



Thursday, July 9, 2020

6:30 Open Session

AGENDA

**REGULAR MEETING
PLANNING COMMISSION**

Marina City Council Chambers
211 Hillcrest Avenue
Marina, CA

Zoom Meeting URL: <https://us02web.zoom.us/j/88453801683>

Zoom Meeting Telephone Only Participation: 1-669-900-9128 - Webinar ID: 884 5380 1683

In response to Governor Newsom’s Executive Order N.29-20 and City Council Resolution 2020-29 ratifying the Proclamation of a Local Emergency by the City Manager/Director of Emergency Services related to the COVID-19 (coronavirus) pandemic, public participation in the City of Marina City Council and other public meetings shall be electronic only and without a physical location for public participation, until further notice in compliance with California state guidelines on social distancing. This meeting is being broadcast “live” on Access Media Productions (AMP) Community Television Cable 25 and on the City of Marina Channel and on the internet at <https://accessmediaproductions.org/>

PARTICIPATION

You may participate in the Planning Commission meeting in real-time by calling Zoom Meeting via the weblink and phone number provided at the top of this agenda. Instructions on how to access, view and participate in remote meetings are provided by visiting the City’s home page at <https://cityofmarina.org/>. Attendees can make oral comments during the meeting by using the “Raise Your Hand” feature in the webinar or by pressing *9 on your telephone keypad if joining by phone only. If you are unable to participate in real-time, you may email to marina@cityofmarina.org with the subject line “Public Comment Item#__” (insert the item number relevant to your comment) or “Public Comment – Non Agenda Item.” Comments will be reviewed and distributed before the meeting if received by 5:00 p.m. on the day of the meeting. All comments received will become part of the record. Planning Commission will have the option to modify their action on items based on comments received.

AGENDA MATERIALS

Agenda materials, staff reports and background information related to regular agenda items are available on the City of Marina’s website www.cityofmarina.org. Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet will be made available on the City of Marina website www.cityofmarina.org subject to City staff’s ability to post the documents before the meeting.

VISION STATEMENT

Marina will grow and mature from a small town bedroom community to a small city which is diversified, vibrant and through positive relationships with regional agencies, self-sufficient. The City will develop in a way that insulates it from the negative impacts of urban sprawl to become a desirable residential and business community in a natural setting. **(Resolution No. 2006-112 – May 2, 2006)**

MSSION STATEMENT

The City Council will provide the leadership in protecting Marina's natural setting while developing the City on a way that provides a balance of housing, jobs and business opportunities that will result in a community characterized by a desirable quality of life, including recreation and cultural opportunities, a safe environment and an economic viability that supports a high level of municipal services and infrastructure. **(Resolution No. 2006-112 – May 2, 2006)**

1. CALL TO ORDER

Chair David Burnett, Vice Chair Katherine Biala, Thomas Mann, Brian McCarthy, David Bielsker, Victor Jacobsen, Nancy Amadeo

2. ROLL CALL & ESTABLISHMENT OF QUORUM

3. MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE

4. SPECIAL ANNOUNCEMENTS AND COMMUNICATIONS FROM THE FLOOR

Announcements of special events or meeting of interest as information to Board and Public. At this time any person may comment on any item, which is not on the agenda. Please state your name and address for the record. Action will not be taken on an item that is not on the agenda. If it requires action, it will be referred to staff and/or placed on the next agenda. Planning Commission members or City staff may briefly respond to statements made or questions posed as permitted by Government Code Section 54954.2. In order that all interested parties have an opportunity to speak, please limit comments to a maximum of Four (4) minutes. Any member of the public may comment on any matter listed on this agenda at the time the matter is being considered by the Planning Commission.

5. CONSENT AGENDA

Background information has been provided to the Planning Commission on all matters listed under the Consent Agenda, and these items are considered to be routine. All items under the Consent Agenda are normally approved by one motion. Prior to such a motion being made, any member of the public or the Planning Commission may ask a question or make a comment about an agenda item and staff will provide a response. If discussion or a lengthy explanation is required, that item will be removed from the Consent Agenda and placed at the end of Other Action Items.

a. None

6. **PUBLIC HEARINGS**

Time will be set aside during the Public Hearing to receive oral comments on all items listed as Public Hearings. Staff will present the project brought forth for Planning Commission consideration and possible action and answer questions from the Planning Commissioners. The applicant will then have the opportunity to raise any issues. The public will then be invited to approach the podium to provide up to four (4) minutes of public testimony.

a. **Accessory Dwelling Unit Ordinance**

Open a Public Hearing, Take any Testimony from the Public and (1) Consider Adopting Resolution Recommending City Council Adopt an Ordinance Governing the Development of Accessory Dwelling Units in the City of Marina

b. **Cannabis Business Ordinance**

Open a Public Hearing, Take any Testimony from the Public and Consider Recommending that the City Council Submit to the Voters at the November 3, 2020 Election an Ordinance of the City of Marina Amending Provisions of the Municipal Code Relating to the Regulation, Permitting and Taxation of Commercial Cannabis Businesses, Activities and Land Uses.

7. **ACTION ITEMS**

Action listed for each Agenda item is that which is brought forth for Planning Commission consideration and possible action. The Planning Commission may, at its discretion, take action on any items. The public is invited to approach the podium to provide up to four (4) minutes of public comment.

8. **OTHER ACTION ITEMS**

9. **DISCUSSION ITEMS**

10. **COMMISSIONER COMMENTS AND STAFF INFORMATIONAL REPORTS**

11. **CORRESPONDENCE**

12. **ADJOURNMENT**

CERTIFICATION:

I, Erin Fernando, Administrative Assistant for the City of Marina, do hereby certify that a copy of the foregoing agenda was posted at Marina City Council Chambers bulletin board, 211 Hillcrest Avenue; City Kiosk at the corner of Del Monte Boulevard and Reservation Road; and Monterey County Free Library Marina Branch at 190 Seaside Circle on or before 6:30 p.m. Friday, July 3, 2020.

Signature _____

_____ Date Posted

PLANNING COMMISSION NOTES:

1. The Marina Planning Commission regularly meets at 6:30 P.M. on the second and fourth Thursdays of each month.
2. The Planning Commission follows procedures intended to allow for project applicants and members of the public the fullest possible opportunity to be heard, while enabling the Commission to complete its meetings within a reasonable time.
3. Copies of staff reports are available to the public on the Friday afternoon, prior to the Thursday meetings at the Community Development Department office located at 209 Cypress Avenue.
4. Planning Commission subcommittees include the Marina Design Review Board (DRB) and Tree Committee. The DRB regularly meets at 6:30 P.M. on the third Wednesday of each month and the Tree Committee meets quarterly on the 2nd Wednesday of January, April, July and October... All meetings take place in the Council Chambers unless otherwise noticed... Public notices and agendas are posted at the following locations: Monterey County Library Marina Branch, Kiosk at the corner of Del Monte Blvd. and Reservation Rd., and Marina City Council Chambers Bulletin Board.
5. The public is invited and encouraged to participate in all meetings of the Planning Commission and its subcommittees.
6. ALL MEETINGS ARE OPEN TO THE PUBLIC. THE CITY OF MARINA DOES NOT DISCRIMINATE AGAINST PERSONS WITH DISABILITIES. Council Chambers are wheelchair accessible. Meetings are broadcast on cable channel 25 and recordings of meetings can be provided upon request. To request assistive listening devices, sign language interpreters, readers, large print agendas or other accommodations, please call (831) 884-1278 or e-mail: marina@cityofmarina.org . Requests must be made at least **48 hours** in advance of the meeting.



COMMUNITY DEVELOPMENT
City of Marina

STAFF REPORT

DATE: July 2, 2020

TO: Planning Commission Members

FROM: Matt Mogensen, Assistant City Manager

Agenda Item # **6b**
Planning Commission
July 9, 2020

RE: Recommendation to open a public hearing, take any testimony from the public, and consider a Recommendation to the City Council to consider an Ordinance amending provisions of the Municipal Code relating to the regulation, permitting and taxation of commercial cannabis businesses, activities and land uses, to be subsequently considered by the City Council for submission to the Electorate at the November 3, 2020, General Municipal Election, which would repeal Title 19 Commercial Cannabis Activities, repeal Chapter 5.76 Cannabis Retailer, add Chapter 5.80 Commercial Cannabis Business Regulations and add Chapter 17.47 Commercial Cannabis Uses (Exempt under CEQA Guidelines sections 15060 and 15378.)

Summary of Issues

The City Council has directed staff to prepare and submit a revised City of Marina Commercial Cannabis Activities Ordinance that can be considered and, if recommended by the Planning Commission and approved by the City Council, submitted to the County of Monterey Elections Department for inclusion on the November 3, 2020 general election ballot.

Environmental Determination

The City of Marina Planning Division determined that the submission to the voters of a Council-sponsored initiative at the November 3, 2020, General Municipal Election to an ordinance amending provisions of the municipal code relating to the regulation, permitting and taxation of commercial cannabis businesses, activities and land uses is exempt from the California Environmental Quality Act (CEQA) Guidelines (Article 19, §15060 and §15378) as this action is not considered a “project” under CEQA Guidelines.

Alternatives

The Planning Commission may:

1. Recommend the City Council approve placing a Measure on the November 3, 2020, ballot for the General Municipal Election to approve an amendment to provisions of the Municipal Code relating to the regulation, permitting and taxation of commercial cannabis businesses; or
2. Recommend the City Council not approve placing a Measure on the November 3, 2020, ballot for the General Municipal Election to approve an amendment to provisions of the Municipal Code relating to the regulation, permitting and taxation of commercial cannabis businesses;

Background

On November 6, 2018, the citizens of the City of Marina passed an Ordinance allowing Cannabis Business Activity and Establishing Taxes and Fees for such Businesses within the City of Marina. The voter initiative established Chapter 19 of the City of Marina Municipal Code (MMC), titled the City of Marina Commercial Cannabis Activities ordinance, and made amendments to MMC Chapter 5 Business Taxes, Licenses and Registrations and Chapter 17 Zoning. The final tally was 4,351 votes in favor of the Ordinance and 2,130 votes against the passage of the Ordinance. This ordinance took effect on April 1, 2019 (**EXHIBIT C**).

On February 5, 2019, the City Council approved an Agreement with Hinderliter, De Llamas & Associates, Inc. (dba HdL) to assist with implementing the City's cannabis program. The first task that staff and HdL took on was to develop the program to implement the ordinance. This required a thorough review and mapping of the process that the ordinance provided. The next step was to create application procedure guidelines and an application package.

As staff, HdL and the City Attorney's Office worked to develop procedure guidelines and the application package, it was discovered that the voter-approved commercial cannabis ordinance was cumbersome to administer. The ordinance limited the number of retail cannabis permits that could be issued by the City but allowed an unlimited number of applicants for such permits to work their way through the full process of applications and reviews, even though not all would receive permits even if they met all basic qualifications. The scoring criteria written into the ordinance resulted in many applicants having essentially identical scores, and the ordinance required that issues be decided multiple times for each applicant by staff, consultants, the Planning Commission, and the City Council. The ordinance mixed land use issues ("Should _____ be built and operate at this location?") with licensing issues ("Should this person be permitted to operate a commercial cannabis business?"). The ordinance was duplicative of state rules regarding issues like operating hours, and in some cases state regulations were subsequently amended to be more restrictive than the City ordinance. Because the ordinance was adopted by the voters and could not be amended by the City Council, these problems could not be fully addressed without a new ballot measure.

To address the challenges and inconsistencies within the Commercial Cannabis Activities Ordinance, the City Council directed staff to prepare and submit a revised City of Marina Commercial Cannabis Activities Ordinance that can be considered and, if recommended by the Planning Commission and approved by the City Council, submitted to the County of Monterey Elections Department for inclusion on the November 3, 2020 general election ballot.

Analysis

On June 17, 2020 the Planning Commission and City Council held a Joint Study Session meeting to receive a proposed 1st draft revised Commercial Cannabis Activities Ordinance. At that meeting staff and Special Counsel Mark Mandell presented the proposed 1st draft of the document and received feedback for incorporation into the final draft document.

The final drafted revised Commercial Cannabis Activities Ordinance is included as **EXHIBIT A** to this report. As presented at the Joint City Council and Planning Commission Study Meeting, the revised ordinance was drafted with the intentions to: retain major substantive requirements of existing ordinance; streamline application and licensing processes; and permit future amendments

to the ordinance by the City Council. The comments and concerns received by staff at the Joint Study Session have been incorporated in the final draft revised document.

The proposed final draft revised ordinance takes a regulatory approach instead of a competitive process. This entails first holding a lottery drawing to select the potential cannabis business permittees that will be allowed to proceed to the full application process. The competitive process works in the opposite and has been demonstrated with the first group of applicants over the last year and a half. In the existing competitive permitting system, twelve applicants spent considerable time and resources and three were ultimately selected to receive a conditional use permit for a license.

The final draft revised ordinance includes the repealing of Title 19 Commercial Cannabis Activities and Chapter 5.76 Cannabis Retailer as they were established in the 2018 voter initiative. These code sections are being replaced by Chapter 5.80 Commercial Cannabis Business Regulations and Chapter 17.47 Commercial Cannabis Uses.

The new proposed regulatory process focuses on licensing through an administrative process and zoning.

Proposed Chapter 5.80 Commercial Cannabis Business Regulations

The licensing process is included in the new Chapter 5.80 Commercial Cannabis Business. This proposed Chapter requires that:

- A permit is necessary to operate a cannabis business.
- Where there are a limited number of permits, a pre-application lottery determines who can apply for a permit.
- A permit can only be issued after:
 - All owners and managers have obtained background clearance from the police.
 - The business has obtained a state cannabis license.
 - The business has an approved safety & security plan and has passed an inspection under that plan.
 - The site has complied with all zoning requirements.
- Permits have a one-year term but are renewable upon obtaining new background clearance and safety & security plan approval/inspection.
- Owners and Managers can be added/changed upon obtaining background clearance.
- Permit is tied to a location. A business can be moved if it obtains a new permit at the new location. The permit “slot” transfers to the new permit.
- A single license can authorize more than one type of commercial cannabis activity at the same location. But adding an activity to a license requires new application process.

