



**CITY OF PITTSBURG
AGENDA**

May 07, 2018

**CITY HALL COUNCIL CHAMBER
65 CIVIC AVENUE, PITTSBURG, CA**

**PLANNING COMMISSION APPEAL
5:30 P.M.**

**CLOSED SESSION
6:00 P.M.**

**REGULAR MEETINGS
7:00 P.M.**

**CITY COUNCIL
PITTSBURG POWER COMPANY
SOUTHWEST PITTSBURG GEOLOGIC HAZARD ABATEMENT DISTRICT II
SUCCESSOR AGENCY**

PRESIDING

**Dwaine “Pete” Longmire, Mayor/Chair
Sal Evola, Vice-Mayor/Chair
Juan Antonio Banales, Council Member/Board Member
Jelani Killings, Council Member/Board Member
Marilyn “Merl” Craft, Council Member/Board Member**

**FOR HOUSING AUTHORITY:
Michelle Bond, Housing Authority Member
Annie Hill Herring, Housing Authority Member**

Pittsburg City Council meetings are held the first and third Mondays of each month at 7:00 p.m. The Housing Authority meets in conjunction with the City Council on the third Monday of each month. The Pittsburg City Council meets regularly in the Council Chamber at 65 Civic Avenue, unless otherwise noted above. The City Council also sits as the Board of Directors of several other City agencies. The stipends for all agency members conform to state statutes governing compensation amounts. All other Agencies meet on an as needed basis and will be listed above if applicable. Copies of the open session agenda packets, which are distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except from noon to 1:00 p.m. and City holidays). The agenda and reports are also located on the City's website at www.ci.pittsburg.ca.us. Additionally, if any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports and documents will also be available for public inspection in the City Clerk's Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.

NOTICE TO PUBLIC (Attached)

COUNCIL COMMITTEES LIST (Attached)

COMMISSIONS/COMMITTEES MEETING SCHEDULE (Attached)

5:30 P.M.

PLANNING COMMISSION APPEAL

1. Appeal of the Planning Commission's Decision to Recommend Denial, of an Ordinance to Amend Pittsburg Municipal Code Title 18 Related to Cannabis Regulations, AP-18-1308 (RZ)

On March 27, 2018, the Planning Commission held a public hearing and subsequently voted 4-3 to recommend denial of amendments to Title 18, "Zoning," of the Pittsburg Municipal Code (PMC) to allow for use of cannabis within medical and nonmedical product manufacturing. On April 3, 2018, pursuant to PMC section 18.18.100(A), the City Manager filed an appeal of the Planning Commission's decision.

AUDIENCE REMARKS

The Audience Remarks period is for the public to comment on any items scheduled to be heard during the Closed Session portion of the meeting, if applicable.
--

6:00 P.M.

CONVENE IN CLOSED SESSION

2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Pursuant to Section 54956.8)

Property: 3745 Railroad Avenue, APN 088-061-025; Agency Negotiators: Joe Sbranti, Maria Aliotti; Negotiating Parties: Douglas Manful; Under negotiation: Both price and terms of payment

Property: 615 Railroad Avenue APN 085-171-012; Pittsburg Power Company Negotiators: Joe Sbranti, Garrett Evans, and Maria Aliotti; Negotiating Parties: Natalie Cooper dba Lumpy's; Under negotiation: both price and terms of payment

Property: 385 East 3rd Street (APN – 073-010-005), 389 East 3rd Street (APN – 073-010-004), East 3rd Street (APN – 073-010-003), and 495 East 3rd Street (APN – 073-010-002); Agency Negotiators: Joe Sbranti, Garrett Evans, and Maria Aliotti; Negotiating Parties: MWF Holdings, LLC, a Delaware limited liability company; Under negotiation: both price and terms of payment

3. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION FOR THE CITY OF PITTSBURG (Paragraph (1) of subdivision (d) of Section 54956.9):

Wade Derby v. City of Pittsburg, et al; United States District Court, Northern District of California, Case No. 3:16-cv-05469-SI

Michael Sibbitt, Jr. v. City of Pittsburg et al.; United States District Court Northern District of California Case No. 3:16-cv-04377-SK

Elisabeth Anne Terwilliger v. City of Pittsburg et al.; United States District Court Northern District of California Case No. 3:16-cv-04373-MEJ

4. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION FOR THE CITY OF PITTSBURG; Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9:

One (1) case

5. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION FOR THE CITY OF PITTSBURG; Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9:

One (1) case

7:00 P.M.

CONVENE IN OPEN SESSION FOR REGULAR MEETING

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

PROCLAMATIONS

National Bike Month and Bicycle Safety Month

CITY MANAGER REPORTS/REMARKS

The City Manager may make brief announcements or informal comments at this time and brief the Council on items of interest. (No Action Required)

CITIZENS REMARKS

Members of the audience who wish to address the City Council or Agency Boards on issues that are not scheduled for the agenda and on any items listed as part of the Consent Calendar should complete a Speaker's Card available at the dais. Please read the card carefully in order to fill out the card properly. Submit the completed card to the City Clerk before the item is called, preferably before the meeting begins. Individuals will be given three minutes to address the Council unless additional time is allowed as provided for spokespersons. Prior to speaking, each member of the public shall state their name and business and City of residence in a clear and audible tone of voice. (No Action Required)

CITY COUNCIL MEETING

PUBLIC HEARING

6. Introduction and Waive First Reading of an Ordinance to Amend Pittsburg Municipal Code Title 18 Related to Cannabis Regulations, AP-18-1308 (RZ)

On March 27, 2018, the Planning Commission held a public hearing and subsequently voted 4-3 to recommend denial of amendments to Title 18, "Zoning," of the Pittsburgh Municipal Code (PMC) to allow for use of cannabis within medical and nonmedical product manufacturing. On April 3, 2018, pursuant to PMC section 18.18.100(A), the City Manager filed an appeal of the Planning Commission's decision. On May 7, prior to the regularly scheduled meeting, the City Council held a duly-noticed public hearing to consider the appeal. If this appeal is denied, this item will be removed from consideration by the City Council during the May 7 meeting.

CONSIDERATION

7. Adoption of a City Council Resolution Providing Staff with Direction Related to the Delta View Golf Course

The City of Pittsburgh and Delta View Golf Club LLC (the "Former Operator") entered into a lease agreement (the "Lease Agreement") on January 18, 2011. The Former Operator ceased to operate the Delta View Golf Course (the "Property") effective March 1, 2018. The Property consists of 175 acres out of the total 420 acres of the Stoneman Property. Staff is seeking direction from the City Council on a future use of the Property that would provide the greatest benefit to Pittsburgh residents.

On March 19, 2018, the City Council directed staff to seek public input through on-line polling of potential uses of the Property. The four categories used to poll the public are:

1. Golf Course and Events Venue – Conduct a search to find an operator to continue the operations of the golf course and events venue.
2. Economic Development and Employment Opportunities – Develop projects that generate revenue and employment opportunities (i.e. technology business park, hotel, retail, etc.)
3. Diverse Recreational Opportunities – Multi-sports facility such as base/softball, soccer, volleyball, gymnasium, community center, miniature golf, 3-hole practice course, etc.
4. Other Public Uses – 9-hole course, open space, walking/running trail, dirt and/or mountain bike trail, exercise course, etc.

On March 28, 2018, staff presented the four categories used to poll the public at the Land Use Subcommittee Meeting. After considering the suggestions heard in the meeting, the categories were clarified and simplified.

The survey opened on April 9, 2018 and closed on May 7, 2018. Staff will be presenting the results of the survey during the May 7, 2018 City Council meeting.

CONFLICT OF INTEREST STATEMENT

City Council/Agency Members may make any conflict of interest declarations pertaining to Consent Calendar items at this time.

CONSENT CALENDAR

COMBINED CITY COUNCIL, PITTSBURG POWER, SOUTHWEST PITTSBURG GHAD II, AND SUCCESSOR AGENCY CONSENT CALENDAR

8. Minutes

Minutes of April 16, 2018

9. Adoption of an Ordinance Regarding the Use of the City Seal and City Logo Allowing for Their Limited Use; and Approval of the Use of City Seal and Logo Application

The City of Pittsburg does not have an existing ordinance relating to the use of the City Logo and/or Seal. This Ordinance will provide guidance for such usage. This is the second reading of this Ordinance.

10. Adoption of a City Council Resolution to Direct the Engineer of Work to Prepare and File an Annual Report for the Citywide Landscaping and Lighting Assessment District 88-01 for Fiscal Year 2018-2019

Landscaping and Lighting Assessment District 1988-01 ("88-01 District"), has been in existence since 1988 and the funds collected are necessary for the City to maintain the public desired level of lighting and landscaping throughout the City. Each year, prior to ordering the improvements and levying the assessments, the City Council holds a public hearing.

11. Adoption of a City Council Resolution to Direct the Engineer of Work to Prepare and File an Annual Report for the Oakhills Landscaping and Lighting Assessment District 88-02 for Fiscal Year 2018-2019

Directing the Engineer of Work (City Engineer) to prepare and file the Engineer's Report is the first of three steps in the annual renewal process for the Oakhills Landscaping & Lighting Assessment District 88-02. Upon receipt and approval of the Engineer's Report, the City Council may order that the assessments be placed on the County tax roll. Revenue collected through this district is necessary to fund the City's landscaping and lighting operations in the Oakhills area.

