



CITY OF POMONA COUNCIL REPORT

February 25, 2019

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted By: Christi Hogin, Interim City Attorney

SUBJECT: COMMERCIAL CANNABIS REGULATION ORDINANCE

RECOMMENDATION:

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

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

ORDINANCE NO. XXXX– 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.

EXECUTIVE SUMMARY: Following the City Council’s previous discussions regulating commercial cannabis businesses, three steps remain to implement the Council’s direction.

- **One**, the City Council needs to adopt an ordinance creating a review and permit procedure. That ordinance is before the Council tonight for consideration and introduction and first reading should the Council so desire. If introduced, the ordinance would be placed on a future agenda for second reading and adoption.

- **Two**, under the proposed ordinance, the City Council would set by resolution the number and types of commercial cannabis businesses allowed in various zoning districts. Staff seeks Council direction on that topic tonight and a resolution would be presented to the Council at the time of adoption of the proposed ordinance or when the amendments to the Zoning Ordinance are presented to Council for adoption.
- **Three**, certain zoning amendments are required to allow commercial cannabis businesses (currently prohibited). Staff seeks the Council's direction with respect to the ordinance to be referred to the Planning Commission for recommendation prior to the City Council's action.

FISCAL IMPACT: If enacted, the proposed ordinances (Cannabis Business Permit and zoning amendment) are anticipated to have a positive fiscal impact. Under Measure PC, cannabis cultivation businesses are taxed at annual rates up to \$10.00 per canopy square foot. All other cannabis businesses are taxed at a rate up to 6% of gross receipts. At the time the Measure was submitted to the voters, the City estimated that the tax was likely to generate an estimated \$400,000 to \$500,000 annually, until repealed by the voters. This estimate was based on an assumption of two cultivator permits and up to four retail cannabis businesses allowed and operating in the City. The costs of licensing will be recovered through licensing fees, which can be set in an amount to recoup the actual cost of implementing the licensing review provisions. Staff anticipates continued enforcement costs, which are currently less than \$100,000 per year. It is difficult to estimate what the enforcement demand will be once the cannabis related uses are permitted, but it is reasonably expected that the cost would be substantially less than the amount of tax collected, resulting in an anticipated positive fiscal impact which could allow investment in drug/substance abuse education or other City needs as determined by the City Council

PREVIOUS RELATED ACTION: On December 5, 2018, the City Council certified election results which included the passage of Measure PC, which imposes a tax on cannabis (marijuana) businesses. Such businesses are currently not permitted in the City. At a December 12, 2018, study session, the City Council was presented with information that had been gathered in connection with a potential ordinance regulating various aspects of cannabis businesses, including information developed after the City Council's October 1, 2018 meeting at which the City Council discussed various approaches to regulating cannabis businesses. At the January 23, 2019, City Council meeting, the City Council directed that an ordinance be prepared to allow commercial cannabis businesses pursuant to a merit-based selection process.

ENVIRONMENTAL IMPACT: The proposed ordinance regulating commercial cannabis businesses is not subject to environmental review pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State Guidelines for Implementations of the California Environmental Quality Act. Sections 15060(c) (2) and 15060(c) (3) pertain to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under Section 15378. The business permitting regulations will not have a physical effect on the environment. The zoning regulations are being considered independently.

DISCUSSION: The attached ordinance is based on the Santa Barbara model and designed to create a merit-based, professional review process that is transparent and includes the public. This could include review by Police, Fire, Planning, Building & Safety, Finance, and Economic Development.

One important and distinguishing feature of the proposed ordinance requires Council attention. As proposed, the City Council does not play a role in the evaluation and scoring of applications for Commercial Cannabis Permits and does not play a role in the selection or permit issuance. The parameters and criteria for the businesses are set out in great detail in the ordinance that the City Council enacts; however, the implementation of the process is wholly administrative.

Once a permit is issued, under the proposed ordinance, the City Council could hear appeals on denial of Permits, such as nonrenewal, suspension, or revocation.

Commercial Cannabis Permits would cover any type of commercial cannabis activities (cultivation, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis or cannabis products) except that outdoor cultivation is prohibited. Cannabis businesses include both medicinal and recreational adult-use cannabis. It is proposed that the maximum number of commercial cannabis businesses per classification citywide are as follows: 1 - Testing laboratory, 1 – Manufacturing, 1 – Distribution, 1 - Cultivation (Indoor), 2 - Retailer-Storefront and 2 – Microbusiness. However, the proposed ordinance requires the numbers and types be set by City Council resolution.

Here a summary of the process:

Phase One: A comprehensive application is prepared and submitted by an applicant.

- The applicant must show that the proposed location complies with the zoning code
- submit to and pay for a background check (LiveScan)
- provide notarized consent from property owner
- execute indemnification agreement in favor of city
- pay a processing fee

Phase Two: Initial ranking by staff review team (1000 points)

1. Business Plan (400 points)
 - a. Operations and financial pro forma (100 points)
 - b. Qualifications of principles (100 points)
 - c. Environmental mitigation plan and benefits (100 points)
 - d. Local enterprise (25 points)
 - e. Public benefits (75 points)
2. Safety and Security Plan (200 points)
3. Neighborhood Integration Plan (200 points)
Community contributions and involvement
4. Labor and employment plan (100 points)

5. Air Quality Plan (100 points)

Phase Three: Public interview

Applicants that receive at least 800 of possible 1000 points from initial ranking (Phase 2) are invited to a public interview where they present their plan. The interview is conducted by a staff evaluator and is open to the public. This is a noticed hearing and the public is afforded an opportunity to comment on the application. The evaluator also conducts a site visit.

Phase Four: Final ranking (1000 points)

The evaluator uses the same criteria as Phase Two and assigns a point total after taking into account public comment, the applicants' responses to questions, all the application materials, and information gathered from the site visit. An applicant will be eligible to receive a permit if it received 900 or more points in Phase Four and there are permits available.

Only limited number of permits would be available. The Council sets that number. For discussion purposes, it is proposed that the maximum number of commercial cannabis businesses per classification citywide are as follows: 1 - Testing laboratory, 1 – Manufacturing, 1 – Distribution, 1 - Cultivation (Indoor), 2 - Retailer-Storefront and 2 – Microbusiness. It is not necessary for the City Council to make that determination tonight. An ordinance and resolution would be brought back to the Council after the Planning Commission held a public hearing and made a recommendation.

The ordinance does require a labor peace agreement in order to assure that this new (and impactful) industry creates good jobs in the City and develops a stable workforce, which will help combat some of the potential negative impacts of these businesses.

The proposed ordinance requires cannabis businesses to be located at least 1000 feet from schools, day care centers, youth centers (including parks with regular youth-centered programs), and from another cannabis business.

Adult-use recreational cannabis is subject to tax, but medical marijuana is not. That is one of the reasons that there are a number of provisions in the proposed ordinance aimed at verifying and documenting sales of medical marijuana to qualified patients.

With respect to the creation of a Business Improvement District for cannabis businesses, that is a possibility but it cannot be mandated by ordinance. So exploration of creating a BID is deferred to a later time when the City can address it with permittees.

Zoning

In order to implement the proposed ordinance, the City Council will have to repeal the previous ordinances that have been adopted to prohibit cannabis uses in the City:

| Adopted | Ordinance |
|---------|--|
| 4/4/08 | No. 4096 -prohibits medical marijuana |
| 1/11/16 | No. 4215- prohibits cannabis cultivation |
| 2/22/16 | No. 4217- prohibits cannabis deliveries |
| 11/6/17 | No. 4241- updates zoning to prohibit commercial cannabis citywide |
| 11/6/17 | No. 4242- indoor personal cultivation (permit and limits) and prohibits smoking cannabis in designated areas |

In addition, the City Council will need to amend the zoning ordinance in order to designate zones in which cannabis businesses may operate and establish the permit type required. Zoning ordinances require a public hearing before the Planning Commission and a recommendation from the Planning Commission. The current draft proposal is to allow storefront retail in the commercial zones and limit all other cannabis businesses to the industrial zones. All cannabis businesses are proposed to be prohibited in District 3. The Planning Commission should also address whether to amend any specific plans to allow cannabis businesses. These items would be considered by the Planning Commission and draft ordinances reflecting the Commission's recommendations would come back to the City Council for consideration.

ALTERNATIVES: This is a matter completely within the City Council's discretion.

- 1) Take action consistent with Staff recommendation; or
- 2) Direct changes to the draft ordinance; or
- 3) Take no action on the proposed ordinance (keep *status quo*)

ATTACHMENT: Draft ordinance regulating commercial cannabis businesses

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF POMONA, CALIFORNIA, AMENDING
THE POMONA CITY CODE BY ADDING CHAPTER 68, “COMMERCIAL
CANNABIS BUSINESSES”**

WHEREAS, on February 4, 2008, the City Council adopted Ordinance No. 4096 to prohibit the establishment and operation of medical marijuana dispensaries citywide and on January 11, 2016 City Council adopted Ordinance No. 4215, amending the Pomona Zoning Ordinance to prohibit marijuana cultivation citywide;

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”) and enacted a state statutory scheme legalizing, controlling, and regulating the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical (“adult-use” or “recreational”) cannabis, including cannabis products, for use by adults twenty-one (21) years of age and older;

WHEREAS, the following percentages of the populations for the respective jurisdictions voted affirmatively to pass AUMA: 57.40 percent statewide; 59.5 percent in Los Angeles County; and 57 percent in City of Pomona;

WHEREAS, on June 27, 2017, Governor Brown signed Senate Bill 94, the “Medicinal and Adult-Use Cannabis Regulation and Safety Act” (“SB 94” or the “MAUCRSA”). SB 94 creates one state regulatory structure for medical and adult-use commercial cannabis activities, reconciling AUMA, with the Compassionate Use Act of 1996 (Proposition 215) and MCRSA (collectively referred to as “the Act”). SB 94 provided that a state license will not be approved for a business to engage in Commercial Cannabis Activity if the business activity violates any local ordinance or regulation;

WHEREAS, in preparation for the implementation of MAUCRSA, in November 2017, the three State licensing authorities charged with licensing and regulating commercial cannabis activities in California, the Bureau of Cannabis Control (“BCC”), the California Department of Food and Agriculture (“CDFA”), and the California Department of Public Health (“CDPH”), commenced releasing emergency regulations, outlining the standards and licensing procedures for both medicinal and adult-use commercial cannabis, and began issuing licenses for such activities on January 1, 2018;

