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# CITY OF POMONA COUNCIL REPORT

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March 4, 2019

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted By: Christi Hogin, Interim City Attorney  
Marco Martinez, Interim City Attorney

**SUBJECT: COMMERCIAL CANNABIS REGULATION ORDINANCE**

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## **RECOMMENDATION:**

It is recommended that the City Council take the following actions:

- 1) Introduce and give first reading of the following ordinance:

**ORDINANCE NO. 4257 – AN ORDINANCE OF THE CITY OF POMONA, CALIFORNIA, AMENDING THE POMONA CITY CODE BY ADDING CHAPTER 68, “COMMERCIAL CANNABIS BUSINESSES”**

- 2) Direct staff to draft zoning ordinance amendments to allow certain commercial cannabis businesses in specified zones to be heard by the Planning Commission and direct that the Commission conduct a public hearing and make recommendations regarding the amendments; and
- 3) Direct staff to present the Planning Commission’s recommendations on amendments to the Zoning Code to address Commercial Cannabis Uses, in the form of an ordinance, to the City Council at a duly noticed public hearing, and also present for Council consideration a resolution establishing the maximum number and types of commercial cannabis businesses to be allowed in specified zones.

## **DISCUSSION:**

On February 25, 2019, the City Council discussed the proposed Cannabis Ordinance to regulate cannabis businesses in the City. The ordinance provides a regulatory framework for the consideration of cannabis permit applications, their review and ultimate selection. It relies on a multi-phase review approach designed to assure that the City selects only the best operators for a permit.

The Council heard public comments and suggestions and discussed additional terms and conditions that would strengthen the ordinance. The City Attorney was directed to list those additional provisions in memorandum form, so that the Council can deliberate on each and determine whether they should be included in the Cannabis Ordinance. Additional, non-substantive changes have also been made to “clean-up” errors, references and other terms where there appeared to be consensus for revision (i.e. Livescan requirements, child-proof packaging, prohibition of cannabis smoking in public spaces, distance for noticing). An updated version of the Cannabis Ordinance is attached, along with redline version showing these changes.

The following additional provisions are not included in the Cannabis Ordinance. Instead, they are listed and arranged so that the Council can decide to include or not include them in the ordinance. The appropriate section where the provision might be included is also identified. This way, if adopted, the Council can simply direct that it be included or not included as part of the second reading of the Cannabis Ordinance.

#### Additional Terms to be Considered

1. Retaliation/Whistleblower Protection. (Insert: 68.38.)

*“It shall be unlawful for a permittee of a commercial cannabis business, or its Responsible Person, manager or any other person employed by the permittee, to discriminate in any manner or take adverse action against any Employee in retaliation for exercising rights protected under this section. These rights include, but are not limited to: the right to file a complaint or inform any person about any party’s alleged noncompliance with this chapter; and the right to inform any person of his or her potential rights under this section and to assist him or her in asserting such rights. Protections under this section shall apply to any Employee who mistakenly, but in good faith, alleges noncompliance with this chapter. Taking adverse action against an Employee within 90 days of the Employee’s exercise of rights protected under this section shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.”*

2. Revolving Door Prohibition. (Insert: 68.6.)

*“(a) A local elected official, appointed official or any former employee of the City shall not for a period of one year after leaving that office, position or employment, act as an agent or attorney for, consultant or otherwise represent, for compensation or non-compensation, any other person, by making any oral or written communication to the City Council, or any committee, subcommittee, Board, Commission or present member thereof, or any officer or employee of the City, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant or contract, or the sale or purchase of goods or property, as described in this Chapter.*

*(b) Subdivision (a) does not apply to an individual who is, at the time of the appearance or communication, an elected official, a board member, officer, or employee of another local government agency or an employee or representative of a public agency and is appearing or communicating on behalf of that agency.”*

3. Disqualification for Prior Violations (Insert: 68.7(d).)

*“Any Applicant whose ‘ownership’ includes a person with a past plea or verdict of guilty or a conviction following a plea of nolo contendere for operating a non-licensed cannabis business shall be disqualified from receiving a Commercial Cannabis Permit.”*

4. Disclosure of Lobbying Activities. (Insert: 68.8(a)(8).)

*“Disclosure of Lobbying Activity: If applicant contracted, employed or in any manner paid or will pay any person for influencing or attempting to influence an elected official, appointed official or any employee of the City, they shall fully disclose the name of the individuals and/or organization(s) performing such lobbying services as part of the application.”*

5. Locally Owned Business Preference.

This provision is already included as part of the evaluation process for permits (See Section 68-9(b)1.d)

6. Dedication of Revenue to Enforcement & Education Programs.

The dedication of revenue to specific purposes is likely covered by the Cannabis Tax measure approved by the voters. Thus, that is a separate matter that can be discussed as part of that ordinance, at the discretion of the Council.

7. Expansion of Notice to Community. (Insert: Section 68-27(s))

*“Each commercial cannabis business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the commercial cannabis business can be provided. Each commercial cannabis business shall also provide this information to all businesses and residences located within 500 100 feet of the commercial cannabis business.”*

8. Consideration of Mayor & Councilmember Comments. (Insert: 68-9.(e).)

*“The Commercial Cannabis Permit Application Evaluator may consider written comments by the Mayor and Councilmember whose district is the subject of shall evaluate input from the Councilmember where the potential Commercial Cannabis Permit is proposed.”*

9. Process Integrity Provision (No Council/Staff Contact). (Insert: )

*“All permit applicants listed on the application or any persons lobbying on their behalf shall comply with the Process Integrity Standards adopted by separate Resolution of the City Council. Failure to abide by the Process Integrity Standards shall result in automatic disqualification from an existing cannabis permit review process or revocation if it is later determined that the applicant or any person associated with the application or any third party lobbying on their behalf has violated the standards.”*

10. Tie Breaker System (Insert: 68-9.(h).)

*“If after final rankings by the Commercial Cannabis Permit Application Evaluator there is a tie in total points by two or more applicants, the City Manager may designate a third party to hold an allotment by chance (“lottery”) to complete the ranking system.”*

11. Updated Labor Peace Agreement Language (Insert: 68-8.(a)(10).)

*“For applicants with five(5) or more employees, the applicant shall provide an attestation from a person authorized to contract on behalf of a bona-fide labor organization attesting to the fact that the applicant and the labor organization have entered into a labor peace agreement as defined herein and will abide by the terms of the agreement. The applicant shall submit a copy of the page of the labor peace agreement that contains the signatures of the union representative and the applicant. For applicants that have not yet entered into a labor peace agreement, the applicant shall provide a notarized statement indicating that the applicant will enter into and abide by the terms of a labor peace agreement within 30-days of licensure.”*

12. Collective Bargaining Agreement Language (Insert: 68-8.(a)(11).)

*“Collective Bargaining Agreement: If applicable, the applicant shall submit current collective bargaining agreement with labor organization that currently represents cannabis workers in the United States.”*

13. FPPC Form 700 Requirement (Insert: 68-9.(e).)

*“The Commercial Cannabis Permit Application Evaluator shall be required to file a Fair Political Practices Commission Form 700, commonly known as a Statement of Economic Interests, upon assuming the role, exiting the role and/or as required by law.”*

**ATTACHMENT(S):**

Attachment No. 1 – Proposed Revised Ordinance No. 4257

Attachment No. 2 – Redlined Version of Changes to Proposed Revised Ordinance No. 4257

Attachment No. 3 – February 25, 2019 Agenda Staff Report