



City of El Cajon

Planning Commission Agenda Tuesday, September 5, 2017 Meeting 7:00 PM, Council Chambers

DARRIN MROZ, Chairman
PAUL CIRCO, Vice Chairman
JERRY TURCHIN
VERONICA LONGORIA
ANTHONY SOTTILE

Meeting Location: City Council Chambers, 200 Civic Center Way, El Cajon, CA
www.cityofelcajon.us/your-government/departments/community-development/planning-division

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CHAIRPERSON'S WELCOME

PUBLIC COMMENT

This is the opportunity for the public to address the Commission on any item of business within the jurisdiction of the Commission that is not on the agenda. Under state law no action can be taken on items brought forward under Public Comment except to refer the item to staff for administrative action or to place it on a future agenda.

CONSENT

Agenda Item:	1
	Planning Commission minutes of August 15, 2017

PUBLIC HEARINGS

Agenda Item:	2
Project Name:	Al Azayem Restaurant # 2
Request:	Banquet hall services with on sale alcoholic beverages at an existing restaurant
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	APPROVE
Project Number(s):	Conditional Use Permit (CUP) No. 1449
Location:	1142 East Main Street
Applicant:	Eevin Zuhair; 619.715.9190
Project Planner:	Alfonso Camacho, 619-441-1782, acamacho@cityofelcajon.us.
City Council Hearing Required?	No
Recommended Actions:	1. Conduct the public hearing; and 2. MOVE to adopt the next resolution in order APPROVING Amendment to CUP No. 1449, subject to conditions

Decisions and Appeals - A decision of the Planning Commission is not final until the appeal period expires 10 days from the date of transmittal of the Commission's resolution to the City Clerk. The appeal period for the items on this Agenda will end on Friday, September 15, 2017 at 5:00 p.m., except that Agenda items which are forwarded to City Council for final action need not be appealed.

Agenda Item:	3
Project Name:	Personal Marijuana (Cannabis) Cultivation
Request:	Zoning Code Amendment
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	RECOMMEND CITY COUNCIL APPROVAL OF THE ZONING CODE AMENDMENT
Project Number(s):	Zoning Code Amendment No. 434
Location:	Citywide
Applicant:	City of El Cajon
Project Planner:	Anthony Shute, tonys@cityofelcajon.us , 619-441-1742
City Council Hearing Required?	Yes September 26, 2017
Recommended Actions:	<ol style="list-style-type: none"> 1. Conduct the public hearing; and 2. MOVE to adopt the next resolutions in order recommending City Council approval of the proposed CEQA exemption and Zoning Code Amendment

4. OTHER ITEMS FOR CONSIDERATION

5. STAFF COMMUNICATIONS

6. COMMISSIONER REPORTS/COMMENTS

7. ADJOURNMENT

This Planning Commission meeting is adjourned to September 19, 2017 at 7 p.m.



MINUTES PLANNING COMMISSION MEETING August 15, 2017

The meeting of the El Cajon Planning Commission was called to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE & MOMENT OF SILENCE

COMMISSIONERS PRESENT: Paul CIRCO, Vice Chairman
Veronica LONGORIA
Anthony SOTTILE
Jerry TURCHIN

COMMISSIONERS ABSENT: Darrin MROZ, Chairman

STAFF PRESENT: Anthony SHUTE, Director / Planning Commission Secretary
Yazmin ARELLANO, Deputy Director of Public Works/City Engineer
Melissa DEVINE, Senior Planner
Lorena CORDOVA, Associate Planner
Barbara LUCK, Assistant City Attorney
Ron Luis VALLES, Administrative Secretary

Vice Chair CIRCO explained the mission of the Planning Commission, and noted that the appeal date for items on this agenda is 5 p.m., Monday, August 28, 2017, as City Hall will be closed on Friday, August 25, 2017.

PUBLIC COMMENT:

No one spoke.

CONSENT CALENDAR:

Agenda Item:	1
	Planning Commission minutes of August 1, 2017

Motion was made by SOTTILE, seconded by TURCHIN, to adopt the minutes of the Planning Commission meeting of August 1, 2017; carried 4-0 (MROZ, absent).

PUBLIC HEARING ITEMS:

Agenda Item:	2
Project Name:	Habitat for Humanity on Ballantyne
Request:	General Plan Amendment, Zone Reclassification, and Tentative Subdivision Map
CEQA Recommendation:	Mitigated Negative Declaration
STAFF RECOMMENDATION:	RECOMMEND CITY COUNCIL APPROVAL
Project Number(s):	General Plan Amendment No. 2017-01, Zone Reclassification No. 2325, and Tentative Subdivision Map No. 669
Location:	585 Ballantyne Street
Applicant:	San Diego Habitat for Humanity
Project Planner:	Melissa Devine, 619-441-1773, mdevine@cityofelcajon.us.
City Council Hearing Required?	Yes September 12, 2017
Recommended Actions:	<ol style="list-style-type: none"> 1. Conduct the public hearing; and 2. MOVE to adopt the next resolution in order recommending City Council APPROVAL of the Mitigated Negative Declaration 3. MOVE to adopt the next resolution in order recommending City Council APPROVAL of the proposed General Plan Amendment 4. MOVE to adopt the next resolution in order recommending City Council APPROVAL of the Zone Reclassification 5. MOVE to adopt the next resolution in order recommending City Council APPROVAL of the Site Development and Tentative Subdivision Map

DEVINE summarized the agenda report in a PowerPoint. She noted that the applicant was recommending affordable housing concessions.

Ms. Lori PFIEFER, the applicant, spoke about the homeownership opportunity and informed that the down payment is a small amount, but the owners help build their own homes through “sweat equity.” In response to LONGORIA, she noted that families are picked on housing needs, plus the ability to pay. She added that they already have one family approved for the project, a veteran with three children.

Mr. Steve OTT, the project engineer, spoke in favor and in response to CIRCO’s concern over having additional architectural enhancement to the project, mentioned that the final product would look similar to the Habitat for Humanity’s Foundation Lane project.

No one spoke in opposition.

Motion was made by SOTTILE, seconded by TURCHIN, to close the public hearing; carried 4-0

(MROZ, absent).

Commissioners praised Habitat for Humanity and said this project that will improve the area, and provide affordable home ownership opportunities.

Motion was made by CIRCO, seconded by SOTTILE, to adopt the next Resolution in order recommending City Council ADOPTION of the proposed Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; carried 4-0 (MROZ, absent).

Motion was made by SOTTILE, seconded by CIRCO, to adopt the next Resolution in order recommending City Council APPROVAL of the General Plan Amendment No. 2017-01 to amend the land use element of the General Plan by redesignating the property from Low Density Residential (LR) to Medium Density Residential (MR); carried 4-0 (MROZ, absent).

Motion was made by TURCHIN, seconded by CIRCO, to adopt the next Resolution in order recommending City Council APPROVAL of the proposed Zone Reclassification No. 2325 for rezoning of property from RS-6 (Single-family residential, minimum 6,000 square feet) to RM-2200 (Multi-family residential minimum 2,200 square feet); carried 4-0 (MROZ, absent).

Motion was made by LONGORIA, seconded by CIRCO, to adopt the next Resolution in order recommending City Council APPROVAL of the proposed Site Development and Tentative Subdivision Map No. 669; carried 4-0 (MROZ, absent).

The City Council public hearing is scheduled for 7 p.m., Tuesday, September 12, 2017.

Agenda Item:	3
Project Name:	1307-1309 Broadway Off-Sale Alcohol Sales
Request:	Terminate deemed approved status and revoke conditional use permit for off-sale alcohol
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	Terminate deemed approved status and revoke Conditional Use Permit No. 1387 for off-sale alcohol sales
Project Number(s):	Amendment to Conditional Use Permit (CUP) No. 1387
Location:	1307-1309 Broadway
Applicant:	City of El Cajon – Planning
Project Planner:	Lorena Cordova, 619-441-1539, lcordova@cityofelcajon.us
City Council Hearing Required?	No
Recommended Actions:	1. Conduct the public hearing; and 2. MOVE to adopt the next resolutions in order, terminating deemed approve status and revoking CUP No. 1387

CORDOVA summarized the agenda report in a PowerPoint.

Motion was made by LONGORIA, seconded by CIRCO, to close the public hearing; carried 4-0 (MROZ, absent).

Motion was made by LONGORIA, seconded by CIRCO, to adopt the next Resolution in order terminating the Deemed Approved status for off-sale alcohol sales; carried 4-0 (MROZ, absent).

Motion was made by CIRCO, seconded by LONGORIA, to adopt the next Resolution in order revoking Conditional Use Permit No. 1387 for off-sale beer and wine sales for a former retail market; carried 4-0 (MROZ, absent).

The appeal deadline for this item is at 5 p.m., Monday, August 28, 2017.

Agenda Item:	4
Project Name:	Administrative Decisions Biannual Report
STAFF RECOMMENDATION:	ACCEPT REPORT
Recommended Actions:	<ol style="list-style-type: none">1. Discuss the administrative decisions report; and2. ACCEPT report

SHUTE summarized the agenda report. Commissioners had questions on several projects, which were answered by SHUTE. The Commissioners accepted the report and commended staff for keeping them apprised.

STAFF COMMUNICATIONS:

In response to a query by SOTTILE, SHUTE said that the City has closed 28 illegal marijuana dispensaries. Staff is working with other City departments to close eight illegal stores. He added that this issue will be discussed at the Planning Commission meeting on Tuesday, September 5, 2017 at 7 p.m.

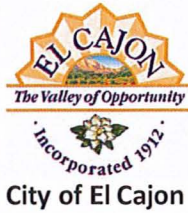
ADJOURNMENT:

Motion was made by CIRCO, seconded by TURCHIN, to adjourn the meeting of the El Cajon Planning Commission at 7:51 p.m. this 15th day of August until September 5, 2017; carried 4-0 (MROZ, absent).

Darrin MROZ, Chairman

ATTEST:

Anthony SHUTE, AICP, Secretary



Agenda Item:	2
Project Name:	Al Azayem Restaurant # 2
Request:	Banquet hall services with on sale alcoholic beverages at an existing restaurant
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	APPROVE
Project Number(s):	Amendment to Conditional Use Permit (CUP) No. 1449
Location:	1142 East Main Street
Applicant:	Eevin Zuhair; 619.715.9190
Project Planner:	Alfonso Camacho; 619.441.1782; acamacho@cityofelcajon.us
City Council Hearing Required?	No
Recommended Actions:	<ol style="list-style-type: none"> 1. Conduct the public hearing; and 2. MOVE to adopt the next resolution in order APPROVING Amendment to CUP No. 1449, subject to conditions

PROJECT DESCRIPTION

This project proposes to amend the existing Conditional Use Permit (CUP) by adding a banquet hall to an existing full service restaurant with on-sale alcoholic beverages. No expansion of the existing commercial building is proposed. The services would include live music for events such as weddings, engagement parties, bridal showers, baby showers, etc. The proposed project would allow the restaurant to offer banquet hall services weekdays 5 p.m. to 11 p.m. and weekends 12 p.m. to 1 a.m. The existing restaurant would continue to operate concurrently.

BACKGROUND

General Plan:	General Commercial (GC)
Specific Plan(s):	N/A
Zone:	General Commercial (C-G)
Other City Plan(s):	N/A
Regional and State Plan(s):	N/A
Notable State Law(s):	N/A

Project Site & Constraints

The project site consists of a 1.4 acre lot developed as a retail shopping center with three commercial buildings. The lot has approximately 327 feet of frontage on East Main Street and 230 foot frontage on Safari Drive. The 3,551 square foot commercial building located along the westerly property line is occupied by the Al Azayem restaurant which includes on-site beer and wine sales, and is the subject of this report.

Surrounding Context

Surrounding properties are developed and zoned as follows:

Direction	Zones	Land Uses
North	RM-2200-MH	Mobile Home Park
South (across East Main St)	C-G	Office trailer rentals
East	C-G	U-haul vehicle rental
West	C-G	Thrift store

General Plan

The project site is designated General Commercial (GC) on the General Plan Land Use Map. As described in the Land Use Element of the General Plan, the GC designation is intended for general shopping or service needs and for uses not typically found in shopping centers.

Municipal Code/Zoning Code

El Cajon Municipal Code (ECMC) section 17.145.150 indicates that places of assembly, including banquet halls, can be established in the C-G zone by a CUP. ECMC section 17.210.130 requires approval of a CUP for the on-sale of alcoholic beverages, and includes operational standards for the conduct of such uses. The CUP is intended to ensure compliance with applicable development standards, and use restrictions, and also to ensure compatibility with surrounding properties and land uses. A detailed discussion of applicable Municipal Code requirements is included below in the section of this report titled "Discussion."

DISCUSSION

The proposed banquet hall services added to the existing restaurant, would provide a venue for cultural events such as wedding receptions, baby showers, engagement parties and other private social events. As such, the proposal to establish a banquet hall is consistent with goals in the General Plan. The alcohol sales ordinance (ECMC Chapter 17.210) contains provisions applicable to on-sale beer and wine sales in conjunction with a restaurant.

Parking

The proposed banquet hall is classified as a place of assembly. The parking requirement for places of assembly is one space per each 200 square feet of gross floor area. Therefore, the parking requirement for the proposed 3,551 square foot banquet hall is 18 parking spaces. The subject property includes 114 parking spaces for all uses on the property. The existing restaurant is in compliance with the parking requirement of one space per each 100 square feet, which is 36 spaces. With 114 parking spaces available, there is sufficient parking to satisfy the needs of both the banquet hall and the other retail and office buildings.

