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1        WHEREAS, Comp Plan Policy 5.2.1 says to “Create healthy, sustainable,  
2 and distinct communities with a mix of uses that are conveniently accessible  
3 from surrounding neighborhoods”; and

4        WHEREAS, cannabis retail and nicotine retail involve products with  
5 restrictions of sales to minors and may pose potential harm to surrounding  
6 areas; and

7        WHEREAS, the City Council adopted the Integrated Development  
8 Ordinance (IDO) to implement Comp Plan Goals and Policies; and

9        WHEREAS, the City’s Integrated Development Ordinance (IDO) regulates  
10 cannabis retail and nicotine retail as separate uses with different use-specific  
11 standards; and

12        WHEREAS, the proposed amendments revise regulations and use-specific  
13 standards applicable to cannabis and nicotine retail uses to address proximity  
14 concerns, ensure compatibility with surrounding properties, and further the  
15 goals and policies of the Comprehensive Plan.

16 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
17 ALBUQUERQUE:

18        SECTION 1. IDO Table 4-2-1 is amended as shown in Exhibit 1 to revise the  
19 allowable use for Nicotine Retail in the MX-L zone district.

20        SECTION 2. IDO § 14-16-4-3(D)(36) is amended as shown in Exhibit 1 to  
21 revise the use-specific standards for Cannabis Retail.

22        SECTION 3. IDO § 14-16-4-3(D)(41) is amended as shown in Exhibit 1 to  
23 revise the use-specific standards for Nicotine Retail.

24        SECTION 4. IDO § 14-16-4-3(B)(7) is amended as shown in Exhibit 1 to  
25 prohibit Cannabis Retail and Nicotine Retail as uses allowed in Dwelling, Live-  
26 work.

27        SECTION 5. IDO § 14-16-4-3(F)(5) is amended as shown in Exhibit 1 to  
28 prohibit drive-through or drive-up facilities as accessory to Liquor Retail and  
29 Nicotine Retail.

30        SECTION 6. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
31 clause, word or phrase of this Ordinance is for any reason held to be invalid or  
32 unenforceable by any court of competent jurisdiction, such decision shall not  
33 affect the validity of the remaining provisions of this Ordinance and each

1 section, paragraph, sentence, clause, word, or phrase thereof irrespective of  
2 any provision being declared unconstitutional or otherwise invalid.

3 SECTION 7. COMPILATION. Sections 1 through 5 of this Ordinance shall be  
4 incorporated in and made part of the Revised Ordinances of Albuquerque,  
5 New Mexico, 1994.

6 SECTION 8. EFFECTIVE DATE AND PUBLICATION. This Ordinance shall  
7 take effect one month after publication by title and general summary.

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# Exhibit 1: Amendments to the Integrated Development Ordinance

Table 4-2-1: Allowable Uses

Table 4-2-1: Allowable Uses																		
P = Permissive Primary C = Conditional Primary A = Permissive Accessory CA = Conditional Accessory CV = Conditional if Structure Vacant for 5+ years T = Temporary CT = Conditional Temporary Blank Cell = Not Allowed																		
Zone District >>	Residential					Mixed-use				Non-residential						Use-specific Standards		
	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU		NR-PO	
Land Uses															A	B	C	
<b>PRIMARY USES THAT MAY BE ACCESSORY IN SOME ZONE DISTRICTS</b>																		
<b>Retail Sales</b>																		
Cannabis retail							P	P	P	P	P	A	A					4-3(D)(36)
Nicotine retail							CA	[CA A]	C	C	C	C	C					4-3(D)(41)

