



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

7/10/2017

SUBJECT:

Adoption of an Ordinance Entitled "An Ordinance of the City Council of the City of Pacifica Amending Title 9, Chapter 4 of the Zoning Code by Establishing Regulations Related to Marijuana Operations and Amending the Zoning Maps by Establishing Marijuana Overlay Districts" - Second Reading

RECOMMENDED ACTION:

Move to adopt the ordinance entitled "An Ordinance of the City Council of the City of Pacifica Amending Title 9, Chapter 4 of the Zoning Code by Establishing Regulations Related to Marijuana Operations and Amending the Zoning Maps by Establishing Marijuana Overlay Districts: - Second Reading

STAFF CONTACT:

Kathy O'Connell, City Clerk
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BACKGROUND/DISCUSSION:

This ordinance was introduced at the June 26, 2017 regular City Council meeting and is in order for adoption. There were several revisions to the ordinance at the June 26, 2017 City Council meeting and those revisions have been incorporated.

FISCAL IMPACT:

No direct fiscal impact associated with the second reading and adoption.

ORIGINATED BY:

City Clerk

ATTACHMENT LIST:

ORDINANCE NO. (ID # 2288)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA AMENDING ARTICLE 3 (ESTABLISHMENT OF DISTRICTS), AMENDING ARTICLE 4 (R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT), AMENDING ARTICLE 5 (R-2 TWO-FAMILY RESIDENTIAL DISTRICT), AMENDING ARTICLE 6 (R-3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT), AMENDING ARTICLE 6.5 (R-3/L.D. MULTIPLE-FAMILY DENSITY RESIDENTIAL DISTRICT), AMENDING ARTICLE 7 (R-3-G MULTIPLE-FAMILY RESIDENTIAL GARDEN DISTRICT), AMENDING ARTICLE 10 (C-1 NEIGHBORHOOD COMMERCIAL DISTRICT), AMENDING ARTICLE 11 (C-2 COMMUNITY COMMERCIAL DISTRICT), AMENDING ARTICLE 12 (C-3 SERVICE COMMERCIAL DISTRICT), ADDING A NEW ARTICLE 17.5 (MARIJUANA OPERATION OVERLAY DISTRICT (MO)), AMENDING ARTICLE 19 (AGRICULTURAL DISTRICT (A)), AMENDING ARTICLE 22 (PLANNED DEVELOPMENT DISTRICT (P-D)), AMENDING ARTICLE 23 (GENERAL PROVISIONS AND EXCEPTIONS), AMENDING ARTICLE 27 (PROJECTIONS INTO YARDS), AMENDING ARTICLE 31 (HOME OCCUPATION PERMITS), AND, ADDING A NEW ARTICLE 48 (MARIJUANA REGULATIONS) OF CHAPTER 4 OF TITLE 9 OF THE PACIFICA MUNICIPAL CODE (TEXT AMENDMENT TA-106-17); AMENDING THE ZONING MAP OF THE CITY OF PACIFICA BY CREATING A NEW MARIJUANA OPERATION OVERLAY DISTRICT (MO) (REZONING RZ-197-17); AND, FINDING ADOPTION OF THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (the "Compassionate Use Act" or "CUA"); and

WHEREAS, on January 1, 2004, the California Legislature enacted the "Medical Marijuana Program Act" or "MMPA," to clarify the scope of the Compassionate Use Act, to establish a voluntary program for identification cards issued by counties for qualified patients and primary caregivers, and to provide criminal immunity to qualified patients and primary caregivers for certain activities involving medical marijuana, including the collective or cooperative cultivation of medical marijuana; and

WHEREAS, on October 9, 2015, Assembly Bills 243 and 266 and Senate Bill 643 (collectively, the "Medical Marijuana Regulation and Safety Act" or "MMRSA") were enacted to create a state regulatory and licensing system governing the cultivation, testing, and distribution of medical marijuana, the manufacturing of medical marijuana products, and physician recommendations for medical marijuana; and

WHEREAS, on June 27, 2016 Senate Bill 837 was enacted, which included a number of technical changes to the MMRSA, including renaming the act to the Medical Cannabis Regulation and Safety Act (the "MCRSA")

WHEREAS, on November 8, 2016, the voters of the State of California approved Proposition 64, known as the "Control, Regulate and Tax Adult Use of Marijuana Act" (the "AUMA"), under which a variety of non-medical marijuana businesses can operate subject to local ordinances and individuals may grow, possess and use limited amounts non-medical marijuana; and

WHEREAS, the CUA, MMPA, MMRSA, MCRSA, and AUMA are collectively known as the “State Marijuana Laws”; and

WHEREAS, the City’s Zoning Regulations, codified in Chapter 4 of Title 9 of the Pacifica Municipal Code, do not contain provisions to expressly regulate marijuana-related activities, and the City wishes to retain local control of those marijuana-related regulations that the State reserves to local agencies; and

WHEREAS, it is the purpose and intent of this Ordinance to regulate the manufacturing, testing, and retail sale and dispensation of medical and non-medical marijuana in order to ensure the health, safety, and welfare of the residents of the City of Pacifica; and

WHEREAS, the regulations in this Ordinance are meant to ensure compliance with the State Marijuana Laws and do not interfere with a patient’s ability to use medical marijuana as authorized by the State Marijuana Laws or criminalize the possession or cultivation of marijuana for medical or non-medical purposes as permitted by the State Marijuana Laws; and

WHEREAS, any Marijuana Operation within the City must comply with all provisions of the Pacifica Municipal Code for obtaining permits and licenses for a Marijuana Operation and must comply with the State Marijuana Laws and all other applicable local and state laws; and

WHEREAS, nothing in this Ordinance shall permit activities that are otherwise illegal under state or local laws; and

WHEREAS, the various articles of Chapter 4 of Title 9 of the Pacifica Municipal Code establish the standards for and types of land uses permissible in the City of Pacifica; and

WHEREAS, the City Council is concurrently considering ordinances to establish Marijuana Public Safety License regulations and to impose a tax on commercial marijuana activities, and desires to make the effective date of this Ordinance and the Marijuana Public Safety License ordinance contingent upon adoption of an ordinance by a majority of the electors of the City of Pacifica imposing a tax on commercial marijuana activities; and

WHEREAS, the City Council of the City of Pacifica and the Planning Commission of the City of Pacifica held a joint study session to solicit public input on proposed marijuana regulations on March 6, 2017;

WHEREAS, the Planning Commission held a study session to solicit public input on proposed marijuana regulations and locational standards and provided direction to City staff on May 1, 2017; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the Ordinance (File Nos. TA-106-17 and RZ-197-17) on May 15 and June 5, 2017, and adopted Resolution No. 973 initiating and recommending City Council approval of the Ordinance on June 5, 2017; and

WHEREAS, the City Council of the City of Pacifica held a duly noticed public hearing on the Ordinance on June 26, 2017, at which time it introduced Ordinance No. ###.

NOW, THEREFORE, the City Council of the City of Pacifica does ordain as follows:

Section 1. Recitals. The City Council of the City of Pacifica does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

Section 2. Amended. Article 3 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Establishment of Districts) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

Sec. 9-4.301. - Established.

The districts established by the provisions of this chapter are hereby designated as follows:

- (a) Single-Family Residential District R-1
- (b) Two-Family Residential District R-2
- (c) Multiple-Family Residential District R-3
- (d) Multiple-Family Residential District R-3.1
- (e) Multiple-Family Residential Garden District R-3-G
- (f) High Rise Apartment District R-5
- (g) Neighborhood Commercial District C-1
- (h) Commercial Apartment District C-1-A
- (i) Community Commercial District C-2
- (j) Service Commercial District C-3
- (k) Professional Office District O
- (l) Commercial Recreation District C-R
- (m) Controlled Manufacturing District M-1
- (n) Industrial District M-2
- (o) Parking District P
- (p) Agricultural District A
- (q) Lot Size Overlay District B-
- (r) Public Facilities District P-F
- (s) Planned Development District P-D
- (t) Resource Management District R-M
- (u) Open Space District O-S
- (v) Multiple-Family/Low Density Residential District R-3/L.D
- (w) Single-Family Residential Hillside District R-1-H
- (x) Coastal Zone Combining District CZ
- (y) Special Area Combining District SA
- (z) Marijuana Operation Overlay District MO

Section 3. Amended. Article 4 of Chapter 4 of Title 9 of the Pacifica Municipal Code (R-1 Single-Family Residential District) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

Sec. 9-4.401. - Permitted and conditional uses.

(a) Permitted uses. The following uses shall be permitted in the R-1 District:

- (1) One single-family dwelling per lot;
- (2) Accessory buildings and uses;

- (3) Child day care homes for twelve (12) children or less;
- (4) Special care facilities for six (6) or fewer persons; ~~and~~
- (5) Manufactured homes consistent with Chapter 14 of Title 8 of this Code; and
- (6) Indoor or outdoor cultivation of marijuana for personal use as an accessory use to a primary dwelling unit, subject to the standards contained in Article 48 of this chapter.

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Sec. 9-4.402. - Development regulations.

