

## **POMONA REGULATE CANNABIS ACT OF 2018**

The People of the City of Pomona do ordain as follows:

### **SECTION 1: TITLE**

This initiative shall be known as and may be cited as the Pomona Regulate Cannabis Act of 2018.

### **SECTION 2: FINDINGS AND DECLARATIONS**

We the people of the City of Pomona do find and declare the following:

A. In November 1996, voters approved Proposition 215, the Compassionate Use Act ("CUA"), which decriminalized the use of medicinal cannabis in California (codified in California Health and Safety Code Section 11362.5 et seq.).

B. In 2015, California enacted three bills – Assembly Bill 243 (Wood); Assembly Bill 266 (Bonta); and Senate Bill 643 (McGuire) - that collectively established a comprehensive state regulatory framework for the licensing and enforcement of cultivation, manufacturing, retail sale, transportation, storage, delivery, and testing of medicinal cannabis in California. The regulatory scheme was known as the Medicinal Cannabis Regulation and Safety Act (MCRSA).

C. In 2016 the voters of the State of California, including the voters in the City of Pomona, passed Proposition 64, the "Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"). Under AUMA, adults 21 years of age or older may legally grow, possess, and use cannabis for nonmedicinal purposes, with certain restrictions. In addition, beginning on January 1, 2018, AUMA made it legal to sell and distribute cannabis through a regulated business.

D. In 2017, the State of California passed the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") which establishes a robust set of regulations for the medicinal and adult nonmedicinal use cannabis markets, aligns all permit types, authorizes certain state agencies to establish rules governing cannabis operations and to implement the law; and preserves local control over cannabis-related uses by requiring all cannabis businesses to obtain both a state license and a local license or permit.

E. Without regulation, the cultivation and manufacturing of cannabis, and its subsequent transportation, distribution, and retail sales has potential adverse effects to the health and safety of the community. By creating a fair and reasonable regulatory environment for cannabis businesses, the City will be able to maintain order while avoiding undue burdens on its financial resources.

F. Bringing cannabis into a regulated and legitimate market will create a transparent and accountable system. City revenues from a legal and regulated market can cover not only the cost of administering the new law but can also be used to invest in many programs, including but not limited to; public health programs that educate youth to prevent and treat serious substance abuse; train local law enforcement to enforce the new law; invest in the community to reduce the illicit market and create job opportunities.

### **SECTION 3: PURPOSE AND INTENT**

It is the intent of the people of the City of Pomona in enacting this measure to:

- A. Provide for a means of cultivation, production, manufacturing, testing, transportation, distribution, retail sales, acquisition and use of cannabis by persons who qualify to obtain, possess, and use cannabis for purposes consistent with State law.
- B. Protect public health and safety through reasonable limitations on cannabis businesses as they relate to noise, air and water quality, food safety, community safety, security, nuisance conditions and other health and safety concerns.
- C. Impose fees and taxes to cover the cost to the City of regulating cannabis businesses in an amount sufficient for the City to recover its related costs, and to help mitigate against possible adverse secondary effects.
- D. Adopt a mechanism to monitor compliance with the provisions of this City Code and State law.
- E. Create regulations that address the particular needs of the residents and businesses of the City and coordinate with laws and regulations that have been or may be enacted by the State regarding the same, including but not limited to cannabis for medicinal or recreational use.
- F. Create local area jobs and economic opportunities within the City.
- G. Facilitate the implementation of State law without going beyond the authority granted to the City by the State.
- H. Protect the public health and safety by limiting the locations in the City where cannabis businesses may operate.

#### **SECTION 4: AMENDMENT OF MUNICIPAL AND ZONING CODES**

- A. Section .201 of the Comprehensive Zoning Ordinance of the City of Pomona, Designation of land use districts, is hereby amended to add Industrial Cannabis Overlay (IC Overlay) and Safe Access Cannabis Overlay (SAC Overlay) to the table.
- B. Paragraph (c) of Subsection 34-903 of Article X of Chapter 34 of Subpart A of the City of Pomona Municipal Code is hereby repealed in full and replaced with the following language: "Smoking of cannabis shall be prohibited in any building, structure, location, area or place where the Code currently prohibits the smoking of tobacco, unless otherwise authorized under Section .720 of the Pomona Code, known as the "Pomona Regulate Cannabis Act of 2018."