12. Adoption of a City Council Resolution to Approve Revisions to the Marina Rules and Regulations

The Pittsburg Marina Rules and Regulations have not been substantially updated since their drafting over 15 years ago. The list of various proposed revisions to the Marina Rules and Regulations will better serve boaters as well as align with overall City policies and practices, federal, state, and regional Maritime regulations, and those observed at other local marinas.

COUNCIL MEMBER REPORTS/REMARKS

Council Members may make brief announcements or informal comments at this time. Council members may ask questions for clarification from City staff, and make a report on their activities, including reports on committee assignments (see attached list of ad hoc committees and other public agencies in which Council members participate). (No Action Required)

ADJOURNMENT to May 21, 2018

NOTICE TO PUBLIC

GENERAL INFORMATION

Copies of the open session agenda packets, which are distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except City holidays). The full packets are also located on the City's website at www.ci.pittsburg.ca.us. If any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports or documents will be available for public inspection in the City Clerk's Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.

SPEAKER'S CARD

Members of the audience who wish to address the City Council on issues that are not scheduled for the agenda and on any items listed as part of the agenda should complete a Speaker's Card available at the dais. Please read the card carefully in order to fill out the card properly. Submit the completed card to the City Clerk before the item is called, preferably before the meeting begins. Individuals will be given three minutes to address the Council unless additional time is allowed as provided for spokespersons. Speakers are not permitted to yield their time to another speaker. Prior to speaking, each member of the public shall state their name and business and City of residence in a clear and audible tone of voice. Pursuant to the Brown Act, no action may be taken by the City Council on items not already scheduled on the agenda; however, the City Council may refer your comments/concerns to staff or request that the item be placed on a future agenda.

PUBLIC HEARINGS

Persons who wish to speak on Public Hearings listed on the agenda will be heard when the Public Hearing is opened, except on Public Hearing items previously heard and closed to public comment. After the public has commented, the item is closed to public comment and brought to the Council/Agency level for discussion and action. Further comment from the audience will not be received unless requested by the Council/Agency.

There is a 90-day limit for the filing of a challenge in the Superior Court to certain City administrative decisions and orders which require a hearing by law, the receipt of evidence, and the exercise of discretion. The 90-day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge an action taken by the City Council in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised in the public hearing, or in written correspondence delivered to the City Council prior to or at the public hearing. The City Council may be requested to reconsider a decision if the request is made prior to the next City Council meeting, regardless of whether it is a regular or special meeting.

NOTICE TO THE DISABLED AND VISUALLY OR HEARING IMPAIRED

In compliance with the Americans with Disabilities Act, the City of Pittsburg will provide special assistance for disabled citizens. Upon request, an agenda for any meeting shall be made available in appropriate alternative formats. The Council Chamber is equipped with sound amplifier units for use by the hearing impaired. The units operate in conjunction with the Chamber's sound system. You may request the sound amplifier from the City Clerk for personal use during Council meetings. If you need special assistance to participate in this meeting, or are requesting a specially formatted agenda, please contact the City Clerk at 925-252-4850. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting or provide the requested agenda format. (28 CFR 35.102-35.104 ADA Title II)

DISRUPTIVE CONDUCT

The Council requests that you observe the order and decorum of our Council Chamber by turning off or setting to vibrate all cellular telephones, and that you refrain from making personal, impertinent, or slanderous remarks. Boisterous and disruptive behavior while the Council is in session, and the display of signs in a manner which violates the rights of others or prevents others from watching or fully participating in the Council meeting, is a violation of our Municipal Code and any person who engages in such conduct can be ordered to leave the Council Chamber by the Mayor.

LIVE MEDIA BROADCASTING ADVISEMENT

City Council meetings are webcast live on the City's website at www.ci.pittsburg.ca.us on the Streaming Media page. Past meetings are also archived on that webpage. City Council meetings are also broadcast live on CCTV, Channel 24 also re-run at a later date. For more information, please contact the City Clerk's office at 252-4850.

City Council Outside Agency / Liaison / Sub-Committees Assignments - 2018

Updated December 18, 2017

OUTSIDE AGENCY BOARDS

ABAG
SF Bay Regional Water Quality Board
Contra Costa County Fire Dist.
Delta Diablo**
East Co.Co.County Habitat Conservancy
East County Water Management
MCE Clean Energy Board
TRANSPLAN / ECCRFFA
Tri-Delta Transit (2 reps)***

COUNCIL MEMBER(S)

Merl Craft / Pete Longmire Alternate
Merl Craft / Pete Longmire Alternate
Pete Longmire / Jelani Killings Alternate
Pete Longmire / Juan Banales Alternate
Sal Evola / Juan Banales Alternate
Merl Craft / Pete Longmire Alternate
Juan Banales / Pete Longmire Alternate
Sal Evola / Juan Banales Alternate
Pete Longmire& Merl Craft / Jelani Killings Alt.

TYPE

Standing
Standing
Standing
Standing
Standing
Standing
Standing
Standing
Standing

MEETS

Annual
As needed
2nd Monday
2nd Wednesday
Monthly
Annual
4 Per Year
2nd Thursday
Last Wednesday

STAFF

J. Sbranti
J. Sbranti
J. Sbranti
F. McKinley
K. Pollot
F. McKinley
G. Evans
J. Hecht
J. Hecht

LIAISON TO

East Bay League of Calif. Cities
Mayor's Conference
School Districts Committee

COUNCIL MEMBER(S)

Sal Evola / Merl Craft Alternate
Pete Longmire / Sal Evola Alternate
Merl Craft &Jelani Killings / Juan Banales Alt.

TYPE

Standing
Standing
Standing

MEETS

3rd Thursday
1st Thursday
4th Thursday even
months

STAFF

*Rotational
J. Sbranti/G. Evans
J. Sbranti

SUBCOMMITTEES

CAC/CDBG
Concord Hills Working Group
Pittsburg Recognition Committee
Economic Develop/Waterfront Subcommittee
Finance Subcommittee
Land Use Subcommittee
Local Contracting & Preference Policy
Pittsburg Arts & Community Foundation
Pittsburg Police Activities League (PAL)
Power Company Advisory
Sister City Committee
Successor Agency Subcommittee

COUNCIL MEMBER(S)

Juan Banales & Jelani Killings / Pete Longmire Alt.
Sal Evola & Juan Banales / Merl Craft Alt.
Merl Craft / Pete Longmire Alt.
Pete Longmire &Juan Banales / Sal Evola Alt.
Sal Evola & Pete Longmire / Merl Craft Alt.
Sal Evola &Juan Banales / Merl Craft Alt.
Merl Craft & Sal Evola
Merl Craft& Jelani Killings / Pete Longmire Alt.
Juan Banales & Pete Longmire / Killings Alt.
Pete Longmire & Juan Banales / Merl Craft Alt.
Sal Evola&Merl Craft/ Pete Longmire Alt.
Merl Craft &Jelani Killings / Pete Longmire Alt.

TYPE

Standing
Ad Hoc
Ad Hoc
Standing
Standing
Ad Hoc
Ad Hoc
Standing
Standing
Ad Hoc
Standing

MEETS

As needed
As needed
As needed
Quarterly
As needed
As needed
As needed
As needed
Monthly
As needed
As needed
As needed

STAFF

M. Aliotti
J. Sbranti
J. Hecht
G. Evans
B. Farmer
K. Pollot
J. Sbranti
J. Sbranti
B. Addington
G. Evans
G. Evans
M. Aliotti

*Rotational Staff as assigned by City Manager

**Stipend of \$209 per month

***Stipend of \$100 per month

COMMISSION/SUBCOMMITTEE MEETING SCHEDULE

Following is a tentative list of currently scheduled Commission meetings for the upcoming month. For further information, please visit our website at www.ci.pittsburg.ca.us and click on the CALENDAR link for meetings, dates, times and locations.

Commission	Tentative Meeting Dates
Planning Commission	2 nd and 4 th Tuesdays
Community Advisory Commission	1 st Wednesday

Planning Commission meetings are regularly held the second and fourth Tuesdays of the month in the Pittsburg City Hall Council Chambers.

Community Advisory Commission meetings are regularly held the first Wednesday of the month in the Pittsburg City Hall Council Chambers.

In addition to the Commission Meetings listed above, there are several Council Member Subcommittees that meet on an “as needed basis”. For a list of subcommittees that Council Members and staff are assigned to, please see the “Council Committee List” attached to the agenda.

Subcommittee Meetings that are anticipated to occur in the coming month vary. The meeting dates, times and locations for these meetings are yet to be determined. This information will be posted on the City’s website, www.ci.pittsburg.ca.us, as soon as it is determined. Please check the Calendar on the City’s website for information.

For further information, contact the City staff member assigned to that Commission or Subcommittee.



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

DATE: 4/26/2018

TO: Mayor and Council Members

FROM: Joe Sbranti, City Manager

SUBJECT: Appeal of the Planning Commission's Decision to Recommend Denial, of an Ordinance to Amend Pittsburg Municipal Code Title 18 Related to Cannabis Regulations, AP-18-1308 (RZ)

MEETING DATE: 5/7/2018

EXECUTIVE SUMMARY

On March 27, 2018, the Planning Commission held a public hearing and subsequently voted 4-3 to recommend denial of amendments to Title 18, "Zoning," of the Pittsburg Municipal Code (PMC) to allow for use of cannabis within medical and nonmedical product manufacturing. On April 3, 2018, pursuant to PMC section 18.18.100(A), the City Manager filed an appeal of the Planning Commission's decision.

FISCAL IMPACT

The proposed amendments, in combination with the previously approved amendments to PMC Title 5 regarding cannabis regulations, would allow for issuance of commercial cannabis permits, each of which would require an operating agreement that could potentially result in general fund revenues in excess of \$100,000 a year, per agreement.