Development regulations in the R-1 District shall be as follows:

- (a) Minimum building site area: 5,000 square feet;
- (b) Minimum lot area per dwelling unit: 5,000 square feet;
- (c) Minimum lot width: fifty (50') feet;
- (d) Minimum front setback: fifteen (15') feet; however, the minimum front setback to a garage entrance shall be twenty (20') feet. The minimum setback entrance on the street side of a corner lot shall be twenty (20') feet. (For nonconforming lots, see Section 9-4.3002 and for garages as accessory buildings, see Section 9-4.2704).
- (e) Minimum side setback: five (5') feet; however, the minimum exterior side yard for corner lots shall be ten (10') feet. (For nonconforming lots, see Sec. 9-4.3002);
- (f) Minimum rear setback: twenty (20') feet;
- (g) Minimum setback for nondwelling accessory buildings: one and a half (1½') feet from the side or rear lot line within the rear setback, (See Sec. 9-4.2704, Accessory Buildings);
- (h) Maximum lot coverage by all structures: forty (40%) percent;
- (i) Minimum landscaped area: twenty (20%) percent. In addition, the front yard setback shall be landscaped and adequately maintained. Concrete and asphalt paving shall only be allowed on the driveways and pathways;
- (j) Maximum height: thirty-five (35') feet; however, the maximum height for a detached accessory building shall be twelve (12') feet;
- (k) In the case of conditional uses, additional regulations may be required;
- (l) Parking: as set forth in Article 28 of this chapter; ~~and~~
- (m) Permits for site development: as set forth in Article 32 of this chapter; and

(n) Marijuana cultivation for personal use: as set forth in Article 48 of this chapter, including without limitation the prohibition on outdoor cultivation on any parcel directly abutting any School, Day Care Center, or Youth Center as those terms are defined.

Section 4. Amended. Article 5 of Chapter 4 of Title 9 of the Pacifica Municipal Code (R-2 Two-Family Residential District) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

Sec. 9-4.501. - Permitted and conditional uses.

(a) *Permitted uses.* The following uses shall be permitted in the R-2 District:

- (1) Single-family dwellings on parcels less than 5,800 square feet in area;
- (2) Two-family dwellings;
- (3) Accessory buildings and uses;
- (4) Child day care homes for twelve (12) children or less; ~~and~~
- (5) Special care facilities for six (6) or fewer persons; and

(6) Indoor or outdoor cultivation of marijuana for personal use as an accessory use to a primary dwelling unit, subject to the standards contained in Article 48 of this chapter.

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Sec. 9-4.502. - Development regulations.

Development regulations in the R-2 District shall be as follows:

- (a) Minimum building site area: 5,000 square feet;
- (b) Minimum lot area per dwelling unit: 2,900 square feet;
- (c) Minimum lot width: fifty (50') feet;
- (d) Required minimum setback: same as R-1 standards;
- (e) Maximum height of structures: same as R-1 standards;
- (f) Maximum lot coverage by all structures: fifty (50%) percent;
- (g) Minimum landscaped area: twenty (20%) percent;
- (h) In the case of conditional uses, additional regulations may be required;
- (i) Parking: as set forth in Article 28 of this chapter; ~~and~~
- (j) Permits for site development: as set forth in Article 32 of this chapter; and

(k) Marijuana cultivation for personal use: as set forth in Article 48 of this chapter, including without limitation the prohibition on outdoor cultivation on any parcel directly abutting any School, Day Care Center, or Youth Center as those terms are defined.

Section 5. Amended. Article 6 of Chapter 4 of Title 9 of the Pacifica Municipal Code (R-3 Multiple-Family Residential District) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

Sec. 9-4.601. - Permitted and conditional uses.

(a) *Permitted uses.* The following uses shall be permitted in the R-3 District:

- (1) Duplexes and multiple-family dwellings;
- (2) Accessory buildings and uses;
- (3) Child day care homes for twelve (12) children or less; ~~and~~
- (4) Special care facilities for six (6) or fewer persons; and

(5) Indoor or outdoor cultivation of marijuana for personal use as an accessory use to a primary dwelling unit, subject to the standards contained in Article 48 of this chapter.

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Sec. 9-4.602. - Development regulations.

Development regulations in the R-3 District shall be as follows:

- (a) Minimum site area: 5,000 square feet;
- (b) Minimum lot area per dwelling unit: 2,075 square feet;
- (c) Minimum lot width: fifty (50') feet;
- (d) Minimum setbacks: same as R-1 standards;
- (e) Maximum height of structures: same as R-1 standards;
- (f) Maximum lot coverage: sixty (60%) percent;
- (g) Minimum landscaped area: twenty (20%) percent;
- (h) Minimum usable open space: 400 square feet per unit;
- (i) In the case of conditional uses, additional regulations may be required;

(j) Parking: as set forth in Article 28 of this chapter; ~~and~~

(k) Permits for site development: as set forth in Article 32 of this chapter; and

(l) Marijuana cultivation for personal use: as set forth in Article 48 of this chapter, including without limitation the prohibition on outdoor cultivation on any parcel directly abutting any School, Day Care Center, or Youth Center as those terms are defined.

Section 6. Amended. Article 6.5 of Chapter 4 of Title 9 of the Pacifica Municipal Code (R-3/L.D. Multiple-Family Density Residential District) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

Sec. 9-4.652. - Development regulations.

Development regulations in the R-3/L.D. District shall be as follows:

(a) Minimum site area: 7,500 square feet;

(b) Minimum lot area per dwelling unit: 4,840 square feet;

(c) Minimum lot width: fifty (50') feet;

(d) Minimum setbacks: same as R-1 standards;

(e) Maximum height of structures: same as R-1 standards;

(f) Maximum lot coverage: fifty (50%) percent;

(g) Minimum landscaped area: twenty-five (25%) percent;

(h) Minimum usable open space: 450 square feet per unit;

(i) In the case of conditional uses, additional regulations may be required;

(j) Parking: as set forth in Article 28 of this chapter; ~~and~~

(k) Permits for site development: as set forth in Article 32 of this chapter; and

(l) Marijuana cultivation for personal use: as set forth in Article 48 of this chapter, including without limitation the prohibition on outdoor cultivation on any parcel directly abutting any School, Day Care Center, or Youth Center as those terms are defined.

Section 7. Amended. Article 7 of Chapter 4 of Title 9 of the Pacifica Municipal Code (R-3-G Multiple-Family Residential Garden District) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

Sec. 9-4.702. - Development regulations.

Development regulations in the R-3-G District shall be as follows:

- (a) Minimum site area: 7,500 square feet;
- (b) Minimum lot area per dwelling unit: 2,300 square feet;
- (c) Minimum lot width: sixty (60') feet;
- (d) Minimum setbacks: same as R-1 standards;
- (e) Maximum height of structures: same as R-1 standards;
- (f) Maximum lot coverage for all structures: fifty (50%) percent;
- (g) Minimum landscaped area: twenty-five (25%) percent;
- (h) Minimum usable open space: 450 square feet per unit;
- (i) Maximum height of structures: same as R-1 standards;
- (j) In the case of conditional uses, additional regulations may be required;
- (k) Parking: as set forth in Article 28 of this chapter; ~~and~~
- (l) Permits for site development: as set forth in Article 32 of this chapter; and

(m) Marijuana cultivation for personal use: as set forth in Article 48 of this chapter, including without limitation the prohibition on outdoor cultivation on any parcel directly abutting any School, Day Care Center, or Youth Center as those terms are defined.

Section 8. Amended. Article 10 of Chapter 4 of Title 9 of the Pacifica Municipal Code (C-1 Neighborhood Commercial District) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

Sec. 9-4.1001. - Permitted and conditional uses.

(a) *Permitted uses.* The following uses shall be permitted in the C-1 District:

(1) Retail uses, including, but not limited to, food markets, drug stores, liquor stores and retail restaurants, but excluding firearms sales and any Marijuana Operation as defined in Article 48 of this chapter;

(2) Personal services, such as professional offices, shoe repair, barber and beauty shops, laundries and dry cleaning establishments, banks and financial institutions, and massage establishments under six hundred forty (640) square feet of treatment floor space (see licensing requirements Title 5, Chapter 19);

(3) Business and administrative offices when located entirely above the ground floor of any commercial structure;

(4) Art galleries and instructional studios for dance and arts or crafts and craft production shops; and

(5) In the Coastal Zone, visitor-serving commercial uses, as defined in Section 9-4.4302(av) of Article 43 of this chapter.

Section 9. Amended. Article 11 of Chapter 4 of Title 9 of the Pacifica Municipal Code (C-2 Community Commercial District) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

Sec. 9-4.1101. - Permitted and conditional uses.

(a) *Permitted uses.* The following uses shall be permitted in the C-2 District:

- (1) Retail stores and shops;
- (2) Personal and business service establishments, including financial institutions;
- (3) Offices;
- (4) Newspaper, printing, and lithography plants not exceeding 5,000 square feet in net usable area;
- (5) Retail restaurants, fast food restaurants, restaurants and bars;
- (6) Household appliance and furniture sales and service in conjunction with sales;
- (7) Veterinary hospitals and clinics; and
- (8) In the Coastal Zone, visitor-serving commercial uses, as defined in Section 9-4.4302(av) of Article 43 of this chapter.

(b) *Conditional uses.* Conditional uses allowed in the C-2 District, subject to obtaining a use permit, shall be as follows:

- (1) Social halls, clubs, theaters, and nightclubs;
- (2) Pet care and sales establishments, including boarding and grooming;
- (3) Vehicle and boat sales and service in conjunction with sales;
- (4) Plumbing, heating, electrical, and appliance repair, service, and supply shops;
- (5) Specialty auto service, such as oil changing facilities, not in conjunction with service stations;
- (6) Car washes;
- (7) All uses allowed as either a permitted or conditional use in the C-1 District and which are not listed as permitted uses in the C-2 District; ~~and~~

(8) Firearms sales, subject to the provisions of Section 9-4.2316-; and

(9) Marijuana Testing Operation, subject to the provisions of Article 48 of this chapter, including without limitation any restriction on the establishment of such use in certain locations.

