

Article 48 MARIJUANA REGULATIONS

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 Marijuana Regulation and Safety Act, the Medical Cannabis Regulation and Safety Act, and the Adult Use of Marijuana Act (hereinafter the “State Marijuana Laws”) and are not intended and do not interfere with a patient’s ability to use medical marijuana as authorized by the State Marijuana Laws and do not 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 permits 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 person who files 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 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 not utilize volatile solvents.

- (n) “Marijuana Operation” shall include:
- (1) Any building, business, entity, facility, use, establishment, property, site, or location, where a Commercial Cannabis Activity or Commercial Marijuana Activity takes place.
 - (2) Any building, business, facility, use, establishment, property, site, or location where any person or entity establishes, commences, engages in, conducts, or carries on, or permits another person or entity to establish, commence, engage in, conduct, or carry on, any activity that requires a state license or nonprofit license under Business and Professions Code sections 26000 and following.
 - (3) Marijuana Operations include, and are limited to the following business types:
 - (i) Marijuana Retail Operation;
 - (ii) Marijuana Manufacturing Operation;
 - (iii) Marijuana Testing Operation
- (o) “Marijuana Products” shall have the meaning set forth in Health and Safety Code section 11018 as of the effective date of this Article and as subsequently amended.
- (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 responsible for management of the Marijuana Operation, any person listed on the Marijuana Operation’s Articles of Incorporation or Articles of Organization, any person owning an interest in the Marijuana Operation, and any person that supervises another employee of the Marijuana Operation.
- (s) “Owner” shall mean the person in whom is vested the greatest portion or the persons in whom is vested the greatest equal portions of 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) A person may cultivate up to six mature or six immature 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 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 Non-Residential 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 operating more than one type of Marijuana Operation within the City.
 - (3) Not more than one Marijuana Operation may be conducted on lot or parcel of property.
- (b) Marijuana Operations – Marijuana Use Permit and Public Safety License Required to Operate.

It shall be unlawful for any person 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 be allowed in the Marijuana Operation Overlay

District (MO).

- (ii) Marijuana Manufacturing Operations. May be allowed in the C-3 (Service Commercial) district.
 - (iii) Marijuana Testing Operations. May be allowed in the C-2 (Community Commercial) district.
- (2) Areas and Zones Where Marijuana Operations are Not Permitted. Notwithstanding subparagraph (c) above, a Marijuana Operation shall not be allowed or permitted on a parcel located within 600 feet a School, Day Care Center, or Youth Center that is in existence at the time the Marijuana Use Permit is issued.
- (i) Locational Measurements. The distance between a Marijuana Operation and listed restrictions in subparagraph (2) 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 Public Safety License shall be maintained at all times during operation of the Marijuana Operation. Failure to maintain a Marijuana Public Safety License, revocation of a Marijuana Public Safety License, or a 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) Minors. It shall be unlawful for the Applicant, Owner, or Operator, or any other person effectively in charge of any Marijuana Operation, to employ any person who is not at least 18 years of age. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a Marijuana Operation unless they are a qualified patient. Qualified patients under the age of eighteen (18) shall be accompanied by a parent or guardian at all times. The entrance to 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 unless they are a qualified patient, and further indicating that persons under the age of eighteen (18) years are precluded from entering the premises unless they are a qualified patient and they are in the presence of their parent or guardian.
 - (iii) 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.
 - (iv) 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.
 - (v) No Marijuana Operation shall be a retailer of tobacco products.
 - (vi) A Marijuana Operation shall be considered a commercial use relative to the City's parking requirements. The parking standard for a Marijuana Retail Operation shall be that in PMC Sec. 9-4.2818(b)(2); and, for a Marijuana Manufacturing Operation or Marijuana Testing Operation shall be that in PMC Sec. 9-4.2818(d)(4).
 - (vii) Smoking, ingesting, or consuming marijuana on the premises of the 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. Address identification shall comply with Fire Department illuminated address sign requirements.