RECOMMENDATION

Staff recommends the City Council open the public hearing, take public testimony, and close the public hearing.

If the City Council agrees with the Planning Commission's recommendation to deny the proposed amendments, staff recommends the City Council then adopt a Resolution denying the appeal and affirming the Planning Commission's decision.

If the City Council does not agree with the Planning Commission's recommendation to deny the proposed amendments, staff recommends the City Council adopt a resolution upholding the appeal. If the City Council chooses to uphold the appeal, staff recommends a subsequent public hearing be held during the regular meeting of the City Council to

introduce and waive further reading of an ordinance to amend Title 18 of the PMC as it relates to cannabis regulations.

BACKGROUND

On October 3, 2016, the City Council adopted amendments to Titles 5 and 18 of the PMC to both regulate and ban cannabis activities. The changes regulated the delivery of cannabis for medical purposes and banned the utilization, delivery, and other cannabis activities including testing, manufacturing, and cultivation.

On November 8, 2016, the voters of the City of Pittsburg approved Measure J, allowing for implementation of a Marijuana Business Tax on all commercial marijuana businesses that may operate within the City, should land use regulations and applicable provisions of the PMC be amended to allow for such businesses and/or if local control over such businesses is removed by the courts, the Legislature, or statewide initiative in the future. Measure J passed with 13,693 (68.3%) “yes” votes and 6,364 (31.7%) “no” votes. As approved by the voters, the maximum marijuana business tax rate is 10% on all marijuana related transactions.

On March 19, 2018, the City Council adopted Ordinance No. 18-1442, amending PMC Title 5 to allow for use of cannabis within medical and nonmedical product manufacturing, and establishing procedures for issuing medical and nonmedical commercial cannabis permits. These amendments limit the types of commercial cannabis businesses to those designated as Type 6 (Manufacturers), Type 7 (Manufacturers), Type 8 (Testing Laboratories), and Type 11 (Distributors). Commercial entities seeking to manufacture cannabis-related products would be required to obtain a commercial cannabis permit, which is subject to City Council approval, and is mandated to include: 1) a Business Operating Agreement, which would set forth the terms and conditions under which the commercial medical cannabis business would operate; 2) a Business Operating Plan; and 3) a Business Security Plan approved by the Chief of Police. Cultivation, dispensaries, and retail deliveries of cannabis in the City of Pittsburg remain prohibited.

On March 27, 2018, the Planning Commission held a public hearing and voted 4-3 to recommend denial of proposed amendments to Title 18, “Zoning,” of the Pittsburg Municipal Code (PMC) to allow for use of cannabis within medical and nonmedical product manufacturing. Pursuant to PMC section 18.48.040, a Planning Commission recommendation of denial of an application for a zoning map amendment or zoning regulation amendment submitted by application or petition terminates proceedings, unless appealed. On April 3, 2018, pursuant to PMC section 18.18.100(A), the City Manager filed an appeal of the Planning Commission’s decision.

Environmental: If the appeal is denied, the project would be exempt from the requirements of the California Environmental Quality Act (CEQA) under CEQA Guidelines, section 15061(b)(4), as a project that is being recommended for disapproval by a public agency.

If the appeal is approved, this project would be categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under the general rule of applicability of the state CEQA Guidelines, section 15061, in that there is no possibility that the activity in question would have a significant negative physical impact on the environment. The amendments proposed are procedural in nature and would not modify the type of uses permitted within any areas of the City, nor would they expand or alter the nature of “food and drug processing” uses or the areas in which they are permitted. Staff believes that the

use of cannabis by Type 6, Type 7, Type 8, and Type 11 commercial cannabis businesses currently would be classified as “food and drug processing” uses, and the proposed amendments to the use classification definition, the added limitation applicable to these uses in industrial districts, and other amendments to Chapter 18.88 are intended only to provide clarity as to the required procedures for approving these uses, and would therefore not result in any new impacts beyond those that could exist without the change, specifically as they may relate to aesthetics, air quality, transportation, noise, hazards, utilities and/or public services. Further, specific proposals to establish commercial cannabis businesses would be subject to approval of a Commercial Cannabis Permit, at which time impacts resulting from the establishment of any potential use would be further reviewed once more details are made available.

Public Notice: On or prior to April 27, 2018, notice of the May 7, 2018, public hearing to consider this appeal was posted at City Hall and on the ‘public notices’ page of the City’s website; was delivered to the Pittsburg Library; was published in the local newspaper (East Contra Costa County Times) as a 1/8 page advertisement; and was mailed via first class mail or electronic mail to interested parties and individuals and organizations that requested such notice, in accordance with PMC sections 18.14.010, and Government Code section 65090 and 65091.

SUBCOMMITTEE FINDINGS

A proposal by BioZone Laboratories, Inc., to utilize cannabis in product manufacturing was brought before the Land Use Subcommittee on September 19, 2017, and before the City Council and Planning Commission during a joint study session on December 18, 2017. During the study session, the City Council and Planning Commission were presented background information on BioZone’s operation, as well as cannabis and cannabis-related products. City Council members and Commissioners discussed concerns regarding security and cultivation of cannabis within the City limits, but noted the growing use of cannabis in medicine and health products, and directed staff and the applicant to proceed in exploring amendments to the PMC to allow for advanced manufacturing and testing of cannabis by businesses in Pittsburg, while maintaining the ban on dispensing to the end user within the City limits.

STAFF ANALYSIS

Project: The proposed changes to Title 18 would generally reflect those already adopted by the City Council on March 19, 2018, as described above. The Title 18 amendments would also modify the use definition of “food and drug processing,” to specifically include commercial medical and nonmedical cannabis businesses, and add a limitation which specifies that businesses utilizing cannabis as a primary or accessory use are not required to obtain a use permit, but rather shall comply with the requirements prescribed by Title 5 (including obtaining a Commercial Cannabis Permit along with an operating agreement, business operating plan, and security plan approved by the City Council), and prohibits onsite tasting, sampling, or retailing of cannabis products to or by the public.

Food and drug processing uses are currently permitted only within the IG (General Industrial), IL (Limited Industrial), and IP (Industrial Park) Districts, as well as areas where allowable uses defer to the uses allowed within these districts, such as the ‘Business Commercial’ land use designation of the Railroad Avenue Specific Plan. The proposed amendments would not allow for such uses within any additional zoning districts. A map of these areas has been provided as Attachment 4.

General Plan: As previously mentioned, the proposed amendments would not expand the areas of the City in which “food and drug processing” uses would be permitted, and as such are consistent with the current General Plan Land Use goals, specifically goals 2-G-12 and 2-G-15, which call for maintaining and supporting industrial character and activities in appropriate, designated areas.

The proposed changes which would potentially allow businesses to utilize cannabis commercially are consistent with General Plan Economic Development goals and policies that call for maintaining and enhancing an attractive climate for conducting business in Pittsburgh (6-G-4) and efficient licensing and development permitting procedures and regulations (6-P-6). The amendments would also support the City’s continued effort to develop a research and development and office attraction strategy to promote economic diversification, ensure appropriate location, and maximize growth opportunities, while retaining and expanding existing businesses (6-P-12).

Lastly, as the City would enter into operating agreements with potential commercial cannabis businesses that allow for a marijuana business tax rate of up to 10% on all cannabis-related transactions, the City would potentially see increased General Fund revenues. Since the 2015-16 fiscal year, 57-62% of General Fund expenditures have gone to police services, and additional General Fund revenues would help the City reach and maintain the goal of a ratio of 1.8 sworn police officers per 1,000 residents (10-P-39).

Zoning: California Government Code sections 65853 – 65855, and PMC sections 18.48.010 – 18.48.060, identify the procedures for processing zoning amendments. As identified in these code sections, the Planning Commission is the recommending body for zoning changes, with final decision-making authority assigned to the City Council.

Pursuant to PMC Section 18.16.020 and 18.48.030, specifically, the Planning Commission shall include written findings to support any recommendation it makes to the City Council to amend the Municipal Code.

Required Findings: California Government Code sections 65853 – 65855, and PMC sections 18.48.010 – 18.48.060, identify the procedures for processing zoning amendments. As identified in these code sections, the Planning Commission is the recommending body for zoning changes, with final decision-making authority assigned to the City Council. PMC sections 18.18.050 and 18.18.060 designate the City Council as the hearing body in the case of an appeal of a Planning Commission decision and specify that the City Council consider the subject of the appeal as a new matter.

In order to recommend approval of an amendment to the Zoning Ordinance, the City Council must find (in accordance with PMC Section 18.48.030) that:

1. The changes proposed are consistent with the objectives, policies, general land uses, and programs specified in the General Plan.
2. In the case of a base district, the change proposed is compatible with the uses authorized in, and the regulations prescribed for, the land use district for which it is proposed.
3. A community need is demonstrated for the change proposed.

4. Its adoption will be in conformity with public convenience, general welfare and good zoning practice.

Analysis: As previously mentioned, the City Council has adopted amendments to Title 5 which would allow a limited number and type of commercial cannabis businesses upon City Council approval of a Business Operating Agreement, Operating Plan, and Security Plan. The proposed amendments to Title 18 generally reflect the changes already put into place by the City Council and identify how these businesses would be classified and in what zone districts they potentially could locate. The Planning Commission's decision to deny the proposed changes to Title 18 is potentially inconsistent with the recent action of the City Council related to cannabis. The proposed amendments to Title 18 would affect multiple properties throughout the City and are not specific to one site or operation, nor do they provide permission for any company to operate without first obtaining a Commercial Cannabis Permit approved by the City Council.

