

ATTACHMENT 4
Planning Commission Staff Report
re Regulation of Marijuana Land Uses
September 13, 2017



CITY OF POMONA

PLANNING COMMISSION REPORT

DATE: September 13, 2017

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department - Planning Division

SUBJECT: CODE AMENDMENT (CODE 8233-2017) and SPECIFIC PLAN AMENDMENT (SPA 8235-2017) TO EXPLICITLY PROHIBIT COMMERCIAL MARIJUANA ACTIVITY CITYWIDE

A City-initiated request to amend Section .062 ("Definitions"), Section .222 ("Open Space District"), Section 229.6 ("R-1-20,000 Single-family Residential District"), Section .232 ("R-1-10,000 Single-family Residential District"), Section .242 ("R-1-7,500 Single-family Residential District"), Section .252 ("R-1-7,200 Single-family Residential District"), Section .262 ("R-1-6,000 Single-family Residential District"), Section .272 ("R-1-E Single-family Residential Overlay District"), Section .322 ("A-P Administrative and Professional Office District"), Section .342 ("C-1 Neighborhood Stores and Services Commercial District"), Section .352 ("Neighborhood Shopping Center Commercial District"), Section .362 ("C-3 General Commercial District"), Section .367 ("C-C Community Shopping Center Commercial District"), Section .372 ("C-4 Highway Commercial District"), Section .392 ("C-IND Commercial and Industrial District"), Section .398 ("M Special Industrial District"), Section .412 ("M-1 Light Industrial District"), Section .422 ("M-2 General Industrial District"), Section .437.5 ("F" Fairgrounds District), Section .452 ("Civic" Supplemental Use District), Section .482.5 ("R-HMD Residential-Manufactured Housing Development District"), and to amend the Phillips Ranch Specific Plan, Mountain Meadows Specific Plan, Downtown Pomona Specific Plan, Mission-71 Business Park Specific Plan, Kellogg Plaza Specific Plan, Pomona Corridors Specific Plan, and the Pomona Valley Hospital Medical Center (PVHMA) Specific Plan to explicitly prohibit commercial marijuana activity citywide.

STAFF RECOMMENDATION

The Planning Division recommends that the Planning Commission adopt the attached Resolution recommending to the City Council the following:

1. Approval of Code Amendment (CA 8233-2017) to amend Section .062 ("Definitions"), Section .222 ("Open Space District"), Section 229.6 ("R-1-20,000 Single-family

Residential District), Section .232 ("R-1-10,000 Single-family Residential District"), Section .242 ("R-1-7,500 Single-family Residential District"), Section .252 ("R-1-7,200 Single-family Residential District"), Section .262 ("R-1-6,000 Single-family Residential District"), Section .272 ("R-1-E Single-family Residential Overlay District"), Section .322 ("A-P Administrative and Professional Office District"), Section .342 ("C-1 Neighborhood Stores and Services Commercial District"), Section .352 ("Neighborhood Shopping Center Commercial District"), Section .362 ("C-3 General Commercial District"), Section .367 ("C-C Community Shopping Center Commercial District"), Section .372 ("C-4 Highway Commercial District"), Section .392 ("C-IND Commercial and Industrial District"), Section .398 ("M Special Industrial District"), Section .412 ("M-1 Light Industrial District"), Section .422 ("M-2 General Industrial District"), Section .437.5 ("F" Fairgrounds District), Section .452 ("Civic" Supplemental Use District), Section .482.5 ("R-HMD Residential-Manufactured Housing Development District").

2. Approval of Specific Plan Amendment (SPA 8235-2017) to amend the Phillips Ranch Specific Plan, Mountain Meadows Specific Plan, Downtown Pomona Specific Plan, Mission-71 Business Park Specific Plan, Kellogg Plaza Specific Plan, Pomona Corridors Specific Plan, and the Pomona Valley Hospital Medical Center (PVHMA) Specific Plan to explicitly prohibit commercial marijuana activity in the aforementioned Specific Plan areas, in order to explicitly prohibit commercial marijuana activities Citywide.

PROJECT/APPLICANT INFORMATION

Project Location:	Citywide
APN Information:	Not applicable
Project Applicant:	City of Pomona, Development Services Department, Planning Division
Property Owner:	Not applicable
City Council Districts:	Citywide

BACKGROUND

On November 8, 2016, California voters passed Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA"). Effective November 9, 2016, AUMA legalizes the nonmedical use (hereinafter, also "recreational use") of marijuana by persons 21 years of age and over, and the personal cultivation of up to six marijuana plants per residence. Generally, AUMA creates a state regulatory licensing system, which becomes effective January 1, 2018, governing the commercial cultivation, testing, and distribution of nonmedical marijuana, and the manufacturing of nonmedical marijuana products.

