (1) cultivates cannabis plants; (2) has unprocessed cannabis products tested by a cannabis testing laboratory; (3) transports unprocessed cannabis products only to other cannabis establishments; or (4) sells cannabis products wholesale.

CANNABIS RESEARCH LABORATORY

A licensed facility that produces or possesses cannabis products and all parts of the plant genus Cannabis for the purpose of studying cannabis cultivation, characteristics or uses.

CANNABIS RETAILER

A licensed person that sells cannabis products to qualified patients, primary caregivers, reciprocal participants or directly to consumers.

CANNABIS TESTING LABORATORY

A licensed person that samples, collects and tests cannabis products and transports cannabis products for the purpose of testing.

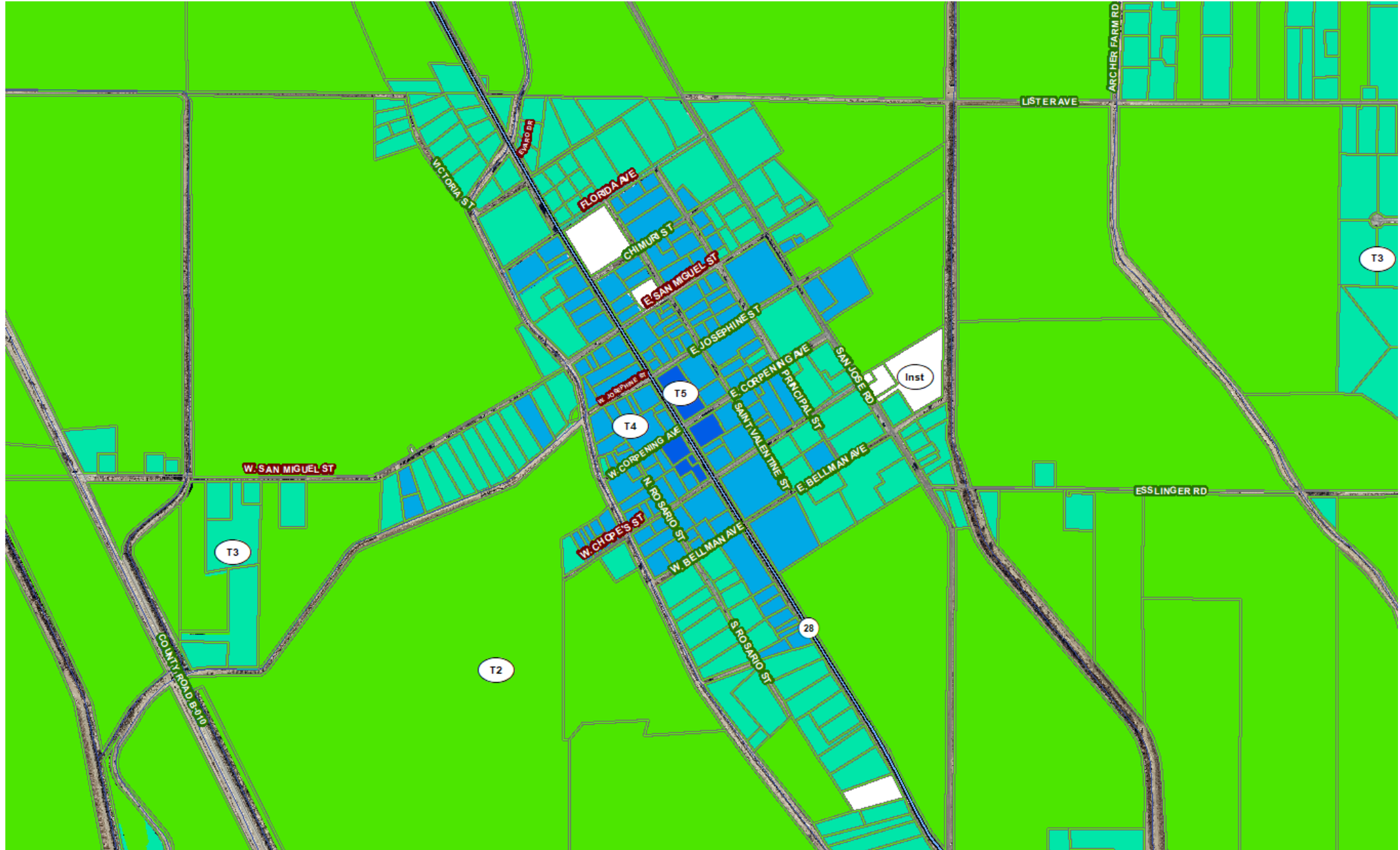
COMMUNITY GARDEN

A piece of land cultivated by a group of people, utilizing either individual or shared plots on private or public land, excludes the cultivation of cannabis.