### 4-3(D)(36) Cannabis Retail

- 4-3(D)(36)(a) Cannabis retail is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities. For the purposes of the IDO, all measurements for this use shall be from the lot(s) that include the cannabis retail establishment to be licensed by the State as a “licensed premises” as defined by Sections 26-2C-1 to 26-2C-42 NMSA 1978.
- 4-3(D)(36)(b) Establishments with a valid license from the State under the medical cannabis program as of April 1, 2022 pursuant to Sections 26-2B-1 to 26-2B-10 NMSA 1978 (the Lynn and Erin Compassionate Use Act) are entitled to continued and uninterrupted operations and are allowed permissively as a cannabis retail use after issuance of a license(s) from the State under Sections 26-2C-1 to 26-2C-42 NMSA 1978. These establishments are not subject to the distance separation requirements in Subsection (c) or (d) below or the prohibition in Subsection (h) below.
- 4-3(D)(36)(c) This use is prohibited within 1,320 ~~660~~ feet [in any direction] of another cannabis retail location.
- 4-3(D)(36)(d) [This use is prohibited within 660 feet in any direction of a lot containing a primary nicotine retail use.]
- 4-3(D)(36)(e) This use is prohibited within 330 ~~300~~ feet [in any direction] of [a lot containing a] ~~any~~ school or child day care facility.
- 4-3(D)(36)(f) This use shall not include a storage or display area outside of fully enclosed portions of a building.
- 4-3(D)(35)(g) Cannabis products or cannabis paraphernalia shall not be displayed within 5 feet of a window or door.
- 4-3(D)(36)(h) A locked vault or safe or other secured storage structure shall be installed in the building, bolted to the floor or walls, to store cash and cannabis products overnight.

- 4-3(D)(36)(i) A drive-through or drive-up facility is prohibited as accessory to cannabis retail, pursuant to IDO § 14-16-0.
- 4-3(D)(36)(j) All of the following provisions are required for licensed on-site cannabis consumption.
1. Notwithstanding other provisions in this § 14-16-4-3(D)(35), this use requires a Conditional Use Approval pursuant to § 14-16-6-6(A) when proposed to include licensed on-site cannabis consumption, which is licensed separately by the State under Sections 26-2C-1 to 26-2C-42 NMSA 1978.
  2. If the cannabis retail establishment is licensed by the State for on-site cannabis consumption, and smoking or vaporizing is proposed to occur on-site, a cannabis odor control plan approved by the City is required pursuant to § 14-16-6-5(G) (Site Plan – Administrative) or § 14-16-~~Error! Reference source not found.~~ (Site Plan – EPC), as applicable.
  3. Licensed on-site cannabis consumption areas that allow smoking or vaporizing shall be conducted within fully enclosed portions of a building.
- 4-3(D)(35)(k) This use is prohibited in the ~~Error! Reference source not found.~~

#### **4-3(D)(41) Nicotine Retail**

- 4-3(D)(41)(a) Nicotine sales are allowed provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities.
- 4-3(D)(41)(b) If allowed as a conditional primary use in **Table 4-2-1** (~~i.e., specified as “C” in the table~~), this use is considered a primary use for the purposes of this IDO, regardless of the use, area, or purpose of any other primary uses on the same premises and shall meet all of the following requirements, except where it is allowed as a permissive accessory use pursuant to IDO Subsection (c) below.
1. This use is prohibited within ~~[1,320] 1,000~~ feet in any direction of a lot containing any other primary nicotine retail use.
  2. ~~[This use is prohibited within 660 feet in any direction of a lot containing a cannabis retail use.]~~
  3. ~~[This use is prohibited within 330 feet in any direction of a lot containing a school or child day care facility.]~~
  4. If this use is within 500 feet in any direction of any Residential zone district or lot containing a residential use in any Mixed-use zone district, customer visits and deliveries are prohibited between 10:00 P.M. and 7:00 A.M.
- 4-3(D)(41)(c) ~~[Nicotine products or nicotine paraphernalia shall not be displayed within 5 feet of a window or door.]~~
- 4-3(D)(41)(d) ~~[A drive-through or drive-up facility is prohibited as accessory to nicotine retail, pursuant to IDO § 14-16-4-3(F)(5).]~~
- 4-3(D)(41)(e) ~~[As a primary use, nicotine retail is prohibited in Main Street (MS) areas.]~~
- 4-3(D)(41)(f) In the MX-M, MX-H, and NR-C zone districts, this use does not require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) if accessory to general retail or a grocery store, in which case it is allowed as a permissive accessory use.
- 4-3(D)(41)(g) If allowed as ~~[a conditional] an~~ accessory use in **Table 4-2-1** (~~i.e., specified as either “A” or “CA” in the table~~), this use is prohibited unless accessory to and part of the same establishment as a general retail or grocery store use, in which case this use is limited to no more than 50 percent of the gross floor area.