On-sale Alcoholic Beverage Service

If approved, the proposed banquet hall would be able to serve alcohol to adults attending private indoor social events where food would also be served, just like the existing restaurant. The proposed banquet hall will continue with appropriate safeguards as referred to in conditions of approval specifically designed to prevent nuisance activities associated with on-sale of alcoholic beverages. The applicant must continue to comply with ABC standards previously approved in CUP 1449. Responsible Beverage Service (RBS) training was not a previous condition of CUP 1449, but will be required as a condition of approval for this proposal. RBS is training used to educate and guide alcohol servers of ABC-licensed establishments at various levels. RBS provides individually customized training about pertinent laws, policies, rules and regulations associated with alcohol service for special event servers, professional servers, and supervisor/managers of servers. All of these considerations are to ensure there are no adverse effects or the potential to endanger the residing or working community.

Compatibility

The applicant's narrative states that the proposed banquet hall services would be available until as late as 11:00 p.m. on weekdays and 1:00 a.m. on weekends. A potential noise sensitive land use in the project vicinity is the mobile home park located to the north of the building, approximately 160 feet away. However, the mobile home park is screened by a 15,400 square foot multi-tenant commercial building. All of the other properties in the project vicinity are developed with commercial retail businesses that are closed during evening hours. Considering the lack of complaints related to the Al Azayem restaurant, staff has not identified any issues of potential incompatibility between the proposed banquet hall services and other uses in the project vicinity.

FINDINGS

- A. *The proposed project is consistent with applicable goals, policies, and programs of the General Plan and applicable Specific Plans.*

The GC General Plan land use designation provides for general shopping or service needs and for uses not typically found in shopping centers. The proposed banquet hall would host cultural events such as wedding receptions, engagement parties, baby showers, baptisms, bridal showers and first communions.

- B. *The proposed project is consistent with all applicable use and development standards.*

The existing site and building are consistent with all applicable use and development standards. Moreover, the use will be conducted inside an existing building and the on-site parking can accommodate the proposed services during the evening.

- C. *The proposed project will be operated in a manner that is compatible with existing and planned land uses in the vicinity of the proposed use.*

A multi-tenant commercial building separates the restaurant/banquet hall from the residential use to the north. The proposed banquet hall will be conducted indoors in a manner compatible with surrounding uses if all activities are conducted in compliance with the performance standards listed in ECMC section 17.115.130 and section 17.210.150, and if sufficient off-street parking is provided. The banquet hall must adhere to operating standards required by local, state and federal law, including but not limited to, those of the Alcoholic Beverage Control, and applicable sections of the Business and Professions Code; the hours of beer and wine sales are in conjunction with food service; no beer or wine is sold for off-site consumption; and all those involved in the sale of beer and wine successfully pass Responsible Beverage Service training.

- D. *The proposed project will not be detrimental to the public health, safety, and general welfare, including but not limited to matters of noise, smoke, dust, fumes, vibration, odors, and hazards or excessive concentrations of traffic.*

There is nothing associated with the normal indoor conduct of a banquet hall that would be detrimental to public health and safety, including but not limited to matters of noise, smoke, dust, fumes, vibration, odors, and hazards or excessive concentrations of traffic. Moreover, the City has performance standards for such impacts which are enforced through code compliance activities. Furthermore, there are no identified existing problems in the project vicinity that might be exacerbated by on-sale alcohol service such as loitering, public drunkenness, noise, and littering. Alcohol related operational standards will be in place as conditions of approval to prevent any increase in the crime rate of the surrounding area.

- E. *The proposed project is in the best interest of public convenience and necessity.*

The proposed project will provide a venue for cultural events such as wedding receptions, bridal showers, baby showers, and similar private social gatherings in the

area. It will further invigorate the area by establishing a use that brings people on weekends and in the evening hours.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

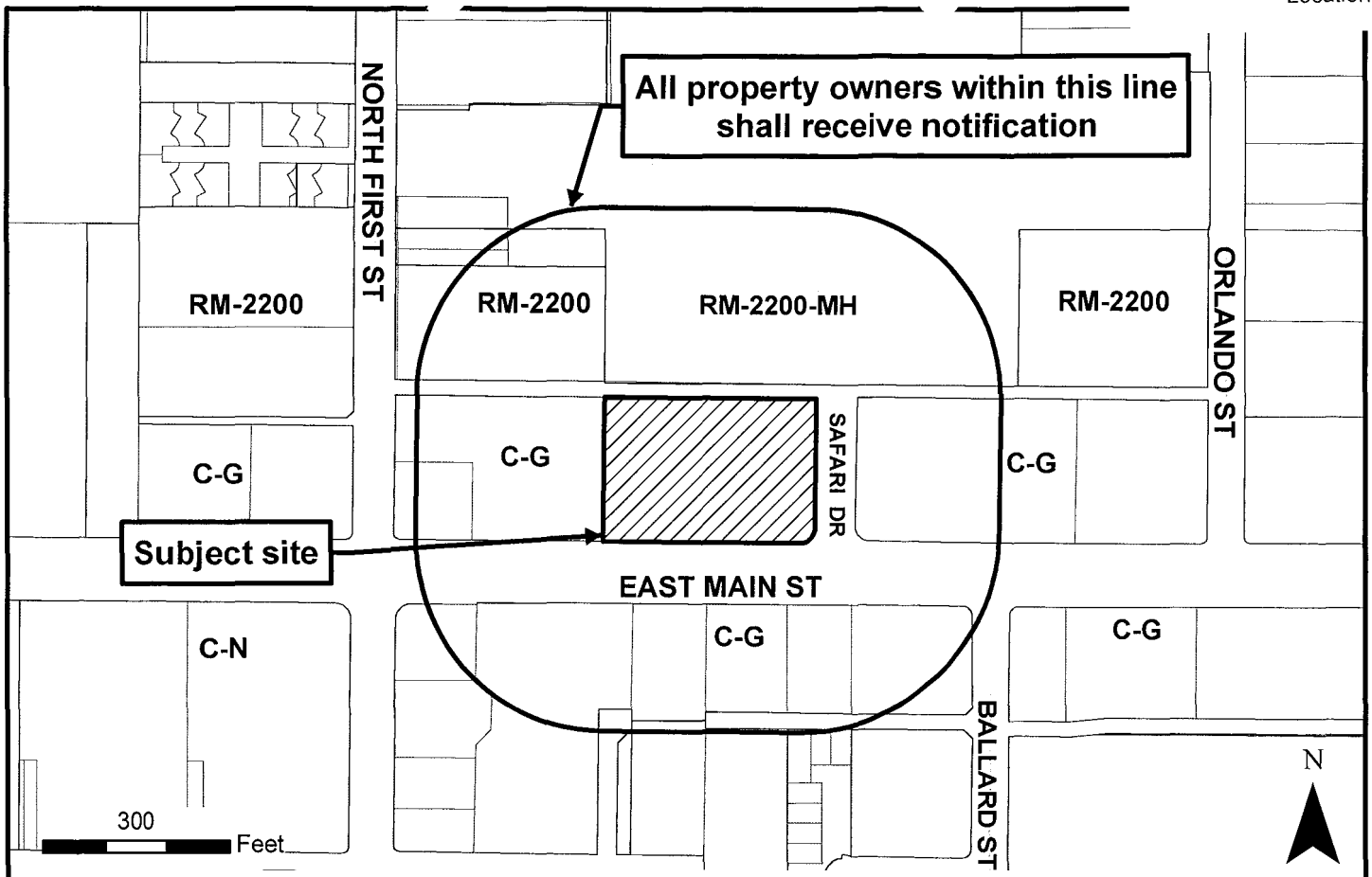
The proposed project is exempt from the provisions of the California Environmental Quality Act (CEQA) subject to section 15301 (Existing Facilities) of the CEQA Guidelines. Section 15301 provides an exemption for existing facilities where there is negligible expansion of an existing use. In this instance, there are no exterior or interior modifications proposed for the existing structure and this request is solely to allow a banquet hall. No new environmental impacts would result. None of the exceptions listed under CEQA Guidelines section 15300.2 exist.

PUBLIC NOTICE & INPUT

Notice of this public hearing was mailed on August 17, 2017, to all property owners within 300 feet of the project site and to anyone who requested such notice in writing, in compliance with Government Code sections 65090, 65091, and 65092, as applicable. Additionally, as a public service, the notice was posted in the kiosk at City Hall and on the City's website under "Public Hearings/Public Notices." The notice was also mailed to the two public libraries in the City of El Cajon, located at 201 East Douglas Avenue and 576 Garfield Avenue.

ATTACHMENTS

1. Public Hearing Notice/Location Map
2. Proposed Resolution APPROVING Amendment of CUP No. 1449
3. Police Department comments
4. Aerial Photograph of Subject Site
5. Project Description
6. Application & Disclosure statement
7. Reduced site plan
8. Full-sized site plans (*Commissioners' Binders*)



**NOTICE OF PROPOSED
AMENDMENT TO CONDITIONAL USE PERMIT NO. 2239
FOR AL AZAYEM**

NOTICE IS HEREBY GIVEN that the El Cajon Planning Commission will hold a public hearing at **7:00 p.m., Tuesday, September 5, 2017**, in the City Council Chambers, 200 Civic Center Way, El Cajon, CA, to consider: **AL AZAYEM RESTUARANT – AMENDMENT TO CONDITIONAL USE PERMIT NO. 2239**, as submitted by Eevin Zuhair requesting banquet hall services at the existing full service restaurant which includes on-site alcohol sales. The subject property is addressed as 1142 East Main Street. This project is exempt from the California Environmental Quality Act (CEQA).

The public is invited to attend and participate in this public hearing. The agenda report for this project will be available 72 hours prior to the meeting at <http://cityofelcajon.us/your-government/calendar-meetings-list>. In an effort to reduce the City's carbon footprint, paper copies will not be at the public hearing, but will be available at the Project Assistance Center counter upon request.

If you challenge the matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the Commission at, or prior to, the public hearing. The City of El Cajon encourages the participation of disabled individuals in the services, activities, and programs provided by the City. Individuals with disabilities who require reasonable accommodation in order to participate in the public hearing should contact Planning at 619.441.1742. More information about planning and zoning in El Cajon is available at <http://www.cityofelcajon.us/your-government/departments/community-development/planning-division>.

If you have any questions, or wish any additional information, please contact **ALFONSO CAMACHO** at 619.441.1782 or via email at acamacho@cityofelcajon.us and reference "Al Azayem" in the subject line.

PROPOSED PLANNING COMMISSION RESOLUTION

A RESOLUTION APPROVING AMENDMENT TO CONDITIONAL USE PERMIT (CUP) NO. 1449 TO ALLOW A BANQUET HALL AT AN EXISTING RESTAURANT WITH ON-SALE ALCOHOL IN THE C-G (GENERAL COMMERCIAL) ZONE, APN: 489-150-31; GENERAL PLAN DESIGNATION: GENERAL COMMERCIAL

WHEREAS, the El Cajon Planning Commission duly advertised and held a public hearing on September 5, 2017, to consider an amendment to Conditional Use Permit (CUP) No. 1449 requesting approval of a banquet hall at an existing restaurant with on-sale beer and wine located on the north side of East Main Street and west of Safari Avenue, addressed as 1142 East Main Street; and

WHEREAS, the following findings of fact have been made in regard to said conditional use permit:

- A. The proposed banquet hall is exempt from the provisions of the California Environmental Quality Act (CEQA) according to section 15301 (Existing Facilities) of the CEQA Guidelines. Section 15301 provides an exemption for projects proposing negligible or no expansion of an existing use. The Amendment to CUP No. 1449 proposes a banquet hall including live entertainment to the existing restaurant. The existing use of the commercial building will not be intensified by allowing the additional services and live entertainment. None of the exceptions listed under CEQA Guidelines section 15300.2 exist.
- B. The proposed banquet hall is consistent with applicable goals, policies, and programs of the General Plan because the proposed banquet hall would host cultural events such as wedding receptions, bridal showers, baby showers and first communions. The banquet hall would operate in conjunction with the existing restaurant serving on-sale beer and wine. The banquet hall would provide live entertainment for special events which is consistent with the General Commercial Land Use Designation of the General Plan.
- C. The design, location and operating characteristics of the proposed banquet hall satisfies all applicable land use and development standards contained in the Zoning Code because the use will be conducted inside an existing building.
- D. The proposed banquet hall will be operated in a manner that is compatible with existing and planned land uses in the vicinity. The banquet hall will be conducted indoors in a manner compatible with

Proposed Planning Commission Resolution

surrounding uses if all activities are conducted in compliance with the performance standards listed in ECMC section 17.115.130 and section 17.210.150. The banquet hall must adhere to operating standards required by local, state and federal law, including but not limited to those of Alcoholic Beverage Control, and applicable sections of the Business and Professions Code.

- E. The proposed banquet hall will not be detrimental to the public health, safety, and general welfare, including but not limited to matters of noise, smoke, dust, fumes, vibration, odors and hazards, or excessive concentrations of traffic because there is nothing associated with the normal indoor conduct of a banquet hall that would be detrimental to public health and safety, including but not limited to matters of noise, smoke, dust, fumes, vibration, odors, and hazards, or excessive concentrations or traffic. Moreover, the City has performance standards for such impacts which are enforced through code compliance activities. No existing problems such as public drunkenness, loitering, noise, or littering have been identified in the area, which would be exacerbated by the proposed banquet hall. Furthermore, alcohol-related operational standards will be in place as conditions of approval to prevent any increase in crime rate.
- F. The proposed banquet hall is in the best interest of public convenience and necessity because the project will provide a venue for cultural events and bring people to the area in the evening hours and weekends.