#### **SECTION 5: AMENDMENT OF GENERAL PLAN, SPECIFIC PLANS, and CITY OF POMONA ZONING MAP**

To ensure consistency with any zoning or regulatory changes enacted by this initiative to add cannabis businesses as an allowed use for certain select properties within the City of Pomona, the citizens of the City of Pomona do hereby amend the General Plan, any and all Specific Plans that contain property named or described in this initiative, and the City of Pomona Zoning Map to include the Industrial Cannabis Overlay Zone and the Safe Access Cannabis Overlay Zone as described in this code.

#### **SECTION 6: ADDITION OF SECTION .720, "INDUSTRIAL CANNABIS and SAFE ACCESS CANNABIS OVERLAY ZONES," TO PART III OF THE CITY OF POMONA ZONING CODE**

Section .720, entitled, Industrial Cannabis and Safe Access Cannabis Overlay Zones, of Part III of the Comprehensive Zoning Ordinance of the City of Pomona is added to read as follows:

## **SECTION .720 INDUSTRIAL CANNABIS and SAFE ACCESS CANNABIS OVERLAY ZONES**

### **.720.010 Intent and purpose.**

It is the intent and purpose of the cannabis overlay zones to allow cannabis businesses in portions of the city where such uses would be compatible with surrounding commercial and industrial uses and not materially detrimental to adjacent properties. It is the further intent of this code to regulate the location, cultivation, production, manufacturing, testing, transportation, distribution, dispensing, acquisition and use of cannabis in a manner that is consistent with the State Compassionate Use Act (“CUA”), the State Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), as well as with laws and regulations that have been or may be enacted by the State regarding the same, including but not limited to cannabis for medicinal or recreational use. It is the further intent of this code to regulate cannabis businesses which, unless closely regulated, may have the potential of causing adverse secondary effects upon the community. This code is intended to minimize this potential impact. To do so, the following regulations:

- A. Provide for a means of cultivation, production, manufacturing, testing, transportation, distribution, retail sale, acquisition and use by persons who qualify to obtain, possess, and use cannabis for purposes consistent with State law.
- B. Protect public health and safety through reasonable limitations on cannabis businesses as they relate to noise, air and water quality, food safety, community safety, security, nuisance conditions and other health and safety concerns.
- C. Impose taxes and fees to cover the cost to the City of regulating cannabis businesses in an amount sufficient for the City to recover its related costs, and to help mitigate against possible adverse secondary effects.
- D. Adopt a mechanism to monitor compliance with the provisions of this Code and State law.
- E. Create regulations that address the particular needs of the residents and businesses of the City and coordinate with laws and regulations that have been or may be enacted by the State regarding the same, including but not limited to cannabis for medical or recreational use.
- F. Create local area jobs and economic opportunities within the City.
- G. Facilitate the implementation of State law without going beyond the authority granted to the City by them.
- H. Protect public health and safety by limiting the locations in the City where cannabis businesses may operate.

### **.720.020 Definitions.**

"A-licensee" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means any person holding a license under MAUCRSA for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician's recommendations.

"Assessor's Parcel Number" or "(APN)" means the Assessor's Parcel Number as assigned by the Los Angeles County Assessor and relates to the real property which it identified as of January 1, 2017.

"Building" means any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, chattel or property of any kind.

"Bureau" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means the Bureau of Cannabis Control within the Department of Consumer Affairs.

"Cannabis" has the same meaning as cannabis or marijuana as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, Cannabis means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include 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 (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this code, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.

"Cannabis products" has the same meaning as cannabis products as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it has the same meaning as defined in Section 11018.1 of the California Health and Safety Code.

"City" means the City of Pomona, California.

"City council" shall mean the city council of the City of Pomona, California.

"City manager" shall mean the city manager of the City of Pomona, California, or his/her designee.

"Code" means the City of Pomona municipal code, including all development and zoning codes and the Comprehensive Zoning Ordinance of the City of Pomona.

"Commercial cannabis activity" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means cultivation, possession, manufacture, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sales of cannabis and cannabis products.

"Conviction" means a plea or verdict of guilty, or a conviction following a plea of nolo contendere.

"Cultivation" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"Cultivation Site" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means a location where cannabis is planted, grown, harvested, dried, cured, graded or trimmed, or a location where any combination of those activities occurs.

"Customer" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means a natural person 21 years of age or over or a natural person 18 years of age or older who possesses a physician's recommendation.

"Day care center" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently it has the same meaning as in Section 1596.76 of the California Health and Safety Code.

"Delivery" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer.

"Distribution" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means the procurement, sale, and transport of cannabis and cannabis products between licensees.