- (viii) Marijuana Operation operations 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.
- (ix) Operations Plan. The Marijuana Operation shall at all times comply with all elements of an Operations Plan. The Operations Plan shall consist of at least the following:
 - 1. Proposed Hours of Operation. An Operations Plan shall provide the proposed hours of operation and provide detailed plans for securing the Marijuana Operation upon daily closure.
 - 2. Emergency Contact. An Operations Plan shall provide the name, electronic mail address, office phone number, mobile phone number, and facsimile number of an Owner, Operator, or manager to act as an on-site community relations staff person to whom the City may provide notice of any operating problems associated with the Marijuana Operation.
 - 3. Public Nuisance. The Marijuana Operations shall discourage and correct objectionable conditions that constitute a public or private nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours, if directly related to the patrons of the Marijuana Operation.
 - 4. Loitering Adjacent to a Marijuana Operation. The Operations Plan shall describe reasonable steps to reduce loitering by Marijuana Operation members, patrons, guests and invitees in public areas, sidewalks, alleys and areas surrounding the Property and adjacent premises during the business hours of the Marijuana Operation.
 - 5. Trash, Litter, Graffiti. The Marijuana Operation shall keep the exterior of the Marijuana Operation, including the sidewalks adjoining the Marijuana Operation, any parking lots used by or under the control of the Marijuana Operation, and an area extending ten (10) feet beyond the boundaries of the property clear of litter, debris, and trash.
 - 6. Odor Control. A Marijuana Operation shall have an air treatment system that ensures off-site odors shall not result.
- (x) Site Plan.
 - 1. 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 to customers of the Marijuana Operation.
 - 2. 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.
- (xiii) 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;

(2) Supplemental Conditions – Retailers.

In addition to each of the conditions of operation set forth in this section, a Marijuana Retail Operation shall be operated, maintained, and managed in compliance with the following supplemental conditions:

- (i) Retailers shall be prohibited from selling 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 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 shall only sell, deliver, or give away medical marijuana to qualified patients or primary caregivers with a currently valid State-issued Identification Card. Retailers 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 they seek to purchase medical marijuana.
- (v) 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 the days and hours of operation as conditioned in a Marijuana Use Permit. The days and hours of the Retailer's operation shall be posted in a sign located on the street frontage of the Marijuana Operation in a manner consistent with the City's Sign Ordinance set forth in PMC Title 9, Ch. 4, Article 29.
- (vi) A Retailer shall not have a physician on-site to evaluate patients and provide recommendations for the use of medical marijuana.

(3) Supplemental Conditions – Manufacturers.

In addition to each of the conditions of operation set forth in this section, Marijuana Manufacturing Operation shall be operated, maintained, and managed in compliance with the following supplemental conditions:

- (i) Manufacturers shall not engage in retail sales.
- (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 this section, Marijuana Testing Operations shall be operated, maintained, and managed in compliance with the following supplemental conditions:

- (i) Testers shall not engage in retail sales.

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

A duly designated City Police Department or Finance Department 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 between the hours of eight o'clock (8:00) A.M. and six o'clock (6:00) P.M., or at any appropriate time to ensure compliance and enforcement of the provisions of this Article. It shall be unlawful for

any property owner, landlord, lessee, Marijuana Operation Member, 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.
- (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 Article 5.04 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.
 - (1) Within 30 days after the adoption of this Article, the Director of Planning shall prepare Marijuana Use Permit application forms.
 - (2) Public Safety License.
 - (i) Public Safety License Phase One Application - Criminal Background Check.
 - 1. Within 30 days of the effective date of this Article, every person 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.
 - 2. 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. [insert section reference]. The Chief of Police shall not consider 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. [insert section reference].
 - 3. Within 45 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. [insert section reference]. The Chief of Police shall notify all applicants in writing of his/her determination to approve or deny their Phase One Applications. Said notification shall provide applicants whose Phase One Application has been approved notice that they may move on to Phase Two of the Public Safety License application procedures.
 - (ii) Public Safety License Phase Two Application - Security Plan.
 - 1. 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.
 - 2. 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. [insert section reference]. The Chief of Police shall 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. [insert section reference].

3. 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. [insert section reference]. The Chief of Police shall notify all applicants in writing of his/her determination to approve or deny their Phase 1B Application.
4. Applicants whose Phase Two Applications have been approved shall be placed on the City's Qualified Marijuana Registration List.

(3) Marijuana Use Permit.