NOW, THEREFORE, BE IT RESOLVED that based upon said findings of fact, the El Cajon Planning Commission hereby APPROVES the Amendment to Conditional Use Permit No. 1449 for a banquet hall in C-G zone, on the above described property subject to the following conditions:

- 1. Within 30 days of Planning Commission approval, the applicant shall submit a revised, one-page mylar site plan to Planning that includes the following notes:
 - a. The sale of alcoholic beverages at the site shall only be conducted by the owner of the banquet hall, no outside vendors or caterers are permitted to sell alcohol beverages at the banquet hall.
 - b. No Loitering shall take place around the building or in the parking areas for any extended periods of time.

Proposed Planning Commission Resolution

- c. All doors of the building shall be kept closed at all times except for entering and exiting.
 - d. Hours of operation shall be limited to 5:00 pm to 11:00 pm on weekdays and 12:00 pm to 1:00 am on weekends.
 - e. The approved uses shall be limited to a restaurant and banquet hall.
 - f. Noise levels shall not exceed those for commercial zones as specified in El Cajon Municipal Code (ECMC) section 17.115.130.
 - g. The owners and all employees serving alcoholic beverages shall be required to be certified in Responsible Beverage Service training.
2. Conditions 1 (a) through 1 (g) shall be ongoing conditions of approval
3. Conditional Use Permit No. 1449, approved by the El Cajon Planning Commission by Resolution No. 9535, and all conditions of approval contained in resolution No. 9535, shall remain in effect except as specified herein
4. The Planning Commission may (at any time during the life of this use permit, after holding a properly noticed public hearing at which the applicant may appear and object under applicable law to any potential revocation or modification of the conditions of approval, and after considering testimony as to the operation of the approved use) revoke the permit, or modify the permit with any additional conditions as it deems necessary, to ensure that the approved use continues to be compatible with surrounding properties and continues to be operated in a manner that is in the best interest of public convenience and necessity and will not be contrary to the public health, safety or welfare.
5. The existence of this conditional use permit amendment shall be recorded with the County Recorder.
6. The proposed use shall be operated in conformance with conditions presented in the Planning Commission staff report titled Amendment to Conditional Use Permit No. 1449, dated September 5, 2017, except as modified by this resolution. Operation of the use in violation of the conditions of approval is a basis for revocation.

Proposed Planning Commission Resolution

7. The service of on-sale alcohol in concert with the banquet hall and other uses will remain compatible with, and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.
8. If this permit is not legally exercised within one year of project approval, and a written request for an extension of time has not been received by the Planning Secretary within the same time period, and subsequently approved, this conditional use permit shall be considered null and void per El Cajon Zoning Code section 17.35.010.
9. This resolution governs the conditionally permitted uses on the above-named properties.

Proposed Planning Commission Resolution

PASSED AND ADOPTED by the El Cajon Planning Commission at a regular meeting held September 5, 2017, by the following vote:

AYES:

NOES:

ABSENT:

Darrin MROZ, Chairperson

ATTEST:

Anthony SHUTE, AICP, Secretary

CITY OF EL CAJON



POLICE DEPARTMENT

MEMORANDUM

DATE: MAY 29, 2017

TO: CITY MANAGER'S OFFICE

FROM: POLICE DEPARTMENT
LT. RANDY SOULARD *RS*
PATROL DIVISION

SUBJECT: **CONDITIONAL USE PERMIT NO. 2239**
AL AZAYEM BANQUET HALL

D

MM
5/29/17

I have reviewed the application for Conditional Use Permit #2239 for the business "Al Azayem" located at 1142 E. Main Street. The request is for the addition of a banquet hall in the existing building during non-restaurant hours. There are no proposed structural changes or construction at this pre-existing business.

The application and attached diagrams depict designated areas for customer parking, including handicap parking. Additional parking is available on the street and existing entry and egress areas will be used. Vehicle and pedestrian traffic would not appear to be affected. There are three point of entry and egress locations for use by emergency vehicles, customers, and employees. The surrounding area consists mostly of businesses that are closed during nighttime hours.

Based on the materials provided, I conclude that the proposed changes will have a no negative impact on police services.



Aerial Image

1142 East Main Street

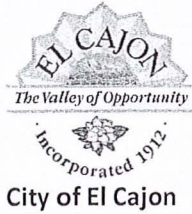
AL AZAYEM RESTAURANT # 2

1142 EAST MAIN STREET

EL CAJON, CA. 92021

**EXISTING BUSINESS IS "RESTAURANT"
PROPOSED TO ADD BANQUET HALL FOR SPECIAL EVENTS
AND LIVE MUSIC AND DJ FOR:**

- WEDDINGS
 - ENGAGEMENT PARTIES
 - BAPTISMS
 - BABY SHOWERS
 - BRIDAL SHOWERS
 - 1ST COMMUNIONS
 - LIVE ENTERTAINMENT WITH SINGERS
-
- MUSIC AND LIVE ENTERTAINMENT ARE MIDDLE EASTERN BACKGROUND
-
- IT IS REQUESTED FOR HOURS OF OPERATION:
 - FOR WEEKDAYS; 5:00 AFTERNOON - 11:00 PM
 - FOR WEEKENDS; 12:00 NOON TILL 1:00 AM



Community Development Department
Planning Division
PLANNING PERMIT APPLICATION

Type of Planning Permit(s) Requested

- AZP CUP LLA PRD PUD
- Specific Plan TPM TSM VAR ZR
- Other: _____

Applicant Information (the individual or entity proposing to carry out the project; not for consultants)

Company Name: NA.

Contact Name: SEVIN M. ZUHAIL

Address: 1142 E. MAIN STREET, E.C. CA. 92021

Phone: (619) 715-9190 Email: _____

Interest in Property: Own Lease Option

Project Representative Information (if different than applicant; consultant information here)

Company Name: NA.

Contact Name: NABIL N. KACHI License: C 03766Z P.E.

Address: 1010 SINGING RIDGE RD, E.C. CA. 92019

Phone: (619) 980-5793 Email: nkachi@cox.net

Property Owner Information (if different than applicant) Spectrum Property Management as agent for

Company Name: MAIN STREET MERC ANTIQUE, LLC.

Contact Name: Denise Schwab

Address: 8799 Balboa Ave., #260, S.D. 92123

Phone: (858) 737-1811 Email: dschwab@spectrummgt.com

Project Location

Parcel Number (APN): 489-150-31-00

Address: 1142 E. MAIN STREET, E.C. 92021

Nearest Intersection: 1st & MAIN

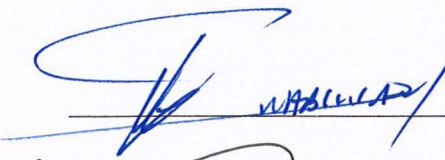
Project Description (or attach separate narrative)

Hazardous Waste and Substances Statement

Section 65962.5(f) of the State of California Government Code requires that before the City of El Cajon accepts as complete an application for any discretionary project, the applicant submit a signed statement indicating whether or not the project site is identified on the State of California Hazardous Waste and Substances Sites List. This list identifies known sites that have been subject to releases of hazardous chemicals, and is available at <http://www.calepa.ca.gov/sitecleanup/corteselist/>. Check the appropriate box and if applicable, provide the necessary information:

The development project and any alternatives proposed in this application:
 is/are NOT contained on the lists compiled pursuant to Government Code Section 65962.5.
 is/are contained on the lists compiled pursuant to Government Code Section 65962.5.
If yes, provide Regulatory Identification Number: _____ Date of List: _____

Authorization

Applicant Signature¹:  Date: 3/7/2017

Property Owner Signature²:  Date: _____

- Applicant's Signature:** I certify that I have read this application and state that the above information is correct, and that I am the property owner, authorized agent of the property owner, or other person having a legal right, interest, or entitlement to the use of the property that is the subject of this application. I understand that the applicant is responsible for knowing and complying with the governing policies and regulations applicable to the proposed development or permit. The City is not liable for any damages or loss resulting from the actual or alleged failure to inform the applicant of any applicable laws or regulations, including before or during final inspections. City approval of a permit application, including all related plans and documents, is not a grant of approval to violate any applicable policy or regulation, nor does it constitute a waiver by the City to pursue any remedy, which may be available to enforce and correct violations of the applicable policies and regulations. I authorize representatives of the City to enter the subject property for inspection purposes.
- Property Owner's Signature:** ~~If not the same as the applicant, property owner must also sign. A signed, expressed letter of consent to this application may be provided separately instead of signing this application form. By signing, property owner acknowledges and consents to all authorizations, requirements, conditions and notices described in this application. Notice of Restriction: property owner further acknowledges and consents to a Notice of Restriction being recorded on the title to their property related to approval of the requested permit. A Notice of Restriction runs with the land and binds any successors in interest.~~

copy attached.



X Disclosure Statement

This statement is intended to identify and avoid potential conflicts of interest that may exist between the project proponents and the decision makers; including City staff, Planning Commissioners, and City Council members.

The following information must be disclosed:

1. List the names and addresses of all persons having a financial interest in the application.

EEYIN M. ZUHAIN 1142 E. MAIN STREET, E. C.

List the names and address of all persons having any ownership interest in the property involved.

NA.

2. If any person identified pursuant to (1) above is a corporation or partnership, list the names and addresses of all individuals owning more than 10% of the shares in the corporation or owning any partnership interest in the partnership.

no

3. If any person identified pursuant to (1) above is a trust, list the name and address of any person serving as trustee or beneficiary or trustor of the trust.

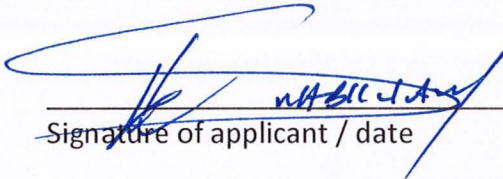
no

4. Have you or your agents transacted more than \$500.00 worth of business with any member of City staff, Boards, Commissions, Committees and Council within the past 12 months or \$1,000.00 with the spouse of any such person? Yes _____ No

If yes, please indicate person(s), dates, and amounts of such transactions or gifts.

NA -

"Person" is defined as "Any individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert." Gov't Code §82047.

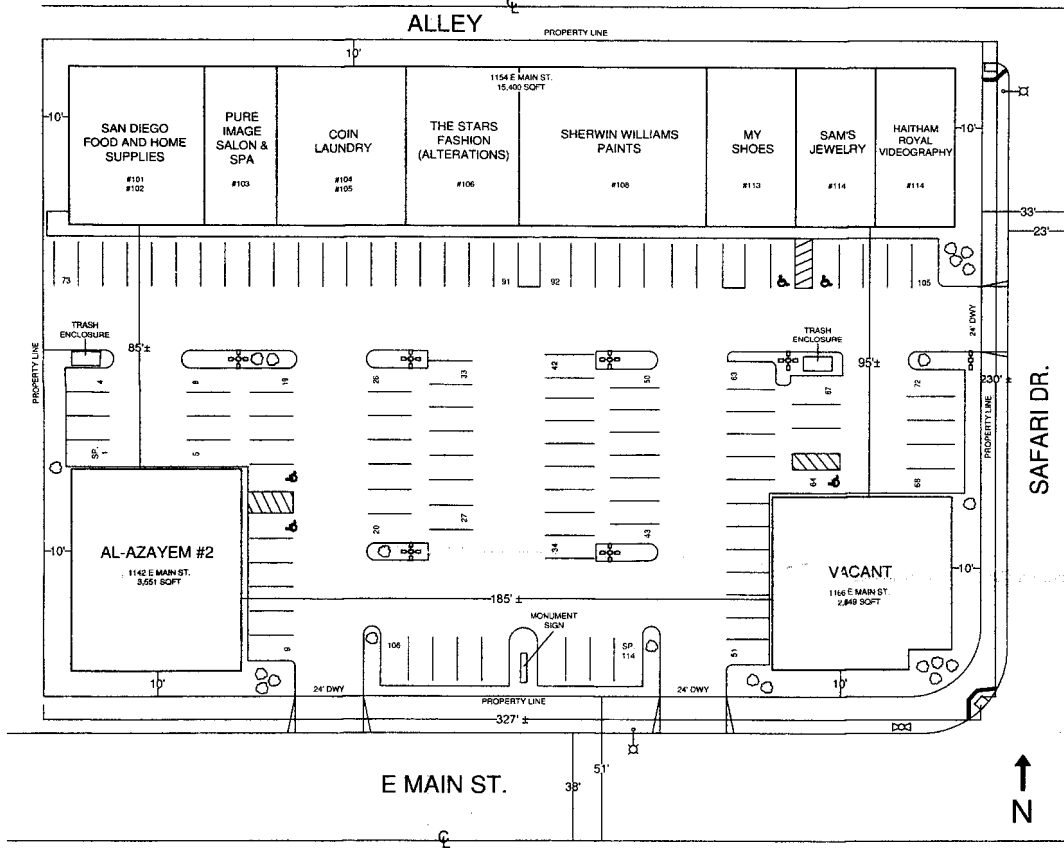


Signature of applicant / date

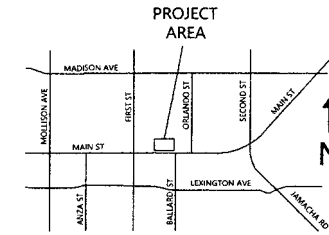
NABIL N. KACHI. P.E.

