

ORDINANCE NO. 844-C.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA AMENDING VARIOUS ARTICLES WITHIN CHAPTER 4 OF TITLE 9 OF THE PACIFICA MUNICIPAL CODE TO AMEND THE CITY'S MARIJUANA REGULATIONS AND AMENDING THE TEXT OF THE MARIJUANA OPERATION OVERLAY DISTRICT MAPS (TEXT AMENDMENT TA-114-19), AND FINDING ADOPTION OF THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT(CEQA)

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

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

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

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

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

WHEREAS, on July 10, 2017, the City Council adopted Ordinance No. 819-C.S. approving Text Amendment TA-106-17 and Rezoning RZ-197-17 which established the City's marijuana regulations and marijuana operation overlay districts; and

WHEREAS, subsequent to introduction but prior to adoption of the City's marijuana regulation, on June 27, 2017, Senate Bill 94 ("SB 94") was enacted that integrated MCRSA with AUMA to create the Medicinal and Adult-Use Cannabis Regulation and Safety Act (the "MAUCRSA"), under which, a single regulatory system governs the medicinal and adult-use cannabis industry in California; and

WHEREAS, on October 17, 2018, the City Council adopted Ordinance No. 836-C.S. amending a requirement of the marijuana use permit process to clarify the processing timelines applicable to marijuana use permit applications and potential sanctions for failing to make an application complete within a defined timeframe; and

WHEREAS, the City’s marijuana regulations establish a maximum number of marijuana retail operations in each of the five Marijuana Operation Overlay Districts to two (2), prohibits staff from accepting any new marijuana use permit applications until the current initial application phase is closed, do not allow manufacturers to extract cannabinoids, and include no established parking standards for marijuana operations; and

WHEREAS, on January 14, 2019, City Council solicited public input on further amendments on the marijuana regulations and the City Council directed staff to draft amendments which would increase the number of allowed marijuana retail operations in the Rockaway Beach and Sharp Park Marijuana Operation Overlay Districts, allow marijuana testing and manufacturing operations to proceed through the marijuana use permit process separate from the established initial application phase, add an additional finding for approval of marijuana use permit, provide priority to existing lottery list applicants, allow manufacturers to extract cannabinoids using non-hazardous methods, develop parking requirements, and other administrative amendments to create efficiencies in the cannabis permitting process; and

WHEREAS, on January 14, 2019, the City Council also directed staff to draft amendments which would incorporate recent State law updates as a result of SB 94, including exchanging the use of the term “marijuana” to “cannabis”; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed amendments contained in Text Amendment TA-114-19 on March 18, 2019 and April 1, 2019, and adopted Resolution No. 2019-013 by a vote of 4-3 initiating and recommending City Council approval of Text Amendment TA-114-19; and

WHEREAS, the City Council of the City of Pacifica held a duly noticed public hearing on the proposed changes on April 22, 2019, and introduced Ordinance No. 844-C.S. on April 22, 2019.

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

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

Section 2. Amendments.

Subpart (z) of Section 9-4.301 of Article 3 “Establishment of Districts” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

“Sec. 9-4.301. - Established.

[...]

(z) Cannabis Operation Overlay District (CO).”

Subpart (a)(6) of Section 9-4.401 of Article 4 “R-1 Single-Family Residential District” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

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

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

[...]

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

Subpart (n) of Section 9-4.402 of Article 4 “R-1 Single-Family Residential District” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

“Sec. 9-4.402. - Development regulations. Development regulations in the R-1 District shall be as follows:

[...]

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

Subpart (a)(6) of Section 9-4.501 of Article 5 “R-2 Two-Family Residential District” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

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

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

[...]

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

Subpart (k) of Section 9-4.501 of Article 5 “R-2 Two-Family Residential District” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

“Sec. 9-4.502. - Development regulations. Development regulations in the R-2 District shall be as follows:

[...]

(k) Cannabis cultivation for personal use: as set forth in Article 48 of this chapter, including, without limitation, the prohibition on outdoor cultivation on any parcel directly abutting any school, day care center, or youth center as those terms are defined.”

Subpart (a)(5) of Section 9-4.601 of Article 6 “R-3 Multiple-Family Residential District” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

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

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

[...]

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

Subpart (l) of Section 9-4.602 of Article 6 “R-3 Multiple-Family Residential District” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

“Sec. 9-4.602. - Development regulations. Development regulations in the R-3 District shall be as follows:

[...]

- (l) Cannabis cultivation for personal use: as set forth in Article 48 of this chapter, including, without limitation, the prohibition on outdoor cultivation on any parcel directly abutting any school, day care center, or youth center as those terms are defined.”

Subpart (l) of Section 9-4.652 of Article 6.5 “R-3/L.D. Multiple-Family Density Residential District” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

“Sec. 9-4.652. - Development regulations. Development regulations in the R-3/L.D. District shall be as follows:

[...]

- (l) Cannabis cultivation for personal use: as set forth in Article 48 of this chapter, including without limitation the prohibition on outdoor cultivation on any parcel directly abutting any school, day care center, or youth center as those terms are defined.”

Subpart (m) of Section 9-4.702 of Article 7 “R-3-G Multiple-Family Residential Garden District” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

“Sec. 9-4.702. - Development regulations. Development regulations in the R-3-G District shall be as follows:

[...]

- (m) Cannabis cultivation for personal use: as set forth in Article 48 of this chapter, including without limitation the prohibition on outdoor cultivation on any parcel directly abutting any school, day care center, or youth center as those terms are defined.”

Subpart (a)(1) of Section 9-4.1001 of Article 10 “C-1 Neighborhood Commercial District” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

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

- (a) *Permitted uses.* The following uses shall be permitted in the C-1 District:
- (1) Retail uses, including, but not limited to, food markets, drug stores, liquor stores and retail restaurants, but excluding firearms sales and any cannabis operation as defined in Article 48 of this chapter;"

Subpart (b)(9) of Section 9-4.1101 of Article 11 "C-2 Community Commercial District" of Chapter 4 "Zoning" of Title 9 "Planning and Zoning" of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

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

[...]

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

[...]

- (9) Cannabis testing operation, subject to the provisions of Article 48 of this chapter, including without limitation any restriction on the establishment of such use in certain locations."

Subpart (k) of Section 9-4.1102 of Article 11 "C-2 Community Commercial District" of Chapter 4 "Zoning" of Title 9 "Planning and Zoning" of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

"Sec. 9-4.1102. - Development regulations.

[...]

- (k) A cannabis activity permit shall be required prior to establishment of a cannabis testing operation, as provided in Article 48 of this chapter."

Subparts (a)(5) and (b)(7) of Section 9-4.1201 of Article 12 "C-3 Service Commercial District" of Chapter 4 "Zoning" of Title 9 "Planning and Zoning" of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

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

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

[...]

- (5) Retail sales in conjunction with any of the uses set forth in this subsection, except retail sales in conjunction with a cannabis operation as defined in Article 48 of this chapter.
- (b) *Conditional uses.* Conditional uses allowed in the C-3 District, subject to obtaining a use permit, shall be as follows:

[...]

(7) Cannabis manufacturing operation, subject to the provisions of Article 48 of this chapter, including, without limitation, any restriction on the establishment of such use in certain locations; and”

Subpart (k) of Section 9-4.1202 of Article 12 “C-3 Service Commercial District” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

“Sec. 9-4.1202. - Development regulations.

[...]

(k) A cannabis activity permit shall be required prior to establishment of a cannabis manufacturing operation or cannabis testing operation, as provided in Article 48 of this chapter.”

Article 17.5 “MO Marijuana Operation Overlay District” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

“Article 17.5 - CO Cannabis Operation Overlay District

Sec. 9-4.1751. - Scope.

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

Sec. 9-4.1752. - Purpose.

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

Sec. 9-4.1753. - Overlay districts created.

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

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

Sec. 9-4.1754. - Uses permitted.

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

(a) *Permitted uses.* None.

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

(1) Cannabis retail operation, as defined in Article 48 of this chapter.

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

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

The number of cannabis operations allowed within a Cannabis Operation Overlay District (CO) shall be the number set forth in this section.