WHEREAS, on November 6, 2017, City Council passed Ordinance 4241, to explicitly prohibit Commercial Cannabis Activity citywide, and Ordinance 4242, which established a

permitting scheme for the indoor personal cultivation of cannabis for adult-use, and generally prohibits smoking of cannabis in public places;

WHEREAS, on August 6, 2018, the City Council voted to place a cannabis business tax measure on the ballot for the November 6, 2018 general municipal election, which was approved by the voters, imposing a tax rate of up to \$10.00 per canopy square feet for cultivation and up to 6% of gross receipts for all other cannabis businesses;

WHEREAS, having banned commercial cannabis citywide so as to monitor continuous developments with state law and how neighboring cities would regulate cannabis, the City Council has developed an approach to regulating cannabis businesses within the City which will increase the likelihood of high quality and successful businesses and minimize potential adverse secondary impacts;

WHEREAS, the City Council finds and declares that this Ordinance constitutes a valid exercise of police power in accordance with Article XI, Section 7 of the California Constitution, is consistent with the language and intent of the AUMA, MAUCRSA, and related laws regulations, and policies issued by the state, consistent with the General Plan, and furthers the health, safety, and general welfare of the residents of the City of Pomona; and

WHEREAS, by separate ordinance, the City Council will consider the recommendation of the Planning Commission regarding the repeal of Pomona City Ordinance No. 4096 and Ordinance No. 4215, prohibiting the cultivation of marijuana citywide, Ordinance No. 4217, prohibiting marijuana deliveries.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Pomona as follows:

SECTION 1. The Pomona City Code is hereby amended by adding Chapter 68, “Commercial Cannabis Businesses,” which shall read as follows:

CHAPTER 68: COMMERCIAL CANNABIS BUSINESSES

Sec. 68-1. Purpose and Intent.

Sec. 68-2. Legal Authority.

Sec. 68-3. Commercial Cannabis Businesses Prohibited Unless Specifically Authorized by this Chapter.

Sec. 68-4. Compliance with Laws.

Sec. 68-5. Definitions.

Sec. 68-6. Commercial Cannabis Permit: Authorized and Lawful Commercial Cannabis Business.

Sec. 68-7. Maximum Number and Type of Commercial Cannabis Businesses Authorized; Application Process.

Sec. 68-8. Initial Commercial Cannabis Permit Application.

Sec. 68-9. Application Review, Scoring and Selection Process.

Sec. 68-10. Expiration of Commercial Cannabis Permits.

- Sec. 68-11. Revocation of Permits.**
- Sec. 68-12. Renewal Applications.**
- Sec. 68-13. Effect of State License Suspension, Revocation, or Termination.**
- Sec. 68-14. Appeals.**
- Sec. 68-15. Commercial Cannabis Permit – Nonassignable and Nontransferable.**
- Sec. 68-16. Change in Location of Commercial Cannabis Business.**
- Sec. 68-17. Changes in Ownership of Commercial Cannabis Business.**
- Sec. 68-18. Change in Ownership when the Permittee is a Partnership or Corporation.**
- Sec. 68-19. Changes in Name Only.**
- Sec. 68-20. Alterations to Approved Facility.**
- Sec. 68-21. City Business License.**
- Sec. 68-22. Permits and Inspections Prior to Commencing Operations.**
- Sec. 68-23. Indemnification and Limitations on City’s Liability.**
- Sec. 68-24. Records and Recordkeeping.**
- Sec. 68-25. Restriction on Alcohol and Tobacco Sales, Dispensing or Consumption.**
- Sec. 68-26. Fees and Charges.**
- Sec. 68-27. Operating Requirements Applicable to all Commercial Cannabis Businesses.**
- Sec. 68-28. Additional Operating Regulations for Storefront Retail**
- Sec. 68-29. Additional Operating Regulations for Delivery-Only Retailers**
- Sec. 68-30. Additional Operating Requirements for Cultivation Facilities**
- Sec. 68-31. Additional Operating Requirements for Cannabis Manufacturing Businesses**
- Sec. 68-32. Additional Operating Requirements for Cannabis Distribution**
- Sec. 68-33. Promulgation of Regulations, Standards and Other Legal Duties.**
- Sec. 68-34. Fees Deemed Debt to City.**
- Sec. 68-35. Responsibility for Violations.**
- Sec. 68-36. Inspections.**
- Sec. 68-37. Violations and Penalties.**
- Sec. 68-38. Effect on Other Ordinances.**
- Sec. 68-39. Unlawful Businesses Prohibited.**

Sec. 68-1. Purpose and Intent.

It is the purpose and intent of this Chapter to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) to accommodate the needs of medically-ill persons and provide access to cannabis for medicinal purposes as recommended by their health care provider(s), and to provide access to adult-use of cannabis for persons over the age of 21 as authorized by the Control, Tax & Regulate the Adult Use Cannabis Act (“AUMA” or “Proposition 64” passed by California voters in 2016), while imposing reasonable regulations on the use of land to protect the City’s residents, neighborhoods, and businesses from disproportionately negative impacts. As such, it is the purpose and intent of this Chapter to regulate the cultivation, processing, manufacturing, testing, sale, delivery, distribution and transportation of medicinal and adult-use cannabis and cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of Pomona and to enforce rules

and regulations consistent with state law.

It is the further purpose and intent of this Chapter to require all commercial cannabis businesses operating in the City to obtain and renew annually a Commercial Cannabis Permit to operate within Pomona and an annual City of Pomona Business License.

Nothing in this Chapter is intended to authorize the possession, use, or provision of cannabis for purposes that violate state or federal law. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses and approval required under state, county, or other law.

Sec. 68-2. Legal Authority.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of MAUCRSA, any subsequent state legislation and regulations regarding same, the City is authorized to adopt ordinances that establish standards, requirements and regulations for the licensing and permitting of commercial medicinal and adult-use cannabis activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City to all Commercial Cannabis Activity.

Sec. 68-3. Commercial Cannabis Businesses Prohibited Unless Specifically Authorized by this Chapter.

Except as specifically authorized in this Chapter, commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, distribution or transportation (other than as provided under California Business & Professions Code section 26090(e)), of cannabis or cannabis products is expressly prohibited.

Sec. 68-4. Compliance with Laws.

Nothing in this Chapter shall be construed as authorizing any actions that violate federal, state law or local law with respect to engaging in, or in the operation of, a commercial cannabis business. It shall be the responsibility of the Permittees and Responsible Persons of a commercial cannabis business to ensure that a commercial cannabis business is, at all times, operating in a manner compliant with all applicable federal, state and local laws, including for as long as applicable, all state cannabis laws, any subsequently enacted state law or regulatory, licensing, or certification standards or requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of a required license or permit.

Sec. 68-5. Definitions.

When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder, and is deemed to include any successor or amended version of the referenced statute

or regulatory provision.

“A-License” is a license issued by the State of California 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.

“Applicant” shall include any individual or entity applying for a permit under this Chapter, and including any officer, director, partner, or other duly authorized representative applying on behalf of an entity.

“Business License” is the license issued by the City’s Business License Division after payment of the business tax as set forth in Division 1 of Article VIII of Chapter 50 of the City of Pomona City Code.

“Bureau” means the Bureau of Cannabis Control within the Department of Consumer Affairs, and shall have the same meaning as in Section 26001(e) of the Business and Professions Code, as same may be amended from time to time.

“Cannabis” means all parts of the 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 Chapter, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the California Health and Safety Code. Cannabis shall also have the same meaning as in Section 26001(f) of the Business and Professions Code, as same may be amended from time to time.

“Cannabis Accessories” means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body. Cannabis accessories shall also have the same meaning as in Section 11018.2 of the Health and Safety Code, as same may be amended from time to time.

“Cannabis Concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Chapter. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or drug, as defined by Section 109925 of the Health and

Safety Code. Cannabis accessories shall also have the same meaning as in Section 26001(h) of the Business and Professions Code, as same may be amended from time to time.

“Cannabis Products” means cannabis 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 cannabis or concentrated cannabis and other ingredients. Cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or drug, as defined by Section 109925 of the Health and Safety Code. Cannabis products shall also have the same meaning as in Section 11018.1 of the Health and Safety Code, as same may be amended from time to time.

“Canopy” means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site.

“Caregiver” or “Primary Caregiver” has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.

“City” shall mean the City of Pomona, California.

“City Manager” shall mean the City Manager of the City, including his or her designee.

“Code” shall mean the City of Pomona City Code.

“Commercial Cannabis Activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in MAUCRSA. Commercial cannabis activity shall also have the same meaning as in Section 26001(k) of the Business and Professions Code, as same may be amended from time to time.

“Commercial cannabis business” means any business or operation which engages in medicinal or adult-use Commercial Cannabis Activity.

“Commercial Cannabis Permit” means the regulatory permit issued by the City to a commercial cannabis business, which is required before any Commercial Cannabis Activity may be conducted in the City, pursuant to this Chapter.

“Cultivation” is any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. Cultivation shall also have the same meaning as in Section 26001(l) of the Business and Professions Code, as same may be amended from time to time. Whenever references to cultivation are made in this Chapter, permitted or licensed cultivation shall only be indoors, as outdoor cultivation is expressly prohibited.

“Cultivation Site” means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs. Cultivation site shall also have the same meaning as in Section 26001(m) of the Business and Professions Code, as same may be amended from time to time. Whenever references to a cultivation site are made in this Chapter, a permitted or licensed cultivation site shall only allow cultivation activities indoors, as outdoor cultivation is expressly prohibited.

“Customer” is a natural person 21 year of age or older; or, a natural person 18 years of age or older who possesses a physician’s recommendation, or a primary caregiver. Customer shall also have the same meaning as in Section 26001(n) of the Business and Professions Code, as same may be amended from time to time.

“Day Care Center” has the same meaning as in Section 1596.76 of the Health and Safety Code, as same may be amended from time to time.

“Delivery” is 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. Delivery shall also have the same meaning as in Section 26001(p) of the Business and Professions Code, as same may be amended from time to time.

“Dispensing” means any activity involving the retail sale of cannabis or cannabis products from a retailer.

“Distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensees. Distribution shall also have the same meaning as in Section 26001(r) of the Business and Professions Code, as same may be amended from time to time.

“Distributor” means a person holding a valid Commercial Cannabis Permit for distribution issued by the City and a valid state license for distribution, required by state law to engage in the business of purchasing cannabis from a licensed cultivator or cannabis products from a licensed manufacturer, for sale to a licensed retailer.

“Edible Cannabis Product” means a cannabis product that is intended to be used, in whole or in part, for human consumption, and is not considered food. Edible cannabis product has the same meaning as Business and Professions Code section 26001.