ATTACHMENTS: 1. Proposed Resolution Denying the Project
2. Proposed Resolution Approving the Project
3. Map of Industrial Zone Districts and RASP Business Commercial Areas
4. Title 5 Amendments, as adopted by the City Council on March 19, 2018
5. Declaration of Appeal
6. Public Hearing Notice

Report Prepared By: Jordan Davis, AICP, Senior Planner

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Denying an Appeal and	)	RESOLUTION NO. 18-
Affirming the Planning Commission	)	
Decision to Deny Amendments to PMC	)	
Title 18 Related to Cannabis	)	
Regulations, AP-18-1308 (RZ)	)	

The Pittsburgh City Council DOES RESOLVE as follows:

WHEREAS, on January 11, 2018, Richard Fischler, on behalf of BioZone Laboratories, Inc., filed application no. 18-1308, requesting approval of a text amendment to Pittsburgh Municipal Code (PMC) Titles 5 and 18, in order to allow for use of cannabis within pain management and consumer product manufacturing; and

WHEREAS, on October 3, 2016, the City Council amended Titles 5 and 18 of the PMC to further regulate and ban cannabis activities. The changes regulated the delivery of cannabis for medical purposes, and banned the utilization, delivery, and other cannabis activities including testing, manufacturing, and cultivation; and

WHEREAS, on November 8, 2016, the voters of the City of Pittsburgh approved Measure J, allowing for implementation of a Marijuana Business Tax on all commercial marijuana businesses that may operate within the City, should future land use regulations and applicable provisions of the PMC be amended to allow for such businesses and/or if local control over such businesses is removed by the courts, the Legislature, or statewide initiative in the future. Measure J passed with 13,693 (68.3%) “yes” votes and 6,364 (31.7%) “no” votes. As approved by the voters, the maximum marijuana business tax rate is 10% on all marijuana related transactions; and

WHEREAS, the proposal by BioZone was brought before the Land Use Subcommittee on September 19, 2017, and before the City Council and Planning Commission during a joint study session on December 18, 2017. During the study session, the City Council and Planning Commission were presented background information on BioZone’s operation, as well as cannabis and cannabis-related products. City Council members and Commissioners discussed concerns regarding security and cultivation of cannabis within the City limits but noted the growing use of cannabis in medicine and health products and directed staff and the applicant to proceed in exploring amendments to the PMC to allow for advanced manufacturing and testing of cannabis by businesses in Pittsburgh, while maintaining the ban on dispensing to the end user within the City limits; and

WHEREAS, on March 19, 2018, the City Council adopted Ordinance No. 18-1442, amending PMC Title 5 to allow for use of cannabis within medical and nonmedical product manufacturing, and establishing procedures for issuing medical and nonmedical commercial cannabis permits; and

WHEREAS, on March 27, 2018, the Planning Commission held a public hearing

and voted 4-3 to recommend denial of proposed amendments to Title 18, "Zoning," of the Pittsburgh Municipal Code (PMC) to allow for use of cannabis within medical and nonmedical product manufacturing. Pursuant to PMC section 18.48.040, a Planning Commission recommendation of denial of an application for a zoning map amendment or zoning regulation amendment submitted by application or petition terminates proceedings, unless appealed; and

WHEREAS, on April 3, 2018, pursuant to PMC section 18.18.100(A), the City Manager filed an appeal of the Planning Commission's decision; and

WHEREAS, on or prior to April 27, 2018, notice of the May 7, 2018, public hearing to consider this appeal was posted at City Hall; was delivered to the Pittsburgh Library; was posted on the City's website; was published as a 1/8-page legal advertisement in the East County Times; and, was mailed via first class mail or email to service agencies who may be affected by the proposed amendment, and interested parties and individuals and organizations that requested such notice, in accordance with PMC section 18.14.010 and Government Code section 65090 and 65091; and

WHEREAS, on May 7, 2018, the City Council held a public hearing on the appeal and proposed PMC amendments, at which time oral and/or written testimony was considered.

NOW, THEREFORE, the City Council finds and determines as follows:

Section 1. Findings

Based on the City Council Staff Report entitled, "Appeal of the Planning Commission's Decision to Recommend Denial, and Introduction and Waive Further Reading, of an Ordinance to Amend Pittsburgh Municipal Code Title 18 Related to Cannabis Regulations, AP-18-1308 (RZ)," dated April 16, 2018, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburgh, and based on all written and oral testimony presented at the public hearing, the City Council finds that:

1. All recitals above are true and correct and are incorporated herein by reference.
2. The project is exempt from the requirements of the California Environmental Quality Act (CEQA) under CEQA Guidelines, section 15061(b)(4) as a project that is being denied by a public agency.
3. The California Constitution grants cities the broad power to enact local, police, sanitary, and other ordinances and regulations not in conflict with the general laws, as long as they are reasonably related to promoting public health, safety, comfort and welfare of the City's residents.
4. In order to protect the integrity of the City and the goals upon which this City was founded, the City Council finds that it is in the best interest of the residents of the City to not allow commercial cannabis businesses to operate, as well as to continue

to prohibit medical cannabis collectives, cooperatives and dispensaries, and medical cannabis deliveries.

Section 2. Decision

Based on the findings set forth above, the City Council hereby denies the appeal and affirms the Planning Commission's decision to deny amendments to PMC Title 18 related to cannabis regulations.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 7th day of May, 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Dwaine "Pete" Longmire, Mayor

ATTEST:

Alice E. Evenson, City Clerk

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Upholding an Appeal and	)	RESOLUTION NO. 18-
Reversing the Planning Commission	)	
Decision to Deny Amendments to PMC	)	
Title 18 Related to Cannabis	)	
<u>Regulations, AP-18-1308 (RZ)</u>	)	

The Pittsburgh City Council DOES RESOLVE as follows:

WHEREAS, on January 11, 2018, Richard Fischler, on behalf of BioZone Laboratories, Inc., filed application no. 18-1308, requesting approval of a text amendment to Pittsburgh Municipal Code (PMC) Titles 5 and 18, in order to allow for use of cannabis within pain management and consumer product manufacturing; and

WHEREAS, on October 3, 2016, the City Council amended Titles 5 and 18 of the PMC to further regulate and ban cannabis activities. The changes regulated the delivery of cannabis for medical purposes, and banned the utilization, delivery, and other cannabis activities including testing, manufacturing, and cultivation; and

WHEREAS, on November 8, 2016, the voters of the City of Pittsburgh approved Measure J, allowing for implementation of a Marijuana Business Tax on all commercial marijuana businesses that may operate within the City, should future land use regulations and applicable provisions of the PMC be amended to allow for such businesses and/or if local control over such businesses is removed by the courts, the Legislature, or statewide initiative in the future. Measure J passed with 13,693 (68.3%) “yes” votes and 6,364 (31.7%) “no” votes. As approved by the voters, the maximum marijuana business tax rate is 10% on all marijuana related transactions; and

WHEREAS, the proposal by BioZone was brought before the Land Use Subcommittee on September 19, 2017, and before the City Council and Planning Commission during a joint study session on December 18, 2017. During the study session, the City Council and Planning Commission were presented background information on BioZone’s operation, as well as cannabis and cannabis-related products. City Council members and Commissioners discussed concerns regarding security and cultivation of cannabis within the City limits but noted the growing use of cannabis in medicine and health products and directed staff and the applicant to proceed in exploring amendments to the PMC to allow for advanced manufacturing and testing of cannabis by businesses in Pittsburgh, while maintaining the ban on dispensing to the end user within the City limits; and

WHEREAS, on March 19, 2018, the City Council adopted Ordinance No. 18-1442, amending PMC Title 5 to allow for use of cannabis within medical and nonmedical product manufacturing, and establishing procedures for issuing medical and nonmedical commercial cannabis permits; and

WHEREAS, on March 27, 2018, the Planning Commission held a public hearing

and voted 4-3 to recommend denial of proposed amendments to Title 18, "Zoning," of the Pittsburgh Municipal Code (PMC) to allow for use of cannabis within medical and nonmedical product manufacturing. Pursuant to PMC section 18.48.040, a Planning Commission recommendation of denial of an application for a zoning map amendment or zoning regulation amendment submitted by application or petition terminates proceedings, unless appealed; and

WHEREAS, on April 3, 2018, pursuant to PMC section 18.18.100(A), the City Manager filed an appeal of the Planning Commission's decision; and

WHEREAS, on or prior to April 27, 2018, notice of the May 7, 2018, public hearing to consider this appeal was posted at City Hall; was delivered to the Pittsburgh Library; was posted on the City's website; was published as a 1/8-page legal advertisement in the East County Times; and, was mailed via first class mail or email to service agencies who may be affected by the proposed amendment, and interested parties and individuals and organizations that requested such notice, in accordance with PMC section 18.14.010 and Government Code section 65090 and 65091; and

WHEREAS, on May 7, 2018, the City Council held a public hearing on the appeal and proposed PMC amendments, at which time oral and/or written testimony was considered.