Sec. 9-4.1102. - Development regulations.

Development regulations in the C-2 District shall be as follows:

- (a) Minimum building site: 5,000 square feet;
- (b) Minimum lot dimensions: fifty (50') foot width;
- (c) Required minimum setback: none, unless established by the site development permit;
- (d) Minimum landscaped area: ten (10%) percent;
- (e) Maximum allowable height: thirty-five (35') feet;
- (f) Parking: as set forth in Article 28 of this chapter;
- (g) Permits for site development: as set forth in Article 32 of this chapter;
- (h) All uses shall be conducted entirely within an enclosed structure, except as otherwise provided in Article 23 of this chapter;
- (i) A use permit may be required pursuant to the provisions of subsection (i) of Section 9-4.1002 of Article 10 of this chapter; ~~and~~
- (j) In the Coastal Zone, when a new use or a change of use is proposed, a use permit determination shall be required for all permitted uses other than visitor-serving commercial uses. The process for a use permit determination shall be as set forth in Sections 9-4.1002(i) and (j)-; and
- (k) A Marijuana Use Permit shall be required prior to establishment of a Marijuana Testing Operation, as provided in Article 48 of this chapter.

Section 10. Amended. Article 12 of Chapter 4 of Title 9 of the Pacifica Municipal Code (C-3 Service Commercial District) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

Sec. 9-4.1201. - Permitted and conditional uses.

- (a) *Permitted uses.* The following uses shall be permitted in title C-3 District:
 - (1) Warehouses and storage facilities;
 - (2) Shops, such as glass, welding, cabinetry, sheet metal work, paint mixing, upholstery, machine shops, and sign shops;

(3) Large-scale crafts production, including the use of a heating source or chemicals for the production of goods;

(4) Car washes and service stations; and

(5) Retail sales in conjunction with any of the uses set forth in this subsection, except retail sales in conjunction with a Marijuana Operation as defined in Article 48 of this chapter.

(b) *Conditional uses.* Conditional uses allowed in the C-3 District, subject to obtaining a use permit, shall be as follows:

(1) Processing, manufacture, or assembly plants or plants for the production of goods or the performance of services for wholesale distribution;

(2) Auto body repair, paint, and upholstery;

(3) Auto wrecking;

(4) Refuse operations and recycling centers;

(5) Full service or specialty auto repair not in conjunction with service stations;

(6) Wholesale nurseries and lumber yards; ~~and~~

(7) Marijuana Manufacturing Operation, subject to the provisions of Article 48 of this chapter, including without limitation any restriction on the establishment of such use in certain locations; and

(8) All uses allowed as permitted or conditional uses in the C-1 and C-2 Districts, unless otherwise permitted in the C-3 District, and except residential uses.

Sec. 9-4.1202. - Development regulations.

Development regulations in the C-3 District shall be as follows:

(a) Minimum building site: 5,000 square feet;

(b) Minimum lot dimensions: fifty (50') foot width;

(c) Required minimum setback: none, unless required by the site development permit;

(d) Minimum landscaped area: ten (10%) percent;

(e) Maximum allowable height: thirty-five (35') feet;

(f) Parking: as set forth in Article 28 of this chapter;

(g) Permits for site development: as set forth in Article 32 of this chapter;

(h) All uses shall be conducted entirely within an enclosed structure, unless otherwise specified in an approved use permit or pursuant to Article 23 of this chapter;

(i) All uses abutting an R District shall require a use permit;~~and~~

(j) Marine oriented or coastal dependent industrial uses shall be permitted in the coastal area, except where such uses abut an R District, in which case a use permit shall be required;~~;~~
and

(k) A Marijuana Use Permit shall be required prior to establishment of a Marijuana Manufacturing Operation or Marijuana Testing Operation, as provided in Article 48 of this chapter.

Section 11. Enacted. Article 17.5 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Marijuana Operation Overlay District (MO)) is hereby enacted as follows:

Sec. 9-4.1751. - Scope.

Subject to all other regulations set forth in this code, uses shall be allowed in a Marijuana Operation Overlay District (MO) as set forth in this article. Standards or regulations in effect in any zoning district or districts underlying a Marijuana Operation Overlay District (MO) shall remain in effect unless the subject matter of such standard or regulation is addressed in this article. The provisions of any Marijuana Operation Overlay District (MO) shall prevail in the event of any conflict with the provisions of any zoning district or districts upon which it is overlaid.

Sec. 9-4.1752. - Purpose.

The purpose of each Marijuana Operation Overlay District (MO) is to allow the City to retain the greatest amount of control over the location and number of certain marijuana businesses and related activities. Without proper regulation, these marijuana businesses and related activities have the potential to adversely impact residents, employees, businesses, and properties in the areas surrounding them. Therefore, to protect public health, safety, and welfare, the City has established overlay zoning in order to efficiently implement specific standards for the establishment and operation of certain marijuana businesses and related activities.

Sec. 9-4.1753. - Overlay districts created.

The following districts are hereby created, which shall overlay any underlying zoning district or districts, as further depicted in the zoning map described in Article 3 of this chapter:

- (a) Marijuana Operation, Fairmont Overlay District (MO-F)
- (b) Marijuana Operation, Linda Mar Overlay District (MO-LM)
- (c) Marijuana Operation, Park Pacifica Overlay District (MO-PP)
- (d) Marijuana Operation, Rockaway Beach Overlay District (MO-RB)
- (e) Marijuana Operation, Sharp Park Overlay District (MO-SP)

Sec. 9-4.1754. - Uses permitted.

Marijuana Operations shall be allowed within the Marijuana Operation Overlay District (MO) as provided in this section. The term “Marijuana Operation” shall have that meaning as defined in Article 48 of this chapter. Any and all Marijuana Operations not expressly described herein, or otherwise allowed in an underlying zoning district or districts, are expressly prohibited.

(a) *Permitted uses.* None

(b) *Conditional uses.* Conditional uses allowed in the Marijuana Operation Overlay District (MO), subject to obtaining a marijuana use permit, and further subject to the definitions, supplemental findings, and other provisions contained in Article 48 of this chapter, shall be as follows:

(1) Marijuana Retail Operation, as defined in Article 48 of this chapter.

(c) *Planned Development District (P-D).* When a Planned Development District (P-D) underlies a Marijuana Operation Overlay District (MO), a marijuana business or activity described in this article may be allowed upon approval of a marijuana use permit, and shall not require approval of a development plan or an amendment to an existing development plan.

Sec. 9-4.1755. - Number of businesses or activities permitted.

The number of Marijuana Operations allowed within a Marijuana Operation Overlay District (MO) shall be the number set forth in this section.

(a) *Marijuana Retail Operation.* The number of Marijuana Retail Operations within the City of Pacifica shall not exceed six (6), and within that overall limitation, the number allowed within any Marijuana Operation Overlay District (MO) shall be further limited to the maximum provided in the following table:

Table 9-4.1755(a)
NUMERICAL LIMITATIONS

	<i>Use</i>
<i>Overlay District</i>	Marijuana retail operation
MO-F	2
MO-LM	2
MO-PP	2
MO-RB	2
MO-SP	2

Sec. 9-4.1756. - Development standards.

The development standards within any Marijuana Operation Overlay District (MO) shall be those development standards in effect in the underlying zoning district or districts.

Sec. 9-4.1757. - Other discretionary permits.

Nothing in this article shall be construed to supersede or in any way alter or lessen the effect or application of any requirement to obtain a discretionary permit pursuant to the standards of any zoning district or districts underlying a Marijuana Operation Overlay District (MO), including without limitation a coastal development permit, a permit to construct or to modify any structure, or a change of use.

Section 12. Amended. Article 19 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Agricultural District (A)) is hereby amended as follows (deletions in ~~strike through~~, additions in underline):

Sec.9-4.1901. – Uses permitted: Restrictions (A).

Subject to all other regulations set forth in this chapter, the following uses shall be permitted, and the following regulations shall apply in the Agricultural District (A).

Uses Permitted; None but the following uses, or uses which in the opinion of the Commission are similar, shall be permitted:	Use Permit Required	Site Development Permit Required	Maximum Height in Feet (Also see Article 26)	Minimum Building Site in Square Feet (Also see Article 26)	Minimum Lot Width in Feet (Also see Section 9-4.2706)	Maximum Coverage	Minimum Front Setback in Feet* (Also see Article 27)	Minimum Side Setback in Feet (Also see Article 27)	Minimum Rear Setback in Feet (Also see Article 27)
(a) All agricultural uses, <u>except cultivation of marijuana as that term is defined in Article 48 of this chapter</u> , and except hog ranches; and ranch and farm dwellings appurtenant to the agricultural district	No	No	36'	As specified in the B District with which the A District is combined	As specified in the B District with which the A District is combined	As specified in the B District with which the A District is combined	As specified in the B District with which the A District is combined	As specified in the B District with which the A District is combined	As specified in the B District with which the A District is combined
(b) In addition to	No	No	36'	As specified					

<p>the uses specified in any such district, animal husbandry and small livestock farming provided not more than one animal is kept for each 16,000 square feet on the building site; crop and tree farming, <u>except cultivation of marijuana as that term is defined in Article 48 of this chapter</u>; viticulture; home occupations; and the keeping of up to twenty-four (24) chickens or similar birds or rabbits or similar animals</p>				<p>in the B District with which the A District is combined</p>	<p>in the B District with which the A District is combined</p>	<p>in the B District with which the A District is combined</p>	<p>in the B District with which the A District is combined</p>	<p>in the B District with which the A District is combined</p>	<p>in the B District with which the A District is combined</p>
<p>(c) Additional animals or birds on land exceeding two (2) acres in area; labor camps for labor employed on the</p>	<p>Yes</p>	<p>Yes</p>	<p>36'</p>	<p>As specified in the "B" District with which the "A" District is combined</p>	<p>As specified in the "B" District with the "A" District is combined</p>	<p>As specified in the "B" District with which the "A" District is combined</p>	<p>As specified in the "B" District with which the "A" District is combined</p>	<p>As specified in the "B" District with which the "A" District is combined</p>	<p>As specified in the "B" District with which the "A" district is combined</p>

<p>premises; dog and cat kennels; sales of products produced on the premises; riding academies, and trout farms</p>										
<p>(d) Conditional uses allowed in the Agricultural District, subject to obtaining a use permit and site development plan pursuant to this title, shall be as follows:</p>										
<p>(1) One single-family dwelling unit with the development standards as specified in the "B" District with which the "A" District is combined;</p>										
<p>(2) One second residential unit as defined in Article 4.5 of Chapter 4 of this title.</p>										

(e) Public parks shall be a permitted use in the Agricultural District.									
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* Unless otherwise indicated on the zoning map

Section 13. Amended. Article 22 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Planned Development District (P-D)) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

Sec. 9-4.2203. - Uses permitted (P-D).