“Fire Chief” shall mean Los Angeles County Fire Department personnel acting as the City’s Fire Chief, or his or her designee, or the City’s Fire Chief.

“Law enforcement agency” refers to the agency charged with enforcing the pertinent laws in the City. The law enforcement agency for the City shall be the Pomona Police Department. Unless the provisions of the context otherwise require, whenever any provision of this Code makes reference to the law enforcement agency of the City, such

shall be construed to mean, and deemed to constitute, that person holding the office of Chief of Police for the City and his or her authorized deputies or officers, performing law enforcement functions for the City.

“Law enforcement officer” means any law enforcement officer of the City’s law enforcement agency, or deputy of the Pomona Police Department, authorized to enforce the City’s laws, including those contained in this Chapter.

“License or State License” means a license issued by the State of California, or one of its departments or divisions, under MAUCRSA, and any subsequent State of California legislation regarding the same, to lawfully engage in Commercial Cannabis Activity.

“Licensee” means any person holding a license issued by the State of California to conduct commercial cannabis business activities.

“Live plants” means living cannabis flowers and plants including seeds, immature plants, and vegetative stage plants.

“Manager” means any person(s) designated by the commercial cannabis business to act as the representative or agent of the commercial cannabis business in managing day-to-day operations with corresponding liabilities and responsibilities, or the person in apparent charge of the premises where the commercial cannabis business is located. Evidence of management includes, but is not limited to, evidence that the individual has the power to direct, supervise, or hire and dismiss employees, controls hours of operations, creates policy rules, or purchases supplies.

“M-license” means a license issued by the state of California under MAUCRSA for Commercial Cannabis Activity involving medicinal cannabis.

“Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product. Manufacture shall also have the same meaning as in Section 26001(ag) of the Business and Professions Code, as same may be amended from time to time.

“Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, extraction or other manufactured product intended for internal consumption through inhalation or oral ingestion or for topical application.

“Manufacturer” 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 re-labels its container. A manufacturer may also be a person that infuses cannabis in its products but does not

perform its own extraction. Manufacturer shall also have the same meaning as in Section 26001(ah) of the Business and Professions Code, as same may be amended from time to time.

“Manufacturing site” means a location that produces, prepares, propagates, or compounds cannabis or cannabis products, directly or indirectly, by extraction methods, 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 re-labels its container, and is owned and operated by a person issued a valid Commercial Cannabis Permit for manufacturing from the City and, a valid state license as required for manufacturing of cannabis products.

“Medicinal cannabis or medicinal cannabis product” refers to cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215) or the Medical Marijuana Program Act of 2003, found at Sections 11362.5 and 11362.71 et seq. of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a valid and current identification card issued by a California licensed physician’s recommendation.

“Microbusiness” means licensees who engage in at least three (3) of the following commercial cannabis activities: indoor cultivation of less than 10,000 square feet, manufacturing (level 1, type 6), distribution, and retailer-storefront, as defined within this Chapter.

“Operation” means any act for which a license is required under the provisions of the Act, or any commercial transfer of cannabis or cannabis products. Operation shall also have the same meaning as in Section 26001(ak) of the Business and Professions Code, as same may be amended from time to time.

“Owner” means any of the following, or a group or combination of any of the following acting as a unit:

- (1) A person with an aggregate ownership interest of 10 percent or more in the person applying for a City Commercial Cannabis Permit, whether a partner, shareholder, principal, member, or the like, unless the interest is solely a security, lien, or encumbrance.
- (2) The chief executive officer of a nonprofit or other entity.
- (3) A member of the board of directors of a nonprofit.
- (4) An individual who will be participating in the direction, control, or management of the person applying for a City Commercial Cannabis Permit.

“Patient or qualified patient” means the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.5.

“Permittee” means any person to whom a current and valid City-issued commercial Cannabis Business Permit has been issued.

“Person” means any 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 or entity, and the plural as well as the singular.

“Premises” means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant where the commercial cannabis business will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one Permittee.

“Purchaser” means the customer who is engaged in a transaction with a Permittee for purposes of obtaining cannabis or cannabis products.

“Regulations” means those regulations prescribed and issued by the State of California, through its respective departments and/or divisions, pursuant to Section 26013 of the Business and Professions Code, including those regulations as found in the California Code of Regulations (including, Title 3, Division 8; Title 16, Division 42; and Title 17, Division 1), as same may be amended from time to time, to implement, interpret, administer and enforce the Act, and providing licensing and enforcement criteria for commercial cannabis activities and businesses.

“Responsible Person” means all owners and operators of a commercial cannabis business, including the Permittee and all officers, directors, managers, or partners, and all persons with authority, including apparent authority, over the premises of the commercial cannabis business.

“Retailer-Storefront” is a storefront retailer of a commercial cannabis business facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale to customers at a fixed location, including an establishment that also offers delivery of cannabis and cannabis products as part of a retail sale, and which are open to the public, and where the operator is authorized to operate in the City as a retailer, and holds a valid state license as required by state law to operate a retailer.

“Retailer-Delivery Only” means a non-storefront, delivery only retailer as a commercial cannabis business facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale to customers, where the premises are non-storefront, are closed to the public, and sales are conducted exclusively by delivery, where a vehicle is used to convey the cannabis or cannabis products to the customer from a fixed location, and where the operator is authorized by the City to operate as a retailer, and holds a valid state license as required by state law to operate as a retailer.

“Sell,” “sale,” “retail sale,” or “to sell” includes any transaction whereby, for any consideration or gross receipt, whether actual or intangible, title to cannabis or cannabis

products are transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a Customer to the Licensee from whom the cannabis or cannabis product was purchased.

“State law” means all laws of the State of California, which includes, but are not limited to, all rules, regulations, and policies adopted by State of California agencies, departments, divisions, and regulatory entities, as same may be amended from time to time.

“Testing Laboratory” 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.
- (2) Licensed by the State of California.

Testing laboratory shall also have the same meaning as in Section 26001(at) of the Business and Professions Code, as same may be amended from time to time.

“Topical Cannabis” means a product intended for external application and/or absorption through the skin. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.

“Transport” means the transfer of cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting Commercial Cannabis Activity authorized by law and which may be amended or repealed by any subsequent State of California legislation regarding the same.

“Youth or Recreation Center” means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities. Parks with organized youth-oriented programs are also youth centers for the purposes of this Chapter 68. Youth center shall also have the same meaning as in Section 11353.1 of the Health and Safety Code and Section 26001(av) of the Business and Professions Code, as each may be amended from time to time.

Sec. 68-6. Commercial Cannabis Permit Required to Engage in Commercial Cannabis Business.

(a) No person may engage in any commercial cannabis business or in any Commercial Cannabis Activity within the City unless the person (a) has a valid Commercial Cannabis Permit from the City, (b) has a valid State of California Seller’s Permit, and (c) is in compliance with all applicable state and local laws and regulations pertaining to the commercial cannabis business and commercial cannabis activities, including the duty to obtain any required state licenses,

business license obtained and all taxes paid and all other applicable laws including without limitation zoning and fire codes.

(b) The classification and type of commercial cannabis businesses allowed for by this Chapter are the indoor cultivation, manufacturing, testing, distribution, retailer-storefront, a microbusiness of medicinal and adult-use cannabis and cannabis products, and the ancillary transportation and delivery of cannabis or cannabis products.

(c) In addition to all other applicable zoning regulations and the requirements of all required state and local permits, no Commercial Cannabis Permit will be valid if the proposed commercial cannabis business is located within a 1000-foot radius of a school providing instruction in kindergarten or any grades one through twelve, a day care center, or a youth and recreation center with primary youth center activities, which is in lawful existence at the time a successful application was submitted to the City.

Sec. 68-7. Maximum Number and Type of Commercial Cannabis Businesses Authorized; Application Process.

(a) The City Council, by resolution, shall determine the maximum number of commercial cannabis businesses by category that may be permitted to operate in the City. In its discretion, the City Council may increase or decrease the maximum number of permits that may be issued in any category of Commercial Cannabis Activity. This section is only intended to establish the procedure to set the maximum number of commercial cannabis businesses that may be issued permits to operate in the City under each category of commercial cannabis activities. Nothing in this Chapter requires that the City authorize any or all of the commercial cannabis businesses that submit an application to the City.

(b) The process for issuing Commercial Cannabis Permits to qualified cannabis businesses is meant to result in qualified businesses that will operate in accordance with state and local law, be successful, contribute positively to the community and local economy, and avoid secondary adverse impacts. Toward that objective, the application process includes these four phases:

(1) PHASE ONE: Application submittal

This includes submitted complete information, obtaining a zoning clearance to verify the proposed location is permissible, completed Livescan and background check information, and processing fees

(2) PHASE TWO: Initial scoring of application

(3) PHASE THREE: Public presentation and comment meeting

(4) PHASE FOUR: Final ranking and, if permits available, permit issuance

Sec. 68-8. Initial Commercial Cannabis Permit Application and Scoring

(a) The City Manager may establish additional submittal requirements for an application

for a Commercial Cannabis Permit. The following information shall be included in any application for a Commercial Cannabis Permit:

- (1) Name of Applicant
- (2) Business Trade Name (if applicable) of the applicant
- (3) Identification of Owner(s) (full name, primary phone number, social security number or individual taxpayer identification number, date and place of birth, email address, and mailing address for the primary owner submitting the Application)
- (4) For each person that is an “owner” of the applicant,
 - a. Percentage of interest held in the applicant entity by the owner;
 - b. Whether the owner has an ownership or financial interest, as defined in section 5003 of the Regulations, in any other commercial cannabis business licensed under the AUMA or MAUCRSA;
 - c. A copy of the owner’s government-issued identification, acceptable forms are a document issued by a federal, state, county, or municipal government that includes the name, date of birth, physical description, and picture of the owner, such as a driver’s license;
 - d. A detailed description of the owner’s criminal convictions, if applicable. A conviction for this purpose means a plea or guilty verdict of guilty or a conviction following a plea of nolo contendere. Convictions dismissed under Penal Code section 1203.4 or equivalent non-California law must be disclosed. Convictions dismissed under Health & Safety Code section 11361.8 or equivalent non-California law must be disclosed. Juvenile Adjudications and traffic infractions under \$300 that did not involve alcohol, dangerous drugs, or controlled substances do not need to be included. For each conviction, provide: (1) the date of conviction; (2) dates of incarceration, if applicable; (3) dates of probation, if applicable; (4) dates of parole, if applicable; (5) a detailed description of the offense for which the owner was convicted; and (6) a statement of rehabilitation for each conviction written by the owner that demonstrates the owner’s fitness for consideration;
 - e. If applicable, a detailed description of a commercial cannabis license, revocation of a commercial cannabis license, or sanctions for unlicensed Commercial Cannabis Activity by a licensing authority or local agency against the applicant or a business entity in which the applicant was an owner or officer within the three (3) years immediately preceding the date of the application;

- f. If applicable, a detailed description if the City issued the applicant a notice or citation for unlicensed Commercial Cannabis Activity, or if the applicant was a defendant in a civil or criminal proceeding filed by the City or the People of the State of California, for allowing, causing, or permitting unlicensed commercial cannabis activities within the City's jurisdiction;
- g. An attestation of each owner as follows: "Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true, and accurate. I understand that a misrepresentation of fact or omission may be cause for rejection or denial of this application, or revocation of any Commercial Cannabis Permit or any permit, license or approval issued in reliance thereon."