(a) *Cannabis retail operation.* The number of cannabis retail operations within the City of Pacifica shall not exceed six (6), and within that overall limitation, the number allowed within any Cannabis Operation Overlay District (CO) shall be further limited to the maximum provided in the following table:

Table 9-4.1755(a)

NUMERICAL LIMITATIONS

Overlay District	Use
	Cannabis retail operation
CO-F	2
CO-LM	2
CO-PP	2
CO-RB	3
CO-SP	3

Sec. 9-4.1756. - Development standards.

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

Sec. 9-4.1757. - Other discretionary permits.

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

<p>than one animal is kept for each 16,000 square feet on the building site; crop and tree farming except cultivation of cannabis as that term is defined in Article 48 of this chapter; viticulture; home occupations; and the keeping of up to twenty-four (24) chickens or similar birds or rabbits or similar animals</p> <p>*Unless otherwise indicated on the use permit</p>										
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Subparts (a) and (b) of Section 9-4.2203 of Article 22 "Planned Development District (P-D)" of Chapter 4 "Zoning" of Title 9 "Planning and Zoning" of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

"Sec. 9-4.2203. - Uses permitted (P-D).
[...]"

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

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

Subpart (c) of Section 9-4.2302 of Article 23 “General Provision and Exceptions” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

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

[...]

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

Subpart (c) of Section 9-4.2305 of Article 23 “General Provision and Exceptions” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

“Sec. 9-4.2305. - Temporary uses.

[...]

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

Subpart (g) of Section 9-4.2308 of Article 23 “General Provision and Exceptions” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

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

[...]

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

Section 9-4.2710 of Article 27 “Projections into Yards” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

“Sec. 9-4.2710. - Outdoor cultivation of cannabis in residential areas.

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

Subparts (b)(12) and (c)(5) of Section 9-4.2818 of Article 28 “Off-Street Parking and Loading” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

“Sec. 9-4.2818. - Number of parking spaces required.

The number of off-street parking spaces required for the uses set forth in this section shall be as follows:

Use	Requirements
[...]	
(b) <i>Retail and service commercial.</i>	
[...]	
(12) Cannabis Retail Operations	One (1) parking space for each 300 square feet of gross leasable space, plus additional spaces as necessary based on the unique needs of the Operation as determined by the Commission.
(c) <i>Business and professional users.</i>	
[...]	
(5) Cannabis Manufacturing and Testing Operations	Two and seven-tenths (2.7) parking spaces for each 1,000 square feet of gross leasable space, plus additional spaces as necessary based on the unique needs of the Operation as determined by the Commission.”

Subparts (l) of Section 9-4.3101 of Article 31 “Home Occupation Permits” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

“Sec. 9-4.3101 Definitions.

[...]

l) It shall not involve a cannabis operation as that term is defined in Article 48 of this chapter or any activity involving cannabis or cannabis products.”

Article 48 “Marijuana Regulations” of Chapter 4 “Zoning” of Title 9 “Planning and Zoning” of the Pacifica Municipal Code shall be amended to read in its entirety as follows:

“Article 48. - Cannabis Regulations

Sec. 9-4.4800. - Purpose and intent.

It is the purpose and intent of this article to regulate the cultivation and distribution of medicinal and adult-use cannabis in order to ensure the health, safety, and welfare of the

residents of the City of Pacifica. The regulations in this article are meant to ensure compliance with the Compassionate Use Act, the Medical Marijuana Program Act, the Medicinal and Adult-Use Cannabis Regulation and Safety Act, and the Adult Use of Marijuana Act (hereinafter the "State Cannabis Laws") and do not interfere with a patient's ability to use medicinal cannabis as authorized by the state cannabis laws or criminalize the possession or cultivation of cannabis for medicinal or adult-use purposes as permitted by the State Cannabis Laws. Commercial cannabis activity within the City must comply with all provisions of the Pacifica Municipal Code for obtaining permits and licenses for a cannabis operation and must comply with the State Cannabis Laws and all other applicable local and state laws. Nothing in this article shall permit activities that are otherwise illegal under state or local laws.

Sec. 9-4.4801. - Definitions.

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

- (a) "Applicant" shall mean a person or entity that submits an application for a cannabis operation.
- (b) "Cannabinoid" shall mean any and all chemical compounds that are the active principles of marijuana or cannabis.
- (c) "Cannabis" shall have the meaning set forth in Health and Safety Code section 11018 and Business and Professions Code section 26001(f).
- (d) "Cannabis manufacturing operation" or "cannabis manufacturer" shall mean any building, business, entity, facility, establishment, property, site or location that packages or repackages cannabis products, labels or relabels cannabis product containers, produces edible products or topical products using infusion processes, performs extractions as defined in subsection (q) using only mechanical extraction methods, and does not utilize any volatile or non-volatile solvents in the extraction process, and/or performs a closed-loop refinement process as defined in subsection (aa) utilizing ethanol, and requires a Type 6, Type N, or Type P manufacturing license issued by the state and a local cannabis activity permit.
- (e) "Cannabis operation" shall mean any commercial cannabis activity or commercial cannabis activity permitted under this article.
- (f) "Cannabis products" shall have the meaning set forth in Health and Safety Code section 11018.
- (g) "Cannabis retail operation" or "cannabis retailer" shall mean any building, business, entity, facility, establishment, property, site or location that dispenses, sells, and/or delivers cannabis and/or cannabis products and which requires a Type 10 state license and a local cannabis activity permit for medicinal and/or adult-use cannabis sales and deliveries.
- (h) "Cannabis testing operation" or "cannabis tester" shall mean any laboratory, building, business, entity, facility, establishment, property, site, or location that requires a Type 8 state license and a local cannabis activity permit for medicinal and/or adult-use cannabis testing.
- (i) "Clarification" shall mean the process where winterized mixture of cannabinoids/terpenes is further refined via the removal of chlorophyll and other pigments through filters. This process usually incorporates activated carbon, activated earth clays, or amorphous silica.
- (j) "Closed-loop system" shall mean a system that remains closed during normal operations where vapors emitted by the hazardous material (e.g. ethanol solvent) are not liberated outside of the vessel or system and the product is not exposed to the atmosphere during normal operations. Examples of closed systems include product conveyed through a piping system into a closed vessel, system or piece of equipment.

- (k) "Commercial cannabis activity" and "commercial marijuana activity" shall have the meaning set forth in Business and Professions Code section 26001(k), as may be subsequently amended.
- (l) "Crude extract" shall mean the product first obtained from the extraction process. It contains all of the solutes extracted from the plant material.
- (m) "Cultivation" shall mean any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (n) "Customer" means a natural person 21 years of age or over or a natural person 18 years of age or older who possesses a physician's recommendation for the use of cannabis.
- (o) "Day care center" shall have the meaning set forth in Health and Safety Code section 1596.76 as of the effective date of this article and as subsequently amended.
- (p) "Deliver" and "delivery" shall mean the transfer of cannabis or cannabis products to a customer, patient, and/or recipient. "Delivery" shall also include the use by a retailer of any technology platform owned or controlled by a cannabis retailer under this article that enables customers to arrange for or facilitate the commercial transfer of cannabis or cannabis products.
- (q) "Extraction" shall mean a process by which cannabinoids are separated from cannabis plant material through chemical or physical means, which results in a crude extract.
- (r) "Identification card" shall have the meaning set forth in Health and Safety Code section 11362.71, as of the effective date of this article and as subsequently amended.
- (s) "Infuse" or "infusion" shall mean the process by which cannabis, cannabinoids, cannabis concentrates, or manufactured cannabis are directly incorporated into a product formulation to produce a cannabis product.
- (t) "Marijuana" shall have the same meaning as "Cannabis."
- (u) "Mechanical extraction" means non-chemical extraction methods using heat, screens, and presses for purposes of extracting cannabinoids consistent with Type 6, Type N, and Type P manufacturing licenses issued by the state, but excluding the use of any solvents, volatile or non-volatile, in the extraction process.
- (v) "Operator" shall mean any person or entity responsible for the operation or management of the cannabis operation; any person listed on the cannabis operation's articles of incorporation or articles of organization or operating agreement as an officer, manager or director; any person or entity with a financial interest in the cannabis operation as defined in Title 16, California Code of Regulations section 5004, except those financial interests listed in subsection (c) thereof; and any person that supervises another employee of the cannabis operation.
- (w) "Non-volatile solvent" means any solvent used in the extraction process that is not a Volatile solvent. For purposes of this article, a non-volatile solvent includes carbon dioxide (CO₂) used for extraction and ethanol used for extraction or post-extraction processing.
- (x) "Owner" shall mean the person or entity in whom is vested interest and title to the cannabis operation. "Owner" shall also include those individuals that are considered an owner under state cannabis laws, including Business and Professions Code 26001(al) and Title 16, California Code of Regulations section 5003, as may be subsequently amended.
- (y) "Permittee" shall mean the person or entity to whom the City issued a cannabis activity permit.
- (z) "Physician" shall mean a licensed medical doctor, including a doctor of osteopathic medicine as defined in the California Business and Professions Code.
- (aa) "Refinement process" shall mean a post-extraction process in which crude extract is further processed to separate targeted compounds consistent with a Type 6