"Distributor" has the same meaning as the term as provided in State law at this time, but if that definition is amended by State law in the future, as amended. Currently under State law, it means for the distribution of cannabis and cannabis products. A distributor licensee shall be bonded and insured at a level established by the State licensing authority.

"Dried flower" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and trim.

"Greenhouse" means a building, typically constructed of a translucent building material in which plants are grown in a controlled environment. For the purposes of this code a cultivation site within a Greenhouse is considered to be an indoor cultivation site.

"Indoor" means situated, conducted, or used within a building.

"Licensee" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means any person holding a license issued under MAUCRSA, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.

"M-license" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means a state license issued under MAUCRSA for commercial cannabis activity involving medicinal cannabis.

"Manufacture" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

"Manufacturer" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

“Manufactured cannabis” has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

“Marijuana” has the same meaning as cannabis.

"Medical marijuana" has the same meaning as medicinal cannabis.

“Microbusiness,” has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently it means for the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee can demonstrate compliance with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of cannabis shall include the license conditions described in subdivision (b) of Section 26060.1 of the California Business and Professions Code.

“Nursery” has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

"Permit" means a cannabis business permit issued by the City that authorizes a person to conduct commercial cannabis activity, pursuant to this code.

"Permittee" means a person issued a permit under this code to engage in commercial cannabis activity.

“Person” has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

“Premise” means the designated structure or structures specified that is owned, leased, or otherwise held under the control of the applicant, licensee or permittee where the commercial cannabis activity will be or is conducted.

“Parcel” means a contiguous quantity of land, in the possession of, or owned by, or recorded as the property of the same claimant or person.

“Retailer,” has the same meaning as the term as provided in State law at this time, but if that definition is amended by State law in the future, as amended. Currently under State law a retailer is for the retail sale and delivery of cannabis or cannabis products to customers. A retailer shall have a licensed premise which is a physical location from which commercial cannabis activities are conducted. A retailer’s premises may be closed to the public. A retailer may conduct sales exclusively by delivery.

“State law” means the State Compassionate Use Act (“CUA”), the State Medical Marijuana Program Act (“MMPA”), the State Medical Cannabis Regulation and Safety Act (“MCRSA”), Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”), and the Medicinal and Adult Cannabis Regulation and Safety Act (“MAUCRSA”), as well as laws and regulations that have been or may be enacted by the State

regarding the same, including but not limited to cannabis for medical or recreational use, as it is now or amended.

"Testing laboratory" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following (1) accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state and (2) licensed by the bureau.

"Transferee" shall mean a Person that is making application to receive an existing cannabis business permit issued by the City of Pomona and held by another Person.

"Transferor" shall mean a Person that holds a cannabis business permit issued by the City of Pomona that is seeking to convey that permit to another Person.

"Vaping" means to inhale vapor through the mouth from a usually battery-operated electronic device that heats up and vaporizes a liquid or solid.

"Volatile solvent" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

"Youth Center" has the same meaning as the term as provided in MAUCRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MAUCRSA, it has the same meaning as defined in Section 11353.1 of the California Health and Safety Code.

"Zoning code" mean the Comprehensive Zoning Ordinance of the City of Pomona.

**.720.040 Location, type, and numerical limits requirements.**

To provide for safe, convenient access for the citizens and patients of Pomona:

A. Cannabis businesses shall only be located within the Industrial Cannabis Overlay (IC Overlay) or Safe Access Cannabis Overlay (SAC Overlay), and shall not be located:

1. Within 600 feet of any school as defined in California Health and Safety Code Section 11362.768.
2. Within 600 feet of any daycare as defined in California Health and Safety Code Section 1596.76.
3. Within 600 feet of any youth center as defined in California Health and Safety Code Section 11353.1.

The distances specified in this section shall be measured in a straight line, without regard to intervening structures, from the nearest point of the property line of the premises in which the proposed cannabis business is to be established to the nearest point of the property line of a use listed above.

The subsequent establishment of a sensitive use as outlined in this section shall not disqualify an existing cannabis business.