(5) Primary Contact: The contact information for the applicant's designated primary contact person, including the name, title, phone number, and email address of said individual.

(6) Nature of Operations: Identification of whether the applicant seeks to operate a cannabis cultivation site, manufacturing site, testing laboratory, distribution site, microbusiness facility, or retailer; the specific State license category under which the applicant will seek to operate; and the number of employees anticipated.

(7) Qualifications and Experience of Applicants and Owners: The application shall include information concerning any special business or professional qualifications or licenses of the applicants and owners, and the years of relevant and related experience, that would add to the number or quality of services that facility would provide, or otherwise demonstrates the applicants' and owners' capacity to operate a successful commercial cannabis facility in compliance with applicable laws and regulations.

(8) The physical address of the proposed location, as well as the Los Angeles County Assessor Parcel Number and property owner's consent.

- a. Evidence of the applicant's right to use and occupy the property. If owned by applicant, a grant deed or a copy of title for the property. If not owned by applicant, a document from the landowner or the landowner's agent stating the applicant has the right to occupy the property and acknowledges that the applicant may use the property to potentially conduct a commercial cannabis business for which the applicant is applying, plus any lease agreement.

- b. A complete and detailed diagram, such as a site plan, of the premises, as well as a map showing the premises' location within the City, which comply with the following:

- 1. Shows the boundaries of the property and the proposed premises to be utilized, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, bathrooms, windows, doorways, and common or common shared entryways, and a brief statement of the principal activity to be conducted therein;

- 2. Map identifying any schools (K-12), day cares, or youth center facilities and any commercial cannabis business located within 1000 feet of the property lines of the proposed location. If the proposed location is not within 1000 feet of any such uses, identify on the map the closest such use, and the distance in feet between that use and the property line of the proposed location;

- c. Identifies all commercial cannabis activities that will take place in each area of the premises, and identification of limited access areas;
- d. The location of all proposed security cameras with a number assigned to each for identification purposes;
- e. The diagram shall be clear, legible, and to scale, and shall not include any highlighting, and the markings on the diagram shall be in blue-and-white print; and
- f. If the proposed premises include only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and what the remainder will be used for.

(9) Description of Operating Procedures: Applications shall include a detailed description of the applicant's proposed operating procedures for each commercial cannabis activity, including an explanation for how the business will comply with the operating regulations of this Code and state law. The application must include copies of any applicable policies or manuals of the applicant and address each of the following, if applicable:

- a. Transportation Procedures: A description of the procedure for transporting cannabis and cannabis products, including whether or not the applicant will be transporting cannabis or cannabis products or contracting for transportation services.
- b. Inventory Procedures:

1. A description of the applicant's procedure for receiving shipments of inventory;
2. Where the applicant's inventory will be stored on the premises and how records of the inventory will be maintained; and
3. Procedure for performing inventory reconciliation and for ensuring that inventory records are accurate.

c. Non-Laboratory Quality Control Procedures:

1. Procedures for preventing the deterioration of cannabis or cannabis products held by the applicant;
2. Procedures for ensuring that cannabis and cannabis products are properly packaged and labeled; and
3. Procedure for ensuring that an independent licensed testing laboratory samples and analyzes cannabis and cannabis products held by the applicant.

d. Security Procedures: All applicants shall propose sufficient security measures to deter and prevent the unauthorized access or entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the commercial cannabis business. Proposed security procedures shall include, but shall not be limited to, all of the following:

1. Preventing individuals from remaining on the premises of the commercial cannabis business if they are not engaging in an activity directly related to the permitted operations of the commercial cannabis business.
2. Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
3. How and where all cannabis and cannabis products will be stored in a secured and locked room, safe, or vault. How all cannabis and cannabis products, including live plants that will be cultivated, will be kept in a manner as to prevent diversion, theft, and loss.
4. Procedures for installing 24-hour security surveillance cameras (CCTV) of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the commercial cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored

for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. Procedures for how the applicant will ensure that the security surveillance camera's footage is remotely accessible to law enforcement, and that it is compatible with the City's software and hardware. In addition, procedures on how remote and real-time, live access to the video footage from the cameras will be provided to law enforcement. Procedures for ensuring video recordings are maintained for a minimum of sixty (60) calendar days, and procedures to make them available to law enforcement upon request. Procedures to ensure video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business.

5. A description of where sensors will be installed to detect entry and exit from all secure areas.
6. A description of procedures of installing panic buttons in the premises.
7. Description of having a professionally installed, maintained, and monitored alarm system, with the required City alarm permit as required by this Pomona City Code Section 14-391, et seq.
8. If wrought-iron bars are proposed to be installed on the windows or the doors of the commercial cannabis business, measures showing that said improvements will be installed only on the interior of the building, and in full compliance with all applicable Building and Safety and Fire Code requirements.
9. Procedures on establishing a plan to have security personnel on-site 24 hours a day, or alternative security as authorized by the law enforcement agency. Description or documentation showing that the proposed security personnel are licensed by the State of California Bureau of Security and Investigative Services personnel. Procedure to submit to the City and the City's law enforcement agency the names and contact information of security personnel, with copies of state-issued licenses and/or permits, governmentally issued identification form, and photographs of uniforms and badges. Acknowledgement from applicant indicating that it shall be responsible for providing this confirming information to law enforcement, with updating information within seven (7) calendar days of a change in security personnel, agents, or representatives.
10. Procedures on how each applicant shall have the capability to remain secure during a power outage and ensure that all access

doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.

11. Identification of a designated security representative/liaison to the City, who shall be reasonably available to meet with City staff, as well as law enforcement regarding any security related measures and/or operational issues.
 12. A storage and transportation plan, describing in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency.
 13. An affirmative commitment that the applicant will cooperate with the City whenever the City Manager, or his or her designee, makes a request, upon reasonable notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this subsection.
 14. A description and plan of how the applicant will notify law enforcement within 24 hours after discovering any of the following:
 - a. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by law enforcement.
 - b. Diversion, theft, loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the commercial cannabis business.
 - c. The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the commercial cannabis business.
 - d. Any other breach of security.
- e. Testing Laboratories (only): For applicants seeking to operate a testing laboratory, describe operating procedures as required by the applicable state law and regulations, with references to the applicable state law or regulation requiring same.
- (10) For applicants with five (5) or more employees, the applicant shall attest that the applicant will enter into a labor peace agreement and will abide by the terms of the agreement, and the applicant shall provide a copy thereof to the City. 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. The Labor Peace Agreement shall include the following provisions: (1) commitment for 20% of employees to be local hires; (2) commitment to offer apprenticeships and/or

compensation for continuing education in the field; and (3) offer a living wage to its employees.

- (11) Seller's Permit: The applicant shall provide a valid seller's permit number issued by the California Department of Tax and Fee Administration, if applicable. If the applicant has not yet received a seller's permit, the applicant shall attest that the applicant is or will before commencing operations, apply for a seller's permit.
- (12) Indemnification Agreement: To the fullest extent permitted by local, state and/or federal law, the City shall not assume any liability whatsoever with respect to having issued a Commercial Cannabis Permit or otherwise approving the operation of any commercial cannabis business. As a condition to the approval of any Commercial Cannabis Permit, the applicant is to execute a separate Indemnification Agreement prepared by the City that fully indemnifies the City for all liabilities associated with the Commercial Cannabis Permit, the Commercial Cannabis Permittee's Commercial Cannabis Activities, and any action taken by the Cannabis Permittee. The Indemnification Agreement shall include the defense of the City and reimbursement of all fees, costs and expenses incurred by the City related to any action arising from the Agreement.
- (13) Payment of Application Fee: Each applicant shall pay the applicable fee(s) pursuant to this Chapter.

(b) Background Check. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which authorizes City authorities to access state and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every applicant and Responsible Person of the commercial cannabis business must submit fingerprints and other information deemed necessary by the Pomona Police Department, or the City's law enforcement agency, for a background check. No person shall be issued a permit to operate a commercial cannabis business unless they have first cleared the background check, as determined by the City, Pomona Police Department, or the City's law enforcement agency as required by this section. A fee for the cost of the background investigation, which shall be the actual cost to the City to conduct the background investigation, as it deems necessary and appropriate, shall be paid at the time the application for a Commercial Cannabis Permit is submitted.

(c) The City Manager may adopt any procedure(s) to supplement the initial application process. The City Manager is authorized to prepare the necessary applications, forms, adopt any necessary rules to the application, regulations and processes, and solicit applications.

Sec. 68-9. Application Review, Scoring, and Selection Process; Permit Issuance.

(a) Once the City determines that a complete and timely initial application has been submitted, the application will be subjected to review and initial scoring. A total of 1000 points are available in the initial scoring (Phase Two).

(b) The initial review and scoring is done by the team of professionals assigned by the City Manager. The applications will be evaluated on the following criteria:

1. Business Plan (400 points)
 - a. Operations and financial pro forma (100 points)
 - b. Qualifications of principles (100 points)
 - c. Environmental mitigation plan and benefits (100 points)
 - d. Local enterprise (25 points)
 - e. Public benefits (75 points)
2. Safety and Security Plan (200 points)
3. Neighborhood Integration Plan (200 points)
Community contributions and involvement
4. Labor and employment plan (100 points)
5. Air Quality Plan (100 points)

(c) Applicants who score a minimum of 80% or 800 points in Phase Two are eligible to undergo the public presentation and comment process of Phase Three.

(d) Phase Three is a public meeting and interview. The City Manager shall designate a Commercial Cannabis Permit Application Evaluator, who shall not have participated in the initial review and scoring in Phase One, and who shall convene a public meeting to receive public comment on each qualified application. The applicant shall be provided a reasonable opportunity to present its application at the public meeting and the public a reasonable opportunity to comment on the application. 2. At least 10 days in advance of the meeting, written notice of the public meeting shall be sent to all property owners and occupants located within 500 feet of the proposed business location(s).