Since 2008, Pomona has prohibited medical marijuana dispensaries. Since that time, more than

30 dispensaries have been shut down in Pomona. Presently, the City is in the early stages of filing suit against another at the time of this report and will continue to take legal action as necessary to shut down dispensaries as they open.

With the passing of Proposition 64 and the forthcoming recreational use of marijuana becoming legal, many cities are being approached by marijuana businesses of all types and are being requested to permit uses throughout cities. The proposed uses include sales outlet, growing facilities, testing laboratories, and processing facilities. The commercial uses advocate for their businesses by way of promising large amounts of tax revenue that cities could be participating in.

Because the state has yet to complete its regulating licensing system for recreational marijuana and because cities have not yet been able to research what the true negative and positive impacts of allowing commercial marijuana uses, staff has recommended to the City Council that steps be taken to ban all marijuana facilities, including medical and recreational. In the future, should the City desire to allow marijuana businesses, the ban could be strategically lifted. However, should the City not ban the uses initially and some were allowed to legally open, if the City were to experience negative effects from the uses, it would be very difficult to impossible to shutter those businesses that had legally established.

Local Authority, and Limits, to Regulate Recreational Marijuana Per AUMA

Under AUMA, the City has certain regulatory and prohibition authority and there are certain aspects that cannot be regulated. The City can adopt ordinances regulating non-medical/recreational marijuana business activities, or to completely prohibit them.¹ For example, under the state's regulatory system, the state will issue marijuana businesses licenses. However, under AUMA, state licenses cannot be issued to an applicant whose operations would violate the provisions of any local ordinance or regulation.²

As a result, the City's regulatory scheme may consider zoning and land use implications establishing where non-medical/recreational marijuana business activities may be prohibited, allowed, permitted, and/or conditionally permitted.

Based on the feedback at a City Council Study Session in May, the office of the City Attorney researched what the cities of Claremont and El Monte are currently doing to address changes in the law since Prop 64.

- El Monte: In July 2016, the city enacted a moratorium prohibiting commercial cannabis activities; bans on medical marijuana distribution and cultivation similar to the City of Pomona were already in place, but were amended to reinforce such bans in August 2016. The moratorium on all was also extended 22 months to July 2018. Such moratorium bans outdoor personal non-medical cannabis cultivation, and established a permitting scheme, associated regulations, and a permit fee.

¹ Business and Professions Code § 26200 (a).

² Business and Professions Code § 26055 (e).

- Claremont: The city of Claremont prohibits the establishment and operation of any commercial marijuana activity, regardless of it being medical or nonmedical. The city also regulates marijuana for personal use and outdoor and indoor cultivation by prohibiting the same "to the extent it is unlawful under California and Federal Law." These regulations have been in place since October 2016, immediately prior to Prop 64 being enacted.

As for the position of the Pomona Police Department, Chief Capraro and the Pomona Police Department believes continued local regulation is the best approach to address this issue at this time. When medical marijuana dispensaries were a new occurrence in Pomona, the Chief—as well as councilmembers at that time—received numerous calls and complaints from residents near unlawful medical marijuana dispensaries. The Police Department's observations as to the negative impacts associated with medical marijuana dispensaries were supported by neighbors sending photos of refuse, paraphernalia and contraceptives near dispensaries. Crime nearby these facilities also increased whenever one would be established. Universally, when a dispensary was closed by the City the complaints of crime and associated negative effects were replaced with the residents nearby unlawful dispensaries expressing their thanks for addressing the negative effects on their neighborhoods. Based on successes in enforcing zoning codes on the books at the time, adopting new prohibitions, and addressing the issue as the case law changed, the Pomona Police Department and the Office of the City Attorney have closed over thirty marijuana facilities since 2007.

PROPOSED ORDINANCES

The attached resolution would add definitions to the Pomona Zoning Ordinance to define the various commercial and recreational marijuana uses. The proposed ordinances would also place bans on all commercial marijuana businesses in all zoning districts and specific plan areas in the City. The ordinances closely mirror the previously-enacted legislation that placed bans on medical marijuana dispensaries throughout the City. The ordinances would not make changes to the personal medical or recreational use of marijuana in the City.

CONCLUSION

At this point in time, the City of Pomona has not lost its local regulatory authority to enact regulations concerning nonmedical/recreational marijuana, despite the use of nonmedical/recreational marijuana by adults 21 or older now being legal in California. The City may continue to enact ordinances and policies, consistent with state law, to further the City's interest in protecting and furthering public safety, health and economic considerations, while balancing a person's right to use nonmedical/recreational marijuana, under AUMA.