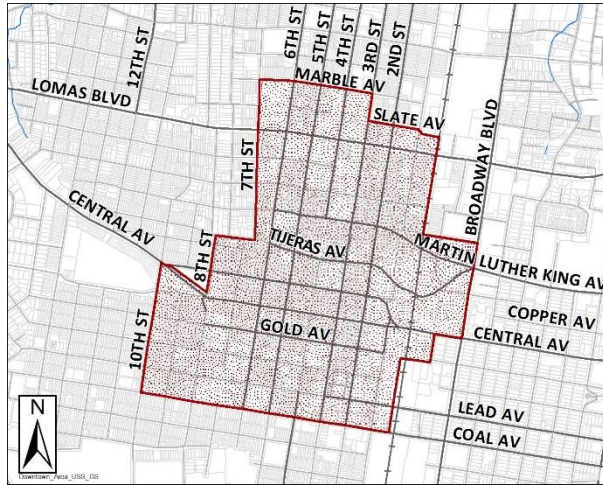
4-3(D)(41)(h) In the MX-T and MX-L zone districts, this use is limited to 10,000 square feet of gross floor area.

#### **4-3(B)(7) Dwelling, Live-work**

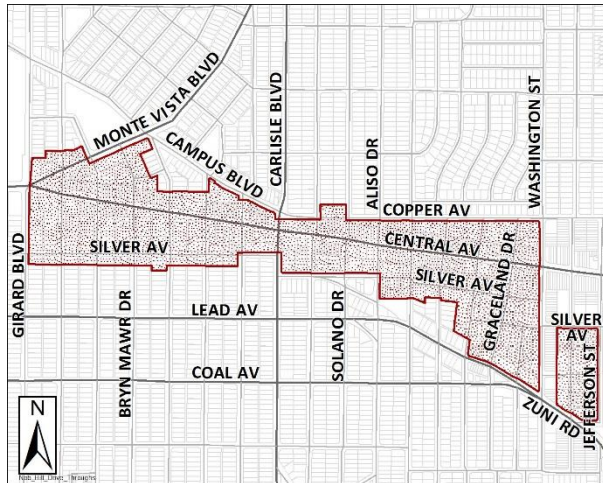
- 4-3(B)(7)(a) The business operator must obtain and maintain in effect at all times any City or State permit or license required for the operation of this use, including a business registration permit from the City.
- 4-3(B)(7)(b) The building and lot may be used for both a residence and a business that does not qualify as a home occupation being conducted by a resident of the building.
- 4-3(B)(7)(c) The building and lot shall not be used for any of the following uses identified in Table 4-2-1:
1. Any use in the Agricultural or Animal-related category.
  2. Any use in the Food, Beverage, and Indoor Entertainment category.
  3. Any use in the Motor Vehicle-related category.
  4. Any use in the Industrial Uses category except artisan manufacturing or outdoor storage.
  5. Commercial services.
  6. Construction contractor facility and yard.
  7. Crematorium.
  8. Mortuary.
  9. Adult retail.
  10. [Cannabis retail.](#)
  11. Liquor retail.
  12. [Nicotine retail.](#)
- 4-3(B)(7)(d) A wall sign is allowed that is no more than 8 square feet in size or as allowed by the underlying zoning, whichever is lesser, and that is located no higher than the top of the ground floor of the building.

#### **4-3(F)(5) Drive-through or Drive-up Facility**

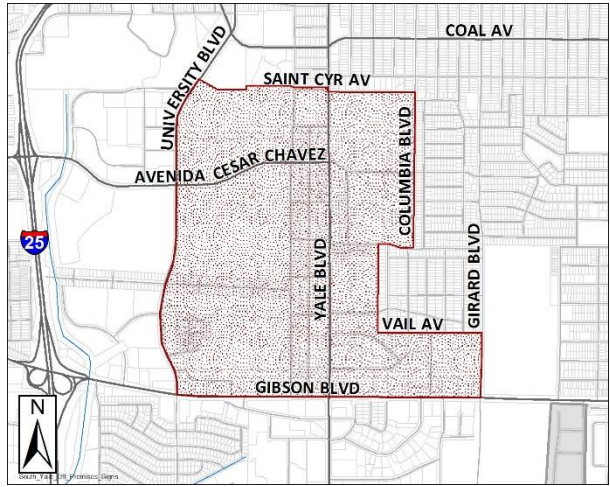
- 4-3(F)(5)(a) Each stacking lane is limited to a maximum order board area of 50 square feet. The face of the order boards shall be oriented away from public streets to the maximum extent practicable. If not practicable, at least 2 evergreen trees shall be planted in the landscape buffer area required by Subsection 14-16-5-5(I)(2)(a) in locations that would best screen the order board from the public right-of-way.
- 4-3(F)(5)(b) This use shall comply with the provisions of Section 14-16-5-5 (Parking and Loading) and Section 14-16-5-9 (Neighborhood Edges).
- 4-3(F)(5)(c) This use is prohibited accessory to cannabis retail.
- 4-3(F)(5)(d) [\[This use is prohibited accessory to liquor retail.\]](#)
- 4-3(F)(5)(e) [\[This use is prohibited accessory to nicotine retail.\]](#)
- 4-3(F)(5)(f) Within 330 feet of Major Public Open Space, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).
- 4-3(F)(5)(g) Notwithstanding Subsection (d) above, this use is prohibited adjacent to Major Public Open Space.
- 4-3(F)(5)(h) This use is prohibited in the following small areas as noted.
1. Downtown Small Area  
This use is prohibited in the following mapped small area.