B. Only the following cannabis state license types: Manufacturing; Cultivation; Testing Laboratory; Storefront Retailer; Microbusiness; and Distribution as defined in the State law will be allowed within the Industrial Cannabis and Safe Access Cannabis Overlay zones as follows:

**Table 1:**

**State License Types Allowed by Industrial Cannabis and Safe Access Cannabis Overlay Zones**

<b>Cannabis Overlay Zone</b>	<b>State License Type</b>
Industrial Cannabis Overlay (IC)	Manufacturing, Cultivation, Testing Laboratory, and Distribution
Safe Access Cannabis Overlay (SAC)	Storefront Retailer, Microbusiness and Distribution

**C. Assignment of Industrial Cannabis Overlay and Safe Access Cannabis Overlay**

The Industrial Cannabis Overlay Zone (IC Overlay) shall overlay the M-2 zoned properties within the City of Pomona as such property existed as of January 1, 2017. The Safe Access Overlay Zones (SAC Overlay) shall overlay the Downtown area, roughly bound by Monterey Ave to the North, 3<sup>rd</sup> Street to the South, Locust to the East and Parcel to the West. To ensure there is no confusion in the interpretation of the properties to be included in the SAC Overlay, Table 2 (Assignment of Safe Access Cannabis Overlay by Parcel) lists every parcel within the City that is included in the Safe Access Cannabis Overlay.

**Table 2:**

**Assignment of Safe Access Cannabis Overlay by Parcel.**

<b>APN</b>	<b>Overlay Zone</b>	<b>APN</b>	<b>Overlay Zone</b>
8335-010-003	SAC Overlay	8341-001-904	SAC Overlay
8335-010-004	SAC Overlay	8341-001-907	SAC Overlay
8335-010-005	SAC Overlay	8341-002-005	SAC Overlay
8335-010-008	SAC Overlay	8341-002-006	SAC Overlay
8335-010-016	SAC Overlay	8341-002-007	SAC Overlay
8335-010-902	SAC Overlay	8341-002-008	SAC Overlay
8335-010-904	SAC Overlay	8341-002-011	SAC Overlay
8335-010-905	SAC Overlay	8341-002-012	SAC Overlay
8335-010-906	SAC Overlay	8341-002-013	SAC Overlay
8335-010-907	SAC Overlay	8341-002-014	SAC Overlay
8336-032-001	SAC Overlay	8341-002-015	SAC Overlay
8336-032-002	SAC Overlay	8341-002-016	SAC Overlay
8336-032-004	SAC Overlay	8341-002-017	SAC Overlay
8336-032-005	SAC Overlay	8341-002-021	SAC Overlay
8336-032-006	SAC Overlay	8341-002-022	SAC Overlay
8336-032-007	SAC Overlay	8341-002-024	SAC Overlay



8336-032-008	SAC Overlay	8341-002-800	SAC Overlay
8336-032-010	SAC Overlay	8341-002-904	SAC Overlay
8336-032-011	SAC Overlay	8341-003-001	SAC Overlay
8336-032-014	SAC Overlay	8341-003-002	SAC Overlay
8336-032-015	SAC Overlay	8341-003-003	SAC Overlay
8336-033-001	SAC Overlay	8341-003-004	SAC Overlay
8336-033-002	SAC Overlay	8341-003-005	SAC Overlay
8336-033-003	SAC Overlay	8341-003-006	SAC Overlay
8336-033-005	SAC Overlay	8341-003-007	SAC Overlay
8336-033-009	SAC Overlay	8341-003-008	SAC Overlay
8336-033-012	SAC Overlay	8341-003-009	SAC Overlay
8336-033-013	SAC Overlay	8341-003-010	SAC Overlay
8336-033-014	SAC Overlay	8341-003-011	SAC Overlay
8336-033-015	SAC Overlay	8341-003-901	SAC Overlay
8336-033-018	SAC Overlay	8341-003-902	SAC Overlay
8336-033-019	SAC Overlay	8341-003-903	SAC Overlay
8340-035-005	SAC Overlay	8341-003-904	SAC Overlay
8340-035-006	SAC Overlay	8341-003-905	SAC Overlay
8340-035-007	SAC Overlay	8341-003-906	SAC Overlay
8340-035-008	SAC Overlay	8341-003-907	SAC Overlay
8340-035-009	SAC Overlay	8341-003-908	SAC Overlay
8340-036-008	SAC Overlay	8341-003-909	SAC Overlay
8341-001-009	SAC Overlay	8341-004-018	SAC Overlay
8341-001-011	SAC Overlay	8341-004-022	SAC Overlay
8341-001-012	SAC Overlay	8341-004-024	SAC Overlay
8341-001-013	SAC Overlay	8341-004-026	SAC Overlay
8341-001-030	SAC Overlay	8341-004-039	SAC Overlay
8341-001-031	SAC Overlay	8341-004-041	SAC Overlay
8341-001-032	SAC Overlay	8341-004-042	SAC Overlay
8341-001-034	SAC Overlay	8341-004-044	SAC Overlay
8341-001-035	SAC Overlay	8341-004-051	SAC Overlay
8341-001-900	SAC Overlay	8341-004-052	SAC Overlay
8341-001-901	SAC Overlay	8341-004-053	SAC Overlay
8341-001-902	SAC Overlay	8341-004-054	SAC Overlay

D. The number of permitted cannabis retail businesses within the City shall be limited to one (1) per twenty-five thousand (25,000) residents. This number shall increase with each additional twenty-five thousand (25,000) residents. The population figures to be used shall be those most recently estimated and officially published by the California Department of Finance for cities, counties and the state.