RECOMMENDATION


The Planning Division recommends that the Planning Commission adopt the attached Resolution recommending to the City Council the following:

1. Approval of Code Amendment (CA 8233-2017) to amend Section .062 ("Definitions"), Section .222 ("Open Space District"), Section 229.6 ("R-1-20,000 Single-family Residential District"), Section .232 ("R-1-10,000 Single-family Residential District"), Section .242 ("R-1-7,500 Single-family Residential District"), Section .252 ("R-1-7,200 Single-family Residential District"), Section .262 ("R-1-6,000 Single-family Residential District"), Section .272 ("R-1-E Single-family Residential Overlay District"), Section .322 ("A-P Administrative and Professional Office District"), Section .342 ("C-1 Neighborhood Stores and Services Commercial District"), Section .352 ("Neighborhood Shopping Center Commercial District"), Section .362 ("C-3 General Commercial District"), Section .367 ("C-C Community Shopping Center Commercial District"), Section .372 ("C-4 Highway Commercial District"), Section .392 ("C-IND Commercial and Industrial District"), Section .398 ("M Special Industrial District"), Section .412 ("M-1 Light Industrial District"), Section .422 ("M-2 General Industrial District"), Section .437.5 ("F" Fairgrounds District), Section .452 ("Civic" Supplemental Use District), Section .482.5 ("R-HMD Residential-Manufactured Housing Development
2. Approval of Specific Plan Amendment (SPA 8235-2017) to amend the Phillips Ranch Specific Plan, Mountain Meadows Specific Plan, Downtown Pomona Specific Plan, Mission-71 Business Park Specific Plan, Kellogg Plaza Specific Plan, Pomona Corridors Specific Plan, and the Pomona Valley Hospital Medical Center (PVHMA) Specific Plan to explicitly prohibit commercial marijuana activity in the aforementioned Specific Plan areas, in order to explicitly prohibit commercial marijuana activities Citywide.

Respectfully Submitted:

Prepared By:

Mark Lazzaretto
Development Services Director



Catherine Lin, AICP
Senior Planner

PC ATTACHMENTS:

1. Proposed Code Amendments

2. Proposed Specific Plan Amendments
3. Draft Planning Commission Resolution approving Code Amendment 8233-2017 and Specific Plan Amendment 8235-201

RESOLUTION NO. 17-XX

AN RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA ADOPTING CODE AMENDMENT (CODE 8233-2017) AMENDING THE ZONING ORDINANCE AND SPECIFIC PLAN AMENDMENTS (SPA 8235-2017), AMENDING THE PHILLIPS RANCH SPECIFIC PLAN, DOWNTOWN POMONA SPECIFIC PLAN, MOUNTAIN MEADOWS SPECIFIC PLAN, MISSION-71 BUSINESS PARK SPECIFIC PLAN, KELLOGG PLAZA SPECIFIC PLAN, POMONA CORRIDORS SPECIFIC PLAN, AND THE POMONA VALLEY HOSPITAL MEDICAL CENTER (PVHMC) SPECIFIC PLAN TO EXPLICITLY PROHIBIT COMMERCIAL MARIJUANA ACTIVITY CITYWIDE

WHEREAS, the City of Pomona ("City") is a Charter City, incorporated under the laws of the State of California, and has the power to make and enforce within its jurisdictional limits all local, police, sanitary, and other ordinances and regulations;

WHEREAS the City of Pomona has duly initiated Code Amendment (CA XX-XXX) pertaining to the Pomona Zoning Ordinance and Specific Plan Amendments (SPA XX-XXX) pertaining to the Phillips Ranch Specific Plan, Downtown Pomona Specific Plan, Mountain Meadows Specific Plan, Mission-71 Business Park Specific Plan, Kellogg Plaza Specific Plan, Pomona Corridors Specific Plan, and the Pomona Valley Hospital Medical Center (PVHMC) Specific Plan;

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code Section 11362.5 and entitled "The Compassionate Use Act of 1996" or "CUA");

WHEREAS, the intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances. The proposition further provides that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes";

WHEREAS, in 2004 the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code section 11362.7 *et seq.* and referred to as to the "Medical Marijuana Program" or "MMP") to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified state criminal statutes;

WHEREAS, on April 3, 2006, City Council adopted interim Urgency Ordinance No. 4058 to establish a forty-five (45) day citywide moratorium on the establishment and operation of medical marijuana dispensaries;