manufacturing licenses issued by the state and local permits. The only use of any solvent, volatile or non-volatile, in the refinement process shall be limited to ethanol in a closed-loop system to perform winterization, clarification, and solvent recovery.

- (ab) "Solvent recovery" shall mean the recovery of the winterizing and clarification solvent (ethanol) with the application of heat and vacuum.
- (ac) "School" shall mean an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes an elementary school, middle or junior high school, senior high school, or any special institution of education for persons under the age of eighteen (18) years, whether public or private.
- (ad) "State cannabis laws" means and includes California Health and Safety Code sections 11362.1 through 11362.45; California Health and Safety Code section 11362.5 (Compassionate Use Act of 1996); California Health and Safety Code sections 11362.7 to 11362.83 (Medical Marijuana Program); all state laws enacted or amended pursuant to SB-94, Statutes of 2017, Chapter 27 (Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA")), including but not limited to California Business and Professions Code sections 26000, et seq.; California Revenue and Taxation Code sections 31020 and 34010 through 34021.5; California Fish and Game Code section 12029; California Water Code Section 13276; the California Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August, 2008, as such guidelines may be revised from time to time by action of the Attorney General; California Labor Code section 147.5; all state regulations adopted pursuant to MAUCRSA; any license issued pursuant to MAUCRSA; and all other applicable laws of the State of California regulating cannabis.
- (ae) "Volatile solvent" shall have the meaning set forth in subdivision (d) of Health and Safety Code section 11362.3(b)(3) as of the effective date of this article and as subsequently amended.
- (af) "Winterization" shall mean the process where crude extract is dissolved in ethanol at warmer temperatures then cooled to precipitate the fatty acids/waxes from the solution.
- (ag) "Youth center" shall have the meaning set forth in Health and Safety Code section 11353.1 as of the effective date of this article and as subsequently amended.

Sec. 9-4.4802. - Residential cultivation of cannabis.

- (a) Notwithstanding any other restriction on cannabis operations, a person may cultivate up to six (6) living cannabis plants inside his or her private residence, or inside an accessory structure to his or her private residence located upon the grounds of his or her private residence that is fully enclosed and secure, or outside upon the grounds of that private residence, provided that such cultivation complies with all state cannabis laws and the regulations and restrictions set forth in this section.
- (b) All personal cannabis cultivation that occurs outside of a private residence or accessory structure to a private residence shall be located within the rear yard, contained within an area that is fully enclosed by a solid, locked, fence with a height of not less than six (6') feet, shall not encroach upon or otherwise touch adjacent property lines and/or fences, and all portions of any cannabis plant shall maintain the following minimum setbacks from property lines:
 - (1) Front: behind the main structure;
 - (2) Side: five (5') feet; and
 - (3) Rear: five (5') feet.
- (c) Individuals cultivating cannabis under this section must comply with all applicable state cannabis laws.

- (d) No person may cultivate cannabis outside on the grounds of a private residential property if that property is directly abutting any property that contains a school, day care center, or youth center.
- (e) Where a private residence is not occupied or inhabited by the owner of the residence, the owner of the property must provide the occupant written consent expressly allowing cannabis cultivation to occur at said residence.
- (f) Persons cultivating cannabis on residential property shall comply with all applicable technical building standards set forth in the Pacifica Municipal Code, shall not use gas products such as, but not limited to, carbon dioxide, butane, propane, or natural gas on the property for purposes of cannabis cultivation, and pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife.
- (g) The outdoor cultivation of cannabis shall not utilize artificial light, and shall not adversely affect the health or safety of residents, neighbors, or nearby businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to the use or storage of materials, processes, products or wastes associated with the cannabis cultivation.

Sec. 9-4.4803. - Cannabis operations—General provisions.

(a) *Cannabis operations allowed.*

- (1) Only those types of cannabis operations set forth in this section shall be allowed within the City. Any and all cannabis operations not expressly described herein are expressly prohibited.
 - (i) Cannabis retail operation ("retailer").
 - (ii) Cannabis manufacturing operation ("manufacturer").
 - (iii) Cannabis testing operation ("tester").

(2) An owner or operator of a cannabis operation shall be prohibited from owning or operating more than one cannabis operation within the City.

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

(b) *Cannabis activity permit and public safety license required to operate.* It shall be unlawful for any person or entity to open, commence, operate, engage in, conduct or carry on (or to permit to be opened, commenced, operated, engaged in, conducted or carried on) in or upon any property located within the City a cannabis operation unless that person has a valid cannabis activity permit issued by the City pursuant to this article for that property and that type of cannabis operation and a valid cannabis public safety license issued by the City pursuant to Pacifica Municipal Code Title 4, Chapter 16, to the owner and/or operator of the cannabis operation.

(c) *Limitations on location.*

- (1) *Permissible zoning.* Cannabis operations may operate only in the following locations:
 - (i) Cannabis retail operations may only operate in a Cannabis Operation Overlay District (CO).
 - (ii) Cannabis manufacturing operations may only operate in the C-3 (Service Commercial) District.
 - (iii) Cannabis testing operations may only operate in the C-2 (Community Commercial) or the C-3 (Service Commercial) Districts.

(2) *Areas and zones where cannabis operations are not permitted.* Notwithstanding subparagraph (c)(1) above, a cannabis operation may not operate on a parcel or lot located within six hundred (600') feet of a school or youth center that is in existence at the time the cannabis activity permit is issued, or within two hundred (200') feet of a day care center that is in existence at the time the cannabis activity permit is issued. This distance shall be calculated as a straight line from any parcel line of the property on

which the cannabis operation is located to the parcel line of the real property on which the facility, building, or structure, or portion of the facility, building or structure, in which the listed use occurs or is located. Locational restrictions shall apply to an entire parcel if any portion of the parcel is located within the applicable buffer distance.