Print or type name of applicant

NOTE: Attach appropriate names on additional pages as necessary.



copy



VICINITY MAP

LEGEND

- CURB RAMP
- STREET LIGHT
- PARKING LOT LIGHT
- FIRE HYDRANT
- TREE/BUSH (DIAMETER 12"-18")
- PARKING SPACE NUMBER

SITE PLAN

SCALE 1" = 20'

NOTES

Gross Lot Area: 1.5 acres
 Area devoted to landscaping: 4,225 sqft
 Gross Building Area: 21,800 sqft
 1142 E Main St. - 3,551 sqft, Restaurant
 1154 E Main St. - 15,400 sqft, General Retail
 1166 E Main St. - 2,849 sqft, General Office

General Retail and Office (18,249 sqft)
 10,000 sqft at 1 space per 250 sqft = 40 spaces
 8, 249 sqft at 1 space per 300 sqft = 28 spaces
Restaurant (3,551 sqft with 250 sqft dance floor)
 3,301 sqft at 1 space per 100 sqft = 33 spaces
 250 sqft at 1 space per 50 sqft = 5 spaces

Total Required Parking Spaces: 106
 Existing Parking Spaces: 114

AL AZAYEM RESTAURANT #2

1142 E MAIN STREET
 EL CAJON, CA 92021

CITY OF EL CAJON

PERMIT NO. _____
 APPLICANT: EEVIN ZUHAIR (619) 715-9190
 ASSESSOR PARCEL NO(S): 489 150 31 00
 REQUEST: ADD MUSIC AND DJ FOR LIVE ENTERTAINMENT
 PRIMARY USE: RESTAURANT
 ZONE: C-G ENTITLEMENTS: SDP 1142 CUP 1449
 ABC LICENSE TYPE: TYPE 41 (ON-SALE BEER AND WINE)
 PC RESOLUTION NO. _____ APPROVED BY: _____
 CC RESOLUTION NO. _____
 ORDINANCE NO. _____ DATE: _____



Agenda Item:	3
Project Name:	Personal Marijuana (Cannabis) Cultivation
Request:	Zoning Code Amendment
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	RECOMMEND CITY COUNCIL APPROVAL OF THE ZONING CODE AMENDMENT
Project Number:	Zoning Code Amendment No. 434
Location:	Citywide
Applicant:	City of El Cajon
Project Planner:	Anthony Shute, tonys@cityofelcajon.us, 619.441.1742
City Council Hearing Required?	Yes September 26, 2017
Recommended Actions:	<ol style="list-style-type: none"> 1. Conduct the public hearing; and 2. MOVE to adopt the next resolution in order recommending City Council approval of the proposed Zoning Code Amendment

PROJECT DESCRIPTION

This is a proposed amendment to El Cajon Municipal Code (ECMC) Title 17 to address personal marijuana cultivation consistent with State law, further define and clarify the City’s existing position on marijuana dispensaries, manufacturing, cultivation (non-personal), storage, and mobile deliveries. The City’s Zoning Code currently prohibits marijuana dispensaries, as well as the cultivation, storage, and manufacturing of marijuana and marijuana products in all zones in the City. Further, ECMC chapter 9.47 prohibits mobile deliveries of marijuana and associated products.

BACKGROUND

Historically, the City Council has been opposed to the state’s approach regarding the legalization of marijuana citing public health concerns, safety of the youth, and inconsistency with the City Council’s economic development goals. Since 2010, medical marijuana dispensaries were prohibited in the City’s commercial zones under ECMC Section 17.145.150, and in 2016 the El Cajon City Council amended the Municipal Code to explicitly prohibit all marijuana dispensaries, manufacturing, cultivation, and storage in all zones, and the delivery of marijuana products.

On November 8, 2016, California voters approved Proposition 64 which allows adult use of marijuana by legalizing the possession, use, and cultivation of “non-medical”

marijuana for those who are 21 years of age or older. It also authorizes a comprehensive state system to regulate commercial marijuana activity.

On November 15, 2016, the City Council extended an urgency ordinance to prohibit the outdoor cultivation of marijuana by individuals for personal use, in all zones within the City, until staff could return with proposed code amendments that address outdoor cultivation.

DISCUSSION

Historical State and Federal Laws

In 1996, California voters approved Proposition 215, entitled the Compassionate Use Act (CUA) to ensure that seriously ill individuals have the right to obtain and use marijuana for medical purposes when recommended by a physician. The CUA also exempts patients and their primary caregivers from criminal prosecution or sanctions under state laws that otherwise prohibit the cultivation or possession of marijuana. In 2003, the California Legislature adopted Senate Bill 420 to create the Medical Marijuana Program Act (MMPA), which established a voluntary program for the issuance of medical marijuana identification cards for qualified patients, set limits on the amount of marijuana any individual could possess, and provided an exemption from state criminal liability for persons “who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes.” Despite the passage of the CUA and the MMPA, marijuana remains illegal under Federal law pursuant to the Controlled Substances Act (CSA), and prohibits the manufacture, cultivation, distribution and possession of marijuana. Additionally, the United States Supreme Court has continuously held that the use of medical marijuana violates Federal law under the CSA.

In 2013, the California Supreme Court held in *City of Riverside v. Inland Empire Patients Health & Wellness Center, Inc.* that California’s medical marijuana statutes do not preempt a local ban on facilities that distribute medical marijuana. The Court noted that the CUA and the MMPA did not expressly or impliedly limit the inherent authority of a local agency to regulate the use of its land, including the authority to provide that medical marijuana dispensaries are a prohibited use and a public nuisance within the local agency’s jurisdictional limits.

Medical Marijuana Regulation and Safety Act

On October 9, 2015, Governor Brown approved the MMRSA, which went into effect on January 1, 2016. The MMRSA is a series of three legislative bills that established a comprehensive state licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of medical marijuana.

Control, Regulate, and Tax Adult Use of Marijuana Act (Proposition 64)

On November 8, 2016, Proposition 64 or the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA) was approved by California voters. The AUMA legalizes the

possession, use, and cultivation of “non-medical” marijuana for those who are 21 years of age or older and authorizes a comprehensive state system to regulate commercial marijuana activity. For the purposes of the AUMA, commercial marijuana activity includes the cultivation, manufacture, distribution, processing, storing, laboratory testing, labeling, delivery, or sale of marijuana and marijuana products. This activity is already prohibited by the El Cajon Municipal Code.

AUMA provisions became effective November 9, 2016 and it allows for the cultivation of up to six (6) marijuana plants in or about a private residence. Regardless of the number of adults 21 years of age or older, there can only be a maximum of six (6) marijuana plants planted, cultivated, harvested, dried, or processed within a single private residence. A “residence” is defined as a house, an apartment unit, a mobile home, or other similar dwelling. The plants and any marijuana produced by the plants must:

1. Be kept within a private residence or upon the grounds of a private residence
2. Be kept in a locked space
3. Not be visible by normal unaided vision from a public space

Under the AUMA, cities may not prohibit indoor cultivation for personal use. However, a city may enact an ordinance that reasonably regulates cultivation activities inside a private residence or inside a fully-enclosed, secure accessory structure located upon the grounds of a private residence. Proposed measures should be designed to ensure a residential unit is maintained as such and that personal cultivation does not become a public nuisance. The AUMA does not define or provide examples of “reasonable regulations.” A city may also enact an ordinance that prohibits cultivation activities outdoors upon the grounds of a private residence.

The AUMA also regulates commercial marijuana activity and grants state agencies the authority to issue licenses for non-medical marijuana businesses. A business will not be required to obtain a local permit or authorization before being issued a state license. State agencies are to begin issuing licenses by January 1, 2018. However, the AUMA does prohibit state licensing authorities from issuing a license to a commercial nonmedical marijuana business if the operation of the business violates a local ordinance prohibiting such activity.

Existing City Regulation

Since 2010, medical marijuana dispensaries have been expressly prohibited in the City’s commercial zones. The City Council’s decision to enact a ban on medical marijuana dispensaries was based on a determination that it may regulate medical marijuana to the extent it is not preempted from doing so by State or Federal law, and that it has the police power to make land use and zoning decisions within its jurisdiction. The prohibition was adopted to protect the health, safety and welfare of the City and its residents. Furthermore, in 2015, the City Council adopted code amendments further clarifying the prohibition of any type of marijuana cultivation, distribution by mobile marijuana

dispensaries and other marijuana delivery services, marijuana storage, and the manufacturing of marijuana products in all zones in the city.

Proposed Regulations

The City Council has voiced concerns regarding the legalization of marijuana citing public health, safety of the youth, and not being consistent with the its economic development goals. Several jurisdictions throughout the state have reported adverse effects and nuisance impacts relating to marijuana cultivation, including but not limited to the strong and potentially noxious odors associated with mature marijuana plants, damages to buildings in which cultivation occurs and inadequate ventilation, the proximity of children to areas under cultivation, the visibility of cultivated areas from the public right-of-way, and an increase in crime, including home- or business-invasion robberies and similar crimes.

The proposed code amendments aim to do the following:

- Prohibit outdoor growing activities and focus cultivation indoors
- Allow individuals to use their private residence for personal cultivation of marijuana consistent with state law, and without the need of a permit from the City
- Reiterate the prohibition of all commercial marijuana activity in the City
- Include fines of up to \$2,500 for each violation of the proposed chapter

A draft ordinance containing amendments to El Cajon Zoning Code has been prepared for the Planning Commission's review and recommendation to the Council in underline ~~strikeout~~ format. The draft amendments include changes consistent with the City Council's direction as stated in Urgency Ordinance No. 5056, and is as follows:

- Proposed new chapter 17.243 Personal Cultivation of Marijuana
- Delete marijuana definitions in section 17.105.020
- Clarification edits to Land Use Tables; 17.140.210 (Residential), 17.145.150 (Commercial), and 17.150.170 (Manufacturing)
- Minor clarification edit to Open Space Chapter 17.155

FINDINGS

A. *The proposed zoning amendment, including any changes proposed in the various land uses to be authorized, is compatible with the objectives, policies, general land uses, and programs specified in the general plan.*

The proposed zoning code amendment is compatible with the objectives, policies, general land uses, and programs specified in the General Plan, because the proposed

prohibition of outdoor cultivation is designed to ensure the use of land within the City does not negatively impact surrounding areas.

- B. *The proposed zoning amendment is consistent with any applicable specific plan governing development of the subject property.*

The proposed zoning code amendment is applicable citywide. No zone changes are proposed as part of this project, and thus the proposed changes do not conflict with specific plans.

- C. *It is in the public necessity and convenience and/or general welfare that the zoning regulations governing the property be changed.*

The proposed Zoning Code amendment will not significantly alter the character of the City or cause significant health, safety or welfare concerns, since the amendment is consistent with the General Plan and directly implements City goals and policies to ensure a healthy and safe community.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

This project is exempt pursuant to CEQA Guidelines Subsection 15061(b)(3), the “General Rule,” which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed amendment is designed to protect the health, safety and welfare of the City and its residents. No new construction will result from this proposed amendment.

PUBLIC NOTICE & INPUT

Notice of this public hearing was published in the *East County Gazette* on August 17, 2017, and to anyone who requested such notice in writing, in compliance with Government Code Sections 65090, 65091, and 65092, as applicable. Additionally, as a public service, the notice was posted in the kiosk at City Hall and on the City’s website. The notice was also mailed to the two public libraries in the City of El Cajon, located at 201 East Douglas Avenue and 576 Garfield Avenue.

ATTACHMENTS

1. Proposed Resolution recommending City Council Approval of Zoning Code Amendment No. 434.
2. City Council Urgency Ordinance No. 5056
3. League of California Cities Adult Use of Marijuana Act (Prop 64) FAQs
4. Public Hearing Notice

PROPOSED PLANNING COMMISSION RESOLUTION

A RESOLUTION RECOMMENDING CITY COUNCIL APPROVAL TO AMEND TITLE 17 OF THE EL CAJON MUNICIPAL CODE TO ADD A NEW CHAPTER, 17.243 "PERSONAL CULTIVATION OF MARIJUANA" TO UPDATE THE EXISTING PROHIBITION AGAINST ALL COMMERCIAL MARIJUANA ACTIVITY, TO REASONABLY REGULATE INDOOR PERSONAL CULTIVATION CONSISTENT WITH STATE LAW, AND TO PROHIBIT OUTDOOR MARIJUANA CULTIVATION

WHEREAS, California law allows the personal growth and cultivation of marijuana plants for the personal use and consumption of individuals with a maximum number of plants, leaves, and products containing marijuana, provided that such plants and products are in compliance with state laws and local ordinance; and

WHEREAS, it is the intent of the El Cajon Planning Commission to protect the safety and welfare of the general public through appropriate land use regulations to limit the possible deleterious impacts the outdoor growth and cultivation of marijuana by persons may have in the community; and

WHEREAS, the City Council expressed its interest in modifying the City's land use regulations when it adopted Urgency Ordinance No. 5056 extending Interim Urgency Ordinance No. 5054 temporarily prohibiting the establishment of outdoor cultivation of marijuana for private use in all zones and directing the Community Development Department to study whether persons should be allowed to cultivate marijuana outdoors, and directing the Planning Commission to hold a public hearing to consider amendments to Title 17 of the Municipal Code; and

WHEREAS, it is the intent of the El Cajon Planning Commission that nothing in this ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 800 et seq., nor to otherwise permit any activity that is prohibited under that act or any other local, state or federal law, statute, rule or regulation; that nothing in the proposed ordinance shall be construed to allow any conduct or activity relating to the cultivation, distribution, dispensing, sale, storage, manufacturing, or consumption of marijuana that is otherwise illegal under local or state law; and nothing in this ordinance shall be deemed a defense or immunity to any action brought against any person by the El Cajon City Attorney's office, the San Diego County District Attorney's office, the Attorney General of the State of California or the Attorney General of the United States of America; and

WHEREAS, the El Cajon Planning Commission held a duly advertised public hearing on September 5, 2017, to consider Zoning Code Amendment No. 434 that clearly prohibits outdoor marijuana (cannabis) cultivation in all zones in the City of El Cajon;

and

WHEREAS, at the public hearing the Planning Commission received evidence through public testimony and comment in the form of verbal and written communications and reports prepared and presented to the Planning Commission, including (but not limited to) evidence such as the following:

- A. Based upon the record as a whole, the Planning Commission hereby finds that the proposed Zoning Code amendment, as modified by this Resolution, is exempt from CEQA pursuant to the "General Rule" that CEQA only applies to projects that have the potential for causing a significant physical effect on the environment, (CEQA Guidelines, section 15061(b)(3)). The proposed amendment is designed to protect the public health, safety and welfare and to ensure the use of land within the City does not negatively impact surrounding areas. Therefore the proposed amendment does not warrant CEQA analysis because it does not increase development, and there are no potentially significant environmental effects.
- B. The proposed Zoning Code amendment, with such modifications as may be contained in this Resolution, is compatible with the objectives, policies, general land uses, and programs specified in the General Plan, because the proposed standards that prohibit outdoor marijuana cultivation in all areas of the City is designed to ensure the use of land within the City does not negatively impact surrounding areas. Moreover, the proposed Zoning Code amendment, with such modifications as may be contained in this Resolution, will not significantly alter the character of the City or cause significant health, safety or welfare concerns, since the amendment is consistent with the General Plan and directly implements City goals and policies to ensure a healthy and safe community.
- C. The proposed Zoning Code amendment is applicable citywide. No zone changes are proposed as part of this project, and thus the proposed changes do not conflict with specific plans.