Proposed Chapter 17.47 Commercial Cannabis Uses

The final draft revised ordinance includes typical zoning parameters and involves restrictions on what activities are allowed in what zones. The zoning process in the final draft revised ordinance works like the zoning process for any proposed new use of a parcel. It is about what can be done

at the location and how the location can be improved, not about who can do it. In the final draft revised ordinance, all cannabis businesses are made a conditional use, in order to require that it go before the Planning Commission and be subject to a hearing.

Other zoning related items included in the final draft revised ordinance include:

- Removing the cannabis use provisions contained in Chapter 17.06.020 that concerns alcohol establishments. This will revert this section to read as it did prior the voter approved Commercial Cannabis Business Activities ordinance.
- Chapter 17.47 Commercial Cannabis Uses is added to the zoning code to
 - required that a conditional use permit be acquired for cannabis uses consistent with the standards for all conditional use permits in the City (same findings and hearing process);
 - specify that buffer zones between cannabis uses and child day care center and public recreation center or park is 500 feet;
 - require that a condition be imposed that cannabis business will not generate offensive noise or odors;
 - require a 1,000-foot buffer between retail cannabis business uses

Proposed Moratorium

The proposed final draft revised ordinance also includes the moratorium: No application for a Permit for Cultivation, Manufacturing, Testing Laboratory, Nursery or Distribution shall be accepted prior to July 1, 2021. The purpose of this paragraph is to permit the City Council to adopt additional regulations, beyond those existing under state law, on such businesses (Chapter 5.80.090 (h)).

Treatment of Applications submitted prior November 3, 2020

Prior Commercial Cannabis Businesses applicants that were reviewed by the City Council on June 10, 2020 will be subject to Section 8 of the final draft revised ordinance. This section provides that:

- a) Any commercial cannabis permit issued pursuant to Title 19 of the Municipal Code prior to the repeal of that Title by this Ordinance shall be treated as a valid permit issued pursuant to this Ordinance and may be renewed pursuant to this Ordinance.
- b) Any application for a permit that was submitted prior to the effective date of this Ordinance will be processed under the laws existing laws at the time of application.
- c) Notwithstanding subdivision (b), an applicant for a non-retail commercial cannabis permit may request that such permit be processed pursuant to this law instead of pursuant to the prior law

Recommended Motion

Approve the Resolution attached hereto as **EXHIBIT B**. This request is submitted for Planning Commission consideration and possible action.

Attachments:

1. Exhibit A: An Ordinance of the City of Marina amending provisions of the Municipal Code relating to the regulation, permitting and taxation of commercial cannabis businesses, activities and land uses.
2. Exhibit B: A Resolution Recommending the City Council approve the Ordinance of the City of Marina amending provisions of the Municipal Code relating to the regulation, permitting and taxation of commercial cannabis businesses, activities and land uses and make a submission to the Electorate at the November 3, 2020, General Municipal Election, which would repeal Title 19 Commercial Cannabis Activities, repeal Chapter 5.76 (Cannabis Retailer), add Chapter 5.80 Commercial Cannabis Business Regulations and add Chapter 17.47 Commercial Cannabis Uses.
3. Exhibit C: Ordinance No. 2018-09 An Ordinance of The People of the City of Marina allowing Cannabis Business Activity and Establish Taxes and Fees for such Businesses within the City Of Marina, Amending Title and Chapter establishing Cannabis Business Activities as a Use allowed subject to a Use Permit in Specified Zones and Establishing Uses to Protect Public Health, Safety & Welfare.

**AN ORDINANCE OF THE CITY OF MARINA AMENDING PROVISIONS OF THE
MUNICIPAL CODE RELATING TO THE REGULATION, PERMITTING AND
TAXATION OF COMMERCIAL CANNABIS BUSINESSES, ACTIVITIES AND
LAND USES**

THE PEOPLE OF THE CITY OF MARINA DO ORDAIN AS FOLLOWS:

SECTION 1. Title 19 (Commercial Cannabis Activities) of the Marina Municipal Code is hereby repealed.

SECTION 2. Chapter 5.76 (Cannabis Retailer) of Title 5 (Business Taxes, Licenses and Regulation) of the Marina Municipal Code is hereby repealed.

SECTION 3. Chapter 5.80 (Commercial Cannabis Business Regulation) is hereby added to Title 5 (Business Taxes, Licenses and Regulation) of the Marina Municipal Code, to read as follows:

Chapter 5.80: Commercial Cannabis Business Regulation.

5.80.010 Short Title

This Chapter may be referenced as the “City of Marina Commercial Cannabis Business Ordinance of 2020.”

5.80.020 Authority

This Chapter is adopted pursuant to the authority granted to the City of Marina by its Charter and by Sections 5 and 7 of Article XI of the California Constitution.

5.80.030 Interaction with State Law

Nothing in this Chapter is intended to permit any activity that would otherwise be prohibited by state law, to excuse any person from obtaining any license or permit that would otherwise be required by state law, or to override any requirement of state law that is stricter than a requirement contained herein. Any business that is regulated under this Chapter must fully comply with all requirements of both state law and this Chapter.

5.80.040 Defined Terms

All terms used in this Chapter shall have the same meanings as set forth in Medicinal and Adult Use Cannabis Regulation and Safety Act (Section 26000 *et seq.* of the California Business & Professions Code) except where explicitly defined in this Chapter to have some other meaning, or where some other meaning is manifestly clear from the context of the use of the term.

5.80.050 Definitions

For purposes of this Chapter, the following terms shall have the following meanings:

- (a) "Adult Cannabis Dispensary" means a Commercial Cannabis Business engaged in the retail sale of cannabis or cannabis products to customers who are 21 years of age and older.
- (b) "Background Clearance" means a certificate issued by the Public Safety administrator, or his or her designee, indicating that a Person has satisfied a background investigation conducted pursuant to Section 5.80.210 of this Chapter.
- (c) "Commercial Cannabis Business" means any person who engages in a Commercial Cannabis Activity, but does not include any natural person who both: (i) engages in such activity solely as the employee or agent of a Commercial Cannabis Business that is has been issued a permit pursuant to this Chapter and (ii) only engages in Commercial Cannabis Activities that are allowed under such permit and at locations that are allowed under such permit.
- (d) "Director of Community Development" means the Director of Community Development or his or her designee.
- (e) "Medical Cannabis Dispensary" means a Commercial Cannabis Business engaged in the retail sale of Medicinal Cannabis and Medicinal Cannabis Products solely for use pursuant to the Compassionate Use Act of 1996 (Section 11362.5 of the California Health and Safety Code) by a medicinal cannabis patient in California who possesses a physician's recommendation.
- (f) "Owner," with respect to a Commercial Cannabis Business means any Person who is the Commercial Cannabis Business or is a shareholder, partner, member, officer, or person with an investment interest in the Commercial Cannabis Business. Where an Owner of a Commercial Cannabis Business is not a natural person, a licensed financial institution, or a publicly traded company, each shareholder, partner, member, officer, or person with an investment interest in that Owner shall also be considered an Owner. Any Person who does not meet the above criteria may also be classified as an Owner of a Commercial Cannabis Business upon the request of the Commercial Cannabis Business and that Person.
- (g) "Permit" means the permit required by Section 5.80.080 of this Chapter, which is in addition to and separate from any conditional use permit or other permit that is also required by this Code.
- (h) "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
- (i) "Principal Owner" means a natural person who is an Owner of a Cannabis Business and who agrees to serve as the Principal Owner of the Cannabis Business for purposes of this Chapter.
- (j) "Public Safety Administrator" means the Chief of Police or his or her designee.
- (k) "Regulatory Administrator" means the City Manager or his or her designee.

5.80.060 Commercial Cannabis Activities Prohibited

Except as specifically authorized by this Chapter, all Commercial Cannabis Activities are prohibited in the City of Marina.

5.80.070 Personal Cannabis Activities Unaffected

This Chapter does not regulate activities that are permitted pursuant to Section 11362.1 of the California Health & Safety Code.

5.80.080 Commercial Cannabis Business Permit Required

No person may engage in any Commercial Cannabis Activity within the City of Marina except as part of a Commercial Cannabis Business for which a Permit has been obtained from the Regulatory Administrator pursuant to this Chapter.

5.80.090 Number and Types of Permits

- (a) A Permit shall specify the Commercial Cannabis Activities that may be conducted by the Commercial Cannabis Business. Only the following types of Commercial Cannabis Businesses may be authorized: Medical Cannabis Dispensary, Adult Cannabis Dispensary, Delivery, Cultivation, Manufacturing, Testing Laboratory, Nursery, and Distribution.
- (b) There may be no more than three valid Permits for the operation of Medical Cannabis Dispensaries in the City of Marina at any one time.
- (c) There may be no more than three valid permits for the operation of Adult Cannabis Dispensaries in the City of Marina at any one time.
- (d) There shall be no limit on the number of permits that may be issued for Cultivation, Manufacturing, Testing Laboratories, Nurseries or Distribution.
- (e) A Permit for Delivery may be issued only to the holder of a Permit for a Medical Cannabis Dispensary or an Adult Cannabis Dispensary and only for deliveries initiated from the Medical Cannabis Dispensary or Adult Cannabis Dispensary
- (f) A Permit shall only authorize the operation of a Commercial Cannabis Business at the specific location stated on the Permit.
- (g) A single Permit may authorize a single Commercial Cannabis Business to conduct multiple types of Commercial Cannabis Activities at a single location.
- (h) No application for a Permit for Cultivation, Manufacturing, Testing Laboratory, Nursery or Distribution shall be accepted prior to July 1, 2021. The purpose of this paragraph is to permit the City Council to adopt additional regulations, beyond those existing under state law, on such businesses.

5.80.100 Permit

The Permit shall list the following information:

- (a) The name of the Commercial Cannabis Business.
- (b) The location at which the Commercial Cannabis Business may be conducted.
- (c) The type(s) of business that may be conducted.
- (d) The name of each Owner of the Commercial Cannabis Business.
- (e) The name of the Principal Owner of the Commercial Cannabis Business.
- (f) The name of the Operating Manager of the Commercial Cannabis Business.
- (g) The name of each Assistant Operating Manager (if any) of the Commercial Cannabis Business.
- (h) The expiration date for the Permit
- (i) Such other information as the Regulatory Administrator considers necessary or useful.

5.80.110 Separate from Business License

Nothing in this Chapter shall excuse any person from obtaining a business license pursuant to Section 5.08.010 of this Code or complying with any otherwise applicable provision of this Code.

5.80.120 Conditions for Issuance

No Permit shall be issued until each of the following conditions have been met:

- (a) The Public Safety Administrator has approved a Safety and Security Plan for the Commercial Cannabis Business, has conducted such inspections as he or she deems necessary prior to the commerce of business by the Commercial Cannabis Business, and has certified to the Regulatory Administrator that the Commercial Cannabis Business has implemented all elements of the Safety and Security Plan.
- (b) The Director of Community Development has certified to the Regulatory Administrator that the Commercial Cannabis Business has passed all inspections and obtained all necessary permits and certificates from the planning and building departments (including any use permit necessary pursuant to Title 17 of this Code) for the immediate commencement of the Commercial Cannabis Business at its location.
- (c) The Public Safety Administrator has issued a Background Clearance within the prior ninety days for each Owner of the Commercial Cannabis Business.
- (d) The Public Safety Administrator has issued a Background Clearance within the prior ninety days for each Operating Manager and Assistant Operating Manager.
- (e) The Fire Chief has certified to the Regulatory Administrator that (i) the Commercial Cannabis Business has passed an inspection for compliance with the requirements of the City of Marina Fire Code or (ii) no such inspection is necessary.
- (f) The Commercial Cannabis Business has obtained a business license as required by this Code and paid any applicable business license tax.
- (g) The Commercial Cannabis Business has obtained a seller's permit issued by the California Department of Tax & Fee Administration.

- (h) The Commercial Cannabis Business has obtained permits from the Bureau of Cannabis Control for each Commercial Cannabis Activity to be included on the license issued by the City.
- (i) The Commercial Cannabis Business has paid all fees and taxes due to the City in connection with the Commercial Cannabis Business.

5.80.130 Term and Renewal

The term of the Permit shall be one year. The Regulatory Administrator shall not renew a Permit until each of the following conditions have been met:

- (a) The Public Safety Administrator has issued a Background Clearance for each Owner of the Commercial Cannabis Business no earlier than ninety days prior to the renewal date.
- (b) The Public Safety Administrator has issued a Background Clearance for each Operating Manager and Assistant Operating Manager of the Commercial Cannabis Business no earlier than ninety days prior to the renewal date.
- (c) The Public Safety Administrator has approved a Safety and Security Plan for the Commercial Cannabis Business and has, no earlier than ninety days prior to the renewal, certified to the Regulatory Administrator that the Commercial Cannabis Business has implemented all elements of the Safety and Security Plan
- (d) The Commercial Cannabis Business has paid all fees and taxes due to the City in connection with the Commercial Cannabis Business.
- (e) If the Commercial Cannabis Business is a Medical Cannabis Dispensary or an Adult Cannabis Dispensary, the Commercial Cannabis Business has established, to the satisfaction of the Regulatory Administrator, that the business has been open to customers for at least six hours per day on no less than 80 of the 180 days prior to the renewal date. The Regulatory Administrator may waive this requirement in the event that extenuating circumstances, such as a public health emergency, the destruction of the business premises, or enforcement or administrative proceedings by the City under this Code, made it impracticable for the Commercial Cannabis Business to be open to customers as would otherwise be required by this Section.
- (f) The Commercial Cannabis Business has a valid business license as required by this Code and paid any applicable business license tax.
- (g) The Commercial Cannabis Business has a valid seller's permit issued by the California Department of Tax & Fee Administration.
- (h) The Commercial Cannabis Business has a valid permit from the Bureau of Cannabis Control for each Commercial Cannabis Activity included on the license issued by the City.