(d) *Conditions of operation.*

- (1) *All cannabis operations.* All cannabis operations shall be operated, maintained, and managed on a day-to-day basis in compliance with the following operational conditions and requirements:
 - (i) Cannabis public safety license. A cannabis operation shall maintain a cannabis public safety license at all times. The failure to maintain a cannabis public safety license, revocation of a cannabis public safety license, or lapse in renewal of a cannabis public safety license shall be the basis for immediate termination of the right to operate a cannabis operation under a cannabis activity permit.
 - (ii) Employees. It shall be unlawful for the applicant, owner, operator, or any other person effectively in charge of any cannabis operation to employ any person who is not at least twenty-one (21) years of age.
 - (iii) Minors. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a cannabis operation. The entrance to the cannabis operation shall be clearly and legibly posted with a notice indicating that persons under the age of twenty-one (21) years are precluded from entering the premises.
 - (a) Notwithstanding 9-4.4803(d)(1)(iii), persons meeting the definition of "customer" as defined in Section 9-4.4801(k) shall be allowed to enter the premises of a retail cannabis operation.
 - (iv) Every cannabis operation shall display, at all times during its regular business hours, the cannabis activity permit and cannabis public safety license issued for such cannabis operation in a conspicuous place so that the same may be readily seen by all persons entering the cannabis operation.
 - (v) No cannabis operation shall hold or maintain a license from the State Department of Alcoholic Beverage Control for the sale of alcoholic beverages, or operate a business on the premises of the cannabis operation that sells alcoholic beverages, or otherwise allow alcoholic beverages to be possessed, distributed, or consumed on the premises.
 - (vi) No cannabis operation shall be a retailer of tobacco products.
 - (vii) A cannabis operation shall be considered a commercial use relative to the City's parking requirements in Article 28 of this chapter.
 - (viii) Smoking, vaping, ingesting, or consuming cannabis on the premises of a cannabis operation shall be prohibited. A notice prohibiting smoking, vaping, ingesting and consuming cannabis shall be clearly and legibly posted in the cannabis operation and shall not obstruct the entrance or windows.
 - (ix) Operation of a cannabis operation shall not result in illegal re-distribution or sale of cannabis obtained, or the use or distribution in any manner which violates state cannabis law or this article.
 - (x) Site plan.
 - (aa) The site plan shall include a lobby waiting area at the entrance to the cannabis operation used to receive and screen customers, employees, patrons, and guests of the cannabis operation and a separate and secure designated area for dispensing cannabis and conducting other operations of the cannabis operation.
 - (ab) The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

- (xi) Security. The cannabis operation shall at all times comply with all elements of its security plan, submitted as a part of its cannabis public safety license application pursuant to Pacifica Municipal Code Title 4, Chapter 16.
 - (xii) Signage. The cannabis operation shall comply with all applicable provisions of Pacifica Municipal Code Title 9, Chapter 4, Article 29.
- (2) *Supplemental conditions—retailers.* In addition to each of the conditions of operation set forth in subsection (d)(1), a cannabis retail operation shall be operated, maintained, and managed in compliance with the following supplemental conditions:
- (i) Retailers may not sell drug paraphernalia and implements that may be used to ingest or consume cannabis except where such sales and operations comply with Health and Safety Code section 11364.5.
 - (ii) Retailers may only deliver cannabis and cannabis products to customers who comply with state and local law.
 - (iii) A cannabis operation shall not be enlarged in size (i.e., increased floor area) without the Planning Commission's prior review and approval and an approved amendment to the existing cannabis activity permit applied for and issued pursuant to the requirements of this article.
 - (iv) A retailer of medicinal cannabis shall only sell, deliver, or give away medicinal cannabis to individuals authorized to receive medicinal cannabis in accordance with state cannabis laws. Retailers of medicinal cannabis shall require such persons receiving medicinal cannabis to provide valid official identification, such as a Department of Motor Vehicles driver's license or state identification card, each time he or she seeks to purchase medicinal cannabis.
 - (v) Hours of operation. Retailers may only operate during the hours between 7:00 a.m. through 10:00 p.m. The Planning Commission may further restrict a retailer's days and hours of operation as a condition of a cannabis activity permit. A retailer shall post its approved days and hours of operation on a sign located on the street frontage of the cannabis operation in a manner consistent with the City's sign regulations set forth in Article 29 of this chapter.
 - (vi) A retailer shall not have a physician on site to evaluate patients and/or provide recommendations for the use of medicinal cannabis.
 - (vii) State seller's permit. The cannabis operation shall, at all times during operation, maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the California Revenue and Taxation Code.
- (3) *Supplemental conditions—manufacturers.* In addition to each of the conditions of operation set forth in subsection (d)(1), a cannabis manufacturing operation shall be operated, maintained, and managed in compliance with the following supplemental conditions:
- (i) Manufacturers shall not engage in on-site retail sales of cannabis or cannabis products.
 - (ii) Manufacturers shall only conduct extractions using mechanical extraction methods. All other extraction methods, including those using volatile or non-volatile solvents as defined in this Article are strictly prohibited. The extraction process does not include refinement, but may be followed by the refinement process.
 - (iii) Cannabis manufacturing operations may use heat, screens, presses, and other methods without employing solvents or gases to create kief, hash, rosin, and other extracts in the manufacturing process.
 - (iv) Cannabis manufacturing operations may perform refinement processes on crude extract. Refinement processes may use ethanol as a solvent if in accordance with local permits, state cannabis laws including Section 40223 of the California Code of Regulations. Ethanol-based refinement processes shall be performed in a

closed-loop system and shall be limited to winterization, clarification, and solvent recovery. No more than thirty (30) gallons of ethanol may be onsite at any time. All ethanol shall be kept in a fire proof cabinet when not being used. Cannabis manufacturing operations shall meet all California Fire Code requirements and applicable fire safety standards as determined by the Fire Marshal. The ethanol-based refinement process shall be designed and implemented to recapture and reuse ethanol.

- (v) All food products, food storage facilities, food-related utensils, equipment and materials shall be approved, used, managed and handled in accordance with Sections 113700 through 114437 of the California Health and Safety Code, and California Retail Food Code. All food products shall be protected from contamination at all times, and all food handlers must be clean, in good health and free from communicable diseases.
 - (vi) Manufacturers that intend to perform their own distribution of cannabis and/or cannabis products to licensed retail businesses are prohibited by this Article from such activity until and unless they are fully compliant with state cannabis laws, which requires all distribution to be performed only by licensed distributors authorized by the Bureau of Cannabis Control. Manufacturers intending to perform their own distribution shall include or amend as appropriate the distribution operation into their cannabis activity permit and then apply to the Bureau for a state distribution license, as required by Business and Professions Code Section 26070(b). Distribution of cannabis and/or cannabis products not manufactured by the manufacturing operation distributing the cannabis and/or cannabis products shall be strictly prohibited.
- (4) *Supplemental conditions—testers.* In addition to each of the conditions of operation set forth in subsection (d)(1), a cannabis testing operation shall be operated, maintained, and managed in compliance with the following supplemental conditions:
- (i) Testers shall not engage in on-site retail sales of cannabis or cannabis products.
- (5) *Additional conditions.* The Planning Commission may impose additional conditions which it deems necessary to ensure that operation of the cannabis operation will be in accordance with the findings provided in Section 9-4.4805(a) and with the standards and regulations provided in this article and applicable state laws.
- (e) *City access to and inspection of required records.* A duly designated City Police Department or Finance Division representative may enter and shall be allowed to inspect the premises of every cannabis operation as well as the financial and membership records of the cannabis operation required by this article at any time during the cannabis operation's designated business hours, or at any appropriate time to ensure compliance and enforcement of the provisions of this Article. It shall be unlawful for any owner, operator, or any other person having any responsibility over the operation of the cannabis operation to refuse to allow, impede, obstruct or interfere with an inspection of the cannabis operation or the required records thereof. A cannabis operation shall not conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a cannabis operation under this Article.
- (f) *Coastal Zone Combining District.* Cannabis operations shall be subject to and shall comply with all provisions of Title 9, Chapter 4, Article 43 of this Code. A cannabis operation shall not be considered a "visitor-serving use" within the meaning of that term as defined in Article 43 of this Chapter.
- (g) *Business license tax liability.* An operator of a cannabis operation shall be required to apply for and obtain a business tax certificate pursuant to Chapter 1 of Title 3 of this Code as a prerequisite to obtaining a cannabis activity permit pursuant to the terms of this article. When

and as required by the California Department of Tax and Fee Administration, cannabis operation transactions shall be subject to sales tax in a manner required by state law.

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

Sec. 9-4.4804. - Cannabis activity permit—General provisions.

(a) *Cannabis activity permit application procedures—initial applications.*

(1) *Public safety license.*

(i) *Public safety license, phase one application—criminal background check.*

(aa) Within thirty (30) days of the effective date of this article, any person or entity interested in operating a cannabis operation pursuant to this article may submit a public safety license phase one application ("Phase One Application") along with a nonrefundable application fee to the Chief of Police.

(ab) It shall be the applicant's responsibility to provide all of the information and materials required to comply with the phase one application submittal requirements of Section 4-16.04(b)(2). The Chief of Police will not consider any incomplete or late phase one applications. The filing date of the phase one application shall be the date when the Chief of Police officially receives the last submission of information or materials required by Section 4-16.04(b)(2).

(ac) Within sixty (60) days of the effective date of this article, the Chief of Police shall review and approve or deny all phase one applications by utilizing the criteria for approval or denial set forth in Section 4-16.05(a) and (b). The Chief of Police shall notify all applicants in writing of his/her determination to approve or deny their phase one applications. If approved, the applicant may proceed to phase two of the public safety license application procedures.

(ii) *Public safety license phase two application—security plan.*

(aa) Within seventy-five (75) days of the effective date of this article, applicants whose phase one applications have been approved may submit public safety license phase two applications ("Phase Two Applications") along with a non-refundable application fee to the Chief of Police.

(ab) It shall be the applicant's responsibility to provide all of the information and materials required to comply with the phase two application submittal requirements of Section 4-16.04(b)(3)(ii). The Chief of Police will not consider incomplete or late phase two applications. The filing date of phase two application shall be the date when the Chief of Police officially receives the last submission of information or materials required by Section 4-16.04(b)(3)(ii).

(ac) Within one hundred (100) days of the effective date of this article, the Chief of Police shall review and approve or deny the phase two application by utilizing the criteria for approval or denial set forth in Section 4-16.05(a) and (b). The Chief of Police shall notify all applicants in writing of his/her determination to approve or deny their phase two application.

(ad) Applicants whose phase two applications have been approved shall be placed on the City's qualified cannabis registration list.

(2) *Cannabis activity permit.*

(i) Within one hundred thirty (130) days of the effective date of this article, all applicants on the qualified cannabis registration list must submit a cannabis activity permit application along with a deposit for application processing to the Director of Planning to be considered for a cannabis activity permit.

- (ii) It shall be the applicant's responsibility to provide all of the information and materials required to comply with the cannabis activity permit application submittal requirements of Section 9-4.4804(c) and (d). The filing date of the cannabis activity permit application shall be the date when the Director of Planning officially receives the last submission of information or materials required by Section 9-4.4804(c) and (d). If the Director of Planning determines an application submittal is incomplete, an applicant shall be granted an extension of time to submit all materials required to complete the application within twenty (20) working days. If the application remains incomplete in excess of the twenty (20) working days following notification that an application submittal is incomplete, the application shall be deemed incomplete and will no longer be processed. Once the application is deemed complete by the Planning Director, the application shall be placed at the end of the random independent ranking order of the qualified cannabis registration list, and may be considered by the Planning Commission at a future public hearing based on the order of ranking.
 - (iii) Lottery. Within one hundred seventy (170) days of the effective date of this article, the Director of Planning shall hold a random independent ranking process ("Lottery") in an open and public location and shall randomly rank all applications on the qualified cannabis registration list.
 - (iv) Where the Planning Commission denies a cannabis activity permit or an application is withdrawn before consideration by the Planning Commission, all other applications on the qualified cannabis registration list shall be considered by the Planning Commission at a future public hearing in the order of ranking as established by the random independent ranking process. The Planning Commission shall continue to review applications until all applications have been reviewed or until the Planning Commission can issue no further cannabis activity permits based on the criteria of this Article and Article 17.5.
 - (v) Upon notification of the Director of Planning, a qualified applicant shall place a legible, visible sign not less than two (2) square feet on the front of the premises indicating that a cannabis activity permit has been filed and how to contact the Planning Department to obtain more information.
- (3) *License issuance.*
- (i) Within thirty (30) days of the Planning Commission's issuance of a cannabis activity permit, the Chief of Police shall issue all permittees a cannabis public safety license.
- (4) *Closure of the initial applications phase.*
- (i) The closure of the initial application phase shall occur when all applications on the qualified cannabis registration list have been reviewed or when the Planning Commission can issue no further cannabis activity permits based on the criteria of this Article and Article 17.5, and the Council has accepted a determination of closure of the initial application phase which shall be submitted by the Planning Director.
 - (ii) No applications for cannabis retail operations shall be accepted or processed, except those on the qualified cannabis registration list on the effective date of this subsection, until Council has accepted a determination of closure of the initial application phase.
- (5) *Cannabis Manufacturing and Testing Operations.*
- Nothing in this subsection shall preclude applicants for cannabis manufacturing operations and cannabis testing operations from submitting an application for a cannabis activity permit in accordance with the provisions of Section 9-4.4804(b) prior to the closure of the initial application phase.

(b) Cannabis activity permit application *procedures—applications after closure of initial application phase.*

(1) After the closure of the initial application phase, any person or entity interested in operating a cannabis operation pursuant to this Article shall follow the cannabis activity permit application procedures detailed in this subsection.-

(2) *Public safety license.*

(i) *Public safety license, phase one application—criminal background check.*

Any person or entity interested in operating a cannabis operation pursuant to this subsection may submit a phase one application along with a non-refundable application fee to the Chief of Police.

(aa) For cannabis retail operations, the Chief of Police shall retain said phase one applications for a period of one year after which time the phase one application shall be deemed to have expired. If an existing cannabis retail operation's public safety license and/or cannabis activity permit is revoked, ceases, or otherwise becomes null and void, the Chief of Police shall inform all applicants who have submitted phase one applications for cannabis retail operations and whose phase one applications have not expired, that their phase one applications will be reviewed. Those phase one applications that are approved in accordance with Section 4-16.05(a) and (b) may continue through the public safety license and cannabis activity permit application process.

(ab) It shall be the applicant's responsibility to provide all of the information and materials required to comply with the phase one application submittal requirements of Section 4-16.04(b)(2) and (3)(i). The Chief of Police will not consider any incomplete phase one applications. The filing date of the phase one application shall be the date when the Chief of Police officially receives the last submission of information or materials required by Section 4-16.04(b)(2) and (3)(i).

(ac) Within thirty (30) days of the applicant's submittal of the phase one application and, if applicable, after the availability of a cannabis activity permit for a cannabis retail operation, the Chief of Police shall review and approve or deny all phase one applications by utilizing the criteria for approval or denial set forth in Section 4-16.05(a) and (b). The Chief of Police shall notify applicants in writing of his/her determination to approve or deny their phase one applications. If approved, the applicant may proceed to phase two of the public safety license application procedures.

(ii) *Public safety license phase two application—security plan.*

(aa) After receiving approval of a phase one application from the Chief of Police and prior to or concurrent with the submittal of a cannabis activity permit application as detailed in Section 9-4.4804(b)(3), applicants may submit public safety license phase two applications along with a non-refundable application fee to the Chief of Police.

(ab) It shall be the applicant's responsibility to provide all of the information and materials required to comply with the phase two application submittal requirements of Section 4-16.04(b)(3)(ii). The Chief of Police will not consider incomplete phase two applications. The filing date of phase two application shall be the date when the Chief of Police officially receives the last submission of information or materials required by Section 4-16.04(b)(3)(ii).

(ac) The Chief of Police shall review and approve or deny the phase two application by utilizing the criteria for approval or denial set forth in Section 4-16.05(a) and (b). The Chief of Police shall notify each applicant in writing of his/her determination to approve or deny their phase two application.