WHEREAS, after considering such evidence and facts the Planning Commission did consider Zoning Code Amendment No. 434 as presented at its meeting

NOW, THEREFORE, BE IT RESOLVED by the El Cajon Planning Commission as follows:

Section 1: That the foregoing recitals are true and correct, and are findings of fact of the El Cajon Planning Commission in regard to Zoning Code Amendment 434.

Section 2. That based upon said findings of fact, the El Cajon Planning Commission hereby RECOMMENDS City Council APPROVAL of Zoning Code Amendment 434 by adding Chapter 17.243 to Title 17 of the El Cajon Municipal Code to read as follows:

Chapter 17.243 PERSONAL CULTIVATION OF MARIJUANA

17.243.010 Definitions. For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates otherwise. If a word is not defined in this section, the common and ordinary meaning of the word shall apply. All references to state law shall refer to the act, statute, or regulation as may be amended from time to time:

- A. "AUMA" refers to the Control, Regulate and Tax Adult Use of Marijuana Act approved by the voters on November 8, 2016.
- B. "Commercial marijuana activity" includes both "commercial cannabis activity" and "commercial marijuana activity" as those terms are defined/set forth in Business and Professions Code sections 19300.5 and 26001, and means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, delivery, or sale of marijuana or marijuana products. "Commercial marijuana activity" also includes the activities of any business or nonprofit licensed by the State or other government entity under Chapter 3.5 of Division 8 or Division 10 of the Business and Professions Code.
- C. "Concentrated cannabis" shall have the same meaning "cannabis concentrate" as defined in Business and Professions Code section 19300.5, and includes manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency.
- D. "Cultivation" shall have the same meaning as that set forth in Business and Professions Code section 26001, and shall include any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.
- E. "Delivery" shall have the same meaning as set forth in Business and Professions Code section 26001 and shall include the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform, whether owned and controlled by the retailer or independently licensed, that enables customers to arrange for or facilitate the commercial transfer by a retailer of marijuana or marijuana products.
- F. "Dispensary" means any facility or location, whether fixed or mobile, where marijuana, whether medical or otherwise, is made available to or distributed by or distributed to one (1) or more of the following: a primary caregiver; a qualified patient; or a patient with an identification card; or any other individual regardless of status defined or not defined. A marijuana dispensary, medical or otherwise, is prohibited in all zones within the city's

jurisdictional limits. No permit, whether conditional or otherwise, shall be issued for the establishment of such use.

- G. "Fully enclosed and secure structure" means a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is at all times secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors.
- H. "Identification card" has the same meaning as defined in Health and Safety Code section 11362.7(g).
- I. "Indoors" means within a fully enclosed and secure structure.
- J. "Marijuana" shall have the same meaning as set forth in Health and Safety Code section 11018 and shall include all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Marijuana" shall also be construed to include, but not be limited to, "cannabis" as defined in Business and Professions Code section 19300.5. "Marijuana" does not include:
 - 1. "Industrial hemp," as defined by Food and Agricultural Code section 81000 or Health and Safety Code section 11018.5.
 - 2. The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.
- K. "Marijuana product" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to concentrated cannabis, or an ingestible, topical, inhalable, or otherwise consumable product containing marijuana or concentrated cannabis, and other ingredients.
- L. "MCRSA" shall collectively mean the Medical Cannabis Regulation and Safety Act as contained, codified, enacted, and signed into law on October 9, 2015, as Assembly Bill No. 243, Assembly Bill No. 266, and Senate Bill 643, and as amended by Assembly Bill 21 in 2016. The MCRSA was formerly known as the Medical Marijuana Regulation and Safety Act.
- M. "Outdoors" means any location that is not within a fully enclosed and secure structure.
- N. "Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business

trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

- O. "Personal cultivation" means cultivation of marijuana conducted by an individual strictly for that individual's personal use, possession, processing, transporting, or giving away without any compensation whatsoever in accordance with this Code and State law, including but not limited to Health and Safety Code sections 11362.1 and 11362.2, and in accordance with Health and Safety Code sections 11362.7 and 11362.765. Except as herein defined, personal cultivation does not include, and shall not authorize, any cultivation conducted as part of a business or commercial activity, including cultivation for compensation or retail or wholesale sales of marijuana.
- P. "Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.
- Q. "Storage" means any facility or location, whether fixed or mobile, where marijuana, whether medical or otherwise, is stored either temporarily or permanently. No permit, whether conditional or otherwise, shall be issued for the establishment of such activity. Marijuana storage shall not include the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof by any "qualified patient," or "person with an identification card," as those terms are defined in California Health and Safety Code section 11362.7 so long as it is located at the residence of the qualified patient or person with an identification card.

17.243.20 Prohibitions.

- A. Commercial Marijuana Activity. Commercial marijuana activity is expressly prohibited in all zones in the City of El Cajon. No person shall establish, operate, maintain, conduct, or allow commercial marijuana activity anywhere within the City. In addition, this subsection is meant to prohibit all activities for which a State license may be required pursuant to the AUMA or the MCRSA. Accordingly, the City shall not issue any permit, license, or other entitlement for any activity for which a State license is required under the AUMA or the MCRSA.
- B. Property Owners. A property owner shall not rent, lease, or otherwise permit any business that engages in commercial marijuana activity to occupy real property in the City. A property owner shall not allow any person or business to establish, operate, maintain, conduct, or engage in commercial marijuana activity on any real property owned or controlled by that property owner that is located in the City.
- C. Deliveries. To the extent not already prohibited by Subsection A of this section and Chapter 9.47 of this Municipal Code, delivery of marijuana or

marijuana products to or from the City of El Cajon is expressly prohibited. No person shall conduct or perform any delivery of marijuana or marijuana products where the delivery either originates or terminates within the City.

- D. Outdoor Cultivation. To the extent not already prohibited by Subsection A, outdoor marijuana cultivation is expressly prohibited in all zones and all specific plan areas of the City of El Cajon.

17.243.030 Indoor Cultivation.

The prohibition in Subsection 17.243.020(A) shall not prohibit the indoor cultivation of six (6) or fewer live marijuana plants within a single private residence or inside an accessory structure located upon the grounds of a private residence, to the extent such cultivation is authorized by State law and is in strict compliance with the requirements set forth below:

- A. Private marijuana cultivation is permitted only within fully enclosed and secure structures, or areas or rooms within a private residence, inaccessible to minors. Cultivation areas shall be secured by lock and key or other security device which prevents unauthorized entry and shall not be visible from a public right of way.
- B. Private marijuana cultivation shall be limited to six (6) plants total, regardless of stage of gestation, whether immature or mature, regardless of how many qualified residents reside at the private residence.
- C. Private marijuana cultivation, including any lighting, plumbing, or electrical components used for cultivation, shall comply with Title 15 of the El Cajon Municipal Code. The use of gas products (CO₂, butane, propane, etc.) or CO₂ and Ozone generators for marijuana cultivation is prohibited. Any fully enclosed and secure structure, or area or room within a residence used for the cultivation of marijuana must have proper ventilation and shall not create a humidity or mold problem in violation of the Municipal Code or applicable state health and safety codes.
- D. Cultivation shall not be conducted in a manner that constitutes a public nuisance. A public nuisance may be deemed to exist if the cultivation produces light, glare, heat, noise, odor, or vibration that is or its effect is either detrimental to public health, safety, or welfare or interferes with the reasonable enjoyment of life or property by other persons.
- E. The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping, and sanitation facilities with proper ingress and egress. These rooms shall not be used for marijuana

cultivation where such cultivation will prevent their primary use for cooking of meals, sleeping, and bathing.

- F. Cultivation of marijuana shall not displace required off street parking, or violate any other provisions of the El Cajon Municipal Code.
- G. Written consent of the property owner must be obtained prior to the commencement of cultivation.17.243.040 Permissive Zoning.

Nothing in this Section shall be interpreted to the effect that the City's permissive zoning scheme allows any other use not specifically listed therein.

17.243.050 Enforcement.

The remedies provided by this section are cumulative and in addition to any other remedies available at law or in equity provided, however, persons violating this section shall not be subject to criminal liability under this section solely to the extent such conduct or condition is immune from criminal liability pursuant to State law, including the Compassionate Use Act of 1996 (Health and Safety Code section 11362.5), the Medical Marijuana Program (Health and Safety Code section 11362.7 et seq.), or the Adult Use of Marijuana Act, as they may be amended.

- A. Causing, permitting, aiding, abetting or concealing a violation of any provision of this section shall constitute a violation.
- B. Violations of this section shall constitute a misdemeanor except that notwithstanding any provision of this subdivision any violation may, in the discretion of the city attorney, be charged and prosecuted as an infraction in accordance with Section 1.24.010 of this code.
- C. Any person violating this section is subject to a civil action brought by the city attorney, punishable by a fine of two thousand five hundred dollars (\$2,500) for each violation. Any continuing violation shall constitute a separate offense for each day of the violation.
- D. Violations of this section are hereby declared to be public nuisances.
- E. In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the city attorney including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings and suits for injunctive relief.

17.243.060 Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have adopted the chapter and each section, subsection, sentence, clause or phrase thereof, irrespective of

the fact that any one or more of the sections, subsections, sentences, clauses or phrases may be declared invalid.

Section 3. Section 17.105.020 of the El Cajon Municipal Code is hereby modified by eliminating the definitions of "Marijuana cultivation," "Marijuana delivery," "Marijuana dispensary," and "Marijuana storage," as follows:

~~"**Marijuana cultivation**" means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof, and any and all associated business and/or operational activities. Marijuana cultivation by any person or entity, including clinics, collectives, cooperatives and dispensaries, is prohibited in all zones within the City's jurisdictional limits. No permit, whether conditional or otherwise, shall be issued for the establishment of such activity. Marijuana cultivation shall not include the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof by any "qualified patient," or "person with an identification card," as those terms are defined in California Health and Safety Code section 11362.7.~~

~~"**Marijuana delivery**" means the commercial delivery, transfer or transport, or arranging for the delivery, transfer or transport, or the use of any technology platform to arrange for or facilitate the commercial delivery, transfer or transport of marijuana, edible marijuana products, or any marijuana products to or from any location within the jurisdictional limits of the City of El Cajon, and any and all associated business or operational activities. Marijuana delivery by any person or entity, including clinics, collectives, cooperatives and dispensaries, is prohibited in the city. No permit, whether conditional or otherwise, shall be issued for the establishment of such activity. Marijuana delivery shall not include the delivery, transfer or transport of marijuana, edible marijuana products, or any marijuana products to any "qualified patient," or "person with an identification card," in the city, by any "primary caregiver," as each of those terms are defined in California Health and Safety Code section 11362.7, not to exceed eight (8) ounces of dried marijuana for each "qualified patient" and "person with an identification card" residing in the city.~~

~~"**Marijuana dispensary**" means any facility or location, whether fixed or mobile, where marijuana, whether medical or otherwise, is made available to or distributed by or distributed to one (1) or more of the following: a primary caregiver, a qualified patient, or a patient with an identification card, or any other individual regardless of status defined or not defined. A marijuana dispensary, medical or otherwise, is prohibited in all zones within the city's jurisdictional limits. No permit, whether conditional or otherwise, shall be issued for the establishment of such use.~~

~~"**Marijuana storage**" means any facility or location, whether fixed or mobile, where marijuana, whether medical or otherwise, is stored either temporarily or permanently. No permit, whether conditional or otherwise, shall be issued for the establishment of such activity. Marijuana storage shall not include the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof by any "qualified patient," or "person with an identification card," as those terms are defined in California Health and Safety~~

Residential Zones	PRD	RS-40	RS-20	RS-14	RS-9	RS-6	RM-6000	RM-4300	RM-2500	RM-2200	RM-1450	RM-HR	Notes
Other similar uses	D	D	D	D	D	D	D	D	D	D	D	D	15

1. Legally created lots in the RM-4300 zone are entitled to at least two units, regardless of lot area.
2. See Chapter 17.165 for PRD requirements. See Chapter 17.60 for PUD requirements.
3. Must be separated at least 300 feet between structures measured at closest wall of each.
4. Use prohibited in SP-182.
5. Subject to the provisions of Section 17.140.120 (accessory structures).
6. Subject to the provision of Section 17.225.020 (bed and breakfast establishments).
7. Subject to the provisions of Section 17.225.050 (home occupations).
8. Subject to the provisions of Chapter 17.205 (animals and agriculture).
9. Subject to the provisions of Section 17.140.180 (accessory and junior accessory dwelling units).
10. A "day care facility" is not a "family day care home" as defined in Chapter 17.105.
11. Excludes sewage disposal facilities.
12. Must conform to the standards provided in Section 17.185.200 (parking standards).
13. As ancillary to an approved non-residential use, when activity not already covered by CUP.
14. Subject to the provisions of Chapter 17.245 (wireless communications facilities).
15. As determined by the director of community development.
16. May only be operated as an accessory use to a bona fide club, society, professional organization, union hall, fraternal organization, and similar use, with either all applicable discretionary permits, or nonconforming status pursuant to Chapter 17.120, for the primary use. Subject to additional card room regulations listed in Chapter 5.28 (Card Rooms) and Chapter 17.225 (Miscellaneous Special Uses and Regulations) of this Title.
17. Refer to Chapter 17.243 for Personal Cultivation of Marijuana.