WHEREAS, on May 15, 2006 the City Council adopted Interim Ordinance 4060 to extend the moratorium for an additional ten (10) months and fifteen (15) days;

WHEREAS, the September 2006 "White Paper" entitled "Medical Marijuana: History and Current Complications" produced by the Riverside County District Attorney's Office and various other reports and articles indicate that such dispensaries compromise the health and welfare of citizens;

WHEREAS, on March 5, 2007 the City Council adopted Interim Ordinance No. 4080 to extend the moratorium for an additional year;

WHEREAS, on November 14, 2007, the City's Planning Commission voted to adopt Planning Commission Resolution 07-086 recommending City Council approval of Code Amendment (06-001) and Specific Plan Amendments (SPA 07-004, SPA 07-005, SPA 07-006, SPA 07-007, and SPA 07-008) to prohibit the establishment and operation of medical marijuana dispensaries citywide;

WHEREAS, on December 17, 2007, City Council considered Code Amendment (06-001) and Specific Plan Amendments (SPA 07-004, SPA 07-005, SPA 07-006, SPA 07-007, and SPA 07-008) and voted to approve the introduction for the first reading of Ordinance No. 4096 to prohibit the establishment and operation of medical marijuana dispensaries citywide;

WHEREAS, on February 4, 2008, City Council passed and adopted Ordinance No. 4096 to prohibit the establishment and operation of medical marijuana dispensaries citywide;

WHEREAS, Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly recognize the authority of counties and cities to "[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective" and to civilly and criminally enforce such ordinances;

WHEREAS, in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court held that "[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land" Further, in *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, the Court of Appeal held that "there is no right – and certainly no constitutional right – to cultivate medical marijuana" The Court in *Maral* affirmed the ability of a local government entity to prohibit the cultivation of marijuana under its land use authority;

WHEREAS, on October 9, 2015 Governor Jerry Brown signed three bills into law (AB 266, AB 243, and SB 643), collectively currently known as the Medical Cannabis Regulation

and Safety Act ("MCRSA", formerly "MMRSA"). MCRSA establishes a state-licensing scheme for commercial medical marijuana uses, while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a state license. MCRSA allows the City to completely prohibit commercial medical marijuana activities;

WHEREAS, Business and Professions Code section 19340(a) provides that deliveries of marijuana can only be made in a city that does not explicitly prohibit it by local ordinance;

WHEREAS, on February 22, 2016 City Council adopted Ordinance No. 4217, amending Chapter 34 of the Pomona City Code to add Article IX relating to the prohibition of marijuana deliveries citywide;

WHEREAS, on November 8, 2016, California voters approved Proposition 64, titled the "Adult Use of Marijuana Act" (the "AUMA"), which became effective immediately, and enacted a state statutory scheme legalizing, controlling, and regulating the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical (i.e., recreational) marijuana, including marijuana products, for use by adults twenty-one (21) years of age and older;

WHEREAS, the AUMA sets an implementation date for commercial operations of January 1, 2018;

WHEREAS, pursuant to Business & Professions Code section 26200(a), the AUMA allows cities to ban all or part of the uses allowed under its provisions:

Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction. (*Emphasis added*);

WHEREAS, currently pursuant to the Pomona City Code and the Pomona Zoning Ordinance, as discussed hereinabove, the City of Pomona explicitly prohibits medical marijuana dispensaries and marijuana cultivation, as well as marijuana deliveries citywide;

WHEREAS, the Federal Controlled Substance Act, 21 U.S.C § 801 et seq., continues to classify marijuana as a Schedule 1 drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United

States, and that has not been accepted as safe for use under medical supervision. Currently, the Federal Controlled Substances Act contains no exemption for medical purposes;

WHEREAS, pursuant to Section .202 of the Pomona Zoning Ordinance, if a use of land is not specifically listed in the sections devoted to “uses permitted,” it shall be assumed that such uses are expressly prohibited unless a determination of similarity is approved pursuant to Section .501-A of the Pomona Zoning Ordinance. Commercial businesses, land uses, and activities related to marijuana, whether the marijuana is for medical or recreational purposes, are not specifically listed in sections devoted to land uses permitted under any zoning district or specific plan, and therefore have been prohibited in the City of Pomona;

WHEREAS, while the Planning Commission believes that all commercial marijuana land uses and activities are prohibited pursuant to Section .202 of the Pomona Zoning Ordinance, with the impending issuance of state licenses pursuant to the AUMA for the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical (i.e., recreational) marijuana, including marijuana products, for use by adults twenty-one (21) years of age and older, the Planning Commission recommends to the City Council to enact this Ordinance to expressly make clear that all such commercial marijuana activity is prohibited in all zoning districts and specific plans citywide and so that no state licenses for said commercial marijuana activity are issued for proposed operations or establishments in the City’s jurisdiction;