NOW, THEREFORE, the City Council finds and determines as follows:

Section 1. Findings

Based on the City Council Staff Report entitled, "Appeal of the Planning Commission's Decision to Recommend Denial, and Introduction and Waive Further Reading, of an Ordinance to Amend Pittsburgh Municipal Code Title 18 Related to Cannabis Regulations, AP-18-1308 (RZ)," dated April 16, 2018, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburgh, and based on all written and oral testimony presented at the public hearing, the City Council finds that:

1. All recitals above are true and correct and are incorporated herein by reference.
2. The project is exempt from the requirements of the California Environmental Quality Act (CEQA) under the general rule of applicability of the state CEQA Guidelines, section 15061, in that there is no possibility that the activity in question would have a significant negative physical impact on the environment. The amendments proposed are procedural in nature and would not modify the type of uses permitted within any areas of the City, nor would they expand or alter the nature of "food and drug processing" uses or the areas in which they are permitted. Staff believes that the use of cannabis by Type 6, Type 7, Type 8, and Type 11 commercial cannabis businesses currently would be classified as "food and drug processing" uses, and the proposed amendments to the use classification definition, the added limitation applicable to these uses in industrial districts, and other amendments to Chapter 18.88 are intended only to provide clarity as to the required procedures for approving these uses, and would therefore not result in any new impacts beyond

those that could exist without the change, specifically as they may relate to aesthetics, air quality, transportation, noise, hazards, utilities and/or public services. Further, specific proposals to establish commercial cannabis businesses would be subject to approval of a Commercial Cannabis Permit, at which time impacts resulting from the establishment of any potential use would be further reviewed once more details are made available.

3. The changes proposed are consistent with the objectives, policies, general land uses, and programs specified in the General Plan. The proposed amendments will not expand the areas of the City in which uses determined to qualify as “food and drug processing,” will be permitted, and as such are consistent with current General Plan Land Use goals, specifically goals 2-G-12 and 2-G-15, which call for maintaining and supporting industrial character and activities in appropriate, designated areas. Allowing businesses to utilize cannabis in product manufacturing is consistent with General Plan Economic Development goals and policies that call for maintaining and enhancing an attractive climate for conducting business in Pittsburg (Goal 6-G-4) and efficient licensing and development permitting procedures and regulations (Policy 6-P-6). The amendments will also support the City’s continued effort to develop a research and development and office attraction strategy to promote economic diversification, ensure appropriate location, and maximize growth opportunities, while retaining and expanding existing businesses (6-P-12). Further, as the City may enter into operating agreements with potential commercial cannabis businesses that allow for a marijuana business tax rate of up to 10% on all cannabis-related transactions, the City will potentially see additional General Fund revenues, which will help the City reach and maintain the goal of a ratio of 1.8 sworn police officers per 1,000 residents (Policy 10-P-39).
4. The proposed amendments are compatible with uses and regulations of the land use district for which they are proposed, in that the proposed text amendment to the use classification definition of “food and drug processing” is procedural in nature, and intended to clarify how commercial cannabis businesses are classified, and will not permit these uses in any zoning district in which they are not currently allowed or alter any development standards which would substantially alter the character of the zone districts in which these uses are permitted. Further, the allowed use of cannabis will not result in a substantial change to the type of raw materials or products produced by these types of businesses.
5. There is a community need for the proposed amendments, in that recent studies have shown medical and nonmedical products that contain cannabis can have positive health benefits, and the increased production and availability of these products will potentially allow the community to more readily obtain effective treatments. Additionally, the use of cannabis in products will allow companies to experience increased sales, adding to the tax revenue base, and creating additional job opportunities.
6. The proposed amendments will be in conformity with the public convenience, general welfare, and good zoning practice, in that businesses that proposed to utilize cannabis in product manufacturing, testing, or distribution will be required to enter into an operating agreement with the City, which allows for a maximum tax

rate of 10% on all cannabis-related transactions, and will potentially provide the City with increased tax revenues, which may be used to fund services that support the general welfare of the public, such as police services and parks. Further, the proposed amendments will not permit “food and drug processing,” uses in any zoning district in which they are not currently allowed or alter any development standards which would substantially alter the character of the zone districts in which these uses are permitted.

Section 2. Decision

Based on the findings set forth above, the City Council hereby upholds the appeal and reverses the Planning Commission’s decision to deny amendments to PMC Title 18 related to cannabis regulations.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 7th day of May, 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

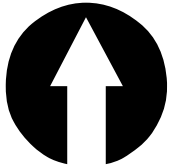
ABSENT:

Dwaine “Pete” Longmire, Mayor

ATTEST:

Alice E. Evenson, City Clerk

Industrial Zone Districts and RASP Business Commercial Areas



**Amendments to PMC Title 5, as adopted by the City Council on March 19, 2018
(Exhibit "A" to Ordinance No. 18-1442)**

Amend Pittsburgh Municipal Code, Title 5, Chapter 15.70, as follows (new text shown in underline font, and text proposed for deletion is shown in ~~strike through~~ font):

Chapter 5.70

~~MARIJUANA-CANNABIS~~ DISPENSARIES, BUSINESSES AND DELIVERIES

Sections:

Article I. Medical ~~Marijuana~~Cannabis

5.70.010 Purpose.

5.70.020 Definitions.

5.70.030 Medical ~~marijuana~~cannabis dispensaries prohibited.

5.70.040 Medical ~~marijuana~~cannabis deliveries prohibited.

5.70.050 Commercial medical ~~marijuana~~cannabis businesses ~~prohibited~~allowed.

5.70.051 Commercial Medical Cannabis Permit.

5.70.052 Commercial Medical Cannabis Permit Holder Qualifications.

5.70.053 Commercial Medical Cannabis Permit Application.

5.70.054 Commercial Medical Cannabis Business Operating Agreement.

5.70.055 Commercial Medical Cannabis Business Operating Plan.

5.70.056 Commercial Medical Cannabis Business Security Plan.

5.70.057 Commercial Medical Cannabis Permit Revocation and Suspension.

5.70.058 Commercial Medical Cannabis Permit Indemnification.

5.70.060 Penalty.

Article II. Nonmedical ~~Marijuana~~Cannabis

5.70.110 Purpose.

5.70.120 Definitions.

5.70.130 Nonmedical ~~marijuana~~deliveriescannabis dispensaries prohibited.

5.70.140 ~~Commercial nonmedical marijuana businesses prohibited~~Nonmedical cannabis
deliveries prohibited.

5.70.150 ~~Penalty~~ Commercial nonmedical cannabis businesses allowed.

5.70.160 Commercial Nonmedical Cannabis Permit.

5.70.161 Commercial Nonmedical Cannabis Permit Holder Qualifications.

5.70.162 Commercial Nonmedical Cannabis Permit Application.

5.70.163 Commercial Nonmedical Cannabis Business Operating Agreement.

5.70.164 Commercial Nonmedical Cannabis Business Operating Plan.

5.70.165 Commercial Nonmedical Cannabis Business Security Plan.

5.70.170 Commercial Nonmedical Cannabis Permit Revocation and Suspension.

5.70.180 Commercial Nonmedical Cannabis Permit Indemnification.

5.70.190 Dual Application Process

5.70.200 Penalty.

Article I. Medical ~~Marijuana~~ Cannabis

5.70.010 Purpose.

- A. In enacting this article, it is the intent of the ~~city council~~ City Council of the city of Pittsburgh to protect the safety and welfare of the general public. The Federal Controlled Substances Act, 21 U.S.C. Section 841, prohibits the possession, sale and distribution of ~~marijuana~~ cannabis, and the ~~city council~~ City Council finds that sanctioning the opening or establishment of medical ~~marijuana~~ cannabis collectives, cooperatives and dispensaries, or ~~commercial medical marijuana businesses~~, or allowing the delivery of medical ~~marijuana~~ cannabis within the city, would be inconsistent with federal law. However, the city acknowledges that state law allows commercial medical cannabis businesses, and that certain commercial medical cannabis businesses that operate in accordance with state law and are properly vetted, regulated, and monitored, can have positive economic impacts in the communities in which they operate.
- B. Furthermore, the ~~city council~~ City Council finds that medical ~~marijuana~~ cannabis dispensaries are public nuisances in that many violent crimes have been committed that can be traced back to the proliferation of ~~marijuana~~ cannabis dispensaries, including armed robberies and murders. Increased noise and pedestrian traffic, including nonresidents in pursuit of ~~marijuana~~ cannabis, and

out-of-area criminals in search of prey, are commonly encountered near outside ~~marijuana~~cannabis collectives, cooperatives and dispensaries. The ~~city council~~City Council further finds that it is reasonable to conclude that medical ~~marijuana~~cannabis deliveries~~and commercial medical marijuana businesses~~ are likely to cause many of these same adverse impacts.

- C. Therefore, in order to protect the integrity of the city and the goals upon which this city was founded, the ~~city council~~City Council finds that it is in the best interest of the residents of the city to prohibit medical ~~marijuana~~cannabis collectives, cooperatives and dispensaries, ~~as well as and medical cannabis deliveries, and only allow certain~~ commercial medical ~~marijuana~~cannabis businesses ~~and medical marijuana deliveries to operate, subject to specific permitting requirements and execution of an operating agreement.~~
- D. The purpose of this article is to prohibit medical ~~marijuana~~cannabis collectives, cooperatives and dispensaries ~~and commercial medical marijuana businesses~~ from being opened or established in the city of Pittsburg, as well as prohibiting medical cannabis deliveries from occurring in the city of Pittsburg, while also allowing certain commercial medical cannabis businesses to operate subject to requirements set forth in this article. Nothing in this article shall be deemed to ~~permit~~allow or authorize any use or activity which is otherwise prohibited by any state or federal law.