Table 5.1 Land Use Classification Matrix: Zoning Districts

Districts	Zones					Use Zones														
PRIMARY USE OF PROPERTY	N	T2	T3	T4	T5	R5	R5L	D1	D1L	D2	D2L	D3	DM	MU	C1	C2	C3	I1	I2	I3
Townhouse				P	P							P	P							
Triplex				P	P							P	P							
Community types		P	P	P	P	P		P	P	P	P	P	P	P	P	P	P			
Lodging																				
Bed-and-breakfast		P	S	P	P	S	S	S	S	P	P	P		P						
Hotel and motel				C	P									P		P	P			
Inn				C	P									P	P	P	P			
Recreational vehicle park		S		C										P	S	P	P	P		
Office																				
Laboratory, scientific, agricultural research, office and service		S	S	C	P									P	P	P	P	P	P	P
Office, general				S	C	P								P	P	P	P	P		
Office, small				S	P	P								P	P	P	P	P	P	P
Retail and Service																				
Adult bookstore or adult entertainment																S	S	S	S	S
Cannabis Retailer		S	S	S	P									S	P	P	P			
Commercial laundry				C	P										P	P	P			
Commercial use not elsewhere classified		S	S	C	P									P	P	P	P			
Convenience store					P									P	P	P	P	P		
Display gallery				C	P									P	P	P	P			
Gas station				P	P									S	P	P	P	P	P	P
Kiosk				P	P									P	P	P	P			
Retail facility, large, over 10,000 sq. ft.*				C	S											P	P	P		
Retail facility, medium, 5,000 to 10,000 sq. ft.*		S	S	C	P										P	P	P			
Retail facility, small, under 5,000 sq. ft.*		S	S	C	P									P	P	P	P			

La Mesa Zoning Districts



Rodey Zoning Districts



Table 5.1 Land Use Classification Matrix: Zoning Districts

Table 5.1 Land Use Classification Matrix: Zoning Districts	ZONING DISTRICTS																			
	Transect Zones					Use Zones														
	N	T2	T3	T4	T5	R5	R5L	D1	D1L	D2	D2L	D3	DM	MU	C1	C2	C3	I1	I2	I3
PRIMARY USE OF PROPERTY																				
Agricultural processing facility		A				A	A	A	A								S	P	P	P
Aquaculture		S				S							S				P	P	P	P
Auction yard		S												P	P		P	P	P	P
Cannabis Microbusiness		P	S	S	P	S	S	S	S				S	P	P		P	P		
Cannabis Microbusiness Producer		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	P	P	P	P
Cannabis Producer		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	P	P	P	P
Dairy and related operations																	S	P	P	
Feed lot																	P	P	P	
Farming and ranching		A	A	A	A	A	A	A	A	A	A	A	A	P	P		P	P	P	P
Grain storage		A				A	A	A	A								P	P	P	
Greenhouse and nursery, commercial		S	S	C	P	S	S	S	S				S	P	P		P	P		
Livestock pen		A	A			S	S	A	A								P	P	P	
Poultry raising, commercial		S																P	P	
Poultry slaughtering and processing, commercial																		P	P	
Research and education		P	S			S	S	S	S				S				P	P	P	
Stable, commercial		S	S			S	S	S	S	S	S			S	S	S	S	S	S	S
Stockyard or slaughter house																		P	P	
Swine production																		P	P	
Wine tasting room or winery		S	S	C	P	S	S	S	S				P	P	P		P	P	P	P
Automotive																				
Automobile, SUV repair, sales or service		S	S		P												P	P	P	P
Automobile garages, painting or auto body work		S															P	P	P	P

Table 5.1 Land Use Classification Matrix: Zoning Districts

RV or truck repair, sales or service																			P	P	P	P				
Truck stop																			P	P	P	P				
Civic Support																										
Animal hospital, veterinary clinic, kennel, agricultural office, and training and medical research		P	S	C		S	S	S	S					S	P	P	P	P	P	P						
Cemetery		S		C															P	P	P					
Crematorium																				P	P	P	P			
Funeral home and funeral chapel																				P	P	P				
Health service, public or private		S		C	P			S	S										P	P	P	P				
Hospital																				P	P	P	P	P		
Education																										
Child and adult care, commercially operated		S	S	C	P	S	S	S	S	S	S	P	S	P	P	P	P	P	P	P						
Childcare, home occupation		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
College or university					P															P	P	P				
Elementary school		S	S	C	P	S	S	S	S	S	S	S	S	S												
High school, Jr. high school, middle school		S	S	S	P	S	S	S	S	S	S	S	S	S												
Trade school					P															P	P	P	P	P		
Industrial																										
Borrow pit, batching plant and asphaltic mix plant																						P	P			
Cannabis Industry		S																			P	P	P	P		
Cannabis Research or Testing Laboratory				S	P																P	P	P	P	P	P
Wireless communications facility		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P		

§ 350-502. Regulations General to all Zones

G. Cannabis Establishments. In addition to the applicable authority set forth elsewhere in the UDC and State law, the zoning and other regulations in this section are enacted pursuant to the County's authority in Section 12 of the Cannabis Regulation Act, Laws 2021 (1st S.S.), Chapter 4, and the Dee Johnson Clean Indoor Air Act, NMSA 1978, Chapter 24, Article 16.