(e) The Commercial Cannabis Permit Application Evaluator may conduct a site inspection as part of the review.

(f) Taking into account public comment, the applicant's presentation and responses to questions, all application materials, any amendments to the proposal offered by the applicant, and information collected from a site visit, the Commercial Cannabis Permit Application Evaluator will determine the final rankings of the Commercial Cannabis Permit applications. A total of 1000 points are available in the final ranking (Phase Four). The applications will be evaluated on the criteria set forth in subparagraph (b) of this section. To be eligible for a Commercial Cannabis Permit, applicant must score a minimum of 90% or 900 points.

(g) After ranking is complete, the City Manager will issue qualifying applicants Commercial

Cannabis Permits to the extent that there are permits available and in order of highest ranked applicants.

(h) Notwithstanding anything in this Chapter to the contrary, the City reserves the right to reject any or all applications, at any time in the review process, if it determines it would be in the best interest of the City, taking into account the health, safety and welfare of the community.

(i) The City Manager may promulgate additional rules or policies to establish supplemental or more detailed scoring categories, with respective scoring points, under any one or all of the criteria listed hereinabove, prior to the commencement of the City accepting any applications.

(j) The City Manager's decision as to the selection of the prevailing candidates shall be final.

(k) Being issued a Notice of Selection does not constitute a land use entitlement and does not satisfy the requirements of securing a technical permits for all construction and structural alterations, including building, electrical, plumbing, and mechanical permits, undergoing and passing all building and fire intermittent and final inspections, and securing any other required permits, licenses, or reviews as may be necessary by the relevant departments or government agencies in charge of said permits. Nor does it guarantee that the plans submitted via the application process meet the standards or requirements in the Pomona Zoning Ordinance, or any building or fire codes, laws, rules or regulations, or any other permit requirement from other local or state departments or agencies.

(l) Applicants shall have no right to a Commercial Cannabis Permit until a permit is actually issued, and then only for the duration of the permit's term. Each applicant assumes the risk that, at any time prior to the issuance of a permit, the City Council may terminate or delay the program created under this Chapter.

(m) If an application is denied at any phase, in the event that the City is receiving new applications, a new application may not be filed for one year from the date of the denial.

(n) Prior to operating a commercial cannabis business, each person awarded a Commercial Cannabis Permit shall be required to pay a permit fee established by resolution of the City Council, to cover the costs of administering the Commercial Cannabis Permit program created in this Chapter.

Sec. 68-10. Expiration of Commercial Cannabis Permits.

Each Commercial Cannabis Permit issued pursuant to this Chapter shall expire one year after the date of its issuance. Commercial Cannabis Permits may be renewed as provided in this Chapter.

Sec. 68-11. Revocation of Permits.

(a) The following are grounds for revocation of a Commercial Cannabis Permit:

(1) Failure of a permittee to comply with any requirement imposed by the provisions of this Code, including but not limited to any rule, regulation, condition or standard adopted pursuant to this Chapter, or any term or condition imposed on the Commercial Cannabis Permit, or any provision of state law;

(2) Revocation of a state license held by a Responsible Person or permittee of a Commercial Cannabis Permit issued by the City;

(3) If the Permittee, its owner(s), manager(s) or a Responsible Person, within the past three years has been sentenced or had a judgment issued in a criminal or civil court proceeding, or has been sanctioned or fined for, enjoined from, or found guilty of or pled guilty or no contest to a charge for engaging in a Commercial Cannabis Activity in the state without the necessary permits and approvals from the applicable state or local jurisdictions;

(4) Conviction within the past 10 years of the Permittee, its owner(s) or manager(s), or a Responsible Person, including a plea of guilty or no contest, to any the following offenses shall be grounds for revocation of a Commercial Cannabis Permit issued by the City:

- a. A violent felony, as specified in Section 667.5(c) of the Penal Code.
- b. A serious felony, as specified in Section 1192.7(c) of the Penal Code.
- c. A felony involving fraud, deceit, or embezzlement.
- d. A felony for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
- e. A felony for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.
- f. A felony or misdemeanor involving the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance occurring after January 1, 2016.

(b) If the City Manager determines that a ground for revocation of a Commercial Cannabis Permit exists, the City Manager shall serve written notice of revocation to the Permittee or Responsible Person. The notice may be served on the recipient either personally or by certified first class mail to the address listed on the application. The notice must state the grounds for revocation, the effective date of the decision, and that the permittee has a right to an evidentiary appeal hearing to challenge the revocation decision.

(c) The permittee may appeal a revocation decision within 15 days of the date of the

notice of revocation. To exercise the right to appeal, the permittee must file with the City Clerk written basis for the appeal, including evidence relating to the grounds for revocation, and the applicable appeal fee. The appeal will be heard by the City Council in accordance with Section 68-14. If no timely appeal is filed, the City Manager's decision will be final 15 days after the date on the notice of revocation. If a timely appeal is filed in accordance with this Chapter, then the effective date of the notice is stayed until a decision is made after the hearing on the appeal.

Sec. 68-12. Renewal Applications.

(a) An application for renewal of a Commercial Cannabis Permit and renewal fee shall be filed with the City Manager's office prior to, but not more than 120 days before, the expiration date of an active and current permit.

(b) The applicant shall pay a fee in an amount to be set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Chapter.

(c) Any permittee submitting a renewal application less than sixty calendar days before permit expiration may be required to pay a late renewal application fee, as established by resolution of the City Council.

(d) To ensure on-going compliance with the initial screening criteria, the renewal application may be required to contain all the information required for new applications.

(e) An application for renewal of a Commercial Cannabis Permit may be denied if any of the following exists:

(1) Any of the grounds for denial of an application or revocation of a permit

(2) The Commercial Cannabis Permit is suspended or revoked at the time of the renewal application submittal.

(3) The commercial cannabis business has not been in regular and continuous operation in the four months prior to the renewal application.

(4) The permittee fails or is unable to renew its State of California license.

(5) The permittee made a false, misleading, or fraudulent statement or omission of fact in the renewal application.

(f) The City Manager is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the City Manager is authorized to impose additional conditions to a renewal permit, if it is determined to promote compliance with state or local laws and regulations or otherwise to preserve the public health, safety or welfare. Appeals of the decision of the City Manager shall be handled pursuant to the provisions of section 68-14 of this Chapter.

(g) If a renewal application is denied, the permittee may file a new application pursuant to this Chapter no sooner than one year from the date of the rejection and only if and when the City is receiving new applications.

Sec. 68-13. Effect of State License Suspension, Revocation, or Termination.

(a) Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a commercial cannabis business to operate within the City, unless and until the State of California, or its respective department or division, reinstates or reissues the State license.

(b) Should the State of California, or any of its departments or divisions, revoke or terminate the license of a commercial cannabis business operating in the City, such revocation or termination shall also revoke or terminate the ability of a commercial cannabis business to operate within the City.

(c) Permittee shall notify the City Manager in writing within five days of suspension or revocation of a license issued by the State of California, or by any of its departments or divisions.

Sec. 68-14. Appeals.

(a) Notice of and Time to Appeal and Effect of Timely Appeal.

(1) A permittee of a commercial cannabis business may appeal a decision of the City Manager made pursuant to this Chapter to suspend, revoke, condition, or not renew a permit. Appeals are made by filing with the City Clerk a written Notice of Appeal within fifteen calendar days from the date of service of the notice issued by the City Manager of his or her decision. Date of service shall mean the date when a notice or written decision was personally delivered to the permittee or the date when the notice was sent by certified, first class mail. Unsuccessful applicants have no right of appeal.

(2) The Notice of Appeal shall be in writing and signed by the person making the appeal (“appellant”), or his or her legal representative, and shall contain the following:

- a. Name, address, and telephone number of the appellant.
- b. Specify the decision, action, or a particular part thereof, made by the City Manager that is the subject of the appeal.
- c. Include a true and correct copy of the notice of decision issued by the City Manager which is the subject of the appeal.
- d. State with specificity the reasons and grounds for making the appeal, including, but not limited to, a statement of facts upon which the appeal

is based in sufficient detail to enable the City Council, or any appointed hearing officer, to understand the nature of the controversy, the basis of the appeal, and the relief requested.

e. All documents or other evidence pertinent to the appeal that the appellant requests the considered at the appeal hearing.

f. An appeal fee, as established by resolution of the City Council.

(3) Failure to file a timely Notice of Appeal constitutes a waiver of the right to appeal rendering the City Manager's notice of revocation, nonrenewal, suspension and/or other action final and binding. If no appeal is timely filed in the event of a decision of nonrenewal, the Commercial Cannabis Permit shall expire at the conclusion of the term of the permit. If no appeal is timely filed in the event of a decision of suspension or revocation, the suspension or revocation shall become effective upon the expiration of the period for filing a written Notice of Appeal.

(4) In the event a written Notice of Appeal is timely filed, the nonrenewal, suspension, revocation, or other properly appealed action shall not become effective until a final decision has been rendered and issued by the City Council, or appointed hearing officer or body.

(b) Review by City Council; Appeal Hearing and Proceedings.

(1) The City Council or its appointed hearing officer or body will decide timely appeals. The appellant(s) listed on the written Notice of Appeal shall be notified in writing of the date, time, and location of the hearing at least ten calendar days before the date of the hearing.

(2) All requests by an appellant to continue a hearing must be submitted to the City Clerk in writing no later than three business days before the date scheduled for the hearing. The City Council or its appointed hearing officer or body may continue a hearing for good cause or on its own motion.

(3) The City Council shall preside over the hearing on appeal, or at the City Council's discretion, the City Council may appoint a hearing officer or body to conduct the hearing.

(4) At the date, time and location set forth in the notice of appeal hearing, the City Council, or its appointed hearing officer or body, shall hear and consider the testimony and any documentary evidence properly submitted for consideration.

(5) Appeal hearings are informal, and formal rules of evidence and discovery do not apply. However, rules of privilege shall be applicable to the extent they are permitted by law, and irrelevant, collateral, undue, and repetitious testimony may be excluded. The City Manager's decision will be upheld only if a preponderance of the evidence supports the nonrenewal, suspension, or revocation.

(c) Final Decision.

(1) Following the conclusion of the appeal hearing, the City Council, or its appointed hearing officer or body, shall determine if any ground exists for the nonrenewal, suspension or revocation of a Commercial Cannabis Permit or other action subject to appeal under this Chapter. If the City Council, or its appointed hearing officer or body, determines that no grounds for denial, nonrenewal, suspension, revocation, or other action exist, the City Manager's notice of decision shall be deemed vacated. If the City Council, or its appointed hearing officer or body, determines that one or more of the reasons or grounds enumerated in notice of decision exists, the City Manager's decision may be affirmed or modified.