5.70.020 Definitions.

The following words and phrases, whenever used in this article, shall be construed as hereafter set out, unless it is apparent that they have a different meaning:

- A. "City" means the city of Pittsburg.
- B. "Commercial medical ~~marijuana~~cannabis business" means ~~any activity licensed pursuant to~~Type 6-Manufacturer 1, Type 7-Manufacturer 2, Type 8-Testing laboratory, and Type 11-Distributor activities defined by the Medicinal and Adult-Use Cannabis Regulation and Safety Act, ("MAUCRSA"), Business and Professions Code Section 19300- 26000 et seq., including but not limited to medical marijuana cultivation, distribution, manufacturing, transporting and ~~testing.~~
- C. "Medical ~~marijuana~~cannabis" means ~~marijuana~~cannabis used for medical purposes in accordance with the Compassionate Use Act (~~California Health and Safety Code Section 11362.5~~) and the ~~Medical Marijuana Program Act (California Health and Safety~~MAUCRSA, Business and Professions Code Section 11362.7- 26000 et seq.).

- D. “Medical ~~marijuana~~cannabis delivery” means the transfer of medical ~~marijuana~~cannabis or medical ~~marijuana~~cannabis products from a medical ~~marijuana~~cannabis dispensary to a qualified patient or primary caregiver, as well as the use by a dispensary of any technology platform to arrange for or facilitate the transfer of medical ~~marijuana~~cannabis or medical ~~marijuana~~cannabis products.
- E. “Medical ~~marijuana~~cannabis dispensary” or “dispensary” means (1) any facility, building, structure or location, whether fixed or mobile, where a primary caregiver makes available, sells, transmits, gives or otherwise provides medical ~~marijuana~~cannabis to three or more of the following: a qualified patient or a person with an identification card, or a primary caregiver, in strict accordance with ~~California~~ Health and Safety Code Section 11362.5 et seq.; or (2) any facility, building, structure or location where three qualified patients and/or persons with identification cards and/or primary caregivers meet or congregate in order to collectively or cooperatively distribute, sell, dispense, transmit, process, deliver, exchange or give away ~~marijuana~~cannabis for medicinal purposes pursuant to ~~California~~ Health and Safety Code Section 11362.5 et seq., and such group is organized as a medical ~~marijuana~~cannabis cooperative or collective as set forth in the Attorney General’s guidelines. The terms “primary caregiver,” “qualified patient,” and “person with an identification card” shall be as defined in ~~California~~ Health and Safety Code Section 11362.5 et seq.

For purposes of this chapter, a “medical ~~marijuana~~cannabis dispensary” shall not include the following uses, as long as the location of such uses is otherwise regulated by applicable law and complies strictly with applicable law, including but not limited to ~~California~~ Health and Safety Code Section 11362.5 et seq.:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the ~~California~~ Health and Safety Code;
2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the ~~California~~ Health and Safety Code;
3. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the ~~California~~ Health and Safety Code;
4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the ~~California~~ Health and Safety Code;
5. A residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the ~~California~~ Health and Safety Code.

- F. "Medical ~~marijuana~~cannabis products" means medical ~~marijuana~~cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing ~~marijuana~~cannabis or concentrated cannabis and other ingredients.
- G. "Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability corporation, collective, cooperative, or combination thereof in whatever form or character.

5.70.030 Medical ~~marijuana~~cannabis dispensaries prohibited.

Medical ~~marijuana~~cannabis dispensaries are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to ~~permit~~allow to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of a medical ~~marijuana~~cannabis dispensary.

5.70.040 Medical ~~marijuana~~cannabis deliveries prohibited.

Medical ~~marijuana~~cannabis deliveries are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to ~~permit~~allow to be engaged in, conducted or carried on, in or upon any premises in the city, medical ~~marijuana~~cannabis deliveries. This section shall not be interpreted to prohibit the transportation of medical ~~marijuana~~cannabis through the city on public roads, as long as such transportation does not involve the delivery of medical ~~marijuana~~cannabis to retail or end users within the city.

5.70.050 Commercial medical ~~marijuana~~cannabis businesses ~~prohibited~~allowed.

Commercial medical ~~marijuana~~cannabis businesses are ~~prohibited~~allowed in the city, pursuant to the requirements set forth in this article. All commercial medical cannabis businesses must obtain a city business license, a City Medical Cannabis Permit, and a state license prior to operation, and also enter into an operating agreement with the City. Only Type 6-Manufacturers 1, Type 7-Manufacturers 2, Type 8-Testing laboratories, and Type 11-Distributors, as defined by Business and Professions Code §§ 26000 *et seq.*, shall be allowed and permitted by the city. The City Council may, at its discretion, issue up to nine (9) Commercial Medical Cannabis Permits. This number may be changed at a later time by resolution of the City Council. It shall be unlawful for any person to engage in, conduct, carry on, or to ~~permit~~allow to be engaged in, conducted or carried on, in or upon any premises in the city, a commercial medical ~~marijuana business-cannabis business~~ without complying with the requirements of this article.

5.70.051 Commercial Medical Cannabis Permit.

- A. It shall be unlawful for any person to operate a commercial medical cannabis business without a Commercial Medical Cannabis Permit, issued by the city, under the terms and conditions set forth in this article.
- B. Each Commercial Medical Cannabis Permit shall expire five (5) years from its date of issuance. Renewal of the Permit shall be subject to City Council approval, which must be obtained at a duly noticed, open and public meeting. City shall have the right to charge an administrative fee to the Commercial Medical Cannabis Permit holder, to compensate city for its reasonable and actual costs to evaluate the Permit renewal,
- C. The Commercial Medical Cannabis Permit is not transferrable, and any attempt to assign or transfer the Permit shall render the Permit null and void.
- D. No commercial medical cannabis business shall be located within six hundred (600) feet of an existing school, daycare, youth center, park or library. The City Council by ordinance, may amend this restriction or adopt additional restrictions.
- E. The commercial medical cannabis business shall file an application for a Commercial Medical Cannabis Permit with the City Manager or City Manager's designee on forms provided by the city, and shall pay an "application fee" and "processing fee."
- F. The City Council may deny an application for a Commercial Medical Cannabis Permit, if it determines any of the following:
 - i. The applicant made one or more false or misleading statements or omissions on the registration application or during the application process;
 - ii. The applicant fails to meet the requirements of this chapter or any regulation adopted pursuant to this chapter;
 - iii. It is not in the best interest of the city, based upon the applicant's application or operating agreement, to issue a Permit to the business;
 - iv. Potential threats to public health and safety cannot be sufficiently mitigated; or
 - v. Significant public opposition necessitates denial to preserve the health, safety, and general welfare of the city.

5.70.052 Commercial Medical Cannabis Permit Holder Qualifications.

All Commercial Medical Cannabis Permit holders must meet the following minimum qualifications. The city reserves the right to require additional qualifications through the Commercial Medical Cannabis Permit application procedure.

- A. Commercial Medical Cannabis Permit holders, business operators, and employees must be twenty-one (21) years of age or older.
- B. Commercial Medical Cannabis Permit holders, their business operators and employees shall be subject to background search by the California Department of Justice and local law enforcement. At city's discretion, city may conduct a background search of any Commercial Medical Cannabis Permit holder, their business operators, and employees.
- C. Commercial medical cannabis business owners, operators, managers, and employees must not have felony convictions, as specified in Penal Code section 667.5(c) and section 1192.7(c).
- D. Commercial medical cannabis business owners, operators, managers, and employees must not have a criminal conviction that substantially relates to the qualifications, functions, or duties of the business or profession, including a felony conviction involving fraud, deceit, or embezzlement or a criminal conviction for the sale or provision of illegal controlled substances to a minor.

5.70.053 Commercial Medical Cannabis Permit Application.

An application for a Commercial Medical Cannabis Permit shall include, but no be limited to, the following information:

- A. The legal name, and any other names, under which the commercial medical cannabis business will operate.
- B. The address of the location and the on-site telephone number, if known, of the commercial medical cannabis business.
- C. The following information for each owner and manager of the medical cannabis business:
 - i. Complete legal name and any alias(es), address, and telephone number.
 - ii. Date and place of birth.
 - iii. Social security numbers.

- iv. Copy of a valid government issued photo identification card, license, or passport.
- v. List of all criminal convictions, other than infractions for traffic violations, the jurisdiction of the convictions, and the circumstances thereof.
- vi. Names of businesses owned or operated by the owner(s) or manager(s) within the last ten (10) years.
- vii. Investor and/or partner information.
- D. Assessor's Parcel Number of the parcel upon which the commercial medical cannabis business will be located.
- E. Draft operating agreement, in accordance section 5.70.054.
- F. Notarized written authorization from the property owner and/or landlord, to operate a commercial medical cannabis business on the site.
- G. Air Quality Acknowledgement. When deemed necessary by city staff, the applicant shall provide a calculation of the businesses anticipated emissions of air pollutants. The applicant shall also provide assurance that the business will comply with all Best Management Practices established by the Bay Area Air Quality Management District ("BAAQMD"). No Commercial Medical Cannabis Permit shall be issued to any business that would exceed the thresholds of significance established by the BAAQMD for evaluating air quality impacts for operation or construction.
- H. Greenhouse Gas Emissions Acknowledgement. When deemed necessary by city staff, the applicant shall provide calculations of the anticipated greenhouse gas emissions for the operation of the business and, where applicable, the operation of the business. The applicant shall further demonstrate compliance with any applicable state, regional, or local plan for the reduction of greenhouse gas emissions. No Commercial Medical Cannabis Permit shall be granted for any business that would violate any state, regional, or local plan for the reduction of greenhouse gases.
- I. Water Supply Acknowledgement. When deemed necessary by the City Engineer, the applicant shall demonstrate to the satisfaction of the City Engineer that sufficient water supply exists for the use.
- J. Wastewater Acknowledgement. When deemed necessary by the City Engineer, the applicant shall demonstrate to the satisfaction of the City Engineer that sufficient wastewater capacity exists for the proposed use.