WHEREAS, “permitted uses” are specifically designated in Zoning Ordinance Sections .275 pertaining to the “PD” Planned Development Overlay District, .280.B pertaining to the “R-2” Low Density Multiple Family District, .290.B pertaining to the “R-3” Medium Density Multiple Family District, .300.B pertaining to the “R-4” High Density Multiple Family District, and .316.C pertaining to the “PRD” Planned Residential Development District; therefore, this Ordinance makes no amendments to said sections in order to maintain said explicitly enumerated permitted uses with the intent to explicitly prohibit commercial marijuana activity therein;

WHEREAS, the Planning Commission has determined that allowing commercial medicinal and recreational land uses and activities to locate in the City of Pomona would not be in the best interests of the health, safety and general welfare of the community. Citywide prohibition is proper and necessary to avoid the risks of criminal activity, degradation of natural environment;

WHEREAS, the AUMA added, among other provisions, subdivision (a)(3) to Section 11362.1 of the Health and Safety Code (which all subsequent statutory references being to such Code) making it legal under state and local law for persons twenty-one (21) years and older to possess, plant, cultivate, harvest, dry, or process not more than six (6) living marijuana plants, and possess the marijuana produced by the plants, upon the grounds of a private residence

(hereinafter "Personal Cultivation Activities"), provided such Personal Cultivation Activities comply with various requirements set forth in Section 11362.2;

WHEREAS, notwithstanding the foregoing, in subdivision (b) of Section 11362.2 the AUMA allows cities to completely prohibit persons from engaging in outdoor Personal Cultivation Activities, and while cities may not completely prohibit indoor Personal Cultivation Activities, cities may enact and enforce reasonable regulations on indoor Personal Cultivation Activities;

WHEREAS, the Planning Commission has duly considered the proposed changes to the Zoning Ordinance and Specific Plans, and the impact of the changes on the general welfare of the City and the consistency of the changes with the General Plan; and

WHEREAS, the Planning Commission for the City of Pomona finds and declares that this ordinance constitutes a valid exercise of police power in accordance with the City's Charter, is consistent with the language and intent of the AUMA, as well as marijuana related state laws mentioned hereinabove, and furthers the health, safety, and general welfare of the residents of the City of Pomona.

WHEREAS, the Planning Commission, exercising independent judgement, has determined that pursuant to the Guidelines for the Implementation of the California Environmental Quality Act (CEQA), Code Amendment (CODE 8233-2017) and Specific Plan Amendment (SPA 8235-2017) are exempt from CEQA under Sections 15061(b)(3);

WHEREAS, the Planning Commission of the City of Pomona, after giving notice thereof as required by law, held a public hearing on September 13th, 2017 concerning Code Amendment (CODE 8233-2017) and Specific Plan Amendment (8235-2017) and carefully considered all pertinent testimony and the staff report offered in the case as present.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Pomona as follows:

SECTION 1. Incorporation of Recitals

The Planning Commission for the City of Pomona finds and declares that the foregoing recitals are true and correct, and incorporates said recitals fully into this Resolution as substantive findings.

SECTION 2. Purpose

The purpose of this Resolution is to expressly prohibit commercial marijuana activity in the City of Pomona, whether the marijuana is for medical or recreational purposes, to the fullest extent possible allowed under California and Federal law. The City Planning Commission finds that a prohibition on all commercial marijuana activity is necessary for the preservation and protection of the public health, safety and welfare for the City and its community. The Planning Commission's prohibition of such activity is within the authority conferred upon the Planning Commission by the City's Charter and applicable state law, and is an exercise of its police powers to enact and enforce regulations for the public benefit, safety, and welfare of the City and its community.

SECTION 3. Pursuant to the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Planning Commission has determined that the project is exempt per Section 15061(b)(3). Section 15061(b)(3) exempts projects where it can be seen with certainty that the activity does not have the potential to cause a significant direct effect on the environment. The adoption of Code Amendment (CODE 8233-2017) and Specific Plan Amendments (SPA 8235-2017), does not have the potential to cause a significant direct effect on the environment. Rather, because these amendments will prohibit commercial marijuana activity citywide, their adoption has the potential to prevent or reduce significant direct effects on the environment.

SECTION 4. Zoning Ordinance Section .062 pertaining to definitions is amended to add the following definitions:

Sec. .062 Specific definitions

Commercial marijuana activity. The cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products, whether the marijuana or marijuana products is for medical or recreational purposes. Commercial marijuana activity is meant to include all marijuana related activities for which a State license is required, pursuant to applicable State laws, as they may be amended from time to time.