The uses permitted in the Planned Development District (P-D) shall be the uses designated on the approved development plan; provided, however, in the event such approved usage does not conform to the General Plan of the City, the General Plan shall be amended to conform to the development plan simultaneously with the amending of the Zoning map classifying the parcel P-D.

(a) A Marijuana Operation may be allowed within any portion of a Planned Development District (P-D) where the approved development plan specifies a commercial use upon approval of a Marijuana Use Permit, and further subject to the standards contained in Article 48 of this chapter. An amendment to the approved development plan shall not be required. In cases where the details of the original development plan are not available, the Planning Administrator may determine that the development plan specified commercial activity for an area based on the existing development pattern and nature of existing uses in the area.

(b) Indoor or outdoor cultivation of marijuana for personal use as an accessory use to a primary dwelling unit may be allowed within any portion of a Planned Development District (P-D) where the approved development plan specifies a residential use subject to the standards contained in Article 48 of this chapter. An amendment to the approved development plan shall not be required. In cases where the details of the original development plan are not available, the Planning Administrator may determine that the development plan specified residential use for an area based on the existing development pattern and nature of existing uses in the area. Outdoor marijuana cultivation shall not be permitted on any parcel directly abutting any School, Day Care Center, or Youth Center as those terms are defined in Article 48 of this chapter.

Section 14. Amended. Article 23 of Chapter 4 of Title 9 of the Pacifica Municipal Code (General Provisions and Exceptions) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

* * * * *

Sec. 9-4.2302. - Temporary commercial promotional events and temporary amusements.

(a) *Commercial promotional events.* Sidewalk sales lasting more than three (3) days, flea markets, rummage sales, festivals, bazaars, or other similar temporary activities not lasting

more than two (2) weeks, the primary purpose of which is to promote proposed or existing businesses, may be established on public or private property within any C District. No person or group shall undertake or establish such activities without first securing written approval from the Zoning Administrator as follows:

(1) Any individual or group requesting approval pursuant application to the Zoning Administrator not less than thirty (30) days prior to the date of the activities for which approval is requested.

(2) Applications made pursuant to this subsection (a), where applicable, shall be accompanied by the following:

(i) Evidence of legal interest in the property upon which such activities are proposed or written authorization for the activities proposed from the individual holding such interest;

(ii) A plat map showing any property within 300 feet of the site, accompanied by a list of property owners and corresponding addresses of such property owners typed on mailing labels; and

(iii) A detailed, complete description of all events directly related to the activity proposed accompanied by maps, plans or other appropriate graphic materials.

(3) Prior to approving or denying any application submitted pursuant to this subsection, the Zoning Administrator shall solicit written comments and recommendations concerning the event for which approval is requested from the Department of Fire Services, Department of Police Services, Department of Community Development and Services, and any other department or agency as deemed necessary by the Zoning Administrator. Such recommendations may be required as conditions of approval for the permit requested.

(4) Prior to approving or denying an application for a permit to this subsection, the Zoning Administrator shall make written findings as follows: that the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be injurious or detrimental to property and improvements in the neighborhood or to the general welfare of the City.

(5) Notice of any permit approval pursuant to this subsection shall be mailed to property owners and residents pursuant to subsection (ii) of subsection (2) of this subsection.

(6) Appeals filed by any person aggrieved by this decision of the Zoning Administrator shall be taken in the manner set forth in Section 9-4.3804 of Article 38 of this chapter.

(b) *Temporary amusements.* Circuses, carnivals, parades, amusement parks, public dances, or similar temporary establishments involving large assemblages of people, excluding those uses set forth in subsection (a) of this section, may be established in any C District, on

any public street or facility, or in isolated or undeveloped areas of any district provided a use permit is first secured as set forth in Article 33 of this chapter and in Chapter 3 of Title 5 of this Code for the establishment, maintenance, operation, and removal of such uses.

(c) No event or activity described in subsection (a) or (b) shall include a Marijuana Operation as that term is defined in Article 48 of this chapter or any activity involving marijuana or marijuana products.

* * * * *

Sec. 9-4.2305. - Temporary uses.

(a) The Commission may grant temporary uses for a period of up to six (6) months in developed areas and up to one year in undeveloped areas by using the procedure set forth in Article 33 of this chapter governing the granting of use permits.

(b) The temporary use of vacant lots or parcels for the parking of motor homes, trailers, or mobile homes as construction offices, or for the storage of equipment or materials, or for security purposes may be permitted by the Planning Administrator provided the parking is in conjunction with construction on the same lot or building site and meets the following conditions:

(1) Building plans for the new construction shall be submitted and a building permit issued before the occupancy of the motorhome, trailer, or mobile home.

(2) The occupancy shall not exceed twelve (12) months after the issuance of a building permit, unless otherwise extended by the Commission.

(3) The temporary use of mobile homes during the construction of individual single-family dwellings may only be permitted as described in this subsection (b) if the project is constructed by an owner/builder.

(c) No temporary use described in this section shall include a Marijuana Operation as that term is defined in Article 48 of this chapter or any activity involving marijuana or marijuana products.

* * * * *

Sec. 9-4.2308. - Commercial and industrial uses outside structures.

(a) All commercial and industrial uses conducted in any C or M District shall be conducted entirely within an enclosed structure unless a permit is obtained, as set forth in Article 33 of this chapter, except as otherwise provided in this section.

(b) Sidewalk sales, not including peddlers, on public or private property, not lasting more than three (3) days, shall be permitted in any C District. Other temporary outdoor commercial uses may be established in any C District pursuant to Section 9-4.2302 of this article. Sidewalk sales permitted pursuant to this section shall be conducted in a manner sufficient to allow safe pedestrian and wheelchair passage onto or along the sidewalk where such activity is being conducted.

(c) The sale, display, and storage of Christmas trees and accessories therefor may be authorized by the Planning Administrator on vacant lots or other open areas in commercial districts or undeveloped areas for a temporary period of time between Thanksgiving and December 26 of any year provided such use is not injurious to the public welfare. Temporary structures, including mobile structures, and other facilities, such as electrical service or utilities, shall be erected in accordance with the Building, Electrical, and Plumbing Codes of the City. A bond for the removal of debris shall be deposited by each applicant within the City in the form of a cash deposit in the amount of Five Hundred and no/100ths (\$500.00) Dollars which shall be refunded upon compliance with the provisions of this subsection.

If, after five (5) days' notice, the applicant has not complied with the provisions of this subsection, the City may have a free agent do what is required to comply with the provisions of this subsection, and the applicant's cash bond shall be applied to the cost thereof, and any excess shall become immediately due and payable upon billing to the applicant.

(d) The sale, display, and storage of fireworks may be authorized in accordance with Article 2 of Chapter 3 of Title 4 of this Code. No use permit shall be required.

(e) Outdoor sales, displays, and the storage of pumpkins as provided in subsection (c) of this section shall be permitted between October 1 and November 5 of any year.

(f) If not located within an enclosed building, mobile recycling units, reverse vending machines, and other outdoor storage of materials to be recycled shall be subject to the issuance of a site development permit and use permit.

(g) No use described in this section shall include a Marijuana Operation as that term is defined in Article 48 of this chapter or any activity involving marijuana or marijuana products.

* * * * *

Section 15. Enacted. Section 2710 of Article 27 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Projections into Yards) is hereby enacted as follows:

* * * * *

Sec. 9-4.2710. – Outdoor cultivation of marijuana in residential areas.

Subject to the standards contained in Article 48 of this chapter, including without limitation any setback requirements or limitations on the number of plants which may be cultivated.

Section 16. Amended. Article 31 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Home Occupation Permits) is hereby amended as follows (deletions in ~~strikethrough~~, additions in underline):

Sec. 9-4.3101. - Definitions.

For the purposes of this article, "home occupation" shall mean an occupation carried on by the occupants of a dwelling unit as a secondary use to the customary residential purpose or an occupation carried on by a renter with the written consent of the landlord or his agent, which

consent shall be attached to the application for a permit. The following criteria shall be determinative of a valid home occupation:

(a) It shall not unreasonably generate pedestrian or vehicular traffic beyond that normal to the zone in which it is located. No more than three (3) people per day, including customers and sales persons shall come to and from the dwelling in conjunction with the home occupation. Music teachers and other teachers may be permitted additional commercial clientele upon approval by the Planning Administrator and conformance with conditions limiting the number of hours of commercial activity. In such case, adjacent owners and residents shall be notified prior to approval of the home occupation.