E. Locating the Safe Access Overlay Zone in the Downtown area, listed by APNs in the table above, and roughly bound by Monterey Ave to the North, 3<sup>rd</sup> Street to the South, Locust to the East and Parcel to the West, will provide the Downtown district with a much-needed additional use that is currently unique in the East San Gabriel Valley. The Pomona General Plan has revitalization of the Downtown listed as

Priority #1 in the Pomona General Plan. This area of Downtown, divided by the railroad right-of-way, is recognized as having a concentration of adjacent underutilized and disinvested properties that is a legacy of train-related impacts that have not yet been overcome. This unique use should draw local and regional shoppers to the area, and attains General Plan Policy 7B.P25 which seeks to "develop a strong concentration of mixed use activities Downtown as a major economic draw for residents and visitors," and General Plan Policy 7B.P4 which seeks to "guide new retail investment away from exclusively auto-oriented shopping and toward open-air, amenity driven formats that have both day-time and night-time activity and are clustered at major crossroads." This unique use, which will be a local and regional draw for daytime and nighttime shoppers, also furthers the stated goals of the Downtown Specific Plan listed below:

1. To create an economically viable Downtown, focusing on attracting new businesses as well as retaining existing businesses.
2. To incorporate entertainment and cultural uses into the Downtown mix.
3. To establish land uses that create weekend and night-time activity.
4. To provide a diversity of recreational activities that appeal to the rich blend of demographics in the Downtown.
5. To provide a variety of uses that serve Downtown employees, visitors and residents.
6. To increase the utilization of vacant and underutilized buildings.
7. To increase the volume of commercial sales.
8. To instill an attitude that Pomona is "the place to be."

Similarly, locating the Industrial Cannabis Overlay Zone on M-2 property within the City of Pomona furthers the General Plan policy 6F.P3 "to continue to permit General Industrial uses, while attracting new business park and campus style developments" and the policy 7B.P1 "to utilize an economic development strategy that includes active City leadership, location specific policies, connections with educational institutions, redevelopment efforts, and other tools and assets to strengthen the City's economic base", while potentially creating hundreds of local jobs.

Moreover, the funds generated by this initiative further General Plan policy 7G.P16 to "pursue a long-term strategy for funding education and crime prevention programs recognizing that the costs of education and prevention are more effective in reducing crime than the costs of apprehending, prosecuting and incarcerating criminals."

#### **.720.042 Overlays Govern Permitted Use when in Conflict with Other City Code or Specific Plans**

The City of Pomona Zoning and Subdivision Codes Update: Code Diagnosis report submitted on June 27, 2016, and prepared by RRM Design Group for the City of Pomona, states that the City of Pomona Zoning Code "is no longer an effective tool" and is "hard to understand and difficult to use." The report diagnoses numerous problematic issues with the City of Pomona Zoning Code and the report admits that "users [of the Code] are left with a nagging fear that a 'hidden' regulation might affect the viability of a project." For this reason, and in anticipation that the City may use some "hidden" regulation to delay or thwart the implementation of this initiative, the voters of the City of Pomona declare that where the establishment of a cannabis business within the Industrial Cannabis Overlay Zone or the Safe Access Cannabis Overlay Zone is in conflict with other City Code, or Specific Plan(s), the use(s) permitted within the Overlay shall prevail. For example, where the underlying zone prohibits marijuana dispensaries, or prohibits uses that are deemed to be violations of federal law, the Overlay shall prevail. No city official shall use the underlying zoning designation and its prohibitions on use, or any other city code, or any Specific Plan restriction, as a reason to deny an applicant from acquiring a local cannabis

permit and operating a cannabis business within the Industrial Cannabis Overlay or the Safe Access Cannabis Overlay.

#### **.720.045 City Council May Expand Safe Access Cannabis Overlay Zone**

If, after two years, as measured from the date the election is certified, the number of cannabis retail businesses in operation and open for business is less than the number authorized under Section .720.040 of this Code, then the City Council is hereby authorized to expand the Safe Access Cannabis Overlay to include other property within the City of Pomona. This expansion can be accomplished by the City Council via a majority vote.