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

Delivery. The transfer of marijuana, including the use of any technology platform to arrange for or facilitate the transfer of marijuana, by any business, cooperative, or collective, whether or not carried on for profit, to or from any location within the City of Pomona.

Marijuana. All parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The terms “marijuana” and “cannabis” shall be synonymous and have the same meaning. It does not include:

1. Industrial hemp, as defined in Section 11018.5 of the California Health and Safety Code; or

2. The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

Marijuana products. Marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients, whether the marijuana or marijuana products is for medical or recreational purposes.

SECTION 5. Zoning Ordinance Section .222 pertaining to the “O” Open Space District is amended to add the following subsection “E”:

Sec. .222. *Uses expressly prohibited.*

(E) Commercial marijuana activity.

SECTION 6. Zoning Ordinance Section .229.6 pertaining to the R-1-20,000 Single-family Residential District is amended to add the following subsection “E”:

Sec. .229.6. *Uses expressly prohibited.*

E. Commercial marijuana activity.

SECTION 7. Zoning Ordinance Section .232 pertaining to the R-1-10,000 Single-family Residential District is amended to add the following subsection “G”:

Sec. .232. *Uses expressly prohibited.*

G. Commercial marijuana activity.

SECTION 8. Zoning Ordinance Section .242 pertaining to the R-1-7,500 Single-family Residential District is amended to add the following subsection "G":

Sec. .242. *Uses expressly prohibited.*

G. Commercial marijuana activity.

SECTION 9. Zoning Ordinance Section .252 pertaining to the R-1-7,200 Single-family Residential District is amended to add the following subsection "G":

Sec. .252. *Uses expressly prohibited.*

G. Commercial marijuana activity.

SECTION 10. Zoning Ordinance Section .262 pertaining to the R-1-6,000 Single-family Residential District is amended to add the following subsection "G":

Sec. .262. *Uses expressly prohibited.*

G. Commercial marijuana activity.

SECTION 11. Zoning Ordinance Section .272 pertaining to the R-1-E Single-family Residential Overlay District is amended to add the following subsection "G":

Sec. .272. *Uses expressly prohibited.*

G. Commercial marijuana activity.

SECTION 12. Zoning Ordinance Section .322 pertaining to the "A-P" Administrative and Professional Office District is amended to add the following subsection "G":

Sec. .322. *Uses expressly prohibited.*

G. Commercial marijuana activity.

SECTION 13. Zoning Ordinance Section .342 pertaining to the "C-1" Neighborhood Stores and Services Commercial District is amended to add the following subsection "H":

Sec. .342. *Uses expressly prohibited.*

H. Commercial marijuana activity.

SECTION 14. Zoning Ordinance Section .352 pertaining to the “C-2” Neighborhood Shopping Center Commercial District is amended to add the following subsection “G”:

Sec. .352. *Uses expressly prohibited.*

G. Commercial marijuana activity.

SECTION 15. Zoning Ordinance Section .362 pertaining to the “C-3” General Commercial District is amended to add the following subsection “F”:

Sec. .362. *Uses expressly prohibited.*

F. Commercial marijuana activity.

SECTION 16. Zoning Ordinance Section .367 pertaining to the “C-C” Community Shopping Center Commercial District is amended to add the following subsection “G”:

Sec. .367. *Uses expressly prohibited.*

G. Commercial marijuana activity.

SECTION 17. Zoning Ordinance Section .372 pertaining to the “C-4” Highway Commercial District is amended to add the following subsection “F”:

Sec. .372. *Uses expressly prohibited.*

F. Commercial marijuana activity.

SECTION 18. Zoning Ordinance Section .392 pertaining to the “C-IND” Commercial and Industrial District is amended to add the following subsection “F”:

Sec. .392. *Uses expressly prohibited.*

F. Commercial marijuana activity.

SECTION 19. Zoning Ordinance Section .398 pertaining to the “M” Special Industrial District is amended to add the following subsection “j”:

Sec. .398. *Uses expressly prohibited.*

(j) Commercial marijuana activity.

SECTION 20. Zoning Ordinance Section .412 pertaining to the “M-1” Light Industrial District is amended to add the following subsection “F”:

Sec. .412. *Uses expressly prohibited.*

F. Commercial marijuana activity.

SECTION 21. Zoning Ordinance Section .422 pertaining to the “M-2” General Industrial District is amended to add the following subsection “G”:

Sec. .422. *Uses expressly prohibited.*

G. Commercial marijuana activity.

SECTION 22. Zoning Ordinance Section .437.5 pertaining to the “F” Fairgrounds District is amended to add the following subsection “b”:

Sec. .437.5. *Uses expressly prohibited.*

(b) Commercial marijuana activity.