(b) It shall not involve the use of commercial vehicles for the delivery of materials to or from the premises (vehicles not over three-fourths ($\frac{3}{4}$) ton carrying capacity excepted). No vehicle over three-fourths ($\frac{3}{4}$) ton carrying capacity shall be used for home occupation purposes. All commercial vehicles associated with the home occupation shall be parked on site in accordance with all applicable parking regulations; such commercial vehicles shall not be parked or stored on the street. No more than two (2) commercial vehicles that are associated with the home occupation may be parked on the site.

(c) It shall only allow signs as expressly permitted by Section 9-4.3111 of this article.

(d) It shall not involve more than two hundred (200') square feet of the dwelling floor area, whether the home occupation use is conducted within the dwelling, or in an accessory building, or a combination of both.

(e) Stock-in-trade may be used or kept within a home occupation permitted area provided the stock-in-trade or any commodity or product manufactured off the premises is not brought on the premises for resale purposes there. Not more than 100 square feet shall be used for storing stock-in-trade.

(f) In no way shall the appearance of the structure or premises be so altered, or the conduct of the occupation within the structure or premises be such, that the structure or the premises may be reasonably recognized as serving a nonresidential use (either by color, materials, construction, lighting, noise, vibration, or the like). In particular, a home occupation shall not cause any adverse impacts such as offensive odors or excessive noise, lighting, or traffic which are incompatible with the residential area, or in violation of the provisions of any applicable laws or regulations.

(g) No mechanical or electrical equipment shall be used or stored which causes undue noise or electrical interference.

(h) A home occupation may be conducted only within an enclosed building, whether the building constitutes part of the main building or is an accessory building. A home occupation may not be conducted within an accessory building which is located within a required setback area, unless storage is the only proposed use. The Zoning Administrator, after a notice to adjoining landowners located within two hundred (200') feet of the subject property, may authorize a home occupation in other than an enclosed building upon the determination that the home occupation will not damage neighboring properties.

(i) A home occupation may be conducted in a garage provided the home occupation does not unreasonably conflict with the required parking for such residential structure.

(j) A home occupation shall not involve the employment of help other than resident members of the family within the residence. No provision of this article shall be deemed to prohibit service occupations carried on off the premises, nor to prohibit the employment of persons off the premises. Where special conditions exist and are disclosed on the application, the Zoning Administrator may modify this requirement.

(k) A home occupation which involves the handling, processing, packaging, or repackaging of foodstuff or involves other elements of food preparation may be permitted by the Planning Administrator; provided that all County Health Department permits, inspections, or approvals are obtained and the home occupation will not adversely effect surrounding residential uses.

(1) A home occupation shall not involve the storage or sale of firearms, other weapons, explosives, or ammunition.

(l) It shall not involve a Marijuana Operation as that term is defined in Article 48 of this chapter or any activity involving marijuana or marijuana products.

Section 17. Enacted. Article 48 of Chapter 4 of Title 9 of the Pacifica Municipal Code (Marijuana Regulations) is hereby enacted as follows:

Sec. 9-4.4800 Purpose and Intent.

It is the purpose and intent of this Article to regulate the cultivation and distribution of medical and non-medical marijuana in order to ensure the health, safety, and welfare of the residents of the City of Pacifica. The regulations in this Article are meant to ensure compliance with the Compassionate Use Act, the Medical Marijuana Program Act, the Medical Cannabis Regulation and Safety Act, and the Adult Use of Marijuana Act (hereinafter the "State Marijuana Laws") and do not interfere with a patient's ability to use medical marijuana as authorized by the State Marijuana Laws or criminalize the possession or cultivation of marijuana for medical or non-medical purposes as permitted by the State Marijuana Laws. Marijuana Operations within the City must comply with all provisions of the Pacifica Municipal Code for obtaining permits and licenses for a Marijuana Operation and must comply with the State Marijuana Laws and all other applicable local and state laws. Nothing in this Article shall permit activities that are otherwise illegal under state or local laws.

Sec. 9-4.4801 Definitions.

For the purposes of this Article, the following words and phrases shall have the following meanings:

(a) "Applicant" shall mean a person or entity that submits an application for a Marijuana Operation.

(b) "Cannabinoid" shall mean any and all chemical compounds that are the active principles of marijuana or cannabis.

(c) "Cannabis" shall have the same meaning as "Marijuana."

(d) “Commercial Cannabis Activity” shall have the meaning set forth in Business and Professions Code section 19300.5(j).

(e) “Commercial Marijuana Activity” shall have the meaning set forth in Business and Professions Code section 26001(d).

(f) “Cultivation” shall mean any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

(g) “Day Care Center” shall have the meaning set forth in Health and Safety Code section 1596.76 as of the effective date of this Article and as subsequently amended.

(h) “Deliver” and “Delivery” shall mean the transfer of marijuana or marijuana products to a customer, patient, and/or recipient. “Delivery” shall also include the use by a retailer of any technology platform owned or controlled by a Marijuana Retailer under this Article that enables customers to arrange for or facilitate the commercial transfer of marijuana or marijuana products.

(i) “Extraction” shall mean a process by which cannabinoids are separated from cannabis plant material through chemical or physical means.

(j) “Identification Card” shall have the meaning set forth in Health and Safety Code section 11362.71, as of the effective date of this Article and as subsequently amended.

(k) “Infuse” or “Infusion” shall mean the process by which cannabis, cannabinoids, cannabis concentrates, or manufactured cannabis are directly incorporated into a product formulation to produce a cannabis product.

(l) “Marijuana” shall have the meaning set forth in Health and Safety Code section 11018 and Business and Professions Code section 19300.5(f).

(m) “Marijuana Manufacturing Operation” or “Marijuana Manufacturer” shall mean any building, business, entity, facility, establishment, property, site or location that packages or repackages marijuana products, labels or relabels marijuana product containers, and/or produces edible products or topical products using infusion processes, or other types of medical cannabis products other than extracts or concentrates, and does utilize any volatile or non-volatile solvents for purposes of extracting cannabinoids.

(n) “Marijuana Operation” shall mean any Commercial Cannabis Activity or Commercial Marijuana Activity permitted under this Article.

(o) “Marijuana Products” shall have the meaning set forth in Health and Safety Code section 11018.

(p) “Marijuana Retail Operation” or “Marijuana Retailer” shall mean any building, business, entity, facility, establishment, property, site or location that dispenses, sells, and/or

delivers Marijuana and/or Marijuana Products and which requires a Type 10 State license for medical and/or non-medical marijuana sales and deliveries.

(q) "Marijuana Testing Operation" or "Marijuana Tester" shall mean any laboratory, building, business, entity, facility, establishment, property, site, or location that requires a Type 8 State license for medical and/or non-medical marijuana testing.

(r) "Operator" shall mean any person or entity responsible for management of the Marijuana Operation, any person listed on the Marijuana Operation's Articles of Incorporation or Articles of Organization, any person or entity owning an interest in the Marijuana Operation, and any person that supervises another employee of the Marijuana Operation.

(s) "Owner" shall mean the person or entity in whom is vested interest and title to the Marijuana Operation.

(t) "Permittee" shall mean the person or entity to whom the City issued a Marijuana Use Permit.

(u) "Physician" shall mean a licensed medical doctor, including a doctor of osteopathic medicine as defined in the California Business and Professions Code.

(v) "School" shall mean an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes an elementary school, middle or junior high school, senior high school, or any special institution of education for persons under the age of eighteen years, whether public or private.

(w) "State Marijuana Laws" shall include the Compassionate Use Act, the Medical Marijuana Program Act, the Medical Cannabis Regulation and Safety Act, and the Adult Use of Marijuana Act, and all other State laws regulating Marijuana and Marijuana Products, as they may be amended.

(x) "Volatile Solvent" shall have the meaning set forth in subdivision (d) of Health and Safety Code section 11362.2 as of the effective date of this Article and as subsequently amended.

(y) "Youth Center" shall have the meaning set forth in Health and Safety Code section 11353.1 as of the effective date of this Article and as subsequently amended.

Sec. 9-4.4802 Residential Cultivation of Marijuana.

(a) Notwithstanding any other restriction on Marijuana Operations, a person may cultivate up to six living marijuana plants inside his or her private residence, or inside an accessory structure to his or her private residence located upon the grounds of his or her private residence that is fully enclosed and secure, or outside upon the grounds of that private residence, provided that such cultivation complies with all State Marijuana Laws and the regulations and restrictions set forth in this section.

(b) All personal marijuana cultivation that occurs outside of a private residence or accessory structure to a private residence shall be located within the rear yard, contained within an area that is fully enclosed by a solid, locked, fence with a height of not less than six feet, shall not encroach upon or otherwise touch adjacent property lines and/or fences, and all portions of any marijuana plant shall maintain the following minimum setbacks from property lines:

(1) Front: behind the main structure;

(2) Side: five (5') feet; and

(3) Rear: five (5') feet.

(c) Individuals cultivating marijuana under this section must comply with all applicable State Marijuana Laws.

(d) No person may cultivate marijuana outside on the grounds of a private residential property if that property is directly abutting any property that contains a School, Day Care Center, or Youth Center.

(e) Where a private residence is not occupied or inhabited by the owner of the residence, the owner of the property must provide the occupant written consent expressly allowing marijuana cultivation to occur at said residence.