- (i) Within 130 days of the effective date of this Article, all applicants on the Qualified Marijuana Registration List may submit a Marijuana Use Permit Applications along with a non-refundable application fee to the Director of Planning.
- (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 PMC sec. 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 PMC section PMC sec. 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 by zoning district. The Director of Planning shall create a separate ranking list for each zoning district.
- (iv) No later than thirty (30) days 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 all Marijuana Use Permit Applications timely submitted by persons on the Marijuana Qualified Registration List by zoning district, and in the order established through the independent ranking process. The Planning Commission shall utilize the criteria for review, issuance and denial of Marijuana Use Permit Applications set forth in [insert section reference]. After reviewing an application, the Planning Commission shall determine whether to issue the Marijuana Use Permit, issue the Marijuana Use Permit with conditions in accordance with this Article, or deny the Marijuana Use Permits.

(4) 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 Use Permittees a Marijuana Public Safety License.

(b) 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 or permit fee imposed by this Code or other governmental agencies.

(c) Marijuana Use Permit Application – Filing Requirements.

Marijuana Use Permit Applications shall include:

- (1) Applicant(s) Name. 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;
- (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;
 - (4) Verification of Age. Written proof that the applicant is over the age of 18 years of age;
 - (5) Photographs. Passport quality photographs for identification purposes;
 - (6) Employment History. All business, occupation, or employment of the applicant for the five years immediately preceding the date of the application;
 - (7) Tax History. The tax history of the applicant, including whether such person, 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 the 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. If a non-owner of the Property files a Marijuana Use Permit application, 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.
- (d) 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

application for the permit. All permits issued by the City pursuant to this Article shall be non-transferable to a different location.

- (2) Transfer of a Permitted Marijuana Operation. A permittee shall not transfer ownership or control of a Marijuana Operation or attempt to transfer a Marijuana Use Permit to another person unless and until the transferee obtains an amendment to the permit from the Planning Commission under the permitting requirements of this Article stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Planning Department in accordance with all provisions of this Article accompanied by the required transfer review application fee.
- (3) Request for Transfer with a Revocation or Suspension Pending. No Marijuana Use Permit may be transferred (and no permission for a transfer may be issued) when the Planning Department has notified the permittee in writing that the permit has been or may be suspended or revoked for noncompliance with this Article and a notice of such suspension or revocation has been provided.
- (4) Transfer without Permission. Any attempt to transfer a Marijuana Use Permit either directly

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 PMC Sec. 9-4.3303, as that section may be amended, 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 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 PMC sec. 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 public parks, playgrounds, recreational centers, school bus stops, premises frequented by children, religious establishments, 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, and overall design.
- (vi) The proposed size of the Marijuana Operation is appropriate to meet the needs of the 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's Operations Plan, proposed hours of operation, and security plan have incorporated features necessary to assist in reducing potential crime-related problems. These features may include, but are not limited to, on-site security; procedure for allowing entry; openness to surveillance and control of the premises, the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public

ways and neighboring property; and illumination of exterior areas.

- (ix) 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 passerby, 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.
 - (x) 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.
 - (xi) 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.
 - (xii) 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 will not result in significant unavoidable impacts on the environment.
 - (iii) The Manufacturing Operation includes adequate quality control measures to ensure any Marijuana Product manufactured at the site meets industry standards.
 - (iv) 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) The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact from the application;
 - (2) Any property owner, 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;
 - (3) 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;
 - (4) Any person who is listed on the application or is an Owner or Operator is less than twenty-one (21) years of age;

- (5) The proposed Marijuana Operation does not comply with the provisions of this Article or State Marijuana Laws.
- (6) 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 PMC sec. 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 PMC sec. 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 PMC Sec. 9-4.3309.
- (b) In addition to the provisions of PMC sec. 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 operational plan or security plan required by this Article, the Marijuana Operation is being operated in a manner which constitutes a nuisance, or the Marijuana Operation is being operated in a manner which conflicts with State Marijuana Law.
- (c) 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.

Sec. 9-4.4809 Tax Measure.

This Article shall terminate on the date of certification of election results if the voters of the City of Pacifica do not pass a measure on November 7, 2017 imposing a tax or taxes on some or all Marijuana Operations in the City.