#### **.720.050 Development and Operating Standards.**

The following development and operating standards shall apply to:

##### **A. All cannabis businesses**

1. Shall operate in a manner consistent with State law governing its operations, including but not limited to the security, locks, alarms systems and track and trace requirements.
2. Any business license or permit required by this Code shall be kept current at all times.
3. Signage shall conform to the standards established for the zone.
4. Shall install and maintain a fully operational digital video surveillance and camera recording system that monitors no less than the front and rear of the Premises, all points of ingress and egress at the cannabis business. The video and surveillance system shall meet the requirements currently established in State law or as amended.
5. Install and use a fire and burglar alarm system that is monitored by a company that is staffed twenty-four hours (24) a day, seven (7) days a week.
6. Shall not maintain more cannabis on the premises than is permitted under applicable State law.
7. Report to the proper authorities any diversion, theft, or loss as required by State law.
8. Shall be ventilated so that the odor of cannabis cannot be detected at any property adjoining the parcel on which the cannabis business is located.

##### **B. Cannabis retail businesses**

1. Shall not operate during hours prohibited by State law.
2. Shall install and use a limited access room for storage of any processed cannabis and cash on the property when the business is closed to the public. For cannabis-infused products that must be kept refrigerated or frozen, the business shall lock the refrigerated container or freezer.
3. No person, other than a qualified customer, permittee, licensee, employee, contractor or individual authorized by State law, shall be in the cannabis retail business.
4. Consultations by medical professionals shall not be permitted within the cannabis retail business.
5. Smoking Prohibition. Smoking of tobacco and cannabis in all workplaces, including cannabis dispensaries, is prohibited. Vaping, and other forms of cannabis consumption, under the limited conditions provided by California Business and Professions Code 26200, or as amended, shall be allowed.

#### **.720.060 Permitted zone classification.**

Premises may be used for cannabis businesses only in the Industrial Cannabis Overlay Zone and Safe Access Cannabis Overlay Zones in accordance with section .720.040 of this code.

#### **.720.070 Cannabis business permit—Required.**

No cannabis business shall be established until an application for a cannabis business permit is approved by the City manager pursuant to the procedures set forth in this code.

**.720.080 Cannabis business permit—Application.**

Applications for a cannabis business permit or cannabis business permit renewal shall be filed with the City Clerk. Renewal applications shall be filed at least 30 days before the existing permit is set to expire.

Such application shall contain, at a maximum, the following:

- A. If the applicant is a sole proprietorship, the name and address of the applicant. If the applicant is a corporation, limited liability company, limited partnership, or partnership, then the applicant shall provide the articles of incorporation, articles of organization or certificate of partnership and resolutions naming the individual(s) that are authorized to act on behalf of the entity.
- B. Evidence that the applicant:
  - 1. Is the owner of the premises involved.
  - 2. Has the permission of such owner to make such application, or
  - 3. Is or will be the plaintiff in an action in eminent domain to acquire the premises involved;
- C. The legal description of, and if there is a street address, the street address, otherwise a description of, the premises upon which the requested use is to be maintained;
- D. If the applicant is not the owner, the name and address of the owner, and the nature of the applicant's interest in the premises involved;
- E. A detailed site plan, drawn to a scale of one-inch equals ten feet, showing the proposed location of all buildings and structures, landscaped areas, parking areas, driveways and means of ingress and egress;
- F. A detailed facility floor plan, drawn to a scale of three sixteenths of an inch equals one foot, showing the proposed uses of the floor area depicted on the floor plan.
- G. Three copies of white background prints of a map drawn to a scale of one-inch equals fifty feet, showing the location of the property concerned, and the location of all highways, streets and alleys and all lots and parcels of land within a distance of six hundred feet from the exterior boundaries of the proposed use;
- H. One copy of the map referred to in subsection G of this section shall show the use to which each and every lot and parcel of land is put;
- I. A plan for ventilation of the cannabis business that describes the ventilation system that will be used to prevent any odor of cannabis off the premises of the business.
- J. Live Scan fingerprints of the applicant or authorized individual(s) to enable the Pomona Police Department to perform a background check on the applicant.

K. A fully legible copy of one valid government issued form of photo identification, such as a State Driver's License or Identification Card showing that the applicant or authorized individual(s) is/are 21 years of age or older.

L. A signed statement by the applicant or authorized individual(s) that he/she certifies under penalty of perjury that all information contained in the application is true and correct.