5.80.140 Change of Owner or Operating Manager

The Regulatory Administrator may add or remove an Owner, Operating Manager, or Assistant Operating Manager to or from a Permit upon application of the Commercial Cannabis Business, but shall not add a person to the Permit unless the Public Safety

Administrator has issued a Background Clearance for that Person within the prior ninety days.

5.80.150 Resignation of Operating Manager

Upon being notified by an Operating Manager or Assistant Operating Manager that he or she no longer serves in that capacity with respect to a Commercial Cannabis Business, the Regulatory Administrator shall remove that person's name from the Permit for that Commercial Cannabis Business.

5.80.160 Addition of Commercial Cannabis Activity

Upon application of a Commercial Cannabis Business, the Regulatory Administrator may add a Commercial Cannabis Activity to the Permit for the Commercial Cannabis Business. However, he or she shall not do so unless all of the criteria set forth in Section 5.80.120 of this Code have been met. If a Commercial Cannabis Activity is added to a Permit, the expiration date for that Permit (and all Commercial Cannabis Activities listed on the Permit) shall be one year from the date the activity is added. This Section should not be interpreted to excusing a Commercial Cannabis Business seeking to add a Commercial Cannabis Activity to its Permit from obtaining any use permit that would otherwise be required pursuant to Title 17 of this Code for any new or expanded use.

5.80.170 Change of Location

- (a) A Permit issued to a Commercial Cannabis Business for operation at a location cannot be transferred to a new location. Operation at a new location requires an entirely new Permit.
- (b) As part of an application to operate at a new location, a Medical Cannabis Dispensary or an Adult Cannabis Dispensary may commit to ceasing operations at the original location upon the issuance of a Permit for the new location.

5.80.180 Availability of Permits

Solely for the purpose of any limits set forth in Section 5.80.090 of this Code upon the number of Permits that may be valid at any one time:

- (a) A Permit that has been voluntarily relinquished by a Commercial Cannabis Business shall be considered no longer valid as of the date of relinquishment.
- (b) A Permit that has been revoked by the City or for which renewal has been denied by the City shall be considered no longer valid as of the date upon which the revocation or non-renewal became final and all avenues of appeal pursuant to this Code were exhausted.
- (c) A Permit that has expired shall be considered no longer valid as of sixty days after its expiration unless an application for renewal has been submitted
- (d) Where a Commercial Cannabis Business has applied for a Permit for a new location and made a commitment to cease operations at its existing location

pursuant to Section 5.80.170(b) of this Chapter, the Permit for operations at a new location shall be considered a continuation of the Permit for operations at the existing location so long as:

- (1) the Commercial Cannabis Business ceases all operations at its existing location within thirty days of the commencement of operations at the new location; and
- (2) the Commercial Cannabis Business has established, to the satisfaction of the Regulatory Administrator, that the existing location had been open to customers for at least six hours per day on no less than 80 of the 180 days prior to the renewal date. The Regulatory Administrator may waive this requirement in the event that extenuating circumstances, such as a public health emergency, the destruction of the business premises, or enforcement or administrative proceedings by the City under this Code, made it impracticable for the Commercial Cannabis Business to be open to customers at the existing location for the requisite number of days.

5.80.190 Pre-Applications

With respect to any class of Commercial Cannabis Business for which Section 5.80.090 sets forth a limit on the number of valid permits that may be issued pursuant to this Section:

- (a) Any time the number of valid permits (counted as set forth in Section 5.80.180 of this Chapter) is less than the maximum number allowed, the Regulatory Administrator may designate a “lottery window” which shall be no less than one month in duration.
- (b) Prior to the commencement of the “lottery window” the Regulatory Administrator shall cause an announcement of the “lottery window” to be published in a newspaper of general circulation that is circulated in Marina and to be mailed to any person who has, during the two years prior to the date on which such notification is published, filed with the Regulatory Administrator a request for mailed notification pursuant to this paragraph.
- (c) The Regulatory Administrator shall accept pre-applications only during the “lottery window”. Each pre-application must be submitted on behalf of a specific Person who wishes to receive a Permit to conduct a Commercial Cannabis Business in the City, and must designate a natural person who will serve as the Principal Owner of the Commercial Cannabis Business.
- (d) No Person may submit more than one pre-application during a lottery window for each type of Permit, nor can an individual be listed as Principal Owner on more than one pre-application submitted during a lottery window for each type of Permit.
- (e) Pre-applications shall be submitted on a form designed by the Regulatory Administrator. The Regulatory Administrator shall reject any pre-application that is not complete or does not comply with regulations issued by the Regulatory Administrator prior to the commencement of the “Lottery Window.”

- (f) Following the close of the “lottery window”, the Regulatory Administrator shall select at random one pre-application for each Permit announced pursuant to paragraph (b) of this Section.
- (g) Before conducting the selection pursuant to paragraph (e) of this Section, the Regulatory Administrator may require that each Person applying for a Permit and each Person listed as a Principal Owner obtain a Background Clearance or some other, less comprehensive, background investigation as the Regulatory Administrator may instead require.
- (h) The Regulatory Administrator may invalidate a selection conducted pursuant to paragraph (e) of this section and call for a new lottery window requiring new applications, if he or she reasonably determines that the selected pre-application was submitted fraudulently or that the selected pre-applicant or Principal Owner appears is a “straw man” for a Person submitting a non-selected Pre-Application.
- (i) The Regulatory Administrator shall accept an application for a new Permit pursuant to Section 5.80.200 (other than an application that includes a commitment to cease existing operations pursuant to 5.80.170) only from a person who submitted a selected pre-application. Once a pre-application has been selected, that pre-application shall count as a “valid permit” for purposes of any limitation on the number of permits that may be issued pursuant to Section 5.80.090. The pre-application shall expire six months from its extension. The expiration date may be extended by the Regulatory Administrator for two-months, if (at the time of expiration or the expiration of an extension) the Regulatory Administrator determines that an application has been submitted and is being processed by the City.
- (j) The City Council may, by resolution, establish an pre-application fee which must be paid at the time a pre-application is submitted to the Regulatory Administrator and may require that each pre-application be accompanied by a deposit against fees that can be expected to be incurred by the pre-applicant in connection with the application process if the pre-applicant is selected.

5.80.200 Application

An application for a new Permit, for the renewal of a Permit, for a change of Owner, Principal Owner, Operating Manager or Assistant Operating Manager, for the addition of a Commercial Cannabis Activity to a Permit, or for the relinquishment of a Permit shall be submitted on the form provided for such purpose by the Regulatory Administrator and shall include such information as may be reasonably requested by the Regulatory Administrator. The City Council may, by resolution, establish an application fee which must be paid at the time such application is submitted to the Regulatory Administrator.

5.80.210 Background Clearance

The Public Safety Administrator shall cause a background investigation of any Person upon the request of such Person. Such investigation shall include, a LiveScan

background check and such other investigations as the Public Safety Administrator deems necessary. The Public Safety Administrator may establish a procedure for conducting such investigation and may establish criteria for issuing a Background Clearance for purposes of this Chapter. A request for a background investigation shall be made on the form designed by the Public Safety Administrator. The person making such request shall provide the Public Safety Administrator with any information or documents that he or she may reasonably request. The City Council may, by Resolution, establish a fee for a background investigation or clearance.

In addition to any criteria he or she may establish, the Public Safety Administrator shall not issue a background clearance to any Person who the Public Safety Administrator determines:

- (a) Has ever been convicted of (i) a violent felony as defined by California Penal Code 667.5, (ii) any violation of California Penal Code Sections 243 through 247, except for subdivision (a) of Section 243, or (iii) an equivalent offense in another state;
- (b) Has ever been convicted of a crime involving dishonesty, fraud or deceit, including but not limited to fraud, forgery, theft, and embezzlement as those offenses are defined in California Penal Code Sections 186.11, 470, 484, and 504a, respectively; or equivalent offenses in other states; or
- (c) Has ever been convicted of the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, other than cannabis-related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996; or
- (d) Has, unless for a reason deemed by the Public Safety Administrator to be immaterial, ever had any permit to operate a cannabis business revoked by any jurisdiction or had any professional or business license revoked by any jurisdiction; or
- (e) Has failed, if not a natural person, to fully disclose the identities of all of its owners in any application to the City or upon request of the Public Safety Administrator or the Regulatory Administrator.
- (f) Has made a material misstatement of fact, other than a misstatement that the Public Safety Administrator determines was a reasonable and inadvertent error, on any application to the City, in any proceeding before the City Council or Planning Commission, or to the Public Safety Administrator or the Regulatory Administrator or their staffs.

5.80.220 Safety and Security Plan

No Commercial Cannabis Business may be issued a Permit, or have a Permit renewed, without a Safety and Security Plan that has been approved by the Public Safety Administrator. The Public Safety Administrator may establish elements that must be included in the Safety and Security Plan, and may require that such Plan include business procedures, employee screening procedures, inventory and recordkeeping procedures, cameras and physical security improvements, floorplans, security system schematics, and limitations on operations, that, in his or her reasonable opinion, are necessary to (i)

deter and prevent unauthorized entrance into areas containing cannabis or cannabis products, (ii) deter and prevent the theft of cannabis or cannabis products and (iii) ensure compliance with applicable law and legal conditions imposed by the City. The City Council may establish fees for the submission or approval of a public safety plan, for the certification by the Public Safety Administrator of compliance with a Safety and Security Plan, or for compliance inspections conducted in connection with applications or renewals for permits issued pursuant to this Section. It shall be a violation of this Code for any Commercial Cannabis Business or person employed by a Commercial Cannabis Business to fail to comply with a provision of the approved Safety and Security Plan.

Except as may be reasonably waived by the Public Safety Administrator, the Safety and Security Plan shall require, at a minimum, all of the following:

- (1) Alarm systems (perimeter, fire, and panic buttons) that are professionally installed, maintained, and remotely monitored at all times by a security company licensed by the State of California Bureau of Security and Investigative Services.
- (2) Perimeter lighting systems (including motion sensors) for after-hours security.
- (3) A requirement that individuals leave the premises if they are not engaging in an activity directly related to the permitted operations of the business.
- (6) The creation of one or more limited access areas accessible only to individuals specifically authorized by the business to handle cannabis and cannabis products.
- (7) The storage of all cannabis and cannabis products, except for live plants at a cultivation or nursery operation, in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products, including live clone plants that are being sold, shall be kept in a manner as to prevent diversion, theft, and loss.
- (8) 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. All cameras shall record in color. All exterior cameras shall be in weather-proof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to

black and white in low light conditions. Remote live access to the video footage from the cameras shall be available to the Public Safety Administrator. Video recordings shall be maintained for a minimum of 90 days and shall be made available to the Public Safety Administrator upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business and shall be capable of enlargement via projection or other means.

- (9) Sensors that detect entry and exit from all secure areas and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- (10) Panic buttons with direct notification to the Marina Police Department dispatch and shall be configured to immediately alert dispatch for the Marina Police Department.
- (13) A requirement that licensed security personnel shall be on-site during any hours when any person is allowed on-premises.
- (14) Security equipment that remains operative during a power outage and ensures that access doors are not released during a power outage.
- (15) A requirement that entrance areas be locked at all times and under the control of a designated responsible party that is either; (a) an owner, agent or employee of the business or (b) a licensed security professional.
- (16) An accounting software system to provide point of sale data as well as audit trails or both product and cash, where applicable.
- (19) A plan for compliance with the state's track and trace system for cannabis and cannabis products, as soon as it is operational.
- (20) Network security protocols that are certified by Underwriters Laboratories.
- (21) A requirement that exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
- (22) Emergency access and emergency evacuation plans that are in compliance with state and local fire safety standards.

5.80.230 Finances

- (a) A Commercial Cannabis Business may only operate at a location, occupy a structure, or use personal or real property of any kind, if that location, structure, or property is owned by the Commercial Cannabis Business or an Owner of the Commercial Cannabis Business.
- (b) Notwithstanding paragraph (a) of this Section, a Commercial Cannabis Business (or Owner thereof) may lease property of any kind in from a third party in connection with the Commercial Cannabis Business, so long as (i) the lease does not exceed fair market value for a lease to a Commercial Cannabis Business and (ii) the payments due to under the lease are stated as a fixed monthly or annual amount or are based on a formula that does not take into account the sales or profits of the Commercial Cannabis Business.
- (c) No Commercial Cannabis Business, or Owner thereof, shall enter into any contract with any party other than an Owner, employee or agent of the Commercial Cannabis Business that in any way varies the obligations under the contract based on the gross receipts or profits of the Commercial Cannabis Business.
- (d) A Commercial Cannabis Business (or Owner thereof) may enter into a lease or agreement that would otherwise be prohibited by paragraphs (b) or (c) of this Section if both (i) all counterparties to the lease or agreement are treated as Owners of the Commercial Cannabis Business on the Permit for the Commercial Cannabis Business and (ii) the lease or agreement is provided to the Public Safety Administrator.

5.80.240 Compensation

No employee or agent of a Commercial Cannabis Business may be compensated based on the gross receipts or profits of the Commercial Cannabis Business, and no employee or agent may be compensated on any basis other than an hourly wage or fixed monthly salary, unless that employee or agent has obtained Background Clearance pursuant to this Chapter. For purposes of this Section, a Background Clearance shall be good for two years from the date of its issuance.

5.80.250 Employee LiveScan Checks

- (a) No Commercial Cannabis Business shall use the services of an employee or agent unless that employee or agent has, within the prior 365 days, either (i) obtained a Background Clearance or (ii) obtained LiveScan clearance from the Public Safety Administrator.
- (b) The Public Safety Administrator shall not grant LiveScan clearance to any individual if a LiveScan background check indicates that the individual has been convicted of a crime that would preclude the issuance of a Background Clearance pursuant to this Chapter.
- (c) No person who has applied for and been denied Background Clearance may serve as an employee or agent of a Commercial Cannabis Business unless Background Clearance is subsequently issued.