- K. To the extent that the applicant intends to use any hazardous materials in its operations, the applicant shall provide a hazardous materials management plan that complies with all federal, state, and local requirements for management of such substances. "Hazardous materials" includes any hazardous substance regulated by any federal, state, or local laws or regulations intended to protect human health or the environment from exposure to such substances.
- L. Property owner(s) and applicant(s), shall sign the application and shall include affidavit(s) agreeing to abide by and conform to the conditions of the Permit and all provisions of the Pittsburgh Municipal Code pertaining to the establishment and operation of the medical cannabis manufacturing business, including, but not limited to, the provisions of this article. The affidavit(s) shall acknowledge that the approval of the Permit shall, in no way, allow any activity contrary to the Pittsburgh Municipal Code, or any activity which is in violation of applicable laws.
- M. Statement in writing by the applicant, that they will, to the fullest extent allowed by law, give preference to residents of the city for employee hiring.
- N. Signed indemnity provision.
- O. Any other information the city deems necessary.

Pursuant to applicable law, private information will be exempt from disclosure to the public, in order to protect an applicant's privacy interest and safety.

5.70.054 Commercial Medical Cannabis Business Operating Agreement.

The operating agreement shall set forth the terms and conditions under which the commercial medical cannabis business will operate, which are in addition to the requirements of this article, including, but not limited to: a business operating plan as set forth in 5.70.055; a security plan as set forth in 5.70.056; payment of fees and other charges mutually agreed to; and additional terms and conditions that will protect and promote public health, safety, and welfare. The operating agreement shall be approved by the City Council during a duly noticed, open and public meeting. The operating agreement may be approved concurrently with the Commercial Medical Cannabis Permit. An approved operating agreement shall only be in force with a valid Commercial Medical Cannabis Permit.

5.70.055 Commercial Medical Cannabis Business Operating Plan.

An operating plan shall be in conformance with the requirements of this article, and shall include, at a minimum:

- A. A list of the names, addresses, telephone numbers, and responsibilities of each applicant, manager and employees of the medical cannabis manufacturing business.
- B. Planned hours and days of operations of the medical cannabis manufacturing business.
- C. Floor plan of the proposed business facility.
- D. If applicant is a commercial medical cannabis manufacturing business, procedures to be utilized at the facility, including, as applicable, a description of which chemicals will be used, how chemicals will be stored, handled, and used; extraction and infusion methods; the transportation process; inventory procedures; cannabis track and trace procedures; inventory procedures; quality control procedures; and testing procedures.
- E. If applicant is a commercial medical cannabis manufacturing business, a detailed description of the product(s) to be manufactured at the business, including a description of the product's intended final use by consumers.
- F. Transportation plan detailing how and when medical cannabis will be delivered to and from the commercial medical cannabis business.
- G. Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated, or excess medical cannabis and medical cannabis products.
- H. Procedures for inventory control to prevent diversion of medical cannabis or medical cannabis products to nonmedical use; employee screening; storage of medical cannabis; personnel policies; and recordkeeping.
- I. Odor management plan detailing the reasonable steps that will be taken by the business to ensure that the odor of medical cannabis and other physical impacts on neighboring properties will be minimized.
- J. Policies and procedures for adopting, monitoring, implementing, and enforcing all requirements of this article.

The city shall have the discretion to require changes to a business's operating plan. A Commercial Medical Cannabis Permit holder is required to submit any proposed change(s) to an approved operating plan to the City Manager for approval, at least thirty (30) days before the proposed change(s) is/are to take effect. Failure to do so will result in a suspension and/or revocation of the Permit. The City Manager shall have the authority to suspend a Permit, and the City Council shall have the authority to revoke a Permit.

5.70.056 Commercial Medical Cannabis Business Security Plan.

A security plan must be developed in consultation with, and approved by, the city's Chief of Police, to ensure the safety of persons working inside the business, and to protect the premises from theft, vandalism, and fire. The applicant's approved security plan must be filled with the City Manager or City Manager's designee. The applicant shall agree to implement all measures set forth in the security plan. The security plan shall include, but not be limited to, the following security measures:

- A. Storing cannabis and cannabis products not being manufactured or tested, in a secure room(s). Access to this/these room(s) shall be limited to key officers or employees.
- B. Installation of 24-hour security surveillance cameras of at least high definition quality, to monitor all entrances and exits to and from the premises, all interior spaces where cannabis, cash, or currency is being stored, and all interior spaces where diversion of cannabis could reasonably occur. Access to the security surveillance camera network shall be given to the Police Department.
- C. Retention of 24-hour surveillance camera footage for at least sixty (60) days. All surveillance camera footage shall be made immediately available to the Chief of Police or the Chief of Police's designee, or to any other state or local law enforcement, upon request.
- D. Professionally installed, maintained and monitored alarm system. Notice of the triggered alarm shall be sent to the Police Department.
- E. Sensors installed to detect entry and exit from all secure areas.
- F. Use of commercial-grade, non-residential locking mechanisms at all points of ingress and egress.
- G. Procedure whereby police are notified immediately upon any incidents of theft, vandalism, or any other instances stipulated by the Chief of Police.
- H. Designation of a responsible individual, who will be the business's point of contact with city, police, and other law enforcement entities.
- I. Transportation plan detailing how and when medical cannabis will be delivered to and from the commercial medical cannabis business.

5.70.057 Commercial Medical Cannabis Permit Revocation and Suspension.

A Commercial Medical Manufacturing Permit issued under this article maybe immediately suspended and/or revoked for any of the following reasons:

- A. An operator/permit holder ceases to meet any of the minimum qualifications listed in this article.
- B. An operator/permit holder fails to comply with the requirements of this article or any conditions of approval of the Permit.
- C. An operator/permit holder's state license for commercial medical cannabis operations is revoked, terminated, or not renewed.
- D. The commercial medical cannabis business fails to become operational within six (6) months of obtaining its Commercial Medical Cannabis Permit.
- E. Once operational, the business ceases to be in regular and continuous operation for ninety (90) consecutive days
- F. State law allowing the use for which the Permit was issued is amended or repealed resulting in the prohibition of such use, or the city receives credible information that the federal government will commence enforcement measures against such businesses and/or local governments that allow them.
- G. Circumstances under which the Permit was granted have significantly changed and the public health, safety, and welfare require the suspension, revocation, or modification.
- H. The Permit was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the Permit application.
- I. An operator/permit holder is not current on city taxes or fees.
- J. An operator/permit holder initiates changes to its operating plan or operating agreement without first obtaining city approval.
- K. An operator/permit holder's state license for commercial medical cannabis operations is suspended. The city shall not reinstate the Permit until documentation is received showing that the state license has been reinstated or reissued. It shall be the city's discretion whether the city reinstates any Permit.

The City Manager shall have the authority to suspend a Permit, and the City Council shall have the authority to revoke a permit. A suspension and/or revocation of a Permit, automatically suspends and/or revokes the Permit holder's Commercial Medical Cannabis Business Operating Agreement.

5.70.058 Commercial Medical Cannabis Permit Indemnification.

To the fullest extent permitted by law, Commercial Medical Cannabis Permit holders shall indemnify, defend with counsel acceptable to city, and hold harmless, city and its officers, officials, employees, agents and volunteers (collectively, "Indemnitees") from and against any and all liability, loss, damage, claims, expenses, and costs, including without limitation, attorney's fees, costs and fees of litigation (collectively, "Liability") of every nature arising out of, pertaining to, or relating to the city's suspension and/or revocation of a Permit, except such liability cause by the sole gross negligence or willful misconduct of city.

5.70.060 Penalty.

- A. Violation of this article is a public nuisance.
- B. Nothing in this article in any way limits any other remedy that may be available to the city, or any penalty that may be imposed by the city, for violations of this chapter. Such additional remedies include, but are not limited to, injunctive relief, administrative citations, or a cause of action under the California Narcotics Nuisance Abatement Act (Health and Safety Code Section 11570).

Article II. Nonmedical ~~Marijuana~~Cannabis

5.70.110 Purpose.

- A. In enacting this article, it is the intent of the city council to protect the safety and welfare of the general public. The Federal Controlled Substances Act, 21 U.S.C. Section 841, prohibits the possession, sale and distribution of ~~marijuana~~cannabis, and the city council finds that sanctioning the opening or establishment of nonmedical ~~marijuana businesses~~cannabis collectives, cooperatives, and dispensaries, or allowing the delivery of nonmedical ~~marijuana~~cannabis within the city would be inconsistent with federal law. ~~The purpose of this article is to prohibit~~However, the city acknowledges that state law allows commercial nonmedical ~~marijuana~~cannabis businesses, and that certain commercial nonmedical cannabis businesses from being opened or established that operate in the city, and to prohibit nonmedical marijuana deliveries from occurring accordance with state law and are properly vetted, regulated, and monitored, can have positive economic impacts in the city- communities in which they operate.
- B. Furthermore, the city council finds that nonmedical cannabis dispensaries are public nuisances in that many violent crimes have been committed that can be traced back to the proliferation of cannabis dispensaries, including armed robberies and murders. Increased noise and pedestrian traffic, including

nonresidents in pursuit of cannabis, and out-of-area criminals in search of prey, are commonly encountered near outside cannabis collectives, cooperatives and dispensaries. The city council further finds that it is reasonable to conclude that cannabis deliveries are likely to cause many of these same adverse impacts.