SECTION 23. Zoning Ordinance Section .452 pertaining to the “Civic” Supplemental Use District is amended to add the following subsection “g.”:

Sec. .452. *Uses expressly prohibited.*

g. Commercial marijuana activity.

SECTION 24. Zoning Ordinance Section .482.5 pertaining to the “R-MHD” Residential-Manufactured Housing Development District is amended to add the following subsection “B”:

Sec. .482.5. *Uses expressly prohibited.*

B. Commercial marijuana activity.

SECTION 25. The Planning Commission hereby finds and determines that Specific Plan Amendments (SPA 8235-2017) pertaining to the Phillips Ranch Specific Plan, Downtown

Pomona Specific Plan, Mountain Meadows Specific Plan, Mission-71 Business Park Specific Plan, Kellogg Plaza Specific Plan, Pomona Corridors Specific Plan, and the Pomona Valley Hospital Medical Center (PVHMC) Specific Plan meet the findings outlined in Section .584(I) of the City of Pomona Zoning Ordinance:

1. The proposed Specific Plan Amendments systematically implement and are consistent with the General Plan.

Specific Plan Amendments (SPA 8235-2017) explicitly prohibit commercial marijuana activity within all areas of the City regulated by a Specific Plan, thereby avoiding the potential increase in crime such as burglaries, robberies and the sales of illegal drugs associated with areas immediately surrounding commercial marijuana activity. In so doing, the Specific Plan Amendments will help to achieve the General Plan guiding theme to promote a safe and secure community with a proactive approach to public safety.

2. The proposed Specific Plan Amendments will not be detrimental to the public interest, health, safety, convenience or welfare of the City.

The proposed Specific Plan Amendments will not be detrimental to the public interest, health, safety, convenience or welfare of the City. By prohibiting commercial marijuana activity within all areas of the City regulated by a Specific Plan, the proposal will avoid the potential increase in crime such as burglaries, robberies and the sales of illegal drugs associated with areas immediately surrounding commercial marijuana activity.

3. The subject property is physically suitable for the requested land use designations and the anticipated land use developments.

The proposed Specific Plan Amendments do not involve either a request for land use designation or an anticipated land use development. Rather, the proposal will prohibit the establishment of a particular land use, namely, commercial marijuana activity.

4. The Specific Plan Amendments provide for the development of a comprehensively planned project that is superior to development otherwise allowed under conventional zoning classifications.

The proposed Specific Plan Amendments do not involve the development of a project. Rather, the proposal will prohibit the development of a particular type of project, namely, commercial marijuana activity.

5. The proposed Specific Plan Amendments will contribute to a balance of land uses so that local residents may work and shop in the community in which they live.

The proposed Specific Plan Amendments will contribute to the balance of land uses by helping to maintain community safety in that there will be no potential increase in crime such as burglaries, robberies and the sales of illegal drugs associated with areas immediately surrounding commercial marijuana activity. By promoting community safety, the Specific Plan Amendments will help to attract new residential, commercial, industrial and institutional development to the City.

SECTION 26. Section 1. "Land Use Districts" pertaining to the Single Family Residential (S-R) District of the Phillips Ranch Specific Plan is amended to add the following:

Uses Expressly Prohibited.

9. Commercial marijuana activity, as defined in Zoning Ordinance Section .062.

SECTION 27. Section 1. "Land Use Districts" pertaining to the Multiple Family Residential (M-R) District of the Phillips Ranch Specific Plan is amended to add the following:

Uses Expressly Prohibited.

8. Commercial marijuana activity, as defined in Zoning Ordinance Section .062.

SECTION 28. Section 1. "Land Use Districts" pertaining to the Urban Residential/Neighborhood Activity Center (UR-NAC) District of the Phillips Ranch Specific Plan is amended to add the following:

Uses Expressly Prohibited.

7. Commercial marijuana activity, as defined in Zoning Ordinance Section .062.

SECTION 29. Section 1. "Land Use Districts" pertaining to the Regional Commercial (R-C) District of the Phillips Ranch Specific Plan is amended to add the following:

Uses Expressly Prohibited.

5. Commercial marijuana activity, as defined in Zoning Ordinance Section .062.

SECTION 30. Section 1. "Land Use Districts" pertaining to the Open Space (O) District of the Phillips Ranch Specific Plan is amended to add the following:

Uses expressively prohibited.