- (d) The Public Safety Administrator may revoke a LiveScan clearance if he or she at any time determines that the subject of the clearance has been convicted of a crime that would preclude the issuance of Background Clearance pursuant to this Chapter.
- (e) The City Council may, by Resolution, establish a fee for LiveScan clearance.

5.80.260 Restriction On-Premises Consumption and Sale of Alcohol and Tobacco.

No person shall sell or dispense or consume alcoholic beverages or tobacco products on the premises of a Commercial Cannabis Business. No person shall consume cannabis or cannabis products on the premises of any commercial cannabis business.

5.80.270 Minors

- (a) Persons under the age of 21 years shall not be allowed on the premises of a Commercial Cannabis Business
- (b) Notwithstanding Paragraph (a) of this Section, a person aged 18 to 20 years may enter the premises of a Medical Cannabis Dispensary solely for the purpose of obtaining cannabis or cannabis products pursuant to a physician's recommendation.
- (c) A sign at the entrance to the Commercial Cannabis Business shall clearly state, in a form and font acceptable to the Public Safety Administrator, the rule set forth in this Section as applicable to the Commercial Cannabis Business.

5.80.280 Operating Manager

- (a) The Operating Manager of a Commercial Cannabis Business must be an owner or full time employee of the Commercial Cannabis Business.
- (b) No Commercial Cannabis Business may operate at any time unless an Operating Manager or Assistant Operating Manager or Owner who has been listed on the Permit is on the premises.
- (c) The Commercial Cannabis Business must provide the Public Safety Administrator and the Fire Department with a 24-hour contact number for the Operating Manager and at least one Assistant Operating Manager.
- (d) If the Operating Manager of a Commercial Cannabis Business ceases employment or takes a vacation or leave of absence of more than 10 consecutive days, the Commercial Cannabis Business must designate an Assistant Operating Manager or Owner to serve as Operating Manager during this period and must notify the Public Safety Administrator and the Fire Department of such designation and of the 24-hour contact number for the designated individual.

- (e) All Operating Managers and Assistant Operating Managers must be authorized by the Commercial Cannabis Business to report any violation of law to the Marina Police Department, to call the Marina Police Department for assistance, and to close the business to customers during any period when the Commercial Cannabis Business cannot operate in compliance with law or with the Safety and Security Plan.

5.80.290 Reporting

A Commercial Cannabis Business shall notify the Marina Police Department within twenty-four hours after discovering any of the following:

1. Significant discrepancies in inventory;
2. Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the dispensary;
3. The loss or unauthorized alteration of records; or
4. Any breach in security.

5.80.300 Violation

Violations of the requirements of the Chapter or of any Permit, or of any requirement of the Medicinal and Adult Use Cannabis Regulation and Safety Act constitute violation of this Code that are subject to the provisions of Chapter 1.08 of this Code. Additionally, any such violations may constitute a public nuisance that may be remedied pursuant to Chapter 17.60 of this Code.

5.80.310 State License

Any Commercial Cannabis Business that forfeits a permit issued to it pursuant to the Medicinal and Adult Use Cannabis Regulation and Safety Act or has such permit revoked must immediately cease all activities in the City of Marina for which that permit is required and must report such forfeiture or revocation to the Regulatory Administrator and the Public Safety Administrator. The Regulatory Administrator may revoke any license issued pursuant to this Chapter for a Commercial Cannabis Activity that the Commercial Cannabis Business is no longer entitled to engage in pursuant to the Medicinal and Adult Use Cannabis Regulation and Safety Act.

5.80.320 Appeal

Any applicant or Commercial Cannabis Business may, within 10 days of the date of a decision, appeal to the City Manager any final decision of the Public Safety Administrator or the Regulatory Administrator pursuant to this Chapter with regard to the final denial or revocation of any permit, certification, clearance or approval applied for or held by the applicant or business. The City Manager may promulgate procedures for the consideration of any such appeal. Any decision of the City Manager shall be final.

5.80.330 Administrative Interpretations

The Public Safety Administrator and the Regulatory Administrator may issue such administrative interpretations of this Chapter as they find appropriate.

5.80.340 Fees

The City Council may, by resolution, adopt a fee for any application, permit, certificate, clearance, investigation, inspection, audit, appeal or other staff action or service provided pursuant to this Chapter.

5.80.350 Tax

- (a) Any Commercial Cannabis Business shall pay a tax of 5% of gross receipts in addition to the tax that would normally be required by Section 5.08.010 of this Code. For purposes of this Section, taxable gross receipts shall include gross receipts attributable to any business conducted by the Commercial Cannabis Business or on the premises
- (b) Except where clearly inapplicable, such tax shall be administered in the same manner (and subject to the same provisions of this Code) as the business license tax required by Section 5.08.010, except that the tax shall be collected and administered by the Regulatory Administrator.
- (c) The tax shall be collected quarterly and due and payable on the first day of each calendar quarter.
- (d) The Regulatory Administrator may issue administrative interpretations of this requirement, may require that tax payments be made on a more frequent schedule than quarterly or on a different schedule than set forth in this Section, may set the may require that a deposit be made against any taxes that will be due in arrears, and may delegate his or duties under this Section to an employee of another City department with the consent of the City Manager.
- (e) All taxes collected pursuant to this Section shall be deposited in the general fund of the City and available for any lawful municipal purpose
- (f) The City Council may, by resolution, establish fees for audits of tax returns submitted pursuant to this Section.

5.80.360 Inspection of Records and Premises

Any Commercial Cannabis Business must allow the inspection of its records and premises at any time as requested by the Public Safety Administrator and the Regulatory Administrator.

SECTION 4. Chapter 17.47 (Commercial Cannabis Uses) is added to Title 17 (Zoning) of the Marina Municipal Code, to read as follows:

Chapter 17.47: Commercial Cannabis Uses.

17.47.010 Criteria Applicable to All Commercial Cannabis Uses.

In addition to any other requirement of this Chapter, and to the generally applicable standards of this Title for the issuance of conditional use permits and for development the zone in which the use will be located, no use permit for a commercial cannabis land use shall be issued unless:

- (a) The site is no closer than 500 feet to any child day care center (as defined by Section 17.04.211 of this Code), school serving students in grades K-12, public recreation center or public park. All distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure (or portion of building or structure) occupied or to be occupied by the Commercial Cannabis Business to the nearest property line of those uses described in this Subsection.
- (b) The use, as conditioned, will not generate offensive noise or odors.

17.47.020 Criteria Applicable to Retail Commercial Cannabis Uses

In addition to any other requirement of this Chapter, and to the generally applicable standards of this Title for the issuance of conditional use permits and for development the zone in which the use will be located, no use permit for a retail commercial cannabis land use shall be issued unless:

- (a) The site is no closer than 1,000 feet to any other retail commercial cannabis land use. All distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure (or portion of building or structure) occupied or to be occupied by each Commercial Cannabis Business.
- (b) If the use, as conditioned, allows a delivery component, adequate off-street loading areas are provided for all loading and standing of delivery vehicles.

SECTION 5. Section 17.06.020 of the Marina Municipal Code is hereby amended so that Subdivisions A and B of that Section read as follows, and all other subdivisions remain unchanged:

A. No dancehall, roadhouse, nightclub, commercial club, establishment or business where alcoholic beverages are served or sold for off-sale consumption, commercial place of amusement or recreation, including but not limited to an amusement center or arcade, or place where entertainers are provided whether as social companions or otherwise, shall be established in any zoning district in the city unless a use permit is first secured in each case.

B. A finding of public convenience or necessity is required for an establishment or business where alcoholic beverages are served or sold for on- and/or off-sale consumption within an area of undue concentration. Such finding shall require that selling of alcohol for on- and/or off-sale consumption at the subject establishment of business:

1. Will not constitute a public nuisance;
2. Will not occur within five hundred feet of a park or school or place of public assembly;
3. Will not contribute to law enforcement problems

associated with an undue concentration of on- and/or off-sale licenses in the vicinity of the subject business or establishment.

SECTION 6. Any provision of this Ordinance or of the ordinance adopted by the voters of the City of Marina at the November 6, 2018 election as Measure V may be amended by Ordinance of the City Council, except that the rate of the tax imposed by Section 5.80.350 may not be increased without voter approval.

SECTION 7. It is the intent of the People of the City of Marina that the City Council shall set fees pursuant to the authority of the Ordinance in an amount that will fully fund all costs associated with the regulation of Commercial Cannabis Businesses. The City Council is authorized to set, by resolution, any such fee. Any fee set by initiative or by Council action prior to the effective date of this Ordinance shall continue in effect until specifically repealed, increased, or decreased by resolution of the City Council

SECTION 8.

- (a) Any commercial cannabis permit issued pursuant to Title 19 of the Municipal Code prior to the repeal of that Title by this Ordinance shall be treated as a valid permit issued pursuant to this Ordinance and may be renewed pursuant to this Ordinance.
- (b) Any application for a permit that was submitted prior to the effective date of this Ordinance will be processed under the laws existing laws at the time of application.
- (c) Notwithstanding subdivision (b), an applicant for a non-retail commercial cannabis permit may request that such permit be processed pursuant to this law instead of pursuant to the prior law.

SECTION 9. It is the intent of the People of the City of Marina that the tax imposed by this ordinance shall be considered a continuation of the existing tax on cannabis businesses, and that the prior tax shall cease application only upon the effectiveness of the tax imposed by this Section. The People would not have repealed the existing tax with respect to any person if the tax adopted pursuant to this Ordinance were invalid with respect to that person.

SECTION 10. If any word, phrase, sentence, part, section, subsection, or other portion of this Ordinance, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this title, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The People hereby declares that they would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

DRAFT
RESOLUTION NO. 2020-

A RESOLUTION FROM THE MARINA PLANNING COMMISSION
RECOMMENDING THE CITY COUNCIL CONSIDER AN ORDINANCE
AMENDING PROVISIONS OF THE MUNICIPAL CODE RELATING TO
THE REGULATION, PERMITTING AND TAXATION OF COMMERCIAL
CANNABIS BUSINESSES, ACTIVITIES AND LAND USES FOR
SUBMISSION TO THE ELECTORATE AT THE NOVEMBER 3, 2020,
GENERAL MUNICIPAL ELECTION, WHICH WOULD REPEAL TITLE 19
COMMERCIAL CANNABIS ACTIVITIES, REPEAL CHAPTER 5.76
CANNABIS RETAILER, ADD CHAPTER 5.80 COMMERCIAL CANNABIS
BUSINESS REGULATIONS AND ADD CHAPTER 17.47 COMMERCIAL
CANNABIS USES

WHEREAS, on November 6, 2018, with 4,351 votes in favor of the Ordinance and 2,130 votes against, the voters in the City of Marina's General Municipal Election approved an Ordinance of The People of the City of Marina allowing Cannabis Business Activity and Establish Taxes and Fees for such Businesses within the City Of Marina, Amending Title and Chapter establishing Cannabis Business Activities as a Use allowed subject to a Use Permit in Specified Zones and Establishing Uses to Protect Public Health, Safety & Welfare; and,

WHEREAS, the ordinance took effect on April 1, 2019, following which the City opened an application process and accepted twelve (12) Cannabis Dispensary applications; and,

WHEREAS, once implemented, it was discovered that the voter-approved commercial cannabis ordinance was cumbersome to administer. The ordinance limited the number of retail cannabis permits that could be issued by the City but allowed an unlimited number of applicants for such permits to work their way through the full process of applications and reviews, even though not all would receive permits even if they met all basic qualifications. The scoring criteria written into the ordinance resulted in many applicants having essentially identical scores, and the ordinance required that issues be decided multiple times for each applicant by staff, consultants, the Planning Commission, and the City Council. The ordinance was duplicative of state rules regarding issues like operating hours, and in some cases state regulations were subsequently amended to be more restrictive than the City ordinance. Because the ordinance was adopted by the voters and could not be amended by the City Council, these problems could not be fully addressed without a new ballot measure; and,

WHEREAS, the City Council has directed staff to prepare and submit a revised City of Marina Commercial Cannabis Activities Ordinance that can be considered and, if recommended by the Planning Commission and approved by the City Council, submitted to the County of Monterey Elections Department for inclusion on the November 3, 2020 general election ballot; and,

WHEREAS, at a regular meeting on July 9, 2020 the Planning Commission opened a public hearing, took testimony from the public and considered an ordinance amending provisions of the municipal code relating to the regulation, permitting and taxation of commercial cannabis businesses; and,

WHEREAS, The City of Marina Planning Division determined that the submission to the voters of a Council-sponsored initiative at the November 3, 2020, General Municipal Election to an ordinance amending provisions of the municipal code relating to the regulation, permitting and taxation of commercial cannabis businesses, activities and land uses is exempt from the California Environmental

Quality Act (CEQA) Guidelines (Article 19, §15060 and §15378) as this action is not considered a “project” under CEQA Guidelines.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Marina that it hereby recommends that the City Council adopt an ordinance amending provisions of the municipal code relating to the regulation, permitting and taxation of commercial cannabis businesses, activities and land uses. Said amendment of the Municipal Code is specifically conditioned upon the City Council, placing the matter on the ballot for the November 3, 2020 General Municipal Election as a Council-sponsored initiative and approval of the ballot measure by the voters.