(2) The decision of the City Council, or its appointed hearing officer or body, is the final administrative decision and subject to judicial review within the time limits set forth in California Code of Civil Procedure Section 1094.6.

Sec. 68-15. Commercial Cannabis Permit – Nonassignable and Nontransferable.

(a) A Commercial Cannabis Permit issued under this Chapter is valid only as to the permittee and approved location and is nontransferable to other persons, projects or locations.

(b) No Commercial Cannabis Permit may be sold, transferred or assigned by a permittee, or by operation of law, to any other person, persons, or entities. Any such sale, transfer, or assignment, or attempted sale, transfer, or assignment shall be deemed to constitute a voluntary surrender of such permit and such permit shall thereafter be null and void, except as set forth in this Chapter.

Sec. 68-16. Change in Location of Commercial Cannabis Business.

No permittee shall change the location of the commercial cannabis business specified in the Commercial Cannabis Permit until any such change of location is approved by the City Manager. The proposed location shall meet all the requirements under this Code, including but not limited to this Chapter and the Pomona Zoning Ordinance. The proposed location shall be reviewed and evaluated using the same review criteria and procedure as used and relied on under the initial application process, including a public meeting.

Sec. 68-17. Changes in Ownership of Commercial Cannabis Business.

(a) No permittee shall transfer ownership or control of a commercial cannabis business unless and until the proposed new owner submits all required application materials and pays all applicable fees, and the proposed new owner independently meets the requirements of this Chapter such as to be entitled to the issuance of an original Commercial Cannabis Permit.

(b) A substantial change in the ownership of a permittee business entity (changes that result in a change of 51% or more of the original ownership), must be approved by the City Manager after completion of the application process under this Chapter, including evaluation

under any applicable review criteria used and relied upon during the original review and selection process.

(c) A permittee may change the form of business entity without applying for a new Commercial Cannabis Permit provided that either:

- (1) The ownership of the new business entity is the same as the original permit holder business entity; or
- (2) If the original permittee is an unincorporated association, mutual or public benefit corporation, agricultural or consumer cooperative corporation and subsequently transitions to or forms a new business entity as allowed under the MAUCRSA, provided that the Board of Directors (or in the case of an unincorporated association, the individual(s) listed on the City permit application) of the original permittee entity are the same as the new business entity.

(d) Although a new Commercial Cannabis Permit is not required in the two circumstances listed in this subsection (c), the permittee shall notify the City in writing of the change within ten (10) calendar days of the change and obtain an amendment to the original Commercial Cannabis Permit.

(e) No permittees may avail themselves of the provisions of this section if the City Manager, or his or her designee, has notified the permittee that the Commercial Cannabis Permit has been or may be suspended, revoked, or not renewed.

(f) Failure to comply with this section is grounds for revocation of a Commercial Cannabis Permit.

(g) Any attempt to transfer a Commercial Cannabis Permit either directly or indirectly in violation of this section is hereby declared void and such a purported transfer is a ground for revocation of the permit.

Sec. 68-18. Change in Ownership when the Permittee is a Partnership or Corporation.

(a) One or more proposed partners in a partnership granted a Commercial Cannabis Permit may make application to the City Manager, together with the fee established by the City Council, to amend the original application, providing all information as required for partners in the first instance and, upon approval thereof, the transfer of the interests of one or more partners to the proposed partner or partners may occur. If the permittee is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such permit, and in such case, the Commercial Cannabis Permit, upon notification to the City Manager, shall be placed in the name of the surviving partners.

(b) If the Commercial Cannabis Permit is issued to a corporation, stock may be sold, transferred, issued, or assigned to stockholders who have been named on the application. If 51% or more of any stock is sold, transferred, issued, or assigned to a person not listed on the application as a stockholder, the permit shall be deemed terminated and void; provided, however, the proposed stock purchaser transferee may submit to the City Manager, together with the fee established by the City Council, an application to amend the original application providing all information as required for stockholders in the first instance under this Chapter, and, upon approval thereof, the transfer may then occur.

(c) All changes in ownership as described in this section, with the exception of transfers occurring due to death of a partner or stockholder, must be submitted to the City within thirty calendar days, along with any organizational documents reflecting the changes.

Sec. 68-19. Changes in Name Only.

(a) The permittee shall advise the City Manager within fifteen calendar days of all changes of name or designation under which the business is to be conducted. The change of name or designation shall be accompanied by a non-refundable fee established by resolution of the City Council to defray the costs of reissuance of the Commercial Cannabis Permit.

(b) No permittee shall operate, conduct, manage, engage in, or carry on the business of a commercial cannabis business under any name other than the name of the commercial cannabis business specified in the permit.

Sec. 68-20. Alterations to Approved Facility.

All required City approvals, plan approvals, and permits must be obtained before causing, allowing, or permitting alterations to or extensions or expansions of the existing building(s), structure(s), or portions thereof, approved as a location for a commercial cannabis business. Alterations, extensions, or expansions shall comply with all applicable laws, regulations and standards, including those concerning building and fire safety, as well as occupancy.

Sec. 68-21. City Business License.

Prior to commencing operations, a Permittee of a commercial cannabis business shall obtain a City business license, in accordance with Pomona City Code Section 50-502, et seq.

Sec. 68-22. Permits and Inspections Prior to Commencing Operations.

Prior to commencing operations, a commercial cannabis business shall be subject to a mandatory inspection of the premises, and must obtain all required building permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. The permittee shall also obtain all required Building Safety Department approvals, Fire Department approvals, Health Department approvals and any other permit or approval required by this code or applicable law.

Sec. 68-23. Limitations on City's Liability.

(a) To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to having issued a Commercial Cannabis Permit or otherwise approving the operation of any commercial cannabis business. As a condition to the approval of any Commercial Cannabis Permit, the applicant shall be required to meet all of the following conditions before they can receive the Commercial Cannabis Permit:

(1) They must execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend at the applicant's sole cost and expense, and hold harmless the City, and its officers, officials, employees, representatives, attorneys, and agents from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to the City's issuance of the Commercial Cannabis Permit, the City's decision to approve the operation of the commercial cannabis business or activity; the process used by the City in making its decision to issue, approve or deny a permit; or the alleged violation of any federal, state or local laws by the commercial cannabis business or any of its officers, employees or agents.

(2) Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City's Risk Manager.

(3) Reimburse the City for all costs and expenses, including but not limited to attorney fees and costs and court costs, which the City may be required to pay as a result of any legal challenge related to the City's approval of the applicant's Commercial Cannabis Permit, or related to the City's approval of the applicant's Commercial Cannabis Activity. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

(b) The terms and provisions as enumerated in this section related to indemnification and limitation on the City's liability shall be an explicit term of a Commercial Cannabis Permit that an applicant and a permittee shall agree to in order for same to be valid.

Sec. 68-24. Records and Recordkeeping.

(a) Each owner and operator of a commercial cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis, or at any time upon reasonable request of the City, each commercial cannabis business shall file a sworn statement detailing the commercial cannabis business' revenue and number of sales during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross revenues for each month, and all applicable taxes paid or due to be paid. On an annual basis, each owner and operator shall submit to the City a financial audit of the business' operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the City Manager, or his or her designee.

(b) Each owner and operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the commercial cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business. The register required by this paragraph shall be provided to the City Manager upon request.

(c) All records collected by a permittee pursuant to this Chapter shall be maintained for a minimum of seven (7) years and shall be made available by the permittee to the agents or employees of the City upon request, except that private medical records shall be made available only pursuant to a properly executed search warrant, subpoena, or court order.

(d) Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPAA) regulations, each commercial cannabis business shall allow City officials to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City's software and hardware.

Sec. 68-25. Restriction on Alcohol and Tobacco Sales, Dispensing or Consumption.

No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages or tobacco products on or about the premises of a commercial cannabis business.

Sec. 68-26. Fees and Charges.

(a) All related fees and charges associated with the operation of a commercial cannabis business as referenced or determined by this Chapter shall be established by Resolution of the City Council, which may be amended from time to time.

(b) No person may commence or continue any Commercial Cannabis Activity in the City, without timely paying in full all fees and charges required for the operation of a Commercial Cannabis Activity, and as mandated by this Chapter.

(c) All commercial cannabis businesses authorized to operate under this Chapter shall pay all sales tax, use tax, business tax and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Each commercial cannabis business shall cooperate with the City with respect to any reasonable request to audit the commercial cannabis business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of fees, costs or taxes required to be paid during any period.

Sec. 68-27. Operating Requirements Applicable to all Commercial Cannabis Businesses.

(a) No commercial cannabis business may be located within a 1000-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, a day care center, or a youth center, which is in lawful existence at the time a successful application for a Commercial Cannabis Permit was submitted to the City. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school or other protected use to the closest property line of the lot on which the commercial cannabis business is located, without regard to intervening structures.

(b) Commercial cannabis businesses may operate only during the hours established by resolution of the City Council and as specified in the Commercial Cannabis Permit issued by the City.

(c) Cannabis shall not be consumed by anyone on the premises of any commercial cannabis business, unless explicitly authorized by a City ordinance, resolutions, rules, regulations or pursuant to explicit terms of a Commercial Cannabis Permit.

(d) No cannabis or cannabis products shall be visible from the exterior of any property issued a Commercial Cannabis Permit or on any of the vehicles owned or used as part of the commercial cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.

(e) Each commercial cannabis business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. The commercial cannabis business shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the City Manager prior to being used by the permittee.

(f) All cannabis and cannabis products sold, tested, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State of California and local regulations.

(g) No physician shall be permitted in any commercial cannabis business at any time for the purpose of evaluating patients for the issuance of a medicinal cannabis recommendation or medicinal cannabis identification card where applicable.

(h) All commercial cannabis retailers shall have a manager on the premises at all times during hours of operation.

(i) Each commercial cannabis business shall provide the City Manager with the name, telephone number (both landline and mobile) of an on-site manager or owner to whom

emergency notice may be provided at any hour of the day.

(j) Signage and Notices:

- (1) In addition to the requirements otherwise set forth in this section, business identification signage for a commercial cannabis business shall conform to the requirements of state law and the City Code, including, but not limited to, the requirements for a City sign permit and applicable zoning laws regulating signs.
- (2) Each commercial cannabis business premises shall be visibly posted with clear and legible notices indoors indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.