(3) *Cannabis activity permit.*

- (i) After receiving approval of a phase one application from the Chief of Police and after or concurrent with the submittal of a public safety license phase two application as detailed in Section 9-4.4804(b)(2)(ii), applicants may submit a cannabis activity permit application along with a deposit for application processing to the Director of Planning to be considered for a cannabis activity permit.
 - (ii) It shall be the applicant's responsibility to provide all of the information and materials required to comply with the cannabis activity permit application submittal requirements of Section 9-4.4804(c) and (d). The filing date of the cannabis activity permit application shall be the later of a) the date when the Director of Planning officially receives the last submission of information or materials required by Section 9-4.4804(c) and (d) which enables the Director of Planning to determine the application to be complete, or, b) the date of notification by the Chief of Police of satisfactory completion of public safety license phase two requirements. If the Director of Planning determines an application submittal to be incomplete, he/she shall notify an applicant of those items required in order to determine the application to be complete. An incomplete application shall not be processed until the applicant submits the additional information identified in the written notification provided by the Director of Planning.
 - (iii) The Planning Commission shall review cannabis activity permit applications filed pursuant to this subsection in chronological order by filing date as determined by the Planning Department.
 - (iv) Where the Planning Commission denies a cannabis activity permit or an application is withdrawn before consideration by the Planning Commission, the next application in chronological order by filing date shall be considered by the Planning Commission at a future public hearing. The Planning Commission shall continue to review applications until all applications have been reviewed or until the Planning Commission can issue no further cannabis activity permits based on the criteria of this article and Article 17.5. An applicant whose cannabis activity permit application is denied by the Planning Commission shall not submit another cannabis activity permit application for a period of one (1) year from the date of action by the Planning Commission. If unprocessed cannabis activity permit applications remain after the Planning Commission has issued all cannabis activity permits based on the criteria of this article and Article 17.5, those cannabis activity permit applications shall be deemed withdrawn, any unused portion of any deposit submitted for processing shall be refunded to the applicant, and such application shall not be provided any priority for future cannabis activity permit opportunities.
 - (v) Any unprocessed cannabis activity permit applicant whose application is deemed withdrawn pursuant to Section 9-4.4804(b)(3)(iv) may resubmit a phase one application pursuant to Section 9-4.4804(b)(1)(i). However, an unprocessed cannabis activity permit applicant may not need to resubmit a phase one application if their phase one application has not expired pursuant to Section 9-4.4804(b)(2)(i)(aa) at the discretion of the Chief of Police.
 - (vi) Upon notification of the Director of Planning, a qualified applicant shall place a legible, visible sign not less than two (2) square feet on the front of the premises indicating that a cannabis activity permit has been filed and how to contact the Planning Department to obtain more information.
- (4) *License issuance.*
- (i) Within thirty (30) days of the Planning Commission's issuance of a cannabis activity permit, the Chief of Police shall issue a permittee a cannabis public safety license in accordance with the timelines and procedures of Section 9-4.4804(b).
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- (c) *Imposition of cannabis activity permit fees.* Every application for a cannabis activity permit issued pursuant to this article shall be accompanied by an application fee, in an amount established by resolution of the City Council and calculated to recover the City's full cost of reviewing, issuing, and administering the permit, and the filing of a complete cannabis activity permit application pursuant to this article. The application fee shall be in addition to any other business license fee, permit fee, or tax imposed by this Code or other governmental agencies.
- (d) *Cannabis activity permit application—filing requirements.* Cannabis activity permit applications shall include:
- (1) The full name (including any current or prior aliases, or other legal names the applicant is or has been known by, including maiden names), present address, and telephone number of the applicant (if an individual), the applicant's corporate officers (if a corporation), or the applicant's partners (if a partnership);
 - (2) Applicant(s) mailing address. The address to which notice of action on the application is to be mailed;
 - (3) Previous addresses. Previous addresses for the past five (5) years immediately prior to the present address of the applicant (if an individual), the applicant's corporate officers (if a corporation), or the applicant's partners (if a partnership);
 - (4) Verification of age. Written proof that the applicant is over the age of twenty-one (21) years of age;
 - (5) Photographs. Passport quality photographs for identification purposes of the applicant (if an individual), the applicant's corporate officers (if a corporation), or the applicant's partners (if a partnership);
 - (6) Employment history. All business, occupation, or employment of the applicant or applicant's corporate officers or partners for the five (5) years immediately preceding the date of the application;
 - (7) Tax history. The tax history of the applicant, including whether such person or entity, in previously operating in this or another city, county or state under license has had a business license revoked or suspended, the reason therefor, and the business or activity or occupation subsequent to such action of suspension or revocation;
 - (8) Management information. The name or names and addresses of the person or persons having the management or supervision of applicant's business;
 - (9) Employee information. Number of employees and other persons who will work at the cannabis operation;
 - (10) Written response to findings for issuance of cannabis activity permit. The applicant shall provide a comprehensive written response identifying how the cannabis operation will comply with the each of the findings for issuance of a cannabis activity permit set forth in Section 9-4.4805(a);
 - (11) Site plan and floor plan. A detailed "Site Plan and Floor Plan" for the proposed cannabis operation describing how the cannabis operation will operate consistent with the provisions of Section 9-4.4803(d);
 - (12) Neighborhood context map. An accurate straight-line drawing depicting the building and the portion thereof to be occupied by the cannabis operation and the property lines of any school providing instruction in kindergarten or any grades 1 through 12 or youth center within six hundred (600') feet of the cannabis operation property line, and any day care center within two hundred (200') feet of the cannabis operation property;
 - (13) Lighting plan. A lighting plan showing existing and proposed exterior premises and interior lighting levels that would be the minimum necessary to provide adequate security lighting for the use and comply with all City standards regarding lighting design and installation;

- (14) City authorization. Written authorization for the City, its agents and employees to seek verification of the information contained within the application;
 - (15) Operations Plan. A detailed "Operations Plan" for the proposed cannabis operation describing how the cannabis operation will operate consistent with the provisions Section 9-4.4803(d);
 - (16) Property owner consent. The applicant shall include a written affirmation from the property owner expressly allowing the applicant to apply for the cannabis activity permit and acknowledging the applicant's right to use and occupy the property for the intended cannabis operation;
 - (17) A statement dated and signed by the applicant, under penalty of perjury, that the applicant has personal knowledge of the information contained in the application, that the information contained therein is true and correct; and
 - (18) In addition to the filing requirements of this subdivision, the City may request additional information of cannabis activity permit applicants, which information is necessary to review the cannabis activity permit application for completeness and compliance with this section.
- (e) *Transfer of cannabis activity permits.*
- (1) *Permit—site specific.* A permittee shall not operate a cannabis operation under the authority of a cannabis activity permit at any place other than the address of the cannabis operation stated in the permit.
 - (2) *Transfer of cannabis activity permit prohibited.* All permits issued by the City pursuant to this article shall be non-transferable to a different person, entity, or location.
 - (3) *Transfer without permission.* Any attempt to transfer or any transfer of ownership or control of a cannabis operation shall be grounds for revocation of the cannabis activity permit by the Planning Commission.

Sec. 9-4.4805. - Review, issuance and/or denial of cannabis activity permit applications.

(a) *Criteria for issuance.*

- (1) Supplemental findings for issuance of cannabis activity permit—all cannabis operations. In addition to the findings required for the approval of a use permit set forth in Section 9-4.3303, the Planning Commission, or the City Council on appeal, shall make all of the following supplemental findings in determining whether to grant, modify, or deny a cannabis activity permit for any cannabis operation:
 - (i) For cannabis activity permit applications submitted pursuant to Section 9-4.4804(a), the cannabis operation applicant has been placed on the cannabis qualified registration list, as described in Section 9-4.4804(a)(1)(ii)(ad). For all other cannabis activity permit applications, that the Planning Department has received written notification from the Chief of Police that the applicant has complied with all requirements for satisfactory completion of the phase one and phase two cannabis public safety license requirements contained in Chapter 16 of Title 4 of this Code.
 - (ii) The cannabis activity permit application is complete and the applicant has submitted all information and materials required by Section 9-4.4804(c) and (d).
 - (iii) The proposed location of the cannabis operation is not likely to have a potentially adverse effect on the health, peace, or safety of persons due to the cannabis operation's proposed proximity to a school, day care center, youth center, public park, playground, recreational center, school bus stop, premises frequented by children, religious establishment, or other similar uses.
 - (iv) The proposed location of the cannabis operation is not likely to have a potentially adverse effect on the health, peace, or safety of persons due to the cannabis operation's proposed proximity to another existing or permitted cannabis operation.

- (v) The design of the storefront or structure within which the cannabis operation will operate is architecturally compatible with surrounding storefronts and structures in terms of materials, color, windows, lighting, sound, and overall design.
 - (vi) The proposed size of the cannabis operation is appropriate to meet the needs of the local Pacifica community for access to cannabis and that the size complies with all requirements of the City's Zoning Regulations.
 - (vii) The location is not prohibited under the provisions of this article or any local or state law, statute, rule, or regulation, and no significant nuisance issues or problems are likely or anticipated, and that compliance with other applicable requirements of the City's Zoning Regulations will be accomplished.
 - (viii) The cannabis operation is not likely to have an adverse effect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance, and will generally not result in repeated nuisance activities including disturbances of the peace, illegal drug activity, cannabis use in public, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises (especially late at night or early in the morning hours), lewd conduct, or police detentions or arrests.
 - (ix) The cannabis operation is not likely to violate any provision of the Pacifica Municipal Code or condition imposed by a City-issued permit, or any provision of any other local or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws.
 - (x) The applicant and/or the cannabis operation is not the subject of or a party to any of the following: pending litigation filed by the City against the Applicant or any of its principals to enforce the Pacifica Municipal Code; a pending code enforcement case against the Applicant or any of its principals relating to illegal cannabis activity; or an outstanding balance owed to the City by Applicant or any of its principals for any unpaid taxes, fees, fines, or penalties.
 - (xi) The applicant has not made a false statement of material fact or omitted a material fact in the application for a cannabis activity permit, as known at the time of determination on the application.
 - (xii) The cannabis operation's site plan has incorporated features necessary to assist in reducing potential nuisance and crime-related problems. These features may include, but are not limited to, procedures for allowing entry; reduction of opportunities for congregating and obstructing public ways and neighboring property; and limiting furnishings and features that encourage loitering and nuisance behavior.
- (2) *Supplemental findings for issuance of cannabis activity permit—manufacturing facilities.* In addition to the findings required for the approval of a use permit as set forth in Section 9-4.3303 (as it may be amended) and supplemental findings for approval of a cannabis activity permit as set forth in Section 9-4.4805(a)(1), the Planning Commission, or the City Council on appeal, shall consider the following supplemental findings in determining whether to grant, modify, or deny a cannabis activity permit for a cannabis manufacturing operation:
- (i) The manufacturing operation, as proposed, will operate in accordance with the activities allowed under the definition of a cannabis manufacturing operation as provided in Section 9-4.4801(d).
 - (ii) The manufacturing operation includes adequate quality control measures to ensure any cannabis product manufactured at the site meets industry standards.
 - (iii) The manufacturing operation does not pose a significant threat to the public or to neighboring uses from explosion or from the release of harmful gases, liquids, or substances.

- (b) *Criteria for denial.* The Planning Commission shall deny an application that meets any one of the following criteria:
 - (1) Any supervisor, employee, or person having a ten (10%) percent or more financial interest in the cannabis operation has been convicted of a felony or a drug-related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten (10) years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere;
 - (2) Any person who is listed on the application or is an owner or operator, is a licensed physician making patient recommendations for medicinal cannabis pursuant to Section 11362.7 of the Health and Safety Code;
 - (3) Any person who is listed on the application or is an owner or operator is less than twenty-one (21) years of age;
 - (4) The proposed cannabis operation does not comply with the provisions of this article or state cannabis laws; and
 - (5) The Planning Commission is unable to make a required finding contained in this section.
- (c) *Planning Commission determination.* If the Planning Commission, by a majority vote of a quorum of Commissioners, denies the application, the Planning Commission shall specify in writing the reasons for the denial of the application, and notify the applicant that the decision shall become final unless the applicant seeks an appeal pursuant to Section 9-4.4805(d).
- (d) *Appeal from Planning Commission determination.* An applicant or any aggrieved person who disagrees with the Planning Commission's decision to issue, issue with conditions, or to deny or revoke a cannabis activity permit may appeal the Planning Commission's decision to the City Council in accordance with the appeal provisions of Section 9-4.3304.

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

- (a) *Authority to suspend or revoke a cannabis activity permit.* Any permit issued under the terms of this article may be suspended or revoked by the Planning Commission in accordance with the provisions of Section 9-4.3309.
- (b) In addition to the provisions of Section 9-4.3309, a cannabis activity permit may be revoked if it appears to the Commission that the cannabis operation has violated any of the requirements of this article, the cannabis operation is being operated in a manner which violates the operational requirements or security plan required by this Code, the cannabis operation is being operated in a manner which constitutes a nuisance, the cannabis operation has ceased to operate for thirty (30) days or more, or the cannabis operation is being operated in a manner which conflicts with or violates state cannabis law.
- (c) Any cannabis activity permit revoked pursuant to this subsection shall be deemed to be expired and shall no longer entitle the permittee to any uses authorized by the cannabis activity permit.
- (d) Notwithstanding subdivision (a) of Section 9-4.4806, revocation, expiration or nullification of a public safety license pursuant to Section 4-16.07 shall automatically terminate the cannabis activity permit issued to the licensee and shall terminate the ability of the licensee to operate a cannabis operation without initiation of revocation proceedings by the Planning Commission.
- (e) *Annual review of cannabis operations.* The Planning Department is hereby authorized to conduct an annual review of the operation of each permitted cannabis operation within the City for full compliance with the operational, recordkeeping, nuisance and other requirements of this article. A fee in an amount established by resolution of the City Council may be collected in order to reimburse the City for the time involved in the annual review process. The staff may initiate a permit suspension or revocation process for any cannabis operation which, upon completion of an annual review, is found not to be in compliance with the requirements of this article or which is operating in a manner which constitutes a public

nuisance. Staff may, based upon its annual review of the operation of a cannabis operation, place on a Planning Commission meeting agenda, a proposal to suspend or revoke a cannabis permit.

Sec. 9-4.4807. - Public nuisance.

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

Sec. 9-4.4808. - Severability.

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

Section 3. Amended. The labels on the Zoning Map of the City of Pacifica are hereby amended as depicted in the section maps contained in Exhibit A to this Ordinance to include consistent language as described in Text Amendment TA-114-19.

Section 4. Compliance with CEQA. The City Council hereby finds that the action to adopt this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment. The City Clerk shall file a Notice of Exemption with the San Mateo County Clerk.

Section 5. Severability. If any section, subsection, sentence, clause or phase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentence, clauses or phrases be declared unconstitutional.

Section 6. Publication. The City Clerk is hereby ordered and directed to certify the passage of this Ordinance by the City Council of the City of Pacifica, California and cause the same to be published in accordance with State law.

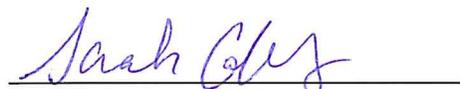
Section 7. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law. For areas within the Coastal Zone, this Ordinance shall not become effective until the California Coastal Commission certifies an amendment to the City's local coastal program pursuant to Section 30514 of the Public Resources Code.

PASSED AND ADOPTED this 13th day of May, 2019 by the following vote:

AYES: Vaterlaus, Martin, O'Neill, Beckmeyer, Bier.
NOES: None.
ABSTAIN: None.
ABSENT: None.


Sue Vaterlaus, Mayor

ATTEST:


Sarah Coffey, City Clerk

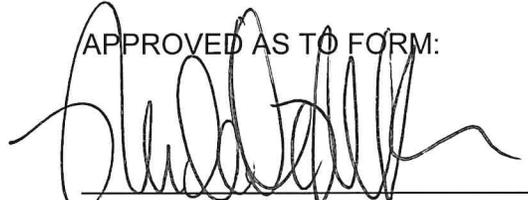
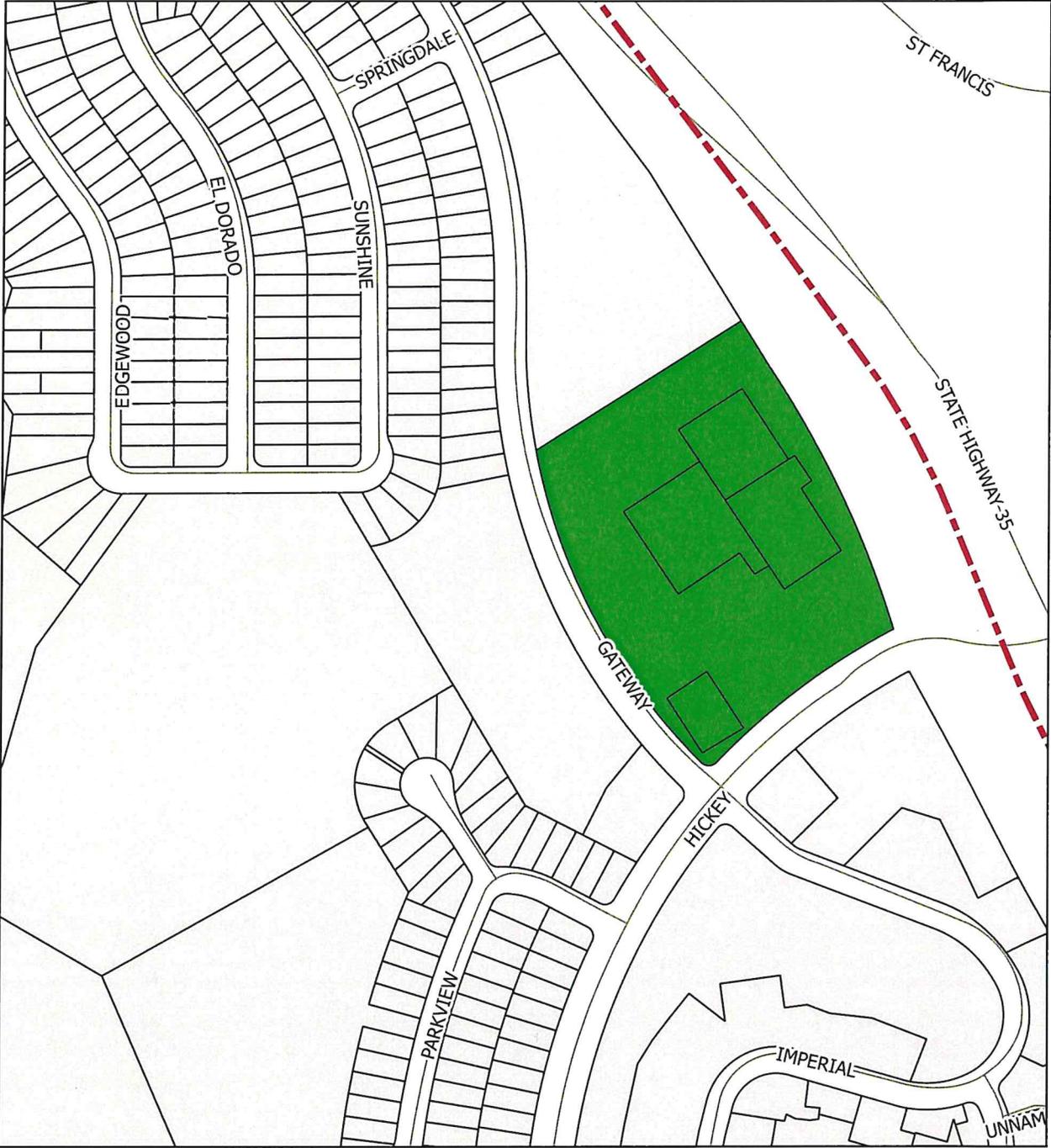
APPROVED AS TO FORM:

Michelle Kenyon, City Attorney

Exhibit A to Ordinance No. 844-C.S.

Cannabis Operation, Fairmont Overlay District
(CO-F)

TA-114-19 (MAP 1 OF 5)



Legend

-  Overlay District
-  Pacifica City Limits



Exhibit A to Ordinance No. 844-C.S.

Cannabis Operation, Linda Mar Overlay District (CO-LM)

TA-114-19 (MAP 2 OF 5)



Legend

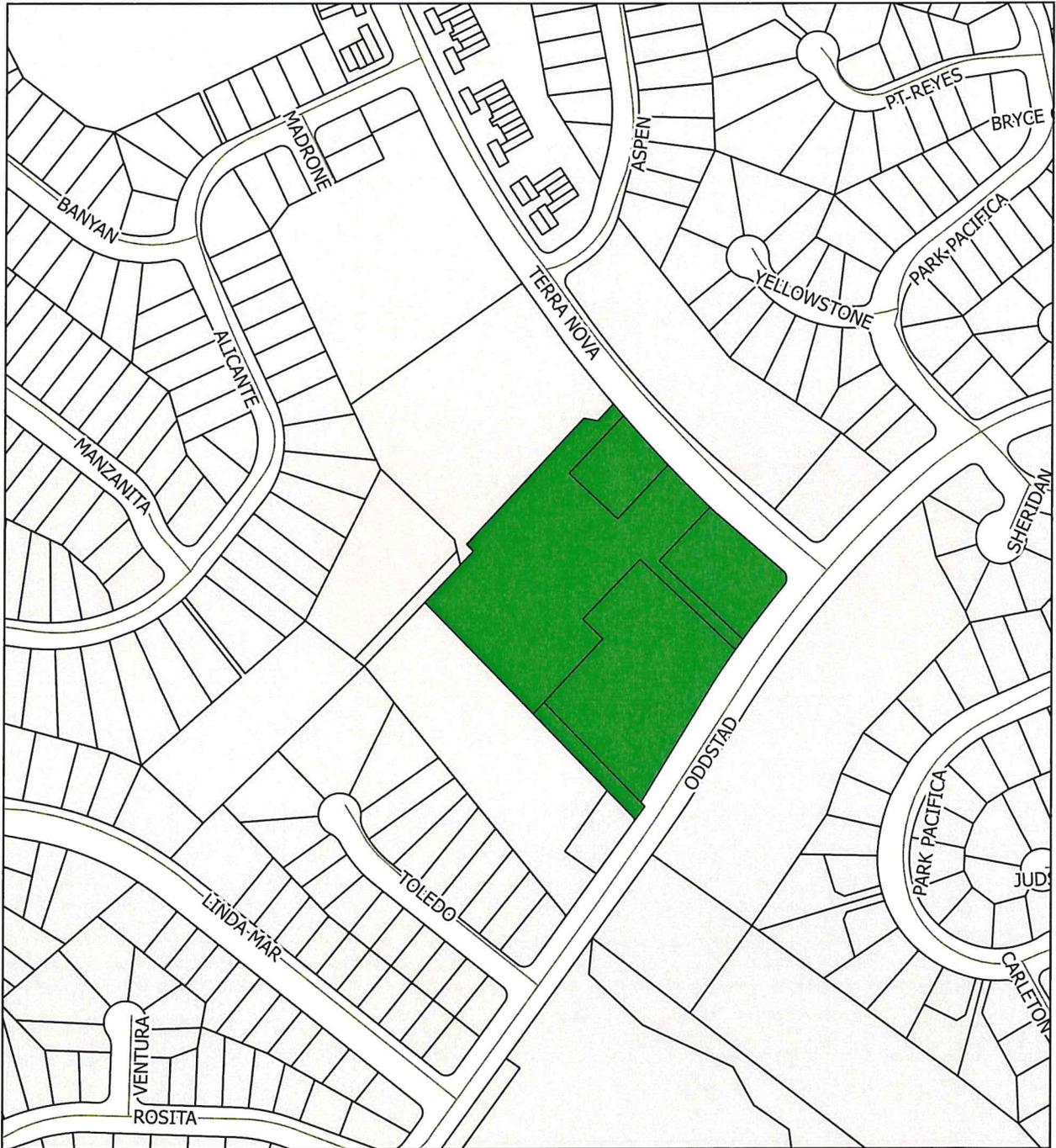
-  Overlay District
-  Pacifica City Limits



Exhibit A to Ordinance No. 844-C.S.

Cannabis Operation, Park Pacifica Overlay District (CO-PP)

TA-114-19 (MAP 3 OF 5)



Legend

 Overlay District



Exhibit A to Ordinance No. 844-C.S.

Cannabis Operation, Rockaway Beach Overlay District (CO-RB)

TA-114-19 (MAP 4 OF 5)



Legend

-  Overlay District
-  Pacifica City Limits



Exhibit A to Ordinance No. 844-C.S.

Cannabis Operation, Sharp Park Overlay District
(CO-SP)

TA-114-19 (MAP 5 OF 5)



Legend
[Green Box] Overlay District