5. Commercial marijuana activity, as defined in Zoning Ordinance Section .062.

SECTION 31. Figure 6 "Allowed Uses Matrix" of Part A "Allowed Uses" of Chapter 6 "Development Standards" of the Downtown Pomona Specific Plan is amended by listing "Commercial Marijuana Activity, as defined in Zoning Ordinance Section .062" as N/A "Not allowed in this zone" under "General Retail Uses," "Special Retail Uses," "Retail Services," "Office and Medical Services" and "Light Industrial Uses" within the Mixed Use - Central Business District (MU-CBD), Mixed Use - High Density Residential (MU-HDR), Mixed Use - Institutional (MU-I), Mixed Use - Light Industrial (MU-LI), Mixed Use - Arterial Retail (MU-AR), Residential - Single Family (R-SF), and Residential - Multi-Family (R-MF) land use designations.

SECTION 32. Section 2. "Land Use Districts" pertaining to the Detached Residential (DRD) District of the Mountain Meadows Specific Plan is amended to add the following:

Uses expressly prohibited.

8. Commercial marijuana activity, as defined in Zoning Ordinance Section .062.

SECTION 33. Section 2. "Land Use Districts" pertaining to the Attached Residential (ARD) District of the Mountain Meadows Specific Plan is amended to add the following:

Uses expressly prohibited.

6. Commercial marijuana activity, as defined in Zoning Ordinance Section .062.

SECTION 34. Section 2. "Land Use Districts" pertaining to the Open Space (O) District of the Mountain Meadows Specific Plan is amended to add the following:

Uses expressly prohibited.

4. Commercial marijuana activity, as defined in Zoning Ordinance Section .062.

SECTION 35. Section III.A “Proposed Land Uses” of the Mission – 71 Business Park Specific Plan is amended to add the following:

*The Mission – 71 Business Park Specific Plan propose[s] that all uses in the Project be industrial, including warehousing, distribution and manufacturing, plus the existing self-storage facility. The purpose of this is to provide a unified, cohesive development with its own identity, providing the City of Pomona with a tax and employment base. Medical marijuana dispensaries, **and Commercial marijuana activity, as defined in Zoning Ordinance Section .062,** are an expressly prohibited use.*

SECTION 36. Section II. “Specific Area Plan” for the Kellogg Plaza Specific Area Plan is amended to add “the following:

B. Uses Expressly Prohibited.

1. Commercial marijuana activity, as defined in Zoning Ordinance Section .062.

SECTION 37. Section 2.2.1, “Use Types” for the Pomona Corridors Specific Plan is amended to add the following:

*2.2.1 Use Types Use Types listed as “permitted” in the Development Standards Charts are further regulated herein and are defined as uses permitted by right subject to approval of a Development Plan Review. Uses Types listed as conditional in this Section are defined as those which require special consideration either of their impacts on the neighborhood and land uses in the vicinity and/or of their physical organization and design. A conditional use shall be considered for approval if the proposed use conforms with all requirements specified in the conditional use policy, and if it conforms with the goals and vision of the Plan. All permitted uses for a single Center or Segment are allowed either alone or in combination with any other permitted uses within a single parcel. Proposed uses that are not explicitly listed in the Use Charts may be permitted if the Community Development Director determines that they meet the purpose and intent of the Plan. Changes between uses within one of the six Use Types shall be considered a tenant change. Changes from one Use Type to another Use Type shall be considered a change in use. **Commercial marijuana activity, as defined in Zoning Ordinance Section .062,** shall be expressly prohibited within each six Use Types.*

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SECTION 38. Section 5.2.2, "Permitted Uses," for the Pomona Valley Hospital Medical Center (PVHMC) Plan Area is amended to add the following:

5.2.2. Permitted Uses

*The following defines the permitted primary land uses and accessory land uses within the Pomona Valley Hospital Medical Center (PVHMC) Plan Area. **Commercial marijuana activity, as defined in the Pomona Zoning Ordinance Section .062, shall be expressly prohibited within the PVHMC.***

SECTION 39. The Secretary shall certify to the adoption of this Resolution, and forward the original to the City Clerk.

APPROVED AND PASSED THIS 13TH DAY OF SEPTEMBER, 2017

CAROLYN HEMMING
PLANNING COMMISSION CHAIRPERSON

ATTEST:

MARK LAZZARETTO
PLANNING COMMISSION SECRETARY

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APPROVED AS TO FORM:

ANDREW JARED
ASSISTANT CITY ATTORNEY

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

AYES:
NOES:
ABSENT:
ABSTAIN: