

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.

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) 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 a commercial medical or Adult cannabis activity.

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 of this Title.

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.

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, 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 and a permit issued under this Chapter. 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;

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 MEMBERSHIP.

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.

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 members, who must have legally recognized California Medical Cannabis Identification Cards or a verifiable, -written recommendation from a physician for medical cannabis.

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.

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;

A copy of the delivery request; and

C. Chain of custody records for all goods being delivered.

D. 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.

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 of the Marina Municipal Code.
- G. Dispensaries shall comply with all physical accessibility requirements pursuant to American Disability Act.

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 in the City of Marina to cultivate marijuana except as provided for in this chapter.

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 for medical Cannabis cultivation shall not be granted by the Appropriate Authority unless all of the following findings are made based on substantial evidence:

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.

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

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 of the City Code.

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.

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.

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 of the Marina Municipal Code prior to commencing operations and must maintain such permit in good standing in order to continue operations.

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 of the City Code.

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.

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 of The City of Marina Code.

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 the application shall be given as provided in Section 17. 78.020. The City Manager or designee shall be the investigating official referred to in Section 17.78.020 to whom the application shall be referred. 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 in the City Manager's discretion he/she deems necessary to the peace, order and welfare of the public.

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.

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.

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.

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 of the Municipal Code any other law or ordinances it deems appropriate.

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 of this Code, and any other action authorized by law.

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.

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 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.

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. 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 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:

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.

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, 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 Planned Commercial District (PC)
- 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 Planned Commercial District (PC)
- g. 17.42 Transitional Zoning District (T-B-5)

4. Sections 17.06.010.O and 17.06.010.P - These sections of Marina Municipal Code Chapter 17 the code shall be deleted.

5. Section 17.06.010.Q of will be deleted except for the following:

“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.

Section 4: 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: Business License.

1. Section 5.20.020 shall be added to the Marina Municipal Code and state the following: 5.04.401 Cannabis Retailer: 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. 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: Development/Operating Agreement. Section 5.04.403 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.

Section 7: Fees. Section 5.04.403 shall be added to the Marina Municipal Code and state the following:

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. 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. 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.

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. 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