(k) Persons under the age of 21 years shall not be allowed on the premises of a commercial cannabis business and shall not be allowed to serve as a driver for a delivery service, except if pertaining to sales of cannabis for medicinal use. It shall be unlawful and a violation of this Chapter for any person to employ any person at a commercial cannabis business who is not at least 21 years of age.

(l) Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. As such, commercial cannabis businesses must install and maintain the following equipment, or any other equipment which the City Engineer or Public Works Director determines is a more effective method or technology:

- (1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
- (2) An air system that creates negative air pressure between the commercial cannabis business's interior and exterior, so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.

(m) The original Commercial Cannabis Permit issued by the City pursuant to this Chapter, the City issued business license, and the state-issued Seller's Permit shall be posted inside the commercial cannabis business in a location readily-visible to any City, County or State employee, official, or agent authorized to enforce the City's Code, or applicable cannabis-related laws.

(n) The permittee of a commercial cannabis business shall prohibit loitering by persons outside on the premises, and is required to enforce this prohibition within its premises and adjacent public areas, including cooperating with the City's law enforcement agency dispatched to enforce same. The placement and use of no loitering signs shall be included as part of any submittal and depicted on a business or operational plan.

(o) Prior to the operation of a commercial cannabis business, the person intending to establish a commercial cannabis business must first obtain all applicable planning, zoning, building, and other applicable permits and approvals from the relevant City or County department or division which may be applicable to the zoning district in which such commercial cannabis business intends to establish and to operate.

(p) Permittees shall adhere to all applicable operating procedures, including those submitted as part of the initial application process, and pursuant to those established in applicable State of California laws, regulations, and policies.

(q) Permittees must comply with all applicable local, state and federal laws and regulations pertaining to persons with disabilities.

(r) No commercial cannabis business may discriminate or exclude patrons in violation of local, state and federal laws and regulations.

(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 100 feet of the commercial cannabis business.

(t) The owner, manager, and community relations representative from each commercial cannabis business holding a Commercial Cannabis Permit shall, if requested by the City Manager, attend a quarterly meeting with the interested parties to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter.

Sec. 68-28. Additional Operating Regulations for Storefront Retail

(a) No commercial cannabis retailer offering storefront purchase shall be located within 1000 feet from another commercial cannabis storefront retailer. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of one commercial cannabis storefront retailer to the closest property line of the lot on which another commercial cannabis business is located without regard to intervening structures.

(b) Prior to dispensing medicinal cannabis or medicinal cannabis products to any person, the commercial medicinal cannabis business shall obtain verification from the recommending physician that the person requesting medicinal cannabis or medicinal cannabis products is a qualified patient, and shall maintain a copy of the physician recommendation or Identification Card as described in

Health and Safety Code Sections 11362.71 through 11362.77, as may be amended from time to time, on site for period of not less than seven years.

(c) Storefront retailers also providing delivery shall comply with the requirements pertaining to deliveries in Section 68-29 of this Chapter.

(d) Commercial cannabis retailers selling medicinal cannabis shall verify the age and all necessary documentation of each customer to ensure the customer is not under the age of 18 years and that the potential customer has a valid doctor's recommendation. Adult use retailers shall verify the age of all customers to ensure persons under the age of 21 are not permitted on the premises. Entrances into the retailer shall be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system shall be utilized to limit access to and entry to the retailer to separate it from the reception or lobby area.

(e) Retailers may have only that quantity of cannabis and cannabis products reasonably anticipated to meet the daily demand readily available for sale on-site in the retail sales area of the retailer.

(f) All restroom facilities shall remain locked and under the control of management.

(g) A cannabis storefront retailer may not sell, give away, or donate specific devices, contrivances, instruments, or paraphernalia necessary for consuming cannabis or cannabis products, including, but not limited to, rolling papers and related tools, pipes, water pipes, and vaporizers.

(h) A cannabis storefront retailer shall notify qualified patients, primary caregivers, and customers (verbally or by written agreement) and by posting of a notice or notices conspicuously in at least 15 point type within the permitted premises that state as follows:

(1) "The sale or diversion of cannabis or cannabis products without a permit issued by the City of Pomona is a violation of state law and the Pomona City Code."

(2) "Secondary sale, barter, or distribution of cannabis or cannabis products purchased from a Permittee is a crime and can lead to arrest."

(3) "Patrons must not loiter in or near these premises and may not consume cannabis or cannabis products in the vicinity of this business or in any place not lawfully permitted. These premises and vicinity are monitored to ensure compliance."

(4) "Warning: the use of cannabis or cannabis products may impair a person's ability to drive a motor vehicle or operate heavy machinery."

(5) "CALIFORNIA PROP. 65 WARNING: Smoking of cannabis and cannabis-derived products will expose you and those in your immediate vicinity to cannabis smoke. Cannabis smoke is known by the State of California to cause cancer."

Sec. 68-29. Additional Operating Regulations for Delivery-Only Retailers

(a) Security plans developed pursuant to this Chapter shall include provisions relating to vehicle security and the protection of employees and product during loading and in transit.

(b) A Delivery-Only Retailer shall facilitate the vehicle dispensing of cannabis or cannabis products with a technology platform owned by or licensed to the Delivery-Only Retailer that uses point-of-sale technology to track and database technology to record and store the following information for each transaction involving the exchange of cannabis or cannabis products between the permittee and qualified patient, primary caregiver, or customer:

(1) The identity of the individual dispensing cannabis or cannabis products on behalf of the licensee;

(2) The identity of the qualified patient, primary caregiver, or customer receiving cannabis or cannabis products from the licensee;

(3) The type and quantity of cannabis or cannabis products dispensed and received;

(4) The gross receipts charged by the licensee and received by the individual dispensing cannabis or cannabis products on behalf of the licensee for the cannabis or cannabis products dispensed and received; and

(5) The location or address where the sale or retail sale took place or closed.

(c) A Permittee shall maintain a database and provide a list of the individuals and vehicles authorized to conduct vehicle dispensing, and a copy of the valid California driver's license issued to the driver of any such vehicle on behalf of the permittee to the Chief of Police.

(d) Individuals making deliveries of cannabis or cannabis products on behalf of the Permittee shall maintain a physical copy of the delivery request (and/or invoice) and shall make it available upon the request of agents or employees of the City requesting documentation.

(f) During delivery, a copy of the permittee's Commercial Cannabis Permit shall be in the vehicle at all times, and the driver shall make it available upon the request of agents or employees of the City requesting documentation.

(g) A Permittee shall only permit or allow delivery of cannabis or cannabis products in a vehicle that is (1) insured at or above the legal requirement in California; (2) capable of securing (locking) the cannabis or cannabis products during transportation; (3) capable of being temperature controlled if perishable cannabis or cannabis products is being transported; and (4) does not display advertising or symbols visible from the exterior of the vehicle that suggest the vehicle is used for cannabis delivery or affiliated with a cannabis retailer.

(h) A Delivery-Only Retailer shall facilitate deliveries with a technology platform owned by or licensed to the Delivery-Only Retailer that uses Global Positioning System technology to track, and database technology to record and store the following information:

(1) The time that the individual conducting vehicle dispensing on behalf of the Delivery-Only Retailer departed the licensed premises.

(2) The time that the individual conducting vehicle dispensing on behalf of the Delivery-Only Retailer completed vehicle dispensing to the qualified patient, primary caregiver, or customer.

(3) The time that the individual conducting vehicle dispensing on behalf of the Delivery-Only Retailer returned to the licensed premises.

(4) The route the individual conducting vehicle dispensing on behalf of the Delivery-Only Retailer traveled between departing and returning to the licensed premises to conduct vehicle dispensing.

(5) For each individual vehicle dispensing transaction, the identity of the individual conducting deliveries on behalf of the Delivery-Only Retailer licensee.

(6) For each individual delivery transaction, the vehicle used to conduct vehicle dispensing on behalf of the Delivery-Only Retailer licensee.

(7) For each individual vehicle dispensing transaction, the identity of the qualified patient, primary caregiver, or customer receiving cannabis or cannabis products from the Delivery-Only Retailer.

(8) For each individual vehicle dispensing transaction, the type and quantity of cannabis or cannabis products dispensed and received.

(9) For each individual vehicle dispensing transaction, the gross receipts charged by the Delivery-Only Retailer and received by the individual conducting deliveries on behalf of the Delivery-Only Retailer for the cannabis or cannabis products dispensed and received.

(i) The individual making deliveries on behalf of the Delivery-Only Retailer shall personally verify for each individual vehicle dispensing transaction (1) the identity of the qualified patient, primary caregiver, or customer receiving cannabis or cannabis products from the Delivery-Only Retailer; and (2) the validity of the qualified patient's recommendation from a physician to use cannabis for medical purposes or primary caregiver's status as a primary caregiver for the particular qualified patient, and shall maintain a copy of the physician recommendation or Identification Card, as described in Health and Safety Code Sections 11362.71 through 11362.77, as may be amended from time to time, at its permitted business location for period of not less than seven years.

Sec. 68-30. Additional Operating Requirements for Cultivation Facilities

(a) The cultivation of all cannabis must occur indoors, and outdoor cultivation is prohibited.

(b) From a public right-of-way, there should be no exterior evidence of cannabis cultivation except for any signage authorized by this code.

(c) The general public is not permitted on the cannabis cultivation licensed premises except for the agents, applicants, managers, employees, and volunteers of the cannabis cultivation permittee and agents or employees of the City.

(d) A permittee shall only be allowed to cultivate the square feet of canopy space permitted by state law and in the permit issued for the premises.

(e) Cannabis cultivation shall be conducted in accordance with state and local laws related to electricity, water usage, water quality, discharges, and similar matters.

(f) Permittee shall comply with all applicable federal, state and local laws and regulations regarding use and disposal of pesticides and fertilizers.

(g) Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.

(h) The cultivation of cannabis shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the commercial cannabis business, neighboring properties, and the end users of the cannabis being cultivated; to protect the environment from harm to waterways, fish, and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.

(i) Prior to transportation, a cannabis cultivation licensee shall package and seal all cannabis or cannabis products in tamper-evident packaging and use a unique identifier, such as a batch and lot number or bar code, to identify and track the cannabis or cannabis products.

(j) All applicants for a Commercial Cannabis Permit pertaining to cannabis cultivation shall submit the following in addition to the information generally otherwise required for a commercial cannabis permit:

(1) A cultivation and operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel; a description of the cultivation activities and schedule of activities during each month of growing and harvesting; or an explanation of growth cycles and anticipated harvesting schedules for all-season harvesting.

(2) A description of a legal water source, irrigation plan, and projected water use.