2. Downtown Neighborhood Area – CPO-3
  - a. This use is prohibited in the MX-L zone district unless accessory to a use other than a restaurant or any use in the Retail Sales category.
  - b. This use is prohibited in the MX-M zone district.
3. East Downtown – CPO-4  
This use is prohibited in the East Downtown – CPO-4.
4. East Downtown – HPO-1  
This use is prohibited in the East Downtown – HPO-1.
5. Nob Hill Small Area  
This use is prohibited in the following mapped small areas.

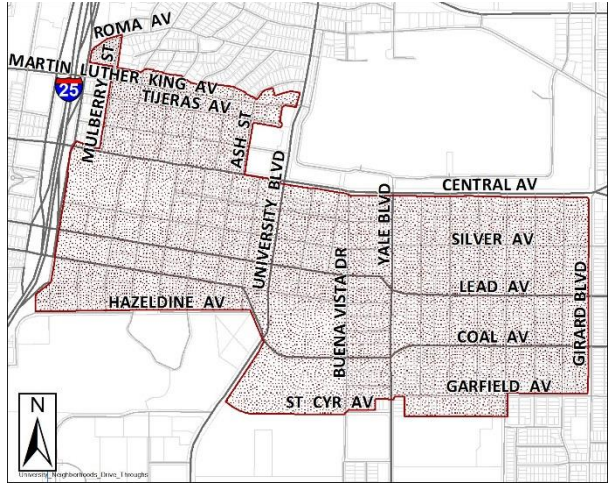


6. Sawmill/Wells Park – CPO-12  
This use is prohibited in the MX-L and NR-LM zone districts in the Sawmill/Wells Park – CPO-12.
7. South Yale Small Area  
This use is prohibited in the MX-L and MX-M zone districts in the following mapped small area.



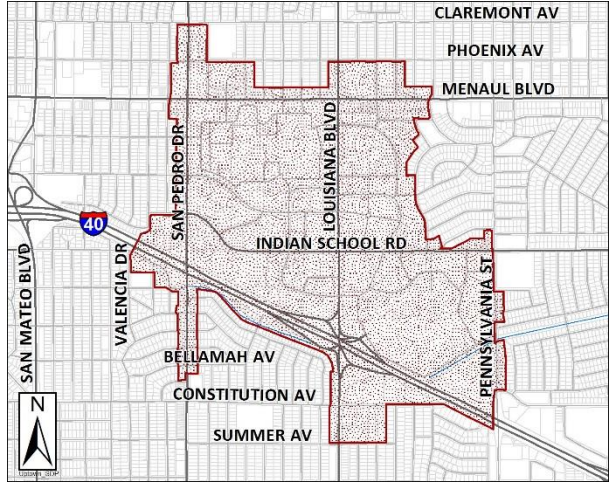
8. University Neighborhoods Small Area

This use is prohibited in any Mixed-use zone district in the following mapped small area.



9. Uptown Small Area

Within 330 feet of Louisiana Boulevard right-of-way between I-40 and Indian School Road, this use is conditional if accessory to a restaurant; otherwise, this use is prohibited if accessory to a restaurant in the following mapped small area (which includes all of the Uptown Urban Center as mapped in the ABC Comp Plan, as amended).



10. Volcano Mesa – CPO-13

This use is prohibited, unless accessory to a use other than restaurant, in the 3 areas mapped below.