Section 5. Section 17.150.170 of the El Cajon Municipal Code is hereby modified as follows:

**Table 17.145.150
Commercial Land Use Table**

	O-P	C-N	C-G	C-R	C-M	Notes
Commercial Uses						
Adult book store, adult theater, and other adult entertainment activities	X	X	A	A	X	1, 2
Alternative lending including payday loans, anticipatory loans, and auto title lending, excludes federal or state chartered banks, savings and loans, thrifts, and credit unions	X	X	C	C	X	1, 32, 33
Amusement parks including miniature golf, go-cart tracks, mechanized rides, etc.	X	C	C	C	C	
Animal grooming services	X	P	P	P	X	
Antique sales	X	P	P	P	X	
Appliance repair; large gas and electric appliances including heating and air conditioning systems, parts and supplies	X	X	X	X	P	1
Appliance sales; large gas and electric appliances including heating and air conditioning systems, parts and supplies	X	P	P	P	P	
Appliance sales and repair of small electrical appliances	X	P	P	P	P	1
Art galleries, commercial retail	X	P	P	P	X	
Artist studios and art restoration services	P	P	P	P	P	

	O-P	C-N	C-G	C-R	C-M	Notes
Athletic clubs and fitness centers	X	P	P	P	X	28
Auction house	X	X	C	C	P	1
Auto parts and accessories; new parts	X	X	P	P	X	1
Auto parts and accessories; used parts, excludes dismantling	X	X	X	X	P	1, 3
Auto rental including the rental of moving vans, trucks and trailers	X	X	C	X	C	1
Auto sales, including: autos, motorcycles, light trucks, and recreational vehicles	X	X	C	C	C	4
Automotive body repair	X	X	C	X	C	1
Automotive service and repair	X	X	C	C	C	1
Automotive fueling station	X	C	C	C	C	5
Auto washing and detailing, full service carwash	X	X	C	X	X	1
Auto washing, self-service carwash	X	C	C	X	X	1
Bail bonds office	P	P	P	P	P	1
Beauty salon, nail salon, barber shop, and day spa	P	P	P	P	X	6
Beauty supply and cosmetics sales	P	P	P	P	X	
Billboard sign	P	P	P	P	P	7
Blood banks and blood donation facilities	P	P	P	P	X	1
Blood plasma centers	C	X	X	X	X	1
Boat sales including ancillary service and repair	X	X	P	X	C	
Book store, including news copy and magazine sales	P	P	P	P	X	
Bowling alley	X	X	C	C	X	
Camera and photographic sales and related services	X	P	P	P	X	
Card room, non-gambling	P	P	P	P	X	3, 26
Carpet and drapery cleaning and repair services	X	X	X	X	P	
Cemetery, crematory, and mausoleum	C	C	C	C	C	
Child activity centers	X	P	P	P	X	
Circuses and carnivals	X	X	T	X	X	
Clothing and apparel store, new	X	P	P	P	X	
Clothing and costume rentals	X	P	P	P	X	
Clubs: youth clubs, professional organizations, union halls, fraternal organizations, and similar uses	C	C	C	C	X	
Cocktail lounge	X	C	C	C	X	8, 9
Community gardens	P	P	P	P	P	29
Consumer electronics retail sales with ancillary service	X	P	P	P	X	
Contract construction services	X	X	X	X	P	
Convenience market	X	P	P	P	X	8
Custodial and cleaning services including property management and building maintenance with associated vehicle, equipment, and supply storage	X	X	X	X	P	
Dance studio	X	P	P	P	X	
Day care facility	MUP	MUP	MUP	MUP	MUP	

	O-P	C-N	C-G	C-R	C-M	Notes
Market	X	P	P	P	X	
Martial arts instruction and training	X	P	P	P	X	
Massage parlor, steam bath, and sauna room	X	X	C	C	X	1, 3, 6, 12
Medical and dental office, laboratories, and clinics open to the general public including acupuncture, chiropractic, and other state licensed health care practices	P	P	P	P	X	
Medical and dental laboratory not open to the public	P	P	P	P	P	
Marijuana cultivation, delivery, dispensary, manufacturing and storage	X	X	X	X	X	
Modeling agency, talent agencies and entertainment booking services (office only)	P	P	P	P	X	
Motion picture theatre (indoor)	X	X	C	C	X	13
Music lessons conducted indoors	P	P	P	P	X	
Music store including the sale of musical instruments, sheet music, and recorded music	X	P	P	P	X	
Office, administrative, business and professional	P	P	P	P	P	
Office machine sales	X	P	P	P	P	
Optical goods including eye glasses, contact lenses, and eye exams	P	P	P	P	X	
Outdoor dining, accessory to authorized restaurant or cocktail lounge	X	Z	Z	Z	Z	14
Outdoor sales events at existing business developments	T	T	T	T	T	
Parcel delivery and postal services (office only, does not include U.S. Postal Service offices)	P	P	P	P	X	
Pawn shop or pawn broker	X	X	C	C	X	1, 3, 32, 33
Personal storage facility	X	X	C	X	C	15
Pest control services	X	X	X	X	P	
Pet supply stores including pet sales and pet adoption services with accessory indoor veterinary and grooming services	X	P	P	P	X	
Pharmacy	P	P	P	P	X	16
Photocopying and other retail office services for the general public	P	P	P	P	X	
Photographic studio including ancillary photo finishing services	P	P	P	P	X	
Plant nursery	X	X	P	P	P	1
Pool hall or billiards parlor	X	X	C	C	X	3
Prefabricated storage containers used for short term storage	T	T	T	T	T	
Private security company with watch dogs	X	X	C	C	C	1, 3
Private security company without watch dogs	P	P	P	P	P	

	O-P	C-N	C-G	C-R	C-M	Notes
Public assembly	X	X	C	C	C	
Recreational facility	MUP	MUP	MUP	MUP	MUP	
Resource recovery center	X	C	C	C	C	17
Restaurant	X	P	P	P	C	8, 9, 18
Restaurant, take-out only	X	P	P	P	C	19
Restaurant (full-service) with alcoholic beverage production use	X	X	C	C	X	8, 9
Seasonal outdoor businesses such as Christmas tree lots	T	T	T	T	T	
Secondhand merchandise store or kiosk including buying of gold, precious metals, gemstones, jewelry, or electronics	X	X	C	C	X	1, 3, 32, 33
Service and repair of consumer electronics	X	P	P	P	X	
Shoe sales and shoe repair	X	P	P	P	X	
Single room occupancy (SRO) housing	X	X	C	X	X	
Skilled nursing facility	C	C	C	C	C	1
Special training and schooling conducted indoors	P	P	P	P	P	
Special training and schooling conducted outdoors	X	X	X	X	MC	
Sporting goods, bicycles, and toy stores	X	P	P	P	X	
Supermarket	X	P	P	P	X	
Surplus store	X	P	P	P	X	1
Swap meet and flea market	X	X	X	C	X	1, 3
Tailoring, alteration, and sewing services	P	P	P	X	X	
Tattoo and body piercing studio	X	X	P	P	X	1
Thrift or resale shop	X	P	P	P	X	1, 3
Ticket sales office	P	P	P	P	X	
Tobacco and smoke shop, electronic/vapor substance inhalation shop	C	C	C	C	X	1, 20
Tool and equipment repair and sharpening services excluding heavy equipment repair	X	X	P	P	X	1
Trailer and camper sales, non-motorized	X	X	P	X	P	
Travel agency	P	P	P	P	X	
Vehicle storage lot	T	X	T	T	T	
Veterinary and small animal hospital, indoors only	X	X	P	P	P	1
Video sales and rentals including video game sales and rentals	X	P	P	P	X	
Vocational and trade school (conducted indoors)	X	P	P	P	P	9
Vocational and trade school (conducted outdoors)	X	X	X	X	C	9
Volume discount store (including 99¢ and closeout stores)	X	X	P	P	X	1
Watch, clock, and jewelry sales and repair	P	P	P	P	X	
Other similar uses	D	D	D	D	D	21
Light Industrial Uses						
Contract construction services	X	X	X	X	P	

	O-P	C-N	C-G	C-R	C-M	Notes
Direct selling organizations (baked goods, ice cream trucks, bottled water vendors, catering wagons, etc.)	X	X	X	X	P	
Food and beverage processing	X	X	X	X	P	
Heavy equipment service and repair	X	X	X	X	C	
Laundry services, industrial, including linen, diaper, and uniform cleaning, alteration and repair services	X	X	X	X	P	
Light manufacturing	X	X	X	X	P	
Mircrobrewery	X	X	C	C	C	35
Printing and publishing services, non-retail and excluding contact with the general public	X	X	P	P	P	
Recycling center for metal, cardboard, glass, e-waste, etc.	X	X	X	X	C	
Scientific and commercial testing laboratories including product research and development	X	X	X	X	P	
Service and repair of light machinery including vending machines, office machines, large household appliances, etc.	X	X	X	X	P	
Service and repair of precision instruments including cameras, optical devices, medical devices and electronic testing equipment	X	X	X	X	P	
Warehousing and distribution	X	X	X	X	P	
Wholesale trade excluding explosives	X	X	X	X	P	
Other similar uses	D	D	D	D	D	21
Transportation, Communication and Utilities						
Ambulance service	C	C	C	C	P	1, 3
Bus passenger terminals, public or private charter	X	X	P	P	P	
Bus parking and maintenance facility	X	X	X	X	P	
Heliport	C	C	C	C	C	
Limousine service	X	X	X	X	P	3
Media production including broadcasting studios, and audio and video recording studios	X	P	P	P	P	
Parking lots and garages, short term	P	P	P	P	P	
Radio, and/or television broadcasting	P	P	P	P	P	22
Solid waste disposal facility	C	C	C	C	C	1
Taxicab terminal	X	X	P	P	P	
Towing services with vehicle storage	X	X	X	X	C	1, 3
Towing services without vehicle storage	X	X	C	X	C	1, 3
Trucking terminal for motor freight including parcel delivery service terminals	X	X	X	X	P	
Utilities, excluding sewage treatment	C	C	C	C	C	
Vehicle storage facility, long term, including lots and structures	X	X	X	X	C	1
Wireless communication facilities, freestanding	C	C	C	C	C	23
Wireless communication facilities, architecturally integrated or other stealth design	P	P	P	P	P	23

	O-P	C-N	C-G	C-R	C-M	Notes
Other similar uses	D	D	D	D	D	21
Institutional and Charitable Uses						
Botanical garden, and arboretum	P	P	P	P	X	
Detention facility excluding prisons and juvenile halls	X	X	X	X	C	
Educational institution	C	C	C	C	C	
Emergency shelters	X	X	C	C	S	1, 24
Governmental administrative offices (excluding services)	P	P	P	P	P	
Governmental operation center and service facilities	C	C	C	C	C	
Hospital	C	C	C	C	X	
Library, public	P	P	P	P	X	
Museum	P	P	P	P	X	
Non-profit welfare and charitable organizations and services	X	X	C	C	X	1, 27
Parks, playgrounds, and amateur sports fields, public or private	X	C	C	C	C	
Religious facilities	C	P	P	P	C	9
Temporary feeding area	C	C	C	C	C	
Transition service center	X	X	C	C	P	1, 24
WIC center	P	P	P	P	X	1
Other similar uses	D	D	D	D	D	21
Residential Uses						
Caretaker's unit	P	P	P	P	P	25
Residential care facility	C	C	C	C	X	1

- Prohibited in SP 182. However, automotive service and repair uses are permitted with approval of a CUP in the portion of SP 182 that is also a part of Special Development Area No. 10 and zoned C-M.
- Subject to the provisions of Chapter 17.45 (adult entertainment establishments).
- Requires a Special Operations License for uses as described in ECMC Chapter 5.16. For towing services, only police towing services require a Special Operations License.
- Off-site outdoor automobile sales are subject to the provisions of Section 17.225.190.
- Subject to the provisions of Chapter 17.215 (automotive fueling stations).
- Subject to the provisions of Chapter 5.40 of the El Cajon Municipal Code.
- Subject to the provisions of Section 17.190.270 (billboard signs).
- Subject to the provisions of Chapter 17.210 (alcohol sales).
- Subject to parking requirements listed in Section 17.185.190.
- "Check cashing only" services are prohibited in SP 182.
- Subject to the provisions of Chapter 17.40 (Administrative Zoning Permit), Section 17.130.250 (kiosks) and Section 17.225.240 (food trucks).
- Subject to the provisions of Section 17.225.070 (massage parlors).
- Subject to the provisions of Chapter 17.230 (motion picture theaters).
- Subject to the provisions of Section 17.225.090 (outdoor dining areas).
- Subject to the provisions of Chapter 17.235 (personal storage facilities).
- The retail display area shall not exceed 15% of the gross floor area in the O-P zone.
- Subject to the provisions of Section 17.225.100 (resource recovery centers).
- Restaurant size may be limited in the C-M zone.
- Subject to the provisions of Section 17.225.130 (take-out only restaurants).
- Subject to the provisions of Chapter 17.240 (tobacco, smoke shops, and electronic/vapor inhalation shops).
- As determined by the director of community development.
- Excludes wireless communications facilities as defined in Chapter 17.105.
- Subject to the provisions of Chapter 17.245 (wireless communications facilities).
- Subject to the provisions of Section 17.225.180 (transition service centers and emergency shelters).
- Only one caretaker's unit permitted per lot in association with an authorized primary use occupying the same property. Must be attached to the primary structure on the lot, if such a structure exists.