PASSED AND ADOPTED by the Planning Commission of the City of Marina at a regular meeting duly held on the 9th day of July 2020, by the following vote:

AYES, COMMISSIONERS:
NOES, COMMISSIONERS:
ABSENT, COMMISSIONERS:
ABSTAIN, COMMISSIONERS:

David Burnett, Chair

ATTEST:

Christy Hopper
Planning Services Manager
City of Marina

ORDINANCE NO. 2018-09

Initiative Measure to be Submitted Directly to the Voters

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF MARINA
ALLOW CANNABIS BUSINESS ACTIVITY AND ESTABLISH TAXES AND FEES
FOR SUCH BUSINESSES WITHIN THE CITY OF MARINA, AMENDING TITLE AND
CHAPTER ESTABLISHING CANNABIS BUSINESS ACTIVITIES AS A USE
ALLOWED SUBJECT TO A USE PERMIT IN SPECIFIED ZONES AND
ESTABLISHING USES TO PROTECT PUBLIC HEALTH, SAFETY & WELFARE.**

THE PEOPLE OF THE CITY OF MARINA DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Establish. Chapter 19 of the City of Marina’s Municipal Code is hereby established to read as follows:

19.01.010 Title.

This chapter shall be known as the city of Marina Commercial Cannabis Activities ordinance. The city of Marina hereinafter shall be called “city”. This chapter shall be applicable in the incorporated territory of the City. (Ord.2010-03 &1 (part), 2010)

19.01.020 Operative Date

“Operative date” means the first day of the first calendar quarter commencing more than one hundred days after the adoption of the ordinance codified in this chapter by a majority of the voters of the city voting thereon at the election to be held on November 6, 2018.

19.01.030 Purpose

This chapter is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. Regulate Commercial Cannabis Activity (as defined below) if a majority of the qualified electors voting on the measure voted to approve the imposition of the tax at an election called for that purpose.
- B. To promote the health, safety, morals, and general welfare of the residents and businesses within the City. The City is authorized to regulate this activity pursuant to the MAUCRSA. The goals of this regulation for Commercial Cannabis Activity include:
 - A. To minimize the size of the illegal market for Cannabis in the City and the surrounding regions.
 - B. To create jobs, tax revenue and economic growth for the City and its residents.
 - C. To enable law enforcement and regulators to have sufficient rights to inspect and audit Commercial Cannabis Activity and take expeditious action against Persons who violate the requirements of this Chapter.
 - D. To minimize social harms which may arise from Cannabis including youth consumption or intoxicated driving.

C. To regulate the operation and location of Commercial Cannabis Activity such that public nuisance is minimized.

19.01.040 Definitions

The following words or phrases, whenever used in this Chapter, shall be given the following definitions:

A. "Adult cannabis" or "Adult cannabis product" " means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by adults in California pursuant to the Adult Use of Marijuana Act of 2016 (Proposition 64), found at Section 11362.1 of the Health and Safety Code. For the purposes of this Title, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

B. "Adult Use Cannabis" means the non-medical use of cannabis by adults of age 21 and over as permitted by MAUCRSA and other applicable State and City laws.

C. "A-License" means a State License issued under Division 10, commencing with Section 26000 of the Business and Professions Code, for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician's recommendations or an interim license issued by the State for the same.

D. "A-Licensee" means any Person holding a State License under Division 10, commencing with Section 26000, of the Business and Professions Code for cannabis or cannabis products that are of age and over and who do not possess physician's recommendations or an interim license issued by the State for the same.[sic] (duplicate definition)

D. "A-Licensee" means any Person holding a State License under Division 10, commencing with Section 26000, of the Business and Professions Code for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician's recommendations or an interim license issued by the State for the same.

E. "A-Permit" means a City Permit issued under this chapter for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician's recommendations.

F. "A-Permittee" means any Person holding a City Permit issued under this chapter for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician's recommendations.

G. "Bureau" means the Bureau of Medical Marijuana Regulation within the California Department of Consumer Affairs.

H. "Business and Professions Code" means the California Business and Professions code, as amended from time to time.

I. "Cannabinoid" or "phytocannabinoid" means a chemical compound that is unique to and derived from cannabis.

J. "Medical cannabis" or "Medical cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical Cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362. 5 of the Health and Safety Code. For the purposes of this Title, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 1 1018.5 of the Health and Safety Code.

K. "Commercial medical cannabis activity" means the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, on-site consumption or sale of medical cannabis or a medical cannabis product.

L. "Cannabis" shall have the same meaning as in Section 26000 of the Business and Professions Code.

M. "Cannabis Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or City Permittee where the Commercial Cannabis Activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one City Permittee.

N. "Cannabis Permit" means a permit issued by a city in the State (as defined below), including the City, and a license issued by the State, in each case, in accordance with, and to the extent required by, applicable State Law, in order to participate in a Commercial Cannabis Activity, such as Cultivation, Manufacturing, Distribution, Transportation, Testing, retail sale, or Delivery.

O. "Cannabis Permittee" means a Person who holds a Cannabis Permit.

P. "Cannabis Product" shall have the same meaning as in Section 11018.1 of the Health and Safety Code.

Q. "Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product's potency.

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

S. "Certificate of accreditation" means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state.

T. "City" shall have the meaning assigned to such term in the Preamble of this Ordinance.

U. "City Code" means the City of Marina Municipal Code.

V. "City Council" means the current members of the City Council of the City.

X. "City Manager" means the individual duly appointed by a majority of the City Council to serve in the capacity as executive officer of the City on a permanent or interim basis or such other official as designated by the City to fulfill such duties.

Y. "City Permit" means a permit issued by the City, in accordance with this Chapter and State Law, authorizing participation in a Commercial Cannabis Activity, such as Cultivation, Manufacturing, Distribution, Testing, retail sale, or Delivery.

Z. "City Permittee" means a Person that has been issued a City Permit.

AA. "Commercial Cannabis Activity" includes the Cultivation, possession, Manufacture, Distribution, processing, storing, testing, packaging, labeling, Transportation, Delivery or sale of Cannabis and Cannabis Products as provided for in this chapter and Division 10, commencing with Section 26000, of the Business and Professions Code.

BB. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of medical or Adult cannabis. Within the definition of cultivation, the following specific License Types, corresponding to state cultivator license types set forth in California Business and Professions Code section 19332(g).

BB1. "CUP" means a Conditional Use Permit issued by the City in accordance with City Code.

CC. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of Cannabis.

DD. "Cultivation Permit" means a City Permit for the Cultivation of Cannabis in accordance with the terms and conditions of this Chapter and the conditions of approval for the applicable City Permit issued to the particular Cultivation Permittee. Such Permits shall be associated with State License types 1A, 1B, 1C, 2A, 2B, 3A, 3B, 4, 5A or 5B or such other Cultivation license types created by the State.

EE. "Cultivation Permittee" means an applicant who has applied for and has been issued a Cultivation Permit by the City pursuant to the terms and conditions of this Chapter.

FF. "Deliver" or "Delivery" means the commercial transfer of medical or Adult cannabis, or medical or Adult cannabis products from a Permittee, up to an amount allowed by the Bureau, to a primary caregiver, customer, qualified patient or adult as defined in Section 11362.7 of the California Health and Safety Code, or a testing laboratory.

GG. "Dispensary" means a facility where medical Cannabis, medical cannabis products. Adult cannabis. Adult cannabis products or devices for the use of medical or Adult cannabis or medical or Adult cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers medical Cannabis and medical Cannabis products as part of a retail sale.

HH. "Distribution" means the procurement, sale, and transport of Cannabis and Cannabis Products between State Licensees, including any City Permittees who are State Licensees.

II. "Distribution Permit" means a City Permit for Distribution in accordance with the terms and conditions of this Chapter and the conditions of approval for the applicable City Permit issued to such Distribution Permittee. Such Permits shall be associated with State License Type 11 or such other Distribution license types created by the State.

JJ. "Distribution Permittee" means a Person that has been issued a Distribution Permit by the City pursuant to the terms and conditions of this Chapter.

KK. "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible Cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.

LL. "Fully Enclosed and Secure Structure" means (i) [sic] a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is reasonably secure against unauthorized entry and provides complete visual screening or is behind fencing or other features providing complete visual screening, and which is accessible only through one or more lockable doors and is inaccessible to minors

MM. "Greenhouse" means a fully enclosed permanent structure with climate control, such as heating and ventilation capabilities and supplemental artificial lighting, and that uses a combination of natural and supplemental artificial lighting for cultivation.

NN. "Gross Receipts" means the total amount of the sales of a City Permittee, valued in money, whether paid in money or otherwise, without any deduction for the cost of materials used, any costs of transportation of the City Permittee, or any other expenses.

OO. "Health and Safety Code" means the California Health and Safety Code, as amended from time to time.

PP. "Identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.

QQ. "Indoor Cultivation" means a Cultivation using exclusively artificial lighting.

RR. "Licensee" means a person issued a state license under Chapter 3.5 (commencing with Section 19300) of the California Business and Professions Code, to engage in [sic] a commercial medical or Adult cannabis activity. (in)

SS. "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of a license for commercial medical or Adult cannabis activities, or the state agency authorized to take disciplinary action against the license.

TT. "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical or Adult cannabis.

UU. "One ownership" and "owner" have the same definition as set forth in Chapter 21.06 [sic] of this Title. (Section 17.04.510)

WW. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a Cannabis Product from such blends, extractions or infusions.

XX. "Manufactured cannabis" or "cannabis product" means raw Cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

YY. "Manufacturing Permit" means a City Permit to Manufacture in accordance with the terms and conditions of this Chapter and the conditions of approval for the applicable City Permit issued to the applicable Manufacturing Permittee. Such Permits shall be associated with State License types 6 or 7 or such other Manufacturing license types created by the State.

ZZ. "Manufacturing Permittee" means a Person that has been issued a Manufacturing Permit by the City.

AAA. "Manufacturing site" means a location that produces, prepares, propagates, or compounds manufactured medical or Adult cannabis or medical or Adult cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

BBB. "Medicinal Cannabis" or "Medicinal Cannabis Product" means Cannabis or a Cannabis Product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a Medicinal Cannabis patient in California who possesses a physician's recommendation.

CCC. "M-License" means a State License issued for Commercial Cannabis Activity involving Medicinal Cannabis.

DDD. "M-Licensee" means any Person holding a State License under Division 10, commencing with Section 26000, of the Business and Professions Code for Commercial Cannabis Activity involving Medicinal Cannabis or an interim license issued by the State for the same.

EEE. "M-Permit" means a City Permit issued under this chapter for Commercial Cannabis Activity involving Medicinal Cannabis.

FFF. "M-Permittee" means any Person holding a City Permit issued under this chapter for Commercial Cannabis Activity involving Medicinal Cannabis.

GGG. "Mixed Light Cultivation" means a Cultivation facility using a combination of natural and supplemental artificial lighting.

HHH. “Modular Building” means a structure that is transportable in one or more sections and is designed or equipped for the Manufacturing of Cannabis Products, including the compliance with all safety requirements set forth by the City.

III. “Ordinance” shall have the meaning assigned to such term in the Preamble of this Ordinance.

JJJ. “Outdoor Cultivation” means any Cultivation conducted without the use of artificial lighting.

KKK. “Permit Zone” means, with respect to a Person holding a City Permit, the zones or portions of the City where such City Permit type is permitted to operate. Such Permit Zones may be amended from time-to-time by a majority vote of the City Council. To the extent not otherwise specified in this definition, a City Permittee shall be able to operate in any portion of the City which complies with the zoning, radius and other requirements of Section 17.06.

The initial Permit Zones shall be as follows:

- (1) With respect to Retail Permits, Airport District (AP-2/3), Business Park (BP), Business Park Small Lot Combining District (BP/P), Retail Business District (C-1), General Commercial District (C-2), Planned Commercial District (PC) and Transitional Zoning District (T-B-5).
- (2) With respect to Cultivation Permits for Indoor Cultivation, Airport District (AP-2/3), Business Park (BP), Business Park Small Lot Combining District (BP/P) and Transitional Zoning District (T-B-5).
- (3) With respect to Cultivation Permits for Outdoor Cultivation, no zones will permit outdoor cultivation.
- (4) With respect to Cultivation Permits for Mixed Light Cultivation, Airport District (AP-2/3), Business Park (BP), Business Park Small Lot Combining District (BP/P) and Transitional Zoning District (T-B-5).
- (5) With respect to Distribution Permits, Airport District (AP-2/3), Business Park (BP), Business Park Small Lot Combining District (BP/P), Retail Business District (C-1), General Commercial District (C-2), Planned Commercial District (PC) and Transitional Zoning District (T-B-5) or, if such Distribution Permit is held by a Permittee who also holds another City Permit type, the location where the operations of such City Permit type are conducted (e.g. the site of a Cultivation Permit).
- (6) With respect to Manufacturing Permits, Airport District (AP-2/3), Business Park (BP), Business Park Small Lot Combining District (BP/P), Retail Business District (C-1), General Commercial District (C-2), Planned Commercial District (PC) and Transitional Zoning District (T-B-5).
- (7) With respect to Testing Permits, Airport District (AP-2/3), Business Park (BP), Business Park Small Lot Combining District (BP/P), Retail Business District (C-1), General Commercial District (C-2), Planned Commercial District (PC) and Transitional Zoning District (T-B-5).

LLL. "Permittee" means a person issued a commercial cannabis permit under Chapter 7.90 [\[sic\] \(5.76\)](#).

MMM. "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

NNN. “Physician Services” means the consultation by a State-licensed physician of a patient with the possible recommendation by such physician of Medicinal Cannabis for such patient.

OOO. "Primary caregiver" has the same definition as in Section 11362. 7 of the California Health and Safety Code, as it may be amended.

PPP. "Public park" means an area created, established, designated, or maintained by the special district, a County, the State, or the Federal government for public play, recreation, or enjoyment or for the protection of natural resources and features at the site.

QQQ. "Qualified patient" has the same definition as in Section 11362. 7 of the California Health and Safety Code, as it may be amended.

RRR. "Retail Establishment" means a premises where Cannabis or Cannabis Products are offered, either individually or in any combination, for retail sale or Delivery to customers, patients or primary caregivers pursuant to State Law.

SSS. "Retail Permit" means a City Permit to sell and Deliver Cannabis and Cannabis Products to customers, patients and primary caregivers in accordance with the terms and conditions of this Chapter and the conditions of approval for the applicable City Permit issued to the particular Retail Permittee. Such Permits shall be associated with State License type 10 or such other Retail license types created by the State.

TTT. "Retail Permittee" means a Person that has been issued a Retail Permit by the City pursuant to the terms and conditions of this Chapter.

UUU. "State" means the State of California.

VVV. "State license", "license, " or "registration" means a state license issued pursuant to California Business & Professions Code Sections 19300, et seq.

WWW. "State Law" means all laws of the State, including all rules and regulations adopted by State agencies and State regulatory entities.

XXX. "State License" means a State License issued under Division 10, commencing with Section 26000, of the Business and Professions Code, and includes both an A-License and M-Licenses as well as a testing License.

YYY. "State License Deadline" means [the later of (i) the first anniversary of the date on which the Bureau of Cannabis Control posts a notice on its website or otherwise publicly announces that state licensing authorities have commenced issuing State Licenses, or (ii) the applicable date upon which a Person with a City License must obtain a State License to comply with State Law.

ZZZ. "State Licensee" means a Person that has been issued a State License.

AAAA. "Testing" means the testing of the quality, makeup or purity of Cannabis and Cannabis Products as required by applicable State Law.

BBBB. "Testing Permit" means a City Permit for Testing pursuant to the terms and conditions of this Chapter and the conditions of approval for the applicable City Permit issued to the particular Testing Permittee. Such Permits shall be associated with State License 8 or such other Testing license types created by the State

CCCC. "Testing Permittee" means a Person who has been issued a Testing Permit by the City pursuant to the terms and conditions of this Chapter.

DDDD. "Testing laboratory" means a facility, entity, or site in the state that offers or performs test of medical cannabis or medical cannabis products and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state; and
2. Registered with the California State Department of Public Health.

EEEE. "Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial medical Cannabis activity authorized pursuant to the California Business & Professions Code Sections 19300, et seq.

19-02 Cannabis Dispensaries and Operating Standard

19.02.010 Cannabis Dispensaries

Pursuant to Chapter and Section 5.08 [sic], it is unlawful for any owner, operator, or association to own, conduct, operate or maintain, or to participate therein, or to cause or to allow to be conducted, operated, or maintained, any dispensary, delivery or delivery only dispensary in or into the City unless there exists a valid business permit in compliance with the provisions of Chapter 15.08 [sic] and a permit issued under this Chapter. (Section 5.76.010) However, entities authorized under Marina Municipal Section 19.02.010 must abide by the same requirements imposed herein on dispensaries.

This Chapter, and the requirement to obtain a business and/or use permit, does not apply to the individual possession or cultivation of medical or Adult Cannabis for personal use, nor does this Chapter apply to the usage, distribution, cultivation or processing of medical or Adult cannabis by qualified patients or primary caregivers or qualified adults when such group is of three or less individuals, and distributing, cultivating or processing the cannabis from a residential unit or a single non-residential parcel of land. Associations of three or less qualified patients or primary caregivers shall not be required to obtain a permit under Chapter 17.48, but must comply with applicable State law.

The City Manager shall issue no more than three (3) valid permits for the operation of Medical Cannabis dispensaries in the City of Marina at any one time.

The City Manager shall issue no more than three (3) valid permits for the operation of Adult Cannabis dispensaries in the City of Marina at any one time.

No new Cannabis Premise shall be located within 600 feet of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued. All distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure in which the Cannabis Premise is, or will be, located to the nearest property line of those uses describe in this Subsection.

Dispensaries shall not be located within one thousand hundred (1,000) feet of another dispensary, unless the adjacent dispensary is a medical dispensary locating next to an adult dispensary or the opposite.

19.02.020 ELIGIBILITY REQUIREMENT

A. No person may be allowed to have any position with a Dispensary other than that of Member if she or he has been convicted of:

1. Homicide;
2. Within the preceding 10 years, any serious or violent felony listed in Penal Code Section 1192.7(c) or Section 667^(c);

3. Within the preceding 10 years, any violation of Penal Code Sections 243 through 247, except for subdivision (a) of Section 243;

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4. Within the preceding 10 years, any offense under subdivisions (d) or (e) of Section 11357 or Section 11361, or Articles 1, 3, 5, 6, or 7 of Chapter 6 of Division 10 of the Health and Safety Code; or

5. Within the preceding 3 years any felony violation of Health and Safety Code Section 11358. Section 11359 or Section 11360.

B. Such other information deemed necessary to conduct any investigation or LiveScan Background check of the applicant, and for the City Manager to determine compliance with this Chapter, the City's Municipal Code and Zoning Code.

C. All applicants shall pay an application fee, a permit fee, and all inspection fees that may be required as part of the application process, as specified in the City's Master Fee Schedule.

D. At the time of submission of dispensary permit application, the applicant shall pay a dispensary permit application fee not to exceed \$8,000. The fee amount shall be set by City Council resolution per the City's Master Fee Schedule.

E. Notarized, written authorization from the property owners) that a Commercial Cannabis Business may be operated at the site.

F. The name and address of Managers or responsible agents of the Commercial Cannabis Business, which shall be updated not less frequently than annually.

19.02.030 OPERATION PLAN

All applicants must provide a plan of operations that will describe how the dispensary will operate consistent with State Law and the provisions of this Chapter including but not limited controls to ensure medical or Adult cannabis will be dispensed only to qualified adults, qualified patients and primary caregivers. Dispensaries shall comply with Health and Safety Code Sections 11362. 7 et seq. and any other state laws that may be adopted concerning Medical or Adult Cannabis, California's Medical Marijuana Regulation and Safety Act, the Adult Use of Marijuana Act, the Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, and any other applicable City laws or regulations, and shall pay all applicable state or local taxes. Dispensaries shall also comply with the operating standards set forth in this Section.

19.02.030 [sic] MEMBERSHIP. (19.02.035)

A. Medical Dispensaries may consist only of Members.

B. Medical Dispensaries may only obtain Medical Cannabis from, and supply Medical Cannabis to, their Members.

C. Dispensaries may not admit any person as a Member without first verifying her or his status as a qualified patient or primary caregiver as defined by state law, and shall immediately cancel the membership of any person who diverts Medical Cannabis for non-medical use or in any minor not permitted by this Chapter or State law.

D. Physicians' recommendations shall be verified prior to granting membership and at least every twelve (12) months thereafter, and a physical or digital record shall be kept of such verification. No Medical Cannabis may be dispensed except to a Member and pursuant to a recommendation

that is no more than twelve (12) months old, unless the recommendation expressly states that it has a longer term or does not expire.

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E. Adult Dispensaries must comply with all aspects of the Adult Use of Marijuana Act and must receive a license from the State prior to start of operations, and shall maintain license throughout operations.

F. Non-Diversion. Medical dispensaries shall take all practicable steps necessary to prevent and deter diversion of Medical Cannabis to non-Members. Dispensaries must limit access to Medical Cannabis, Medical Cannabis Products and Edibles to authorized personnel only, and must maintain an inventory management system that accounts for all Medical Cannabis, Medical Cannabis Products and Edibles.

19.02.040 DISPENSING.

A. Medical Dispensary may not dispense to any person who is not a Member and may not dispense without first verifying membership.

B. Medical Dispensary may not provide more Medical Cannabis to an Individual than is necessary for that person's personal medical use.

C. Dispensary may not distribute free samples for promotional purposes outside of the Dispensary premises.

D. No dispensary shall dispense Medical Marijuana from more than one (1) location in the City of Marina.

E. No owner of dispensary in the City shall open a second dispensary in the City; except that medical dispensaries and co-located or adjacent Adult dispensaries may have the same ownership.

19.02.050 MEMBERS AND EMPLOYEES.

A. All employees and volunteers must be Members who are at least 21 years of age.

B. Medical Dispensaries may not admit any person under 18 years of age to membership without written authorization of a parent or legal guardian. Any Member under 18 years of age shall be accompanied by a parent or legal guardian at all times that such person is at the Dispensary.

19.02.060 ADULT DISPENSARIES

All Adult Dispensaries must comply with all state law and shall comply with the following conditions:

A. Dispensary may not dispense to any person who is not 21 years of age or older.

B. Dispensary may not distribute free samples for promotional purposes outside of the Dispensary premises.

C. No dispensary shall dispense Adult Marijuana from more than one (1) location in the City of Marina, however, subject to State requirements, may have a co-located or adjacent Medical and Adult location.

D. No owner of dispensary in the City shall open a second dispensary in the City; except that medical dispensaries and co-located or adjacent Adult dispensaries may have the same ownership.

E. All adult dispensaries must hold a valid and current Use Permit from the City of Marina pursuant section 19.08.010 (d) of this chapter.

19.02.070 SECURITY.

A security plan, as a separate document, outlining the proposed security arrangements to deter and prevent unauthorized entrance into areas containing medical or Adult Cannabis or medical or Adult cannabis products and theft of medical or Adult cannabis or medical or Adult cannabis products at the dispensary, in accordance with minimum security measures required by State law and the requirements herein. The security plan shall be reviewed and approved by the Police Department and the Office of the City Manager and shall be exempt from disclosure as a public record pursuant to Government Code Section 6255(a).

A. Dispensaries shall provide adequate security and lighting on-site to ensure the safety of persons and protect the premises from theft at all times. Lighting shall be of sufficient intensity to illuminate all areas of the parking lot, if any. Lighting shall comply with Marina Municipal Code 15.34.080.

B. Dispensaries must maintain security guards and camera coverage of their entire grounds to an extent sufficient to ensure the safety of persons and deter crime. Cameras must be maintained in good condition, and use a format approved by the City Manager or his/her designee, which is of adequate quality, color rendition and resolution to allow the ready identification of any individual committing a crime. The cameras shall be in use 24 hours per day, seven (7) days per week. The areas to be covered by the security cameras include, but are not limited to, dispensing areas, storage areas, cultivation areas, all doors, parking lots, anyplace where new product is delivered and any other area determined by the City Manager or her/his designee. Surveillance footage must be retained for a period of 90 days and made available to the Marina Police Department for purposes of investigation of alleged crimes, promptly upon request without the necessity of a warrant or subpoena.

C. Dispensaries must be equipped with an alarm system that is operated and monitored by a security company licensed by and in good standing with the California Department of Consumer Affairs. Alarms shall be maintained and in good working condition at all times.

D. In order to prevent unauthorized entry during non-business hours, a Dispensary shall either secure all points of entry with bars, retractable, folding or sliding metal gates, or metal rollup or accordion doors, none of which may be visible from the exterior, or provide at least one security guard during those hours.

E. Any security guards employed by Dispensaries shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times. Security personnel may not be armed.

F. All Medical or Adult Cannabis, Medical or Adult Cannabis Products and Edibles, except for limited amounts used for display purposes, samples or immediate sale, shall be securely stored at all times, and the entrance to all storage areas shall be locked and under the control of staff.

G. Dispensaries shall make transactions with payment methods other than cash when feasible. All cash received, except that needed for retail customer transactions shall be kept in a secure receptacle such as a drop safe or other type of safe.

H. Dispensaries shall notify the Marina Police Department and the licensing authority within 24 hours after discovering any of the following:

1. Significant discrepancies identified during inventory;
2. Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the dispensary;
3. The loss or unauthorized alteration of records related to medical or Adult Cannabis, registered qualifying patients, primary caregivers, or dispensary employees or agents; or
4. Any other breach of security.

19.02.080 SIGNAGE

A. Sign shall be posted at the entrance to any Dispensary that includes the following language. The required text shall be of sufficient size to be easily read from a distance of five feet.

FOR MEDICAL: This Dispensary only provides medical cannabis to Us [sic] members, who must have legally recognized California Medical Cannabis Identification Cards or a verifiable, -written recommendation from a physician for medical cannabis. (its)

FOR ADULT:

This Dispensary only provides cannabis to adults who qualify under the Adult Use of Marijuana Act and applicable state law. No person under the age of 21 may enter this facility. Providing cannabis products to those under 21 is illegal and shall be prosecuted to the fullest extent of the law.

B. A sign shall be posted in a conspicuous location inside the structure at the location advising:

FOR MEDICAL: This Dispensary is registered in accordance with the laws of the City of Marina. The sale of marijuana and the diversion of marijuana for non-medical purposes are violations of State law. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.

FOR ADULT: This Dispensary is registered in accordance with the laws of the City of Marina. The sale of marijuana and the diversion of marijuana to persons under the age of 21 are violations of State law. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.

C. No Cannabis products or graphics describing Cannabis shall be visible from the exterior of the property.

D. Signage for a dispensary shall comply with Marina Municipal Code 17.40 [sic]. (Section 17.59)

19.02.090 DELIVERY

If the dispensary operations are proposed to include delivery, all employees of a dispensary delivering medical or Adult Cannabis or medical or Adult cannabis products shall carry a copy of the documentation listed below when making deliveries. This information shall be provided upon request to law enforcement officers and to employees of state and local agencies enforcing this Chapter.

A. A copy of the dispensary's current permits, licenses, and entitlements authorizing them to provide delivery services;

B. The employee's government-issued identification;

[sic] (C.) A copy of the delivery request; and

C [sic]. (D.) Chain of custody records for all goods being delivered.

D [sic]. (E.) All onsite consumption permits shall be special business permits and shall be issued for a term of one year. No property interest, vested right, or entitlement to receive a future license to operate a medical marijuana business shall ever inure to the benefit of such permit holder as such permits are revocable at any time with or without cause by the City Manager subject to Section 19.09.

19.02.100 NEIGHBORHOOD COMPATIBILITY.

A. Dispensaries shall be operated to ensure neighborhood compatibility, and shall take all steps necessary to ensure that customers do not create neighborhood disturbances.

B. Dispensaries shall provide the Police Department and all residents and property owners within 100 feet with the current name, phone number, secondary phone number, and e-mail address of an on-site community relations staff person to whom notice of any operating problems associated with the establishment may be reported. This information shall be updated as necessary to keep it current. Dispensaries shall encourage neighbors to call this person to try to solve any operating problems.

C. All Dispensaries shall have an on-site manager responsible for overall operation at all times they are open, and shall provide the Police Department with contact information for all such persons, including telephone number, street address and e-mail address. Dispensaries shall also provide the Police Department with the current name and phone numbers of at least one 24-hour on-call manager. This information shall be updated as necessary to keep it current.

D. Dispensaries shall take all reasonable steps to 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. Such conditions include, but are not limited to: smoking; creating a noise disturbance; drinking; loitering; littering; and graffiti.

E. Dispensary will be of an architectural and visual quality and character which harmonizes with, and enhances, the surrounding area and that the design will avoid unduly large or obtrusive signs, un-landscaped parking areas, unduly bright or garish lighting, or design features which encourage loitering as determined by the Zoning Administrator.

F. That adequate litter receptacles will be provided where appropriate:

G. Where the dispensary or delivery only dispensary is in proximity to residential uses, it will be limited in hours of operation, and designed and operated, so as to avoid disruption of residents' sleep.

H. No cannabis or cannabis odors shall be detectable by sight or smell outside of a permitted facility.

I. Dispensaries shall ensure all graffiti is removed from property and parking lots under their control within 24 hours of its appearance.

J. Dispensaries shall operate only between the hours of 9:00 a.m. and 11:59 p.m.

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19.02.110 CONSUMPTION OF MEDICAL CANNABIS, TOBACCO AND ALCOHOL.

- A. Smoking of Medical Cannabis is prohibited at Dispensaries.
- B. Sale or consumption of tobacco is prohibited at Dispensaries.
- C. Sale, service and consumption of alcoholic beverages at Dispensaries is prohibited, and Dispensaries shall prohibit any person in possession of an alcoholic beverage from entering or remaining on the premises.
- D. This subdivision does not prohibit the testing of Medical or Adult Cannabis Products by staff of a Dispensary or the use of tinctures or topical Medical Cannabis Products that do not have intoxicating effects.

19.02.120 REGULATORY FEES; SELLER'S PERMIT

In addition to any other required conditions and mitigation measures approved by the Appropriate Authority, all of the following conditions shall apply to all permits for a medical or Adult cannabis dispensary:

- A. The Cannabis dispensary shall allow access to dispensary facilities and records if requested by the City, its officers, or agents, and shall pay for an annual inspection and submit to inspections from the City or its officers to verify compliance with all relevant rules, regulations, and conditions.
- B. The applicant, owner, and all permittees agree to submit to, and pay for, inspections of the operations and relevant records or documents necessary to determine compliance with this Chapter from any enforcement officer of the City or their designee.
- C. Any person operating a medical or Adult Cannabis dispensary shall obtain a valid and fully executed commercial medical or Adult cannabis permit pursuant to 19.02 of the Marina Municipal Code prior to commencing operations and must maintain such permit in good standing in order to continue operations.
- D. Upon implementation of state regulations pursuant to California Business and Professions Code Section 19320, a valid license from the State shall be required to operate any commercial medical cannabis activity.
- E. The owner shall post or cause to be posted on site the Use Permit and all required City, County and state permits and licenses required to operate. Such posting shall be in a central location, visible to the patrons, at the operating site, and in all vehicles that deliver or transport marijuana.
- F. The owner shall be responsible for ensuring that all commercial medical cannabis activities at the site operate in good standing with all permits and licenses required by the Marina Municipal Code and State law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial medical Cannabis activities at the site who do not maintain permits or licenses in good standing with the City or State shall be grounds for the suspension or

revocation of a Use Permit pursuant to Section 17.80 [sic] of the Marina Municipal Code.
(Section 17.48.060)

G. Dispensaries shall comply with all physical accessibility requirements pursuant to American Disability Act.

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19.03 COMMERCIAL CANNABIS CULTIVATION AND OPERATING STANDARD

It is hereby declared to be unlawful and a public nuisance for any person or persons owning, leasing, occupying, or having charge of possession of any legal parcel or premises within any zoning district m [sic] the City of Marina to cultivate marijuana except as provided for in this chapter. (in)

No cultivation of Medical or Adult Marijuana at the premises or location shall be visible with the naked eye from any public or other private property, nor shall medical marijuana or any product containing medical marijuana be visible from the exterior of any premises.

No Medical or Adult Marijuana shall be dispensed from a cultivation site and shall not be open to the public.

In no case shall a building intended for residential use be used for the cultivation of cannabis.

The maximum size of any areas of cultivation shall not exceed any restrictions outlined in State law.

Security measures sufficient to restrict access to only those intended and to deter trespass and theft of medical or Adult cannabis or medical or Adult Cannabis products shall be provided and maintained. If on-site security is utilized, Security shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times.

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

Water conservation measures, water capture systems, or grey water systems shall be incorporated in medical Cannabis cultivation operations in order to minimize use of water where feasible.

A. An Administrative Use Permit [sic] for medical Cannabis cultivation shall not be granted by the Appropriate Authority unless all of the following findings are made based on substantial evidence: (Use Permit)

1. The cultivation, as proposed, will comply with all of the requirements of the State and City, and any additional conditions of license for the cultivation of medical or Adult cannabis.
2. The cultivation, as approved and conditioned, will not result in significant unavoidable impacts on the environment.
3. The cultivation includes adequate measures that minimize use of water for cannabis cultivation at the site.
4. The cultivation includes adequate measures to address the projected energy demand for Cannabis cultivation at the site.
5. The cultivation includes adequate quality control measures to ensure Cannabis cultivated at the site meets industry standards.

6. The cultivation includes adequate measures that address the federal enforcement priorities for Cannabis activities including restricting access to minors, and ensuring that cannabis and cannabis products are not supplied to unlicensed and unpermitted persons within the State and not distributed out of state.

7. The applicant, property owner, and permittees agree to submit to, and pay for, inspections of the operations and relevant records or documents necessary to determine compliance with this Chapter from any enforcement officer of the City of Marina or their designee.

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8. Any person cultivating cannabis shall obtain a valid and fully executed commercial Cannabis Permit pursuant to Chapter 5.04 [sic] of the Marina Municipal Code prior to commencing operations and must maintain such permit in good standing in order to continue operations. (Section 5.76)

9. The owner shall be responsible for ensuring that all commercial cannabis activities at the site operate in good standing with all permits and licenses required by State law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial Cannabis activities at the site who do not maintain permits or licenses in good standing with the City, County or State shall be grounds for the suspension or revocation of a Use Permit pursuant to Section 19.09 [sic] of the City Code. (17.48.060)

19.04 COMMERCIAL CANNABIS TESTING, and MANUFACTURING, OPERATING STANDARD

It is hereby declared to be unlawful and a public nuisance for any person or persons owning, leasing, occupying, or having charge of possession of any legal parcel or premises within any zoning district in the City of Marina to test, manufacture Cannabis products, or to engage in research and development of cannabis except as provided for in this chapter.

No cannabis or Cannabis products at the premises or location shall be visible with the naked eye from any public or other private property, nor shall medical marijuana or any product containing medical marijuana be visible from the exterior of any premises.

No Medical or Adult Marijuana shall be dispensed from a testing, or manufacturing site and shall not be open to the public.

Security measures sufficient to restrict access to only those intended and to deter trespass and theft of medical or Adult Cannabis or medical or Adult Cannabis products shall be provided and maintained. If on-site security is utilized, Security shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times.

Hazardous materials shall be properly labeled and stored to avoid contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife.

[sic] (A.) A Use Permit for testing, and manufacturing of Cannabis and cannabis products shall not be granted by the Appropriate Authority or City unless all of the following findings are made based on substantial evidence:

1. The activity, as proposed, will comply with all of the requirements of the State and City, and any additional conditions of license for the testing, manufacturing, or research and development of Cannabis or cannabis products.

2. The use, as approved and conditioned, will not result in significant unavoidable impacts on the environment.

3. The use includes adequate measures that minimize use of water at the site.
4. The cultivation includes adequate quality control measures to ensure cannabis cultivated at the site meets industry standards.

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5. The use shall include adequate measures that address the federal enforcement priorities for cannabis activities including restricting access to minors, and ensuring that Cannabis and cannabis products are not supplied to unlicensed and unpermitted persons within the State and not distributed out of state.

6. The applicant, owner, and permittees agree to submit to, and pay for, inspections of the operations and relevant records or documents necessary to determine compliance with this Chapter from any enforcement officer of the City of Marina or their designee.

7. Any person testing, manufacturing or performing research and development operations using cannabis shall obtain a valid and fully executed commercial cannabis business license pursuant to Chapter 5.04 [\[sic\]](#) of the Marina Municipal Code prior to commencing operations and must maintain such permit in good standing in order to continue operations. [\(5.76\)](#)

8. The owner shall be responsible for ensuring that all commercial cannabis activities at the site operate in good standing with all permits and licenses required by State law.

Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial cannabis activities at the site who do not maintain permits or licenses in good standing with the City, County or State shall be grounds for the suspension or revocation of a Use Permit pursuant to Section 19.09 [\[sic\]](#) of the City Code. [\(17.48.060\)](#)

19.05 CANNABIS DISTRIBUTION

Cannabis distribution facilities shall comply with all of the following requirements.

- A. Cannabis distribution facilities shall be located only in zoning districts that specifically provide for this use.
- B. Cannabis and cannabis products shall only be transported between permitted and licensed commercial cannabis operations.
- C. Prior to transporting cannabis or cannabis products, the transporter shall complete an electronic shipping manifest. The shipping manifest shall include the unique identifier information from the cultivation source.

D. A physical copy of the shipping manifest shall be maintained during transportation and shall be made available upon request to law enforcement or any agents of the State or County charged with enforcement of this Chapter.

E. All cannabis uses that require transport licenses under SB94 but that are not Transport and Distribution Only Businesses shall receive a license for transport.

F. Distribution facilities shall maintain appropriate records of transactions and shipping manifests. An organized and clean method of storing and transporting cannabis and cannabis products shall be provided to maintain a clear chain of custody.

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G. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of cannabis or Cannabis products shall be provided and maintained. Security measures at distribution facilities shall include, but are not limited to, the following:

1. Prevent individuals from loitering on the premises of the distribution facility if they are not engaging in activity expressly related to the operations of the distribution facility;

2. Store all cannabis and Cannabis products in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft, and loss;

3. Install security cameras on site; and

4. Provide for on-site security personnel meeting the requirements and standards contained

within Chapter 19.02.070 of the Marina Municipal Code and approval by the Chief of Police.

H. The owner shall be responsible for ensuring that all commercial cannabis activities at the site operate in good standing with permits and licenses required by the Marina Municipal Code and State law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial medical cannabis activities at the site who do not maintain permits or licenses in good standing with the City, County or State shall be grounds for the modification or revocation of a Use Permit pursuant to Section 19.09 [sic] of The City of Marina Code.

(17.48.060)

I. The transportation and distribution facilities and activities shall be maintained in accordance with the operating plans approved by the City.

19.06 PUBLIC HEARING

Applications for dispensaries shall be subject to a hearing and must provide Public notice of the hearing in accordance with on [sic] the application shall be given as provided in Section 17.

78.020 [sic]. (17.48.030) The City Manager or designee [sic] shall be the investigating official [sic] referred to in Section 17.78.020 to whom the application shall be referred. (Planning Commission) (authority) In recommending the granting or denying of such permit and in granting or denying the same, the City Manager shall give particular consideration to the

capacity, capitalization, and complaint history of the applicant and any other factors that m [sic] the City Manager's discretion he/she deems necessary to the peace, order and welfare of the public. (in)

19.07 RANKING AND ALLOCATION PROCEDURE AND CRITERIA In the event that multiple applications are submitted for any Cannabis use that is restricted in number, the City Manager or designee shall use the following criteria for recommending to the City Council what applicant shall receive approval to operate.

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[sic] (A.) Businesses seeking a license to operate a dispensary or cultivation operation must submit the following for evaluation:

1. Business Plan: Applicants shall submit a Business Plan to the City that outlines an operational and financial plan. The Business Plan should include the names and resumes of key staff, operations plan, financial plan, sales projections and market study. Applicants are encouraged to provide a specific, written plan for how their operation will benefit the community.

2. Security Plan: All applicants shall submit a Security Plan outlining how the business expects to address security issues at their location.

3. Property Owner Approval: Applicants shall submit proof of approval of the owner of the real property where the proposed dispensary will be located if approved. Applicants are not required to have a signed lease, but a letter from the property owner indicating that:

a. The property owner is aware of and approves the use being proposed.

b. The property owner will lease the property to the cannabis related use upon approval of application.

c. The property owner understands that licenses for cannabis related uses are for one year and can be revoked at the City's sole discretion with or without reason.

4. Live Scan: All principle employees of any cannabis related use must obtain a Live Scan and submit the results with their application.

19.08.010 SELECTION CRITERIA:

A. General Eligibility Review: In the event that an applicant is unable to meet the minimum eligibility criteria, their application shall be denied. Applicants will be evaluated on the following:

1. Live Scan Results: Applicant must not have any criminal convictions that would result in ineligibility as defined in section 19.02.020.

2. Application must be complete to be evaluated. Incomplete applications will be denied and must be resubmitted. Application fees must be paid for resubmittal.

3. Proposed location of business and proof of property owner's approval of use.

4. Indemnification agreement with the City.

B. Initial Ranking - The City shall open an application period of not less than 30 days to allow prospective Permittees to submit applications.