**.720.090 Application fee.**

With the exception of an applicant seeking to manufacture cannabis products using volatile solvents, when a cannabis business permit application is filed, it shall be accompanied by a filing fee in the amount of two hundred fifty dollars (\$250.00).

**.720.100 Permit application and renewal—Review and approval.**

All cannabis permit applicants, with the exception of those seeking to produce cannabis products using volatile solvents, are ministerial and are governed by the permit application process outlined in this Section.

- A. Within ten (10) days following the application being submitted, the City manager shall determine if it is complete, and shall either:
  1. Notify the applicant in writing that the application is complete; or
  2. Notify the applicant in writing that the application is incomplete, and set forth the reason(s) therefore, including all additional information and documentation necessary to render it complete.
- B. The applicant shall have ten (10) days from the date of notice of incomplete application to submit all additional information and documentation identified by the City manager to complete the application. Any amended application shall maintain the original date and time stamp in the order in which it was received. Within ten (10) business days following receipt of an amended application, the City manager shall determine whether the application is complete, and shall either:
  1. Notify the applicant in writing that the application is complete; or
  2. Notify the applicant in writing that the application is incomplete, and set forth the reason(s) therefore, including all additional information and documentation necessary to render it complete.
- C. The applicant shall have ten (10) days from the date of notice of incomplete amended application to submit all additional information and documentation identified by the City manager to complete the amended application. Any amended application shall maintain the original date and time stamp in the order in which it was received. Within ten (10) days following receipt of an amended application, the City manager shall determine whether the application is complete, and shall either:
  1. Notify the applicant in writing that the application is complete; or
  2. Notify the applicant in writing that the application remains incomplete and set forth the reason(s) therefore.
- D. The applicant shall have the right to submit a new application with full payment of the application fee and/or appeal the City manager's decision of incompleteness pursuant to Section .720.190 Appeals below.
- E. Within 30 days after the complete application has been submitted, the City manager shall review the application, cause the property to be inspected as he or she deems appropriate, and shall approve, or deny the application under the following conditions:

1. The City manager will issue the cannabis business permit if all applicable requirements of this code are satisfied.
2. If the City manager finds that any of the applicable requirements of this code are not satisfied or finds that the applicant has been previously found guilty of a felony within the last 10 years or finds evidence that the applicant has provided materially false information, the application will be denied.

#### **.720.105 Volatile Solvent Manufacturer requires CUP**

An applicant for a cannabis business permit that uses volatile solvents in its manufacturing process must apply for a Conditional Use Permit as governed by Section 580 of Part III of the Comprehensive Zoning Ordinance of the City of Pomona.

#### **.720.110 Taxes.**

A. This measure levies an annual tax on cannabis businesses of five dollars (\$5.00) per square foot of the interior of the premise(s) occupied by the cannabis business.

B. The taxes generated shall be deposited into the general fund and the City Council shall consider the following priorities before distributing the funds:

1. Enforcement of this provision.
2. Mitigating possible adverse effects on local area youth through support of after school programs, drug education, and at-risk youth programs
3. Infrastructure improvements within the City limits.

C. The City Council may impose taxes authorized by this section at a lower rate with a simple majority vote. The City Council shall seek to maintain the competitiveness of the cannabis industry within its borders by adjusting the tax rate accordingly. No action by the City Council under this subsection shall prevent the City Council from subsequently increasing the taxes for cannabis business permits to the maximum rates specified in this section.

#### **.720.120 Transfer of Permit**

The permit provided for in this code shall be transferrable upon the written application of the holder of the permit.

#### **.720.130 Transfer of Permit---Application.**

An application to transfer an existing Cannabis Business Permit must include, from the transferee, all of the submissions required by Section .720.080 of this code, as well as the following:

- A. For transfer of a license from a sole proprietorship to another individual or entity; a notarized letter from the existing named permittee stating that they wish to transfer their permit to the transferee making application.
- B. For transfer of a license from a business entity to another business entity or sole proprietorship; notarized corporate minutes from the existing named permittee stating that it wishes to transfer its license to the transferee making application.

#### **.720.140 Transfer application—Review and approval.**

The transfer of the permit shall be processed in the manner outlined by Section .720.100 and shall be approved if the transferee would qualify for a permit under Section .720.100 of this Code.

#### **.720.145 Relocation**

The permittee may relocate their cannabis business within the City of Pomona provided the new location meets the location standards set forth in Section .720.140, and that the new location has a Certificate of Occupancy issued by the City of Pomona. The application for relocation shall require all of the submissions required by Section .720.080 of this Code. Review and approval of the relocation of a cannabis business shall follow the procedures outlined in Section .720.100 of this Code.