(f) Persons cultivating marijuana on residential property shall comply with all applicable technical building standards set forth in the Pacifica Municipal Code, shall not use gas products such as, but not limited to, carbon dioxide, butane, propane, or natural gas on the property for purposes of marijuana cultivation, and pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife.

(g) The outdoor cultivation of marijuana shall not utilize artificial light, and shall not adversely affect the health or safety of residents, neighbors, or nearby businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to the use or storage of materials, processes, products or wastes associated with the marijuana cultivation.

Sec. 9-4.4803 Marijuana Operations – General Provisions.

(a) Marijuana Operations Allowed.

(1) Only those types of Marijuana Operations set forth in this section shall be allowed within the City. Any and all Marijuana Operations not expressly described herein are expressly prohibited.

- (i) Marijuana Retail Operation (“Retailer”).
- (ii) Marijuana Manufacturing Operation (“Manufacturer”).
- (iii) Marijuana Testing Operation (“Tester”).

(2) An Owner or Operator of a Marijuana Operation shall be prohibited from owning or operating more than one Marijuana Operation within the City.

(3) Not more than one Marijuana Operation may be conducted on a lot or parcel of property.

(b) Marijuana Use Permit and Public Safety License Required to Operate.

It shall be unlawful for any person or entity to open, commence, operate, engage in, conduct or carry on (or to permit to be opened, commenced, operated, engaged in, conducted or carried on) in or upon any property located within the City a Marijuana Operation unless that person has a valid Marijuana Use Permit issued by the City pursuant to this Article for that property and that type of Marijuana Operation and a valid Marijuana Public Safety License issued by the City pursuant to PMC Title 4, Chapter 16 to the Owner and/or Operator of the Marijuana Operation.

(c) Limitations on Location.

(1) Permissible Zoning. Marijuana Operations may only operate only in the following locations:

- (i) Marijuana Retail Operations may only operate in a Marijuana Operation Overlay District (MO).
- (ii) Marijuana Manufacturing Operations may only operate in the C-3 (Service Commercial) district.
- (iii) Marijuana Testing Operations may only operate in the C-2 (Community Commercial) or the C-3 (Service Commercial) districts.

(2) Areas and Zones Where Marijuana Operations are Not Permitted.

Notwithstanding subparagraph (c)(1) above, a Marijuana Operation may not operate on a parcel or lot located within 600 feet of a School or Youth Center that is in existence at the time the Marijuana Use Permit is issued, or within 200 feet of a Day Care Center that is in existence at the time the Marijuana Use Permit is issued. This distance shall be calculated as a straight line from any parcel line of the property on which the Marijuana Operation is located to the parcel line of the real property on which the facility, building, or structure, or portion of the facility, building or structure, in which the listed use occurs or is located. Locational restrictions shall apply to an entire parcel if any portion of the parcel is located within the applicable buffer distance.

(d) Conditions of Operation.

(1) All Marijuana Operations.

All Marijuana Operations shall be operated, maintained, and managed on a day-to-day basis in compliance with the following operational conditions and requirements:

(i) Marijuana Public Safety License. A Marijuana Operation shall maintain a Marijuana Public Safety License at all times. The failure to maintain a Marijuana Public Safety License, revocation of a Marijuana Public Safety License, or lapse in renewal of a Marijuana Public Safety License shall be the basis for immediate termination of the right to operate a Marijuana Operation under a Marijuana Use Permit.

(ii) Employees. It shall be unlawful for the Applicant, Owner, Operator, or any other person effectively in charge of any Marijuana Operation to employ any person who is not at least twenty-one (21) years of age.

(iii) Minors. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a Marijuana Operation. The entrance to the Marijuana Operation shall be clearly and legibly posted with a notice indicating that persons under the age of twenty-one (21) years are precluded from entering the premises.

(iv) Every Marijuana Operation shall display, at all times during its regular business hours, the Marijuana Use Permit and Marijuana Public Safety License issued for such Marijuana Operation in a conspicuous place so that the same may be readily seen by all persons entering the Marijuana Operation.

(v) No Marijuana Operation shall hold or maintain a license from the State Department of Alcoholic Beverage Control for the sale of alcoholic beverages, or operate a business on the premises of the Marijuana Operation that sells alcoholic beverages, or otherwise allow alcoholic beverages to be possessed, distributed, or consumed on the premises.

(vi) No Marijuana Operation shall be a retailer of tobacco products.

(vii) A Marijuana Operation shall be considered a commercial use relative to the City's parking requirements in Article 28 of this chapter.

(viii) Smoking, ingesting, or consuming marijuana on the premises of a Marijuana Operation shall be prohibited. A notice prohibiting smoking, ingesting and consuming marijuana shall be clearly and legibly posted in the Marijuana Operation and shall not obstruct the entrance or windows.

(ix) Operation of a Marijuana Operation shall not result in illegal re-distribution or sale of marijuana obtained, or the use or distribution in any manner which violates State Marijuana Law or this Article.

(x) Site Plan.

(aa) The Site Plan shall include a lobby waiting area at the entrance to the Marijuana Operation used to receive and screen customers, employees, patrons, and guests of the Marijuana Operation and a separate and secure designated area for dispensing marijuana and conducting other operations of the Marijuana Operation.

(ab) The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

(xi) Security. The Marijuana Operation shall at all times comply with all elements of its Security Plan, submitted as a part of its Marijuana Public Safety License application pursuant to PMC Chapter 4, Article 16.

(xii) Signage. The Marijuana Operation shall comply with all applicable provisions of PMC Title 9, Ch. 4, Article 29.

(2) Supplemental Conditions – Retailers.

In addition to each of the conditions of operation set forth in subsection (d)(1), a Marijuana Retail Operation shall be operated, maintained, and managed in compliance with the following supplemental conditions:

(i) Retailers may not sell drug paraphernalia and implements that may be used to ingest or consume marijuana except where such sales and operations comply with Health and Safety Code section 11364.5.

(ii) Retailers may only deliver marijuana and marijuana products to lawful customers.

(iii) A Marijuana Operation shall not be enlarged in size (i.e., increased floor area) without the Planning Commission's prior review and approval and an approved amendment to the existing Marijuana Use Permit applied for and issued pursuant to the requirements of this Article.

(iv) A Retailer of medical marijuana shall only sell, deliver, or give away medical marijuana to individuals authorized to receive medical marijuana in

accordance with State Marijuana Laws. Retailers of medical marijuana shall require such persons receiving medical marijuana to provide valid official identification, such as a Department of Motor Vehicles driver's license or State Identification Card, each time he or she seeks to purchase medical marijuana.

(v) Hours of Operation. Retailers may only operate during the hours between seven o'clock in the morning (7:00 a.m.) through ten o'clock in the evening (10:00 p.m.). The Planning Commission may further restrict a Retailer's days and hours of operation as a condition of a Marijuana Use Permit. A Retailer shall post its approved days and hours of operation on a sign located on the street frontage of the Marijuana Operation in a manner consistent with the City's sign regulations set forth in Article 29 of this chapter.

(vi) A Retailer shall not have a physician on-site to evaluate patients and/or provide recommendations for the use of medical marijuana.

(vii) State Seller's Permit. The Marijuana Operation shall, at all times during operation, maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the California Revenue and Taxation Code.

(3) Supplemental Conditions – Manufacturers.

In addition to each of the conditions of operation set forth in subsection (d)(1), a Marijuana Manufacturing Operation shall be operated, maintained, and managed in compliance with the following supplemental conditions:

(i) Manufacturers shall not engage in on-site retail sales of marijuana or marijuana products.

(ii) Manufacturers shall not conduct Extraction.

(iii) All food products, food storage facilities, food-related utensils, equipment and materials shall be approved, used, managed and handled in accordance with Sections 113700-114437 of the California Health and Safety Code, and California Retail Food Code. All food products shall be protected from contamination at all times, and all food handlers must be clean, in good health and free from communicable diseases.

(4) Supplemental Conditions – Testers.

In addition to each of the conditions of operation set forth in subsection (d)(1), a Marijuana Testing Operation shall be operated, maintained, and managed in compliance with the following supplemental conditions:

(i) Testers shall not engage in on-site retail sales of marijuana or marijuana products.

(5) Additional Conditions. The Planning Commission may impose additional conditions which it deems necessary to ensure that operation of the Marijuana Operation will be in accordance with the findings provided in Section 9-4.4805(a) and with the standards and regulations provided in this Ordinance and applicable State laws.

(e) City Access to and Inspection of Required Records.

A duly designated City Police Department or Finance Division representative may enter and shall be allowed to inspect the premises of every Marijuana Operation as well as the financial and membership records of the Marijuana Operation required by this Article at any time during the Marijuana Operation's designated business hours, or at any appropriate time to ensure compliance and enforcement of the provisions of this Article. It shall be unlawful for any Owner, Operator, or any other person having any responsibility over the operation of the Marijuana Operation to refuse to allow, impede, obstruct or interfere with an inspection of the Marijuana Operation or the required records thereof.

(f) Coastal Zone Combining District. Marijuana Operations shall be subject to and shall comply with all provisions of PMC Title 9, Chapter 4, Article 43. A Marijuana Operation shall not be considered a "visitor-serving use" within the meaning of that term as defined in Article 43 of this chapter.

(g) Business License Tax Liability. An operator of a Marijuana Operation shall be required to apply for and obtain a Business Tax Certificate pursuant to Chapter 1 of Title 3 of this code as a prerequisite to obtaining a Marijuana Use Permit pursuant to the terms of this Article. When and as required by the State Board of Equalization, Marijuana Operation transactions shall be subject to sales tax in a manner required by state law.