26. May only be operated as an ancillary use to 1) a bona fide non-profit club, society, professional organization, union hall, fraternal organization, and similar (non-profit) use, with a valid conditional use permit for the primary use, and 2) a restaurant, except that card rooms are prohibited at restaurants in SP 182. Subject to additional card room regulations listed in Chapter 5.28 (Card rooms) of Title 5 and Chapter 17.225 (Miscellaneous Special Uses and Regulations) of this Title. Non-profit status must be in place prior to application submittal, as applicable.
27. Non-profit medical and dental clinics are permitted uses. They do not require a CUP and are not prohibited in SP 182.
28. Subject to the parking requirements for places of assembly listed in Table 17.185.190.
29. Subject to the provisions of Chapter 17.205 (agriculture and animals).
30. Excludes businesses purchasing items as an accessory use to a primary retail sales use.
31. Subject to the provisions of Section 17.225.200 (Alternative Lending).
32. Subject to the provisions of Chapter 17.250 (Secondhand Merchandise Stores and Pawn Shops).
33. Prohibited in the boundaries of SP 462.
34. Subject to the provisions of Section 17.225.220 (Farmer's Market).
35. Subject to the provisions of Section 17.225.230 (Microbrewery).
36. Refer to Chapter 17.243 Personal Cultivation of Marijuana.

Section 6. Section 17.150.170 of the El Cajon Municipal Code is hereby modified as follows:

**Table 17.150.170
Manufacturing Zone Land Use Table**

	M	Notes
Advertising and public relations office	P	
Agricultural processing, excluding animal slaughtering facility	P	
Aircraft and aviation equipment sales	P	
Alcoholic beverage production	P	12
Alcoholic beverage production with full-service restaurant	C	13
Animal slaughtering facility	C	
Ambulance service	P	1
Ammunition manufacturing	P	2
Amusement park, including miniature golf, go-cart track, mechanized rides, etc.	C	1
Aircraft and flying accessory sales	P	3
Art studio and art restoration service, excluding art galleries	P	
Athletic field and courts	C	
Auction house, indoor	P	
Auction house, outdoor	C	
Auto dismantling, salvage, and junk dealer, including the sale of used auto parts	C	1
Bus terminal, bus parking and maintenance facility, public or private charter	P	
Carpet and drapery cleaning and repair service	P	
Cemetery, crematory, and mausoleum	C	
Chemical production and processing, excluding explosives	P	
Computer programming, including web design, software engineering and other intellectual design and consulting services based upon digital computer technology	P	
Concrete batch processing plant	C	
Contract construction service	P	
Credit reporting office	P	
Custodial and cleaning service, including property management and maintenance with associated vehicle, equipment, and supply storage	P	
Data storage facilities and server rooms, including internet service provider	P	
Day care facility	C	
Detention facilities, excluding prisons and juvenile halls	C	
Direct selling organization, including baked goods, ice cream truck, bottled water vendor, and catering wagon	P	
Educational institutions	C	
Emergency shelter	S	9
Equipment rental, with or without outdoor storage or display	P	
Firing range, indoor range for firearms or archery	C	

	M	Notes
Firewood sales	C	
Flight school	P	
Food and beverage processing	P	
Fuel storage and distribution, bulk fuel storage	P	
Funeral parlor and mortuary	C	
Governmental administrative office (not including services)	P	
Governmental operation center and service facility	C	
Hazardous waste treatment, storage, and transfer	C	
Headquarters office facility	P	
Heavy equipment sales, rental, and repair	P	
Heliport	C	
Insurance office	P	
Kennel	C	
Land development consulting offices, including: architecture, planning, engineering, and real estate services	P	
Laundry services, industrial, including linen, diaper, and uniform cleaning, alteration, and repair services	P	
Light manufacturing	P	3
Light rail terminal	P	
Limousine service	P	1
Machine shop service, including milling and lathing	P	
Mail order and internet based sales, excluding contact with the public	P	
Marijuana cultivation, delivery, dispensary, manufacturing, and storage	X	14
Marine craft service and repair	P	
Media production, including broadcasting studio, and audio and video recording studio	P	
Media distribution	P	
Medical and dental laboratory	P	
Messenger service	P	
Metal industries, including steel manufacturing and smelting	P	
Marijuana cultivation, delivery, dispensary, manufacturing, and storage	X	
Mining activity, including barrow pits over three feet in depth	C	
News agency, including newspaper office and web-based news outlets	P	
Outdoor sales event at existing business developments	T	
Parking lot and structure	P	
Pest control service	P	
Petroleum refining and processing of petroleum products	C	
Photocopying, mailing, and other office services, excluding contact with the general public	P	
Photographic service, excluding public contact	P	4
Prefabricated storage container used for permanent storage	C	
Prefabricated storage container used for short term storage	T	
Printing and publishing service	P	
Private security company with watch dogs	C	1
Private security company without watch dogs	P	1
Railroad facilities, including switching stations, maintenance yards, rail freight and passenger terminals	P	
Recreational facility—Commercial outdoors, including golf courses, driving ranges, radio controlled cars, skateboard parks, paintball facilities, and other similar uses	C	
Recycling center for metal, cardboard, glass, e-waste, etc.	C	
Religious facilities	C	
Resource recovery center	C	
Restaurant	C	5, 6, 7
Sawmill, including the processing and manufacturing of wood products	P	
Scientific and commercial laboratories, including research, development, and testing services	P	
Service and repair of light machinery, including vending machines, office machines, large household appliances, etc.	P	
Solid waste processing facility	C	
Special training and schooling (conducted indoors)	P	11
Special training and schooling (conducted outdoors)	MC	

	M	Notes
Sports assembly including stadium, arena, racetrack and other large sporting venue	C	
Swimming pool, swimming school, and other aquatic recreation facilities	C	
Temporary feeding area	C	
Towing services with or without vehicle storage	C	1
Transition service center	P	8
Trucking terminal for motor freight, including parcel delivery service terminals	P	
Truck sales (including the sale of large commercial trucks, vans, and buses)	P	
United States Postal Service facilities; processing only	P	
Utilities, including sewage treatment facilities	C	
Vehicle storage facility - long term, including lots and structures	C	
Vehicle storage lot - temporary	T	
Veterinary service and animal hospital	C	
Vocational or trade school; indoor or outdoor	P	7
Warehousing, including wholesale trade and distribution and excluding explosives	P	
Welding and metal fabrication	P	
Wireless communication facilities; freestanding	C	
Wireless communication facilities; architecturally integrated or other stealth design	P	
Other similar uses	D	9
Residential Uses		
Caretaker's unit accessory to an authorized land use	P	10
Residential care facility	C	

1. Requires a special operations license as described in ECMC Chapter 5.16. For towing services, only police towing services require a special operations license.
2. Small arms ammunition only. Nothing larger than 30-caliber ammunition.
3. Light manufacturing describes a wide range of manufacturing uses as defined in Chapter 17.105.
4. Includes aerial photography, photo editing and finishing, service and repair of cameras and other optical devices.
5. Restaurants may be limited in size.
6. Subject to the provisions of Chapter 17.210 (alcohol sales).
7. Subject to the parking requirements listed in Section 17.185.190.
8. Subject to the provisions of Section 17.225.180 (transition service centers and emergency shelters).
9. As determined by the director of community development.
10. Only one caretaker's unit permitted per lot in association with an authorized primary use occupying the same property. Must be attached to the primary structure on the lot, if such a structure exists.
11. If the school provides instruction to persons under the age of 18, then a minor conditional use permit is required.
12. A tasting room not to exceed fifteen percent of the gross floor area of the production space is permitted as an accessory use to an alcoholic beverage production manufacturer subject to Chapter 17.210 and Section 17.225.210.
13. Subject to Chapter 17.210 Alcohol sales and deemed approved alcohol sales regulations.
14. Refer to Chapter 17.243 Personal Cultivation of Marijuana.

Section 7. Section 17.155.035 of the El Cajon Municipal Code is hereby modified as follows:

17.155.035 Prohibited use.

Other than personal cultivation of marijuana as defined in Chapter 17.243, Mmarijuana cultivation, delivery, dispensary, manufacturing and storage are prohibited in the O-S zone. No permit, whether conditional or otherwise, shall be issued for the establishment or use of such activities.

PASSED AND ADOPTED by the El Cajon Planning Commission at a regular meeting held September 5, 2017, by the following vote:

AYES:
NOES:
ABSENT:

Darrin MROZ, Chairperson

ATTEST:

Anthony SHUTE, AICP, Secretary

ORDINANCE NO. 5056

AN ORDINANCE TO EXTEND INTERIM URGENCY ORDINANCE NO. 5054 OF
THE CITY OF EL CAJON, ADOPTED PURSUANT TO GOVERNMENT CODE
SECTION 65858, TEMPORARILY PROHIBITING THE ESTABLISHMENT OF
OUTDOOR CULTIVATION OF MARIJUANA FOR PRIVATE USE, IN ALL ZONES

WHEREAS, the City of El Cajon ("City") has adopted an ordinance regulating land within the City as codified in Title 17 of the El Cajon Municipal Code (the "Municipal Code"); and

WHEREAS, the City Council for the City has previously adopted Ordinance No. 5038, modifying sections 17.105.020, 17.140.210, 17.145.150, 17.150.170 and Chapter 17.155 of Title 17 of the Municipal Code (the "Zoning Code") prohibiting the establishment of marijuana dispensaries, cooperatives and collectives, the storage and manufacturing of marijuana products, and the cultivation of marijuana, in all zones within El Cajon; and

WHEREAS, on June 28, 2016, the California Secretary of State certified an initiative measure for the November 8, 2016, statewide general election titled the "Control, Regulate and Tax Adult Use of Marijuana Act," which initiative has received the designation as Proposition 64 ("Proposition 64"); and

WHEREAS, the preliminary results of the statewide election conducted on November 8, 2016, support the likelihood that Proposition 64 was approved by the voters of the State of California (the "State"), thereby legalizing marijuana for persons 21 years of age and older, and allowing the State to regulate the cultivation, testing, and sale of non-medical marijuana, including marijuana products, as well as establish statewide taxes for the commercial growth and retail sale of marijuana; and

WHEREAS, the City is undertaking a study to assist with the City's determination whether to continue to prohibit marijuana-related businesses, such as retail marijuana stores, shops, dispensaries, cooperatives or collectives, and to prohibit the commercial cultivation of marijuana, in all zones, even if such activities are in conformance with Proposition 64; and

WHEREAS, the City is also undertaking a study to assist with the City's determination whether persons should be allowed to plant, cultivate, harvest, dry or process marijuana outdoors upon the grounds of a private residence; and

WHEREAS, Ordinance No. 5054 was adopted by the El Cajon City Council on November 15, 2016, as an interim urgency ordinance in order to temporarily prevent and prohibit the outdoor cultivation of marijuana by individuals for personal use, in all zones within the City, until such reasonable time as such detailed study by the City can be completed; and

WHEREAS, Ordinance No. 5054, by its terms, is only effective until December 30, 2016, or such reasonable time as the study may be completed and any necessary public hearing process is conducted and amendments to the Zoning Code may be adopted, unless extended by ordinance of the City Council following a public hearing, whichever shall first occur; and

WHEREAS, the City has not completed its study in time to allow for the City's Planning Commission and City Council to conduct their necessary public hearings, and to adopt any ordinance to amend the Zoning Code, and the moratorium established by Ordinance No. 5054 would expire unless extended for a period of time up to an additional ten (10) months and fifteen (15) days; and

WHEREAS, the notice and public hearing required by section 65858(a) of the California Government Code for the extension of Ordinance No. 5054 has been provided in accordance with applicable law.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EL CAJON DOES ORDAIN AS FOLLOWS:

SECTION 1: The City of El Cajon has an overriding interest in planning and regulating development of all uses of property within the City. Implicit in any plan or regulation is the City's interest in maintaining and improving the quality of life and the protection of the City's neighborhoods. Without stable, well-planned neighborhoods, areas of the City can quickly deteriorate, with detrimental consequences to social, environmental, and economic values. It is the intent of the City Council to assure that all neighborhoods remain well-planned and that residents maintain a high quality of life. This intent may be effectuated by a comprehensive study resulting in amendments to the Zoning Code.