#### **.720.150 Delivery.**

Retail delivery of cannabis within the City of Pomona shall only be permitted by cannabis businesses that hold a valid state issued storefront retail or microbusiness license and a valid cannabis business permit issued by the City of Pomona.

#### **.720.160 Conflicts.**

In the event any provision of this Section .720 of this Code conflicts with any other provision of the Pomona Municipal Code, including the Comprehensive Zoning Ordinance of the City of Pomona, now or hereinafter enacted, the provisions of this code shall prevail over the conflicting Municipal Code and/or Comprehensive Zoning Ordinance provision.

#### **.720.170 Compliance with applicable State law**

Except as may be provided otherwise in this Section, any law or regulation adopted by the State governing the cultivation, production, manufacture, possession, transport, testing, distribution, or retail sale of cannabis shall also apply to cannabis businesses in the City. This includes but is not limited to State laws and regulations regarding: use of childproof product containers; labeling; patient confidentiality; quality control; laboratory testing; edible and infused products standards and testing; employee training; delivery; and odor control. Noncompliance with any applicable State law or regulation is unlawful and shall be grounds for revocation or suspension or any permit under this Section.

#### **.720.180 Suspensions or revocations.**

The City manager may suspend or revoke a cannabis business permit if he/she finds that one or more of the following conditions exist:

- A. The cannabis business does not comply with, and fails to remedy such non-compliance in a timely manner, any of the requirements outlined in Section .720.050 or Section .720.170 of this Code;
- B. The business owner, its employee, agent or manager has been convicted in a court of competent jurisdiction of:
  - 1. Any violation of any statute, or any other ordinance arising from any act performed in the exercise of any rights granted by the permit, the revocation of which is under consideration, or;
  - 2. Any offense involving the maintenance of a nuisance caused by any act performed in the exercise of any rights granted by the permit, the revocation of which is now under consideration.
- C. The business owner, its employee, agent or manager has knowingly made any false, misleading or fraudulent statement of material fact in the application for a permit.

### **.720.190 Appeals.**

Any person aggrieved by a decision of the City manager made under this code has the right to appeal such decision as follows:

A. Notice of Appeal. Any decision of the City manager made under this code will become final within ten days from the date such notice is served, unless within that ten-day period an appeal is filed with the city clerk, including payment of the applicable fee established by city council resolution. The appeal notice must state, with specificity, the factual and legal basis of the appeal.

B. Scheduling of Appeal Hearing. The city clerk will expeditiously schedule a hearing before a hearing officer and notify the appellant, in writing, of the day, time and location of the hearing, which may be held no later than thirty days after the notice of appeal is received by the city; provided, however, the hearing may be held after such thirty-day period upon the request or concurrence of the appellant. The time for compliance of any original order will be stayed during the pendency of the appeal hearing.

C. Hearing by Hearing Officer. The hearing officer will consider the testimony of the appellant, city staff or agents, and any other testimony or evidence relevant to the decision. The hearing officer must provide the appellant with a written decision within ten days from the date of the conclusion of the hearing.

D. Any person dissatisfied with the hearing officer's decision may seek prompt judicial review of such decision pursuant to California Code of Civil Procedure Section 1094.8.

### **.720.200 Time table for Implementation**

If this ordinance is passed by the voters of the City of Pomona, the Mayor, City Council, and city staff shall have 10 days from the date the election is certified to make all necessary changes to the City Code and begin accepting applications.

### **.720.210 Severability**

If any provision in this Section, or part thereof, or the application of any provision or part to any person or circumstance is held for any reason to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Section are severable.

### **.720.210 Prohibited Uses**

Uses prohibited in either of the Industrial Cannabis Overlay or the Safe Access Cannabis Overlay are the same as those uses that are expressly prohibited in the base district of said overlay district, except for medicinal or adult use cannabis businesses as authorized by this Section.

## **SECTION 7: REPEAL OF EXISTING CITY OF POMONA CODE**

A. Article IX of Chapter 34 of Subpart A of the City of Pomona Municipal Code is hereby repealed.

## **SECTION 8: COMPETING MEASURES**

In the event that this measure and another measure or measures relating to the regulation of cannabis in the City of Pomona appear on the same ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number



of affirmative votes required to pass than the other measure or measures, the provisions of this measure shall prevail in their entirety over the competing measure or measures, and the competing measure or measures shall be null and void.