(h) No Vested Rights. No person(s) shall have any vested rights to any permit, right or interest under this Article, regardless of whether such person(s) cultivated, sold, distributed or otherwise engaged in acts related to the use of marijuana prior to adoption of the ordinance codified in this Article.

Sec. 9-4.4804 Marijuana Use Permit – General Provisions

(a) Marijuana Use Permit Application Procedures – Initial Applications.

(1) Public Safety License.

(i) Public Safety License Phase One Application - Criminal Background Check.

(aa) Within 30 days of the effective date of this Article, any person or entity interested in operating a Marijuana Operation pursuant to this Article may submit a Public Safety License Phase One Application

("Phase One Application") along with a non-refundable application fee to the Chief of Police.

(ab) It shall be the Applicant's responsibility to provide all of the information and materials required to comply with the Phase 1A Application submittal requirements of PMC sec. 4-16._____. The Chief of Police will not consider any incomplete or late Phase One Applications. The filing date of the Phase One Application shall be the date when the Chief of Police officially receives the last submission of information or materials required by PMC sec. 4-16._____.

(ac) Within 60 days of the effective date of this Article, the Chief of Police shall review and approve or deny all Phase One Applications by utilizing the criteria for approval or denial set forth in PMC sec. 4-16._____. The Chief of Police shall notify all Applicants in writing of his/her determination to approve or deny their Phase One Applications. If approved, the Applicant may proceed to Phase Two of the Public Safety License application procedures.

(ii) Public Safety License Phase Two Application - Security Plan.

(aa) Within 75 days of the effective date of this Article, Applicants whose Phase One Applications have been approved may submit Public Safety License Phase Two Applications ("Phase Two Applications") along with a non-refundable application fee to the Chief of Police.

(ab) It shall be the Applicant's responsibility to provide all of the information and materials required to comply with the Phase Two Application submittal requirements of PMC sec. 4-16._____. The Chief of Police will not consider incomplete or late Phase Two Applications. The filing date of Phase Two Application shall be the date when the Chief of Police officially receives the last submission of information or materials required by PMC sec. 4-16._____.

(ac) Within 100 days of the effective date of this Article, the Chief of Police shall review and approve or deny the Phase Two Application by utilizing the criteria for approval or denial set forth in PMC sec. 4-16._____. The Chief of Police shall notify all applicants in writing of his/her determination to approve or deny their Phase Two Application.

(ad) Applicants whose Phase Two Applications have been approved shall be placed on the City's Qualified Marijuana Registration List.

(2) Marijuana Use Permit.

(i) Within 130 days of the effective date of this Article, all applicants on the Qualified Marijuana Registration List must submit a Marijuana Use Permit Application along with a deposit for application processing to the Director of Planning to be considered for a Marijuana Use Permit.

(ii) It shall be the Applicant's responsibility to provide all of the information and materials required to comply with the Marijuana Use Permit application submittal requirements of Section 9-4.4804(c). The filing date of the Marijuana Use Permit Application shall be the date when the Director of Planning officially receives the last submission of information or materials required by Section 9-4.4804(c). If the Director of Planning determines an application submittal is incomplete, an Applicant shall be granted an extension of time to submit all materials required to complete the application within ten (10) days. If the application remains incomplete in excess of the ten (10) days following notification that an application submittal is incomplete, the application shall be deemed incomplete.

(iii) Lottery. Within 170 days of the effective date of this Article, the Director of Planning shall hold a random independent ranking process ("Lottery") in an open and public location and shall randomly rank all applications on the Qualified Marijuana Registration List.

(iv) After the random independent ranking process has taken place, the Director of Planning shall schedule a hearing before the Planning Commission at which hearing the Commission shall consider Marijuana Use Permit Applications timely submitted by persons on the Marijuana Qualified Registration List and in the order established through the independent ranking process. The Planning Commission shall only review and approve as many Marijuana Use Permit Applications as permitted by Marijuana Operation Overlay District as set forth in Section 9-4.1755. The Planning Commission shall utilize the criteria for review, issuance and denial of Marijuana Use Permit Applications set forth in Section 9-4.4805. After reviewing an application, the Planning Commission shall determine whether to issue the Marijuana Use Permit, issue the Marijuana Use Permit with conditions, or deny the Marijuana Use Permit.

(v) Upon notification of the Director of Planning, a qualified applicant shall place a legible, visible sign not less than two (2) sq. ft. on the front of the premises indicating that a Marijuana Use Permit has been filed and how to contact the Planning Department to obtain more information.

(vi) Where the Planning Commission denies a Marijuana Use Permit or an application is withdrawn before consideration by the Planning Commission, applications on the Qualified Marijuana Registration List shall be considered by the Planning Commission at a future public hearing in the order of ranking as

established by the random independent ranking process. The Planning Commission shall continue to review applications until all applications have been reviewed or until the Planning Commission can issue no further Marijuana Use Permits based on the criteria of this Article and Article 17.5.

(3) License Issuance.

(i) Within thirty (30) days of the Planning Commission's issuance of a Marijuana Use Permit, the Chief of Police shall issue all permittees a Marijuana Public Safety License.

(b) Marijuana Use Permit Application Procedures – Future Applications

(1) After the close of the Initial Application process set forth in Section 9-4.4804(a), any person or entity interested in operating a Marijuana Operation pursuant to this Article may submit a Phase One Application along with a non-refundable application fee to the Chief of Police. The Chief of Police shall retain said Phase One Applications for a period of one year after which time the Phase One Application shall be deemed to have expired. If an existing Marijuana Operation's Public Safety License and/or Marijuana Use Permit is revoked, ceases, or otherwise becomes null and void, the Chief of Police shall inform all Applicants who have submitted Phase One Applications and whose Phase One Applications have not expired, that their Phase One Applications will be reviewed. Those Phase One Applications that are approved in accordance with PMC sec. 4-16._____ may continue through the Public Safety License and Marijuana Use Permit application process in accordance with the timelines and procedures of Section 9-4.4804(a).

(2) The Planning Commission shall review Marijuana Use Permit Applications filed pursuant to this subsection in the order in which they are received by the Planning Department. The filing date of the Marijuana Use Permit Application shall be the date when the Director of Planning officially receives the last submission of information or materials required by Section 9-4.4804(c).

(c) Imposition of Marijuana Use Permit Fees.

Every application for a Marijuana Use Permit issued pursuant to this Article shall be accompanied by an application fee, in an amount established by resolution of the City Council and calculated to recover the City's full cost of reviewing, issuing, and administering the permit, and the filing of a complete Marijuana Use Permit application pursuant to this Article. The application fee shall be in addition to any other business license fee, permit fee, or tax imposed by this Code or other governmental agencies.

(d) Marijuana Use Permit Application – Filing Requirements.

Marijuana Use Permit Applications shall include:

(1) The full name (including any current or prior aliases, or other legal names the applicant is or has been known by, including maiden names), present address, and telephone number of the Applicant (if an individual), the Applicant's corporate officers (if a corporation), or the Applicant's partners (if a partnership);

(2) Applicant(s) Mailing Address. The address to which notice of action on the Application is to be mailed;

(3) Previous Addresses. Previous addresses for the past five years immediately prior to the present address of the Applicant (if an individual), the Applicant's corporate officers (if a corporation), or the Applicant's partners (if a partnership);

(4) Verification of Age. Written proof that the applicant is over the age of 21 years of age;

(5) Photographs. Passport quality photographs for identification purposes of the Applicant (if an individual), the Applicant's corporate officers (if a corporation), or the Applicant's partners (if a partnership);

(6) Employment History. All business, occupation, or employment of the Applicant or Applicant's corporate officers or partners for the five years immediately preceding the date of the Application;

(7) Tax History. The tax history of the Applicant, including whether such person or entity, in previously operating in this or another city, county or state under license has had a business license revoked or suspended, the reason therefor, and the business or activity or occupation subsequent to such action of suspension or revocation;

(8) Management Information. The name or names and addresses of the person or persons having the management or supervision of Applicant's business;

(9) Employee Information. Number of employees, volunteers, and other persons who will work at the Marijuana Operation;

(10) Written Response to Findings for Issuance of Marijuana Use Permit. The Applicant shall provide a comprehensive written response identifying how the Marijuana Operation will comply with each of the findings for issuance of a Marijuana Use Permit set forth in PMC sec. 9-4.4805(a);

(11) Site Plan and Floor Plan. A detailed "Site Plan and Floor Plan" for the proposed Marijuana Operation describing how the Marijuana Operation will operate consistent with the provisions of PMC sec. 9-4.4803(d)(1)(iv);

(12) Neighborhood Context Map. An accurate straight-line drawing depicting the building and the portion thereof to be occupied by the Marijuana Operation and the

property lines of any School providing instruction in kindergarten or any grades 1 through 12, Day Care Center, and/or Youth Center within 600 feet of the Marijuana Operation property line;

(13) Lighting Plan. A lighting plan showing existing and proposed exterior premises and interior lighting levels that would be the minimum necessary to provide adequate security lighting for the use and comply with all City standards regarding lighting design and installation;

(14) City Authorization. Written authorization for the City, its agents and employees to seek verification of the information contained within the application;

(15) Operations Plan. A detailed "Operations Plan" for the proposed Marijuana Operation describing how the Marijuana Operation will operate consistent with the provisions PMC sec. 9-4.4803(d)(1)(xiii);

(16) Property Owner Consent. The Applicant shall include a written affirmation from the property owner expressly allowing the Applicant to apply for the Marijuana Use Permit and acknowledging the Applicant's right to use and occupy the Property for the intended Marijuana Operation;

(17) A statement dated and signed by the Applicant, under penalty of perjury, that the Applicant has personal knowledge of the information contained in the Application, that the information contained therein is true and correct; and

(18) In addition to the filing requirements of this subdivision, the City may request additional information of Marijuana Use Permit applicants, which information is necessary to review the Marijuana Use Permit Application for completeness and compliance with this section.