SECTION 2: The purpose of this ordinance is to extend the effectiveness of Ordinance No. 5054 by continuing to maintain the existing prohibition against marijuana-related activities and uses, in all zones within the City, and to prohibit the outdoor cultivation of marijuana by individuals for personal use in all zones within the City, until such reasonable time as a detailed study may be made. Ordinance No. 5054 was adopted on November 15, 2016, as an urgency measure pursuant to Government Code section 65858, for the immediate preservation of the public peace, health and welfare. The circumstances requiring the urgency measure continue to exist. The facts constituting the urgency are these: Allowing outdoor cultivation of marijuana by individuals, for personal use, without regulation or prohibition, is likely to create a burden on public safety resources, including both law enforcement and emergency response services, thereby reducing the quality of life within the City's neighborhoods. Such burdens include, but are not limited to, theft of marijuana plants, or parts thereof, if left unsecured; illegal consumption of marijuana and marijuana products by persons under 21 years of age, if left unsecured; and illegal sales of marijuana and marijuana products, if left unsecured. In view of the facts set forth in the aforementioned Recitals of this Ordinance, it is necessary to immediately study, hold hearings, and consider whether to amend the City's Zoning Code and adopt regulations for the outdoor

cultivation of marijuana by individuals, for personal use, as may be recommended to the City Council by the City's Planning staff and the El Cajon Planning Commission. A comprehensive set of regulations cannot be enacted without due deliberation, and it will take an undetermined length of time to work out the details of the comprehensive regulations. It would be destructive of the proposed regulations if, during the period they are being studied and are the subject of public hearings, parties seeking to evade the operation of these regulations in the form they may be adopted should be permitted to operate in a manner which might progress so far as to defeat in whole or in part the ultimate objective of those regulations.

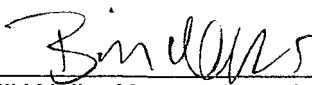
SECTION 3: Ordinance No. 5054 is hereby extended from December 30, 2016 to November 14, 2017, a period not to exceed ten (10) months and fifteen (15) days, unless prior to that date the above-mentioned amendment to the Zoning Code becomes operative, thereby rendering Ordinance No. 5054 and this ordinance repealed, void, and of no further force and effect by operation of law.

SECTION 4: The City Council of the City of El Cajon hereby declares that should any section, paragraph, sentence, phrase, term or word of this ordinance, hereby adopted, be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this ordinance irrespective of any such portion declared invalid.

SECTION 5: This ordinance shall take effect immediately upon passage by a 4/5ths vote of the City Council, and in accordance with Government Code section 65858, will be of no further force or effect on the date that the above-mentioned Zoning Code amendment becomes operative, or after November 14, 2017, whichever is sooner, except as may be extended as provided by said sections.

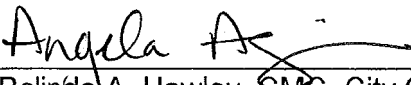
PASSED AND ADOPTED by the City Council of the City of El Cajon, California, at a Regular Joint City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency Meeting held this 13th day of December 2016, by the following vote to wit:

AYES	:	Ambrose, Bales, Kendrick, McClellan, Wells
NOES	:	None
ABSENT	:	None
DISQUALIFY:	:	None



Bill Wells, Mayor of the City of El Cajon

ATTEST:


for: Belinda A. Hawley, ~~EMC~~, City Clerk

12/13/16 (Item No. 3.1)

Urgency Ordinance – Marijuana Dispensary Moratorium (First Extension) 112316

January 9, 2017



Frequently Asked Questions (FAQs)

Adult Use of Marijuana Act¹

Proposition 64

Question#1: When does the AUMA take effect?

Answer: The AUMA took effect November 9, 2016, the day after the election. But note, the AUMA requires a state license to engage in commercial nonmedical marijuana activity. Licensing authorities are required to begin issuing licenses by January 1, 2018 and the League anticipates that the issuance of licenses will not occur much in advance of January 1, 2018. Thus, the AUMA provisions legalizing commercial nonmedical marijuana activity will not become operational until the state begins issuing licenses (likely in late-2017). The AUMA provisions legalizing personal use and cultivation of nonmedical marijuana took effect November 9, 2016.

Question #2: Can private individuals cultivate nonmedical marijuana at home beginning November 9, 2016?

Answer: Yes, within a private residence by a person 21 years and older for personal use. The AUMA provides that local governments can reasonably regulate, but cannot ban the personal indoor cultivation of up to six nonmedical marijuana plants per private residence. This includes cultivation in a greenhouse that is on the property of the residence but not physically part of the home, as long as it is fully enclosed, secure, and not visible from a public space. Because this activity is not subject to state licensing requirements, individuals may engage in personal indoor cultivation beginning November 9, 2016, unless a city enacts an ordinance imposing a reasonable regulatory scheme that would preclude them from doing so before complying with the city's regulatory requirements.

Local governments may regulate or ban all personal outdoor cultivation. However, the AUMA includes language purporting to repeal any ordinance that bans personal outdoor

¹ Please consult your City Attorney before taking action to implement the AUMA. The answers to these FAQs may be different in your city based upon your municipal code, regulations, and policies. The answers do not constitute legal advice from the League of California Cities®.

cultivation upon the California Attorney General's determination that nonmedical use of marijuana is lawful under federal law.

Question #3: Is there a limitation on the number of marijuana plants that can be cultivated within a single residence?

Answer: Yes. Not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time. A "residence" is defined as a house, an apartment unit, a mobile home, or other similar dwelling. No matter how many persons over 21 years of age are living in a "residence," only 6 living plants may be cultivated at one time. (Health & Safety § 11362.2(b)(3).)

Question #4: Can a landlord ban the cultivation/smoking of marijuana on his or her property?

Answer: Yes. An individual or private entity may prohibit or restrict personal possession, smoking, and cultivation of marijuana on the individual's or entity's privately owned property. A state or local government agency also may prohibit or restrict such activities on property owned, leased, or occupied by the state or local government. (Health & Safety §§ 11362.45(g) and (h).)

Question #5: Can a city ban personal indoor cultivation in all leased or multi-unit residences within the city?

Answer: No. A city cannot prohibit personal indoor cultivation of marijuana in all leased or multi-unit residences within the city. However, because cities may reasonably regulate personal indoor cultivation, a city might be able to condition permit approval for personal indoor cultivation in a leased residence on the applicant receiving permission from his or her landlord.

Question #6: Does a city's ban on commercial cultivation, personal outdoor cultivation, or retail sales of marijuana or marijuana products make it ineligible for state grant monies for law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of Prop 64?

Answer: Yes. If a city bans commercial cultivation, or personal outdoor cultivation, or retail sales of marijuana or marijuana products, it is ineligible to receive state grant monies funded through the new state excise taxes that take effect on January 1, 2018. (Revenue and Taxation Code § 34019(e)(3)(D).)

Question #7: What does the AUMA say about possession, transporting, purchasing or giving away of non-medical marijuana?

Answer: A person 21 years of age or older may possess, process, transport, purchase or give away to persons 21 years of age or older not more than 28.5 grams of marijuana in the non-concentrated form and not more than 8 grams of marijuana in a concentrated

form including marijuana products. If the AUMA passes, these activities will be lawful under state law and cannot be prohibited under local law.

Question #8: Do cities that ban or regulate medical marijuana businesses need to update their ordinances to include nonmedical marijuana?

Answer: Yes. The AUMA prohibits state licensing authorities from issuing a license to a commercial nonmedical marijuana business if operation of the business violates a local ordinance of the jurisdiction in which the business will operate. This means that a city wishing to adopt business or land use regulations prohibiting or regulating commercial nonmedical marijuana businesses must adopt an ordinance prior to the date the state begins issuing licenses, which the League anticipates will be in late 2017.²

Question #9: Can cities be confident that a permissive zoning code, by itself, provides sufficient protection against nonmedical marijuana businesses setting up shop without local approval?

Answer: No. It is unlikely that cities will succeed in arguing that nonmedical marijuana land uses are prohibited by permissive zoning codes under the AUMA, because the AUMA does not contain the same protective language as the MMRSA with respect to permissive zoning. Therefore, cities that wish to ban all or some nonmedical marijuana activities should adopt express prohibitions, even if they operate under a permissive zoning code.

Question #10: Are cities at risk of losing the opportunity to impose bans on personal outdoor cultivation if they don't act until after the November election?

Answer: No. A city may adopt an ordinance banning or regulating personal outdoor cultivation at any time.

Question #11: Are cities at risk of losing the opportunity to impose bans on nonmedical marijuana businesses, if they don't act until after the November election?

Answer: No. However, if a city does not adopt an ordinance expressly banning or regulating nonmedical marijuana businesses before the state begins issuing state licenses nonmedical businesses, a state-licensed nonmedical marijuana business will be able to operate within its jurisdiction without local permission or permitting. This is due to a provision in the AUMA that provides that state licenses cannot be issued where the activity would violate a local ordinance. If a jurisdiction has no ordinance regulating nonmedical marijuana businesses, then the local regulatory scheme is silent on that type of activity, and the state can unilaterally issue a license under terms fully compliant with the AUMA. Cities may adopt an ordinance expressly banning or regulating such operations after the state begins to issue licenses, but it will be difficult to terminate the state licensee's operations until the state license is up for renewal. Therefore, the best practice is to adopt an ordinance before the state begins issuing state licenses.

² Please see Question #8 regarding the use of public roads for transportation and delivery.

Question #12: Can cities ban deliveries under the AUMA?

Answer: Yes. Cities can ban deliveries within their territorial limits. However, cities cannot prevent the use of public roads for the delivery of marijuana. For example, if a licensed delivery company located in City A must travel on public roads through City B to make an authorized delivery in City C, City B cannot prohibit the licensed delivery company from travelling on public roads in City B to get to City C. In addition, cities may not prevent the use of public roads within its jurisdiction to transport nonmedical marijuana.

Question #13: What is the best way for cities to notify the state licensing agencies of their local ordinances that regulate and/or prohibit commercial non-medical marijuana activities within their jurisdictions?

Answer: Unless the state licensing agencies indicate otherwise, cities should mail copies of their local ordinances that regulate or prohibit commercial nonmedical marijuana activities within their jurisdictions to the Department of Consumer Affairs, the Department of Food and Agriculture, and the Department of Public Health. Cities should regularly check each Department's website to ensure that this practice complies with any regulations the Departments may pass regarding notice of local ordinances. In addition, Cities should ensure that any updates or amendments to local ordinances that regulate or prohibit commercial nonmedical marijuana activities are promptly submitted to each Department.

Question #14: What are the rules regarding taxation under the AUMA? Is it true that marijuana can no longer be subject to sales tax?

Answer: Under the AUMA, there is a 15% state excise tax on **recreational** marijuana, but **medical** marijuana is exempt from state and local sales tax altogether. The rationale is that marijuana consumed for truly medical purposes is no different from conventional pharmaceuticals, which are also exempt from federal, state, and local sales tax. However, other forms of excise tax may be levied on all marijuana, whether medical or recreational. For example, a cultivation tax, a manufacturing tax, or the most common, a business license tax may still be levied at the local level on any commercial marijuana activity. But note, because the AUMA levies a state excise tax of 15% on recreational marijuana, all local governments have reason to be concerned about the cumulative tax rate when local tax levies are added to that. For that reason, locals are encouraged to look at existing local taxes and to assess what marijuana-related revenue streams may be derived from those sources before levying additional taxes that are specific to marijuana.



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CITY OF EL CAJON

**NOTICE OF PROPOSED
AMENDMENTS TO TITLES 1, 9, AND 17
MARIJUANA PRIVATE GROW
STANDARDS, FINES, AND
CRIMINALIZATION OF ILLEGAL USES
AND CODES**

If you have any questions, or wish any additional information, please contact **ANTHONY SHUTE** at 619-441-1742 or via email at tonys@cityofelcajon.us and reference "Marijuana" in the subject line.
East County Gazette- GIE030790
08/17/16

NOTICE IS HEREBY GIVEN that the El Cajon Planning commission will hold a public hearing at 7:00 p.m., Tuesday, September 5, 2017, and the El Cajon City Council will hold a public hearing at 7:00 p.m., Tuesday, September 26, 2017, in the City Council Chambers, 200 Civic Center Way, El Cajon, CA, to consider:

AMENDMENTS TO TITLE 1, 9 AND 17 – MARIJUANA PRIVATE GROW STANDARDS, FINES, AND CRIMINALIZATION OF ILLEGAL USES AND VIOLATION OF CODES. The Planning Commission will be presented with proposed code amendments to Title 17 (Zoning) affecting private grow standards for personal use of marijuana. The City Council will be presented with the Planning Commission's Title 17 recommendation in addition to code amendments to Title 1 and Title 9 for the potential increase of civil penalties for violations of land use and building code ordinances, and the criminalization illegal land uses.

The public is invited to attend and participate in these public hearings. The agenda reports for this project will be available 72 hours prior to the meetings for Planning Commission and City Council at <http://www.cityofelcajon.us/your-government/city-meetings-with-agendas-and-minutes-all>. In an effort to reduce the City's carbon footprint, paper copies will not be provided at the public hearings, but will be available at the Project Assistance Center and City Clerk counters upon request.

If you challenge the matter in court, you may be limited to raising only those issues you or someone else raised at the public hearings described in this notice or in written correspondence delivered to the Commission or Council at, or prior to, the public hearings. The City of El Cajon encourages the participation of disabled individuals in the services, activities, and programs provided by the City. Individuals with disabilities who require reasonable accommodation in order to participate in the public hearings should contact Planning at 619.441.1742. More information about planning and zoning in El Cajon is available at <http://www.cityofelcajon.us/your-government/departments/community-development/planning-division>.

Please sign and fax back

Ok to print as is _____

Ok to print w/changes _____

Need second proof _____