(3) Identification of the source of electrical power and plan for compliance with applicable Building Codes and related codes.

(5) Plan for addressing odor and other public nuisances that may derive from the cultivation site.

Sec. 68-31. Additional Operating Requirements for Cannabis Manufacturing Businesses

(a) From a public right-of-way, there should be no exterior evidence of cannabis manufacturing except for any signage authorized by this chapter.

(b) The general public is not permitted on the cannabis manufacturing premises except for the agents, applicants, managers, employees, and volunteers of the cannabis manufacturing licensee and agents or employees of the City.

(c) All cannabis manufacturing shall comply with the standards set by state law.

(d) Any compressed gases used in the manufacturing process shall not be stored on any property within the City in containers that exceed the amount which is approved by the Fire Chief and authorized by the Commercial Cannabis Permit. Each site or parcel subject to a Commercial Cannabis Permit shall be limited to a total number of tanks as authorized by the Fire Chief on the property at any time.

(e) Cannabis manufacturing facilities may use the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases exhibiting low to minimal potential human-related toxicity approved by the Fire Chief. These solvents must be of at least 99% purity and any extraction process must use them in a professional grade, closed loop extraction system designed to recover the solvents and work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

(f) If an extraction process uses a professional grade closed loop CO₂ gas extraction system, every vessel must be certified by the manufacturer for its safe use. Closed loop systems for compressed gas extraction must be commercially manufactured and bear a permanently affixed and visible serial number.

(g) Certification from an engineer licensed by the State of California must be provided to the Fire Chief for a professional grade closed loop system used by any commercial cannabis manufacturer to certify that the system was commercially manufactured, is safe for its intended use, and was built to codes of recognized and generally accepted good engineering practices, including, but not limited to,:

(1) The American Society of Mechanical Engineers (ASME);

(2) American National Standards Institute (ANSI);

(3) Underwriters Laboratories (UL); or

(4) The American Society for Testing and Materials (ASTM).

(h) The certification document must contain the signature and stamp of the professional engineer and serial number of the extraction unit being certified.

(i) Professional closed loop systems, other equipment used, the extraction operation, and all related facilities must be approved for their use by the Fire Chief and meet any required fire, safety, and building code requirements specified in the California Building and Fire Codes, as adopted by the City.

(j) Cannabis Manufacturing Facilities may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create keef, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

(k) Cannabis Manufacturing Facilities may use food grade glycerin, ethanol, and propylene glycol solvents to create or refine extracts. Ethanol should be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.

(l) Cannabis Manufacturing Facilities creating cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace.

(m) Any person using solvents or gases in a closed looped system to create cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets, and handle and store the solvents and gases safely.

(n) Parts per million for one gram of finished extract cannot exceed state standards for any residual solvent or gas when quality assurance tested.

Sec. 68-32. Additional Operating Requirements for Cannabis Distribution

(a) From a public right-of-way, there should be no exterior evidence of Cannabis Distribution except for any signage authorized by this chapter.

(b) The general public is not permitted on the Cannabis Distribution licensed premises except for the agents, applicants, managers, employees, and volunteers of the Cannabis Distribution licensee and agents or employees of the City.

(c) Permittee for cannabis distribution shall only procure, sell, or transport cannabis or cannabis products that are packaged and sealed in tamper-evident packaging using unique identifiers, such as batch and lot numbers or bar codes, to identify and track the cannabis or cannabis products.

(d) Permittee shall maintain a database and provide a list of the individuals and vehicles authorized to conduct transportation on behalf of the cannabis distribution business pursuant to Commercial Cannabis Permit issued by the City.

(e) Individuals authorized to conduct transportation on behalf of the cannabis distribution business shall have a valid California Driver's License.

(f) Individuals transporting cannabis or cannabis products on behalf of the cannabis distribution business pursuant to a Commercial Cannabis permit shall maintain a physical copy of the transportation request and invoice and shall make them available upon request of agents or employees of the City requesting documentation.

(g) During transportation, the individual conducting transportation on behalf of the cannabis distribution business shall maintain a copy of the Commercial Cannabis Permit and shall make it available upon the request of agents or employees of the City requesting documentation.

(h) Cannabis or cannabis products shall be transported only in a vehicle that is (i) insured at or above the legal requirement in California, (ii) capable of securing (locking) the cannabis or cannabis products during transportation, and (iii) capable of being temperature controlled if perishable cannabis products are being transported

Sec. 68-33. Additional Operating Requirements for Cannabis Testing

(a) Cannabis testing shall take place within an enclosed locked structure.

(b) From a public right-of-way, there should be no exterior evidence of cannabis testing except for any signs authorized by this Chapter.

(c) All cannabis testing shall be performed in accordance with state law.

(d) Permittee shall adopt a standard operating procedure using methods consistent with general requirements established by the International Organization for Standardization, specifically ISO/IEC 17025, to test cannabis or cannabis products, and shall operate in compliance with state law at all times.

(e) Permittee shall be accredited by a body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement.

(f) Permittee shall establish standard operating procedures that provide for adequate chain of custody controls for samples transferred to the testing laboratory for testing.

(g) Permittee shall destroy the remains of samples of any cannabis or cannabis product upon completion of analyses. Destruction shall be done in a manner compliant with state law.

(h) Any testing that requires the use of solvents for extraction must comply with Section 68-31 (manufacturing requirements)

Sec. 68-34. Promulgation of Regulations, Standards and Other Legal Duties

(a) The City Manager may promulgate additional or supplemental operating requirements applicable to all commercial cannabis businesses to promote the public's safety, welfare or health.

(b) The City Manager may establish additional rules, regulations, policies and standards consistent with this Chapter governing the application review and approval process; the issuance, denial or renewal of Commercial Cannabis Permits; the ongoing operation of commercial cannabis businesses and the City's oversight of them; and concerning any other subject determined to carry out the intent and purposes of this Chapter, including without limitation, establishing time periods to solicit applications pursuant to this Chapter, and corresponding deadlines for timely submittals of applications to the City.

(c) Additional rules, regulations, policies and standards shall be published on the City's website and maintained and available to the public in the Office of the City Clerk.

(d) Rules, regulations, policies, and standards promulgated by the City Manager shall become effective upon date of publication. Commercial cannabis businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager.

Sec. 68-35. Fees Deemed Debt to City

The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed a debt to the City that is recoverable in any manner authorized by this Code, state law, or in any court of competent jurisdiction.

Sec. 68-36. Responsibility for Violations

Permittees, their Responsible Persons and managers shall be responsible for violations of the laws of the State of California or of the City Code, whether committed by the permittee, or any employee or agent of the permittee, which violations occur on the premises of the commercial cannabis business whether or not the violations occur within the permittee's presence. Any act or omission of any employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the permittee for purposes of determining whether the permit shall be revoked, suspended, or not renewed.

Sec. 68-37. Inspections

(a) The City Manager, Police Chief, Fire Marshall and their designees charged with enforcing the provisions of the City Code may enter the location of a commercial cannabis business at any time during regular business hours, without notice, and inspect the location of any commercial cannabis business as well as any recordings and records required to be maintained pursuant to this Chapter or under applicable provisions of state law.

(b) It is unlawful for any person having responsibility over the operation of a commercial cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a commercial cannabis business under this Chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a commercial cannabis business

under this Chapter or under state or local law.

Sec. 68-38. Violations and Penalties

(a) Any person who violates any provision of this Chapter is guilty of a misdemeanor and subject to the penalties in Section 1-7 of this Code.

(b) It is unlawful for any Permittee of a commercial cannabis business, or its Responsible Person, manager or any other person employed by or working in concert with them or on their behalf, whether directly or indirectly, to continue to operate, conduct, or maintain a commercial cannabis business after the City-issued Commercial Cannabis Permit has been suspended or revoked, or not renewed, pursuant to a non-contested notice of decision issued by the City Manager, or after the issuance of a final order after an appeal hearing.

(c) Any commercial cannabis business operated, conducted, or maintained contrary to the provisions of this Chapter is unlawful and a public nuisance, and the City may, in addition to or in lieu of prosecuting a criminal action, commence an administrative or civil action(s) or proceeding(s), for the abatement, removal and enjoinder thereof, in the manner provided by law, and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief to abate, cause cessation, or remove such commercial cannabis business and restrain and enjoin any person from operating, conducting or maintaining a commercial cannabis business contrary to the provisions of this Chapter.

(d) Each person shall be guilty of a separate offense for each and every day, or part thereof, during which a violation of this Chapter, or of any law or regulation referenced herein, is allowed, committed, continued, maintained or permitted by such person, and shall be punishable accordingly.

(e) Whenever in this Chapter any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

(f) The penalties set forth herein are cumulative and in addition to all other remedies, violations, and penalties set forth in this Chapter, the City's Code, or in any other ordinance, laws, rules or regulations of the City, County, or the State of California.

Sec. 68-39. Effect on Other Ordinances

Except as designated in this Chapter, the provisions of this Chapter shall control for regulation of commercial cannabis businesses as defined herein if other provisions of the Code conflict therewith. This Chapter shall not, however, relieve any person of his or her duty to comply with such laws if additional obligations, duties, or prohibitions are imposed thereby.

SECTION 2: CEQA. The City Council, on the basis of the whole record and exercising independent judgment, finds that this Ordinance is not subject to environmental review pursuant

to Sections 15060(c)(2) and 15060(c)(3) of the State Guidelines for Implementations of the California Environmental Quality Act (CEQA). Sections 15060(c) (2) and 15060(c) (3) pertain to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under Section 15378. The underlying commercial cannabis business and land use activities authorized by this Ordinance are subject to future discretionary approval(s) by the Planning Commission and/or City Council, and accordingly environmental review of any resulting impact is premature.

SECTION 3: Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of the Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions may be declared invalid or unconstitutional.

SECTION 4: Nothing in this Ordinance shall be construed to allow persons to engage in conduct that violates state law, endangers others, causes a public nuisance, allows the use or diversion of cannabis in an unlawful manner or inconsistent with state law

SECTION 5: The City Clerk shall attest to the passage and adoption of this ordinance, causing it to be posted as required by law, and it shall become effective thirty (30) days after its adoption.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2019.

ATTEST:

CITY OF POMONA

Rosalia Butler, City Clerk

Tim Sandoval
Mayor

APPROVED AS TO FORM:

Christi Hogin
Interim City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF POMONA)

I, Rosalia Butler, City Clerk of the City of Pomona do hereby certify that the foregoing Ordinance was introduced for first reading on , 2019 and adopted at a regular meeting of the City Council of the City of Pomona held on the day of , 2019 by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Rosalia Butler, City Clerk