(e) Transfer of Marijuana Use Permits.

(1) Permit – Site Specific. A permittee shall not operate a Marijuana Operation under the authority of a Marijuana Use Permit at any place other than the address of the Marijuana Operation stated in the permit.

(2) Transfer of Marijuana Use Permit Prohibited. All permits issued by the City pursuant to this Article shall be non-transferable to a different person, entity, or location.

(3) Transfer without Permission. Any attempt to transfer or any transfer of ownership or control of a Marijuana Operation shall be grounds for revocation of the Marijuana Use Permit by the Planning Commission.

Sec. 9-4.4805 Review, Issuance and/or Denial of Marijuana Use Permit Applications.

(a) Criteria for Issuance.

(1) Supplemental Findings for Issuance of Marijuana Use Permit – All Marijuana Operations.

In addition to the findings required for the approval of a use permit set forth in Section 9-4.3303, the Planning Commission, or the City Council on appeal, shall make all of the following supplemental findings in determining whether to grant, modify, or deny a Marijuana Use Permit for any Marijuana Operation:

- (i) The Marijuana Operation Applicant has been placed on the Marijuana Qualified Registration List, as defined in PMC Title 4, Chapter 16.
- (ii) The Marijuana Use Permit application is complete and the Applicant has submitted all information and materials required by Section 9-4.4804(c).
- (iii) The proposed location of the Marijuana Operation is not likely to have a potentially adverse effect on the health, peace, or safety of persons due to the Marijuana Operation's proposed proximity to a School, Day Care Center, Youth Center, public park, playground, recreational center, school bus stop, premises frequented by children, religious establishment, or other similar uses.
- (iv) The proposed location of the Marijuana Operation is not likely to have a potentially adverse effect on the health, peace, or safety of persons due to the Marijuana Operation's proposed proximity to another existing or permitted Marijuana Operation.
- (v) The design of the storefront or structure within which the Marijuana Operation will operate is architecturally-compatible with surrounding storefronts and structures in terms of materials, color, windows, lighting, sound, and overall design.
- (vi) The proposed size of the Marijuana Operation is appropriate to meet the needs of the local Pacifica community for access to marijuana and that the size complies with all requirements of the City's Zoning Regulations.
- (vii) The location is not prohibited under the provisions of this Article or any local or state law, statute, rule, or regulation, and no significant nuisance issues or problems are likely or anticipated, and that compliance with other applicable requirements of the City's Zoning Regulations will be accomplished.
- (viii) The Marijuana Operation is not likely to have an adverse effect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance, and will generally not result in repeated nuisance activities including disturbances of

the peace, illegal drug activity, marijuana use in public, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises(especially late at night or early in the morning hours), lewd conduct, or police detentions or arrests.

(ix) The Marijuana Operation is not likely to violate any provision of the Pacifica Municipal Code or condition imposed by a City-issued permit, or any provision of any other local or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws.

(x) The Applicant has not made a false statement of material fact or omitted a material fact in the application for a Marijuana Use Permit, as known at the time of determination on the application.

(xi) The Marijuana Operation's Site Plan has incorporated features necessary to assist in reducing potential nuisance and crime-related problems. These features may include, but are not limited to, procedures for allowing entry; reduction of opportunities for congregating and obstructing public ways and neighboring property; and limiting furnishings and features that encourage loitering and nuisance behavior.

(2) Supplemental Findings for Issuance of Marijuana Use Permit – Manufacturing Facilities. In addition to the findings required for the approval of a use permit as set forth in PMC Sec. 9-4.3303 (as it may be amended) and supplemental findings for approval of a Marijuana Use Permit as set forth in PMC Sec. 9-4.4805(a)(1), the Planning Commission, or the City Council on appeal, shall consider the following supplemental findings in determining whether to grant, modify, or deny a Marijuana Use Permit for a Marijuana Manufacturing Operation:

(i) The Manufacturing Operation, as proposed, will not utilize any volatile or non-volatile solvents for purposes of extracting cannabinoids.

(ii) The Manufacturing Operation includes adequate quality control measures to ensure any Marijuana Product manufactured at the site meets industry standards.

(iii) The Manufacturing Operation does not pose a significant threat to the public or to neighboring uses from explosion or from the release of harmful gases, liquids, or substances.

(b) Criteria for denial. The Planning Commission shall deny an application that meets any one of the following criteria:

(1) Any supervisor, employee, or person having a ten (10) percent or more financial interest in the Marijuana Operation has been convicted of a felony or a drug-

related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten (10) years. A conviction within the meaning of this Section means a plea or verdict of guilty or a conviction following a plea of nolo contendere;

(2) Any person who is listed on the application or is an Owner or Operator, is a licensed physician making patient recommendations for medical cannabis pursuant to Section 11362.7 of the Health and Safety Code;

(3) Any person who is listed on the application or is an Owner or Operator is less than twenty-one (21) years of age;

(4) The proposed Marijuana Operation does not comply with the provisions of this Article or State Marijuana Laws; and

(5) The Planning Commission is unable to make a required finding contained in this section.

(c) Planning Commission Determination.

If the Planning Commission, by a majority vote of a quorum of Commissioners, denies the application, the Planning Commission shall specify in writing the reasons for the denial of the application, and notify the Applicant that the decision shall become final unless the Applicant seeks an appeal pursuant to Section 9-4.4805(d).

(d) Appeal from Planning Commission Determination.

An Applicant or any interested party who disagrees with the Planning Commission's decision to issue, issue with conditions, or to deny or revoke a Marijuana Use Permit may appeal the Planning Commission's decision to the City Council in accordance with the appeal provisions of Section 9-4.3304.

Sec. 9-4.4806 Suspension and Revocation by Planning Commission.

(a) Authority to Suspend or Revoke a Marijuana Use Permit. Any permit issued under the terms of this Article may be suspended or revoked by the Planning Commission in accordance with the provisions of Section 9-4.3309.

(b) In addition to the provisions of Section 9-4.3309, a Marijuana Use Permit may be revoked if it appears to the Commission that the Marijuana Operation has violated any of the requirements of this Article, the Marijuana Operation is being operated in a manner which violates the operational requirements or security plan required by this Code, the Marijuana Operation is being operated in a manner which constitutes a nuisance, the Marijuana Operation has ceased to operate for thirty (30) days or more, or the Marijuana Operation is being operated in a manner which conflicts with or violates State Marijuana Law.

(c) Any Marijuana Use Permit revoked pursuant to this subsection shall be deemed to be expired and shall no longer entitle the Permittee to any uses authorized by the Marijuana Use Permit.

(d) Notwithstanding subdivision (a) of Section 9-4.4806, revocation, expiration or nullification of a Public Safety License pursuant to PMC sec. 4-16._____shall automatically terminate the Marijuana Use Permit issued to the licensee and shall terminate the ability of the licensee to operate a Marijuana Operation without initiation of revocation proceedings by the Planning Commission.

(e) Annual Review of Marijuana Operations. The Planning Department is hereby authorized to conduct an annual review of the operation of each permitted Marijuana Operation within the City for full compliance with the operational, recordkeeping, nuisance and other requirements of this Article. A fee in an amount established by resolution of the City Council may be collected in order to reimburse the City for the time involved in the annual review process. The staff may initiate a permit suspension or revocation process for any Marijuana Operation which, upon completion of an annual review, is found not to be in compliance with the requirements of this Article or which is operating in a manner which constitutes a public nuisance. Staff may, based upon its annual review of the operation of a Marijuana Operation, place on a Planning Commission meeting agenda, a proposal to suspend or revoke a Marijuana Use Permit.

Sec. 9-4.4807 Public Nuisance.

Any use or condition caused or permitted to exist in violation of any provision of this Article shall be and hereby is declared a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure, Section 731 or any other remedy available to the City.

Sec. 9-4.4808 Severability.

If any section, subsection, sentence, clause or phrase of this Article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Article. The City Council hereby declares that it would have passed this Article and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 19. Amended. The Zoning Map of the City of Pacifica is hereby amended to create and establish the Marijuana Operation Overlay District (MO) in those locations depicted in the section maps contained in Exhibit A to this resolution.

Section 20. Compliance with CEQA. The City Council hereby finds that the action to adopt this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment, either from a direct physical change in the environment, or a reasonably foreseeable indirect physical change. The City Clerk shall file a Notice of Exemption with the San Mateo County Clerk.

Section 21. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 22. Publication. The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published once in The Pacifica Tribune, a newspaper of general circulation, published and circulated in the City of Pacifica, California.

Section 23. Effective Date.

This Ordinance shall only become effective on the date of certification of November 7, 2017 election results if the voters of the City of Pacifica do pass a measure on November 7, 2017, imposing an excise tax on Marijuana Operations within the City. For areas within the Coastal Zone, this Ordinance shall not become effective until the California Coastal Commission certifies an amendment to the City's local coastal program pursuant to Section 30514 of the Public Resources Code.

PASSED AND ADOPTED this _____ day of _____, 2017, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

Mike O'Neill, Mayor

ATTEST:

APPROVED AS TO FORM:

Kathy O'Connell, City Clerk

Michelle Kenyon, City Attorney

* * * * *

(ID # 2288) at 7/10/2017 7:00 PM City Council Regular Meeting