(1) Cannabis consumption areas are subject to the following:

(a) A cannabis consumption area, limited to consumption by qualified patients or reciprocal participants, may be located inside any cannabis retailer; provided, that smoking of cannabis products in such consumption areas is only allowed if the cannabis consumption area occupies a separate and distinct area inside the building from which smoke does not infiltrate other indoor workplaces or other public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act, NMSA 1978, Chapter 24, Article 16.

(b) Cannabis consumption areas that are open to consumers are also subject to the following:

[1] Smoking of cannabis products is not allowed outdoors; and

[2] Access to cannabis consumption areas open to consumers is restricted to persons twenty-one years of age and older.

§ 350-502. Regulations General to all Zones

- (2) No cannabis establishment, cannabis consumption area, or cannabis courier may be located within 300 feet of a school (K-12) or daycare center (excludes commercial schools and places of higher learning serving those 18 years and older) in existence at the time a license was sought for the cannabis establishment, cannabis consumption area, or cannabis courier. For purpose of this section, all measurements determining the location of a cannabis establishment, cannabis consumption area, or cannabis courier in relation to schools or daycare centers shall be the shortest direct line measurement between the actual limits of the real property of the school or daycare center and the actual limits of the real property of the proposed cannabis establishment, cannabis consumption area, or cannabis courier.**
- (3) Cannabis retailers and cannabis consumption areas may not be located within 300 feet of another cannabis retailer, cannabis consumption area or residential area. For purpose of this section, all measurements taken in order to determine the location of a cannabis retailer or cannabis consumption area in relation to another cannabis retailer or cannabis consumption area shall be the shortest direct line measurement between the actual limits of the licensed premises of the existing cannabis retailer or cannabis consumption area and the actual limits of the proposed licensed premises of the proposed cannabis retailer or cannabis consumption area. The shortest direct line measurement to a residential area may be reduced by applying for a Special Use Permit to be reviewed in a public hearing by the Planning and Zoning Commission.**

§ 350-502. Regulations General to all Zones

- (4) Unless further restricted in a Special Use Permit, cannabis retailers and cannabis consumption areas may only operate during the following hours:
 - (a) Cannabis products may only be served and consumed in cannabis consumption areas between the hours of 7:00 a.m. and 2:00 a.m. the following day.**
 - (b) Cannabis retailers may only sell cannabis products for off-site consumption between the hours of 7:00 a.m. and midnight.****
- (5) Cannabis producers that cultivate cannabis plants indoors and cannabis manufacturers must use industry standard techniques to minimize odorous matter, toxic or noxious matter, such as activated carbon filtration and regular maintenance of HVAC systems.**
- (6) Cannabis cultivation and production for personal use in quantities and as permitted by the Cannabis Regulation Act and Lynn and Erin Compassionate Use Act is allowed anywhere in the unincorporated areas of the County.**

§ 350-502. Regulations General to all Zones

- (7) If a retail business legally exists in a T4 Zone, a Cannabis Retailer may be permitted without the application of an SUP, providing the County has issued a business registration at the time this Ordinance was adopted and complies with T4 Development Standards of this Chapter.**
- (8) Applicability of Other Laws.**
 - (a) All cannabis uses are subject to all other applicable sections of the UDC, other County ordinances and all applicable building, fire and life safety codes.**
 - (b) Any person engaged in commercial cannabis activities and activities under the medical cannabis program other than personal production and use shall obtain a County business license.**
- (9) The Zoning Administrator, Planning and Zoning Commission or Board of County Commissioners may apply conditions to a Special Use Permit in order to protect the public health, safety and welfare.**

§ 350-510. Home Occupation Permits

- L. The following activities shall be prohibited as home occupations: Cannabis establishments, cannabis consumption areas, adult bookstores/video stores, adult amusement establishments, health and exercise facilities, motor vehicle repair services, tattoo/body piercing parlors, auto or truck repair, motorcycle repair, lawn mower repair, large appliance repair, internal combustion engine repair and similar activities except as permitted in T4 per Table 5.1.**



Questions?