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1. Applicants will be evaluated on the following criteria:

a. Business Plan

i. A business plan that demonstrates prior successful business operations (which need not be Cannabis business related) at a similar scale of annual revenue for at least two years and / or capitalization sufficient to insure at least one year of operation will receive five points. A business plan without such demonstration will receive 0 points.

b. Local Enterprise & Community Benefits

i. Community benefits may include commitment to employ persons who are City of Marina residents. Other community benefits could include a commitment to working with Marina-located businesses (including capital), a commitment to sponsoring nonprofits and / or other similar specific commitments within the Marina community. A maximum of eight points will be awarded, with one point for every City of Marina resident that a business commits to employ, and one point for every specified annual substantial commitment to of the applicant's choice to any non-profit or business within the community.

c. Neighborhood Compatibility

i. Applicants which demonstrate neighborhood support with a majority of property owners within 250 feet will receive five points. Applicants who do not demonstrate neighborhood support with a majority of property owners within 250 feet will receive zero points.

d. Safety and Security Plan

i. The Marina Police Department will review the Safety and Security Plan and classify the Plan as inadequate, adequate or exemplary. Plans classified as inadequate will not be permitted to proceed. Plans classified as adequate will receive ten points. Plans classified as exemplary will receive twenty points.

e. From the initial ranking, up to twice as many qualified applicants as there are available licenses will be eligible for final ranking, as determined by the aggregate scores of the initial ranking.

C. Final Ranking

1. The top applicants equal to the number of licenses available will be eligible to apply for a Conditional Use Permit and license to engage in a commercial cannabis business. Qualified applicants from the initial ranking may amend and combine their applications

to optimize their scores. If following the opportunity to optimize scores, two or more applicants are tied, both applicants will proceed to the next step.

D. Use Permit:

1. Applicants shall complete phases 1-3 prior to applying for a Conditional Use Permit and license.
2. At the next available Planning Commission meeting, allowing time for Staff review, a public hearing for each top application shall be held.
3. Members of the public, adjacent property owners and other interested parties will be given the opportunity to present concerns or support, and provide additional consideration for potential permit conditions.

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4. Planning Commission will make a recommendation to City Council, including any conditions requested for final decision on awarding Use Permits and License.
5. At the next available City Council meeting, Planning Commission and Staff recommendations will be presented to City Council for final decision.
6. If an available license is not filled for any reason and a business that qualified under phases 1- 3 but was not selected to move forward in the process requests consideration for phase 4, consideration shall be granted in order of ranking.

E. Use Permits for Cannabis Uses are for one year and do not run with land. No vesting of any land use rights are conveyed with any use permit for a Cannabis related use. Holders of use permits shall have the opportunity administratively renew as long as the business has complied with all state and local ordinances and with Conditions of Approval, including the timely payment of all fees and taxes.

F. Cannabis Licenses are for one year and may be revoked at any time for failure to comply with all state and local ordinances, or for failure to comply with Conditions of Approval. Licenses shall have the opportunity to automatically renew as long as the business has complied with all state and local ordinances and with Conditions of Approval, including the timely payment of all fees and taxes.

19.09 ENFORCEMENT

Violations of this Chapter shall constitute a public nuisance and may be enforced pursuant to the provisions of Chapter 17.80 [sic] of the Municipal Code any other law or ordinances it deems appropriate. (17.60)

A. It shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements, of this Chapter. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Chapter shall be guilty of a misdemeanor. No proof of knowledge, intent, or other mental state is required to establish a violation.

B. Any condition caused or allowed to exist in violation of any of the provisions of this Chapter shall be deemed a public nuisance and shall, at the discretion of City, create a cause of action for penalty pursuant to Chapters 17.80 [sic] of this Code, and any other action authorized by law. (17.60)

C. Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City of Marina or otherwise authorized by law. Additionally, as a public nuisance, any violation of this Chapter shall be subject to injunctive relief, disgorgement of any payment to the City of Marina of any and all monies unlawfully obtained, costs of abatement, costs of restoration, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Marina may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial medical or Adult cannabis activity or persons related thereto, or associated with, the commercial medical or Adult cannabis activity.

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19.10 APPEALS PROCESS

A. If the City Manager or his / her designee determines that grounds for suspension or revocation of the Use Permit exist pursuant to section 19.09, the City Manager or his / her designee shall issue a written Notice of Intention to revoke or suspend the Use Permit, as the case may be. The Notice of Intention shall be served on the property owner, as reported on the latest equalized assessment roll, and shall also be served on permittees on the property, as reported on the commercial medical cannabis permits issued pursuant to Chapter 19.02. The Notice of Intention shall be served by either personal delivery or by certified U.S. Mail, postage prepaid, return receipt requested. The Notice of Intention shall describe the property, the intention to revoke or suspend the Use Permit, the grounds for revocation or suspension, the action necessary to abate the violation, the time limit for compliance, and the right to a hearing. The Notice of Intention shall notify the owner and permittees of the opportunity to request a hearing before a Hearing Officer [sic] to present evidence as to why the Use Permit should not be suspended or revoked and shall notify them of the 10-day deadline to submit a written request for a hearing. (City Council)

B. The owner and permittees shall have ten (10) calendar days from the service of the Notice of Intention to submit a written request for a hearing before the Hearing Officer [sic]. (City Council) Failure to submit the written request for a hearing shall be deemed a waiver of the right to challenge the suspension or revocation of the Use Permit and a failure to exhaust administrative remedies. If the hearing is not timely requested, the City Manager or his / her designee may suspend or revoke the Use Permit in accordance with the Notice of Intention.

C. Upon receipt of a timely written request for a hearing, the City Manager or his / her designee shall appoint a hearing officer [sic] and set a date for a hearing to be held within 60 days of receipt of the request, unless an immediate threat to the public health, safety and welfare necessitates an earlier hearing date. Notice of the hearing, including the time, date, and location of the hearing, shall be served on the owner and permittees, such service to be accomplished by either personal delivery or by certified U. S. Mail, postage prepaid, return receipt requested.

D. Hearing by the Hearing Officer [sic]: (City Council)

1. The Hearing Officer is authorized to conduct hearings, issue subpoenas, receive evidence, administer oaths, rule on questions of law and the admissibility of evidence, prepare a record of the proceedings, and render decisions on the suspension or revocation of the Use Permit.

2. In any proceeding before a Hearing Officer, oral testimony offered as evidence shall be taken only on oath or affirmation, and the Hearing Officer, his/her clerk, or other designee shall have the power to administer oaths and affirmations and to certify to official acts.

3. All parties to the hearing shall have the opportunity to testify, introduce exhibits, call and examine witnesses, and cross examine opposing witnesses on any matter relevant to the issues.

4. Within thirty (30) calendar days after the close of the hearing, the Hearing Officer shall issue a written decision, including a statement of the basis for the decision. The Hearing Officer's written decision shall constitute the final administrative decision of the City of Marina.

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5. In the event a civil action is initiated to obtain enforcement of the decision of the Hearing Officer, and judgment is entered to enforce the decision, the person against whom the order of enforcement has been entered shall be liable to pay the City's total costs of enforcement, including reasonable attorney fees.

6. If neither owner nor any permittee nor their authorized representatives appear at the noticed hearing, such failure to appear shall constitute an abandonment of the hearing request and a failure to exhaust administrative remedies.

19.11 SEVERABILITY

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

Section 2. Zoning. The following changes shall be made to Chapter 17 of the Marina Municipal Code including sections 17.22.030 [sic], 17.24.030, 17.28.020, 17.29.030, 17.31, 17.42.030, 17.06.020, 17.20.30 and 17.06.010.O, 17.06.010.P, and 17.06.010.Q.

1. The following sections of Chapter 17 shall have Cannabis Retailer added as land uses with a requirement of a Conditional Use Permit:

- a. 17.28 Airport District (AP-2/3)
- b. 17.29 Business Park (BP)
- c. 17.31 Business Park Small Lot Combining District (BP/P)
- d. 17.22 Retail Business District (C-1)
- e. 17.24 General Commercial District (C-2)
- f. 17.31 [sic] Planned Commercial District (PC) (17.26)
- g. 17.42 Transitional Zoning District (T-B-5)

2. The following sections of Chapter 17 shall have Cannabis Cultivation added as land uses with a requirement of a Conditional Use Permit:

- a. 17.28 Airport District (AP-2/3)
- b. 17.29 Business Park (BP)
- c. 17.31 Business Park Small Lot Combining District (BP/P)
- d. 17.42 Transitional Zoning District (T-B-5)

3. The following sections of Chapter 17 shall have shall have cannabis manufacturing, cannabis distribution and cannabis testing labs added as land uses with a requirement of a Conditional Use Permit:

- a. 17.28 Airport District (AP-2/3)
- b. 17.29 Business Park (BP)
- c. 17.31 Business Park Small Lot Combining District (BP/P)
- d. 17.22 Retail Business District (C-1)
- e. 17.24 General Commercial District (C-2)
- f. 17.31 [sic] Planned Commercial District (PC) (17.26)
- g. 17.42 Transitional Zoning District (T-B-5)

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4. Sections 17.06.010.O and 17.06.010.P[sic] - These sections of Marina Municipal Code Chapter 17 the code shall be deleted. (17.06.020.O and 1706.020.P)

5. Section 17.06.010.Q [sic] of will be deleted except for the following: (17.06.020 O)

“A qualified patient, with an identification card, as defined in California Health and Safety Code Section 11362.7, may cultivate cannabis for noncommercial, personal purposes as set forth in Health and Safety Code Section 11362.77 per each qualified patient with an identification card, upon property she or he rents or owns and inhabits, either inside the dwelling or on land included in such rented or owned property or as permitted by the Adult Use of Marijuana Act, which provides that not more than six living marijuana plants may be planted, cultivated, harvested, dried, or processed by a person over the age of twenty-one inside a private residence, or inside an accessory building to a private residence that is fully enclosed and secure and located upon the grounds of the private residence, as an incidental use to the primary private residential use. Nothing in this chapter is intended to, nor shall it be construed to, preclude any landlord from limiting or prohibiting marijuana cultivation by its tenants. The cultivation shall be at a location on the property that is secluded so that it cannot be observed by a member of the public who passes by the property. This chapter shall be administratively enforced. (Ord. 2017-07 (Exh. A (part)), 2017; Ord. 2016-01 §§ 3, 4, 2016; Ord. 2007-03 § 2 (Exh. B), 2007; Ord. 2007-02 § 1, 2007; Ord. 2003-01 § 1 (part), 2003; Ord. 2002-03 § 1 (part), 2002; zoning ordinance dated 7/94 (part), 1994)”

6. Section 17.06.020(A and B) Use regulations shall be as follows:

A. No dancehall, nightclub, commercial club, establishment or business where cannabis products or alcoholic beverages are served or sold for off-sale consumption, commercial place of amusement or recreation, including but not limited to an amusement center or arcade, or place where entertainers are provided whether as social companions

or otherwise, shall be established in any zoning district in the city unless a use permit is first secured in each case.

B. A finding of public convenience or necessity is required for an establishment or business where cannabis products or alcoholic beverages are served or sold for on- and/or off-sale consumption within an area of undue concentration. Such finding shall require that selling of alcohol for on and/or off-sale consumption at the subject establishment of business:

1. Will not constitute a public nuisance;
2. Will not occur within six hundred feet of a park, youth center, or school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued.
3. Will not contribute to law enforcement problems associated with an undue concentration of on and/or off-sale licenses in the vicinity of the subject business or establishment.

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Section 4 [sic]: (3) Use Permit. Use permits for cannabis and cannabis related uses are for one year. No property interest, vested right, or entitlement to receive a future license to operate a medical marijuana business shall ever inure to the benefit of such permit holder as such permits are revocable at any time with or without cause by the City Manager or designee subject to Section 19.09 of Marina Municipal Code shall include the following: All Use Permit holders shall also execute a Development/Operating Agreement annually agreeing to abide to all conditions of approval at all times. The City Manager or designee can terminate a Development/Operating Agreement at any time with or without reason.

Section 5 [sic]: (4) Business License.

1. Section 5.20.020 shall be added to the Marina Municipal Code and state the following: 5.04.401 [sic] Cannabis Retailer [sic]: All establishments selling Cannabis or Cannabis Related Products for medicinal and adult use shall pay a business operations tax equal to a minimum of 2.5% of annual gross receipts prior to January 1, 2022, and no more than 5% (at the discretion of City Council) beginning January 1, 2022. (5.76) (Dispensary) Payments are due quarterly on July 1, October 1, January 1, and April 1 each year.

2. Section 5.20.030 shall be added to the Marina Municipal Code and state the following: Non-Retail Cannabis Uses: All establishments manufacturing Cannabis related products or processing Cannabis related products, shall pay a business operations tax equal to a minimum of 2% of annual gross receipts prior to January 1, 2022, and no more than 5% (at the discretion of City Council) beginning January 1, 2022. Payments are due quarterly on July 1, October 1, January 1, and April 1 each year.

Section 6 [sic]: (5) Development/Operating Agreement. Section 5.04.403 [sic] shall be added to the Marina Municipal Code and state the following: Prior to operating in the City and as a condition of issuance of a Use Permit each Cannabis facility shall enter into an annual development/operating agreement with the City setting forth the terms and conditions under which the Cannabis facility will operate that are in addition to the requirements of this chapter, including, but not limited to payment of fees and other charges as mutually agreed, and such

other terms and conditions that will protect and promote the public health, safety and welfare.
(5.76.020)

Section 7 [sic]. (6) Fees. Section 5.04.403 [sic] shall be added to the Marina Municipal Code and state the following: ~~(6)~~

5.76.030 1. Amend the City Fee Schedule to include "Cannabis Dispensary Application Use Permit Fee" of \$7,000.

2. Amend the City Fee Schedule to include "Non-Dispensary Cannabis Application Use Permit Fee" of \$3,000.

Section 8 [sic]. (7) Approval by the Voters. This Ordinance shall be submitted to the voters at an election to be held November 6, 2018 and shall not be effective until so approved.

Section 9 [sic]. (8) Severability.

A. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable.

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B. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid or unenforceable.

Section 10 [sic]. (9) Certification. Upon the approval by the voters, the Deputy City Clerk shall certify the passage of this Ordinance; and within fifteen days the Deputy City Clerk shall cause it to be posted in the three (3) public places designated by the City Council.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Marina duly held on the 3rd day of July 2018 and was passed and adopted by the vote of the people of the City of Marina on November 6, 2018.

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

APPROVED BY THE FOLLOWING VOTE of the people of the City of Marina on
November 6, 2018.

YES: 4,351

No: 2,130