- C. Therefore, in order to protect the integrity of the city and the goals upon which this city was founded, the city council finds that it is in the best interest of the residents of the city to prohibit nonmedical cannabis collectives, cooperatives and dispensaries, and cannabis deliveries, and only allow certain commercial cannabis businesses to operate, subject to specific permitting requirements and execution of an operating agreement.
- D. The purpose of this article is to prohibit cannabis collectives, cooperatives and dispensaries from being opened or established in the city of Pittsburg, as well as prohibiting nonmedical cannabis deliveries from occurring in the city of Pittsburg, while also allowing certain commercial nonmedical cannabis businesses to operate subject to requirements set forth in this article. Nothing in this article shall be deemed to allow or authorize any use or activity which is otherwise prohibited by any state or federal law.

5.70.120 Definitions.

The following words and phrases, whenever used in this article, shall be construed as hereafter set out, unless it is apparent that they have a different meaning:

- A. "City" means the city of Pittsburg.
- B. "Commercial nonmedical ~~marijuana~~cannabis business" means ~~any activity licensed~~Type 6-Manufacturer 1, Type 7-Manufacturer 2, Type 8-Testing laboratory, and Type 11-Distributor activities defined by the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), Business and Professions Code Section 26000 et seq., including but not limited to nonmedical~~marijuana cultivation, distribution, manufacturing, retail, testing, and operation of a microbusiness.~~
- C. "Nonmedical ~~marijuana~~cannabis" means ~~marijuana~~cannabis that is intended to be used for nonmedical purposes pursuant to ~~Health~~Business and Safety~~Professions~~ Code Section~~11362.1- 26000~~ et seq.
- D. "Nonmedical ~~marijuana~~cannabis delivery" means the commercial transfer of nonmedical ~~marijuana~~cannabis or nonmedical ~~marijuana~~cannabis products ~~from a nonmedical cannabis dispensary to a person, including as well as the use by a dispensary of any technology that enables persons~~platform to arrange for or

facilitate the ~~commercial~~ transfer of nonmedical ~~marijuana~~cannabis or nonmedical ~~marijuana~~cannabis products.

E. “Nonmedical ~~marijuana~~cannabis dispensary” or “dispensary” means any retail business that is required to possess a “Type 10-Retailer” or “Type 12 Microbusiness” under Business and Professions Code Section 2600 *et seq.*

F. “Nonmedical cannabis products” means nonmedical ~~marijuana~~cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing ~~marijuana~~cannabis or concentrated cannabis and other ingredients.

G. “Person” means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability corporation, collective, cooperative, or combination thereof in whatever form or character.

5.70.130 Nonmedical ~~marijuana~~ deliveries ~~cannabis~~ dispensaries prohibited.

Nonmedical ~~marijuana~~ deliveries ~~cannabis~~ dispensaries are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to ~~permit~~allow to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of a nonmedical ~~marijuana~~cannabis dispensary.

5.70.140 Nonmedical cannabis deliveries prohibited.

Nonmedical cannabis deliveries are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to allow to be engaged in, conducted or carried on, in or upon any premises in the city, nonmedical cannabis deliveries. This section shall not be interpreted to prohibit the transportation of nonmedical ~~marijuana~~cannabis through the city on public roads, as long as such transportation does not involve the delivery of nonmedical ~~marijuana~~cannabis within the city.

5.70.140-150 Commercial nonmedical ~~marijuana~~cannabis businesses prohibited~~allowed~~.

Commercial nonmedical ~~marijuana~~cannabis businesses are ~~prohibited~~allowed in the city~~;~~, pursuant to the requirements set forth in this article. All commercial nonmedical cannabis businesses must obtain a city business license, a City Nonmedical Cannabis Permit, and a state license prior to operation, and also enter into an operating agreement with the City. Only Type 6-Manufacturers 1, Type 7-Manufacturers 2, Type 8-Testing laboratories, and Type 11-Distributors, as defined by Business and Professions Code §§ 26000 *et seq.*, shall be allowed and permitted by the city. The City Council may, at its discretion, issue up to nine (9) Commercial Nonmedical

Cannabis Permits. This number may be changed at a later time by resolution of the City Council. It shall be unlawful for any person to engage in, conduct, carry on, or to permit allow to be engaged in, conducted or carried on, in or upon any premises in the city, a commercial nonmedical marijuana business. cannabis business without complying with the requirements of this article.

5.70.150-5.70.160 Commercial Nonmedical Cannabis Permit.

- A. It shall be unlawful for any person to operate a commercial nonmedical cannabis business without a Commercial Nonmedical Cannabis Permit, issued by the city, under the terms and conditions set forth in this article.
- B. Each Commercial Nonmedical Cannabis Permit shall expire five (5) years from its date of issuance. Renewal of the Permit shall be subject to City Council approval, which must be obtained at a duly noticed, open and public meeting. City shall have the right to charge an administrative fee to the Commercial Nonmedical Cannabis Permit holder, to compensate city for its reasonable and actual costs to evaluate the Permit renewal.
- C. The Commercial Nonmedical Cannabis Permit is not transferrable, and any attempt to assign or transfer the Permit shall render the Permit null and void.
- D. No commercial nonmedical cannabis business shall be located within six hundred (600) feet of an existing school, daycare, youth center, park or library. The City Council by ordinance, may amend this restriction or adopt additional restrictions.
- E. The commercial nonmedical cannabis business shall file an application for a Commercial Nonmedical Cannabis Permit with the City Manager or City Manager's designee on forms provided by the city, and shall pay an "application fee" and "processing fee."
- F. The City Council may deny an application for a Commercial Nonmedical Cannabis Permit, if it determines any of the following:
 - i. The applicant made one or more false or misleading statements or omissions on the registration application or during the application process;
 - ii. The applicant fails to meet the requirements of this chapter or any regulation adopted pursuant to this chapter;
 - iii. It is not in the best interest of the city, based upon the applicant's application or operating agreement, to issue a Permit to the business;
 - iv. Potential threats to public health and safety cannot be sufficiently mitigated; or

- v. Significant public opposition necessitates denial to preserve the health, safety, and general welfare of the city.

5.70.161 Commercial Nonmedical Cannabis Permit Holder Qualifications.

All Commercial Nonmedical Cannabis Permit holders must meet the following minimum qualifications. The city reserves the right to require additional qualifications through the Commercial Nonmedical Cannabis Permit application procedure.

- A. Commercial Nonmedical Cannabis Permit holders, business operators, and employees must be twenty-one (21) years of age or older.
- B. Commercial Nonmedical Cannabis Permit holders, their business operators and employees shall be subject to background search by the California Department of Justice and local law enforcement. At city's discretion, city may conduct a background search of any Commercial Nonmedical Cannabis Permit holder, their business operators, and employees.
- C. Commercial nonmedical cannabis business owners, operators, managers, and employees must not have felony convictions, as specified in Penal Code section 667.5(c) and section 1192.7(c).
- D. Commercial nonmedical cannabis business owners, operators, managers, and employees must not have a criminal conviction that substantially relates to the qualifications, functions, or duties of the business or profession, including a felony conviction involving fraud, deceit, or embezzlement or a criminal conviction for the sale or provision of illegal controlled substances to a minor.

5.70.162 Commercial Nonmedical Cannabis Permit Application.

An application for a Commercial Nonmedical Cannabis Permit shall include, but no be limited to, the following information:

- A. The legal name, and any other names, under which the commercial nonmedical cannabis business will operate.
- B. The address of the location and the on-site telephone number, if known, of the commercial nonmedical cannabis business.
- C. The following information for each owner and manager of the nonmedical cannabis business:
 - i. Complete legal name and any alias(es), address, and telephone number.
 - ii. Date and place of birth.
 - iii. Social security numbers.

- iv. Copy of a valid government issued photo identification card, license, or passport.
- v. List of all criminal convictions, other than infractions for traffic violations, the jurisdiction of the convictions, and the circumstances thereof.
- vi. Names of businesses owned or operated by the owner(s) or manager(s) within the last ten (10) years.
- vii. Investor and/or partner information.
- D. Assessor's Parcel Number of the parcel upon which the commercial nonmedical cannabis business will be located.
- E. Draft operating agreement, in accordance section 5.70.163.
- F. Notarized written authorization from the property owner and/or landlord, to operate a commercial nonmedical cannabis business on the site.
- G. Air Quality Acknowledgement. When deemed necessary by city staff, the applicant shall provide a calculation of the businesses anticipated emissions of air pollutants. The applicant shall also provide assurance that the business will comply with all Best Management Practices established by the Bay Area Air Quality Management District ("BAAQMD"). No Commercial Nonmedical Cannabis Permit shall be issued to any business that would exceed the thresholds of significance established by the BAAQMD for evaluating air quality impacts for operation or construction.
- H. Greenhouse Gas Emissions Acknowledgement. When deemed necessary by city staff, the applicant shall provide calculations of the anticipated greenhouse gas emissions for the operation of the business and, where applicable, the operation of the business. The applicant shall further demonstrate compliance with any applicable state, regional, or local plan for the reduction of greenhouse gas emissions. No Commercial Nonmedical Cannabis Permit shall be granted for any business that would violate any state, regional, or local plan for the reduction of greenhouse gases.
- I. Water Supply Acknowledgement. When deemed necessary by the City Engineer, the applicant shall demonstrate to the satisfaction of the City Engineer that sufficient water supply exists for the use.
- J. Wastewater Acknowledgement. When deemed necessary by the City Engineer, the applicant shall demonstrate to the satisfaction of the City Engineer that sufficient wastewater capacity exists for the proposed use.

- K. To the extent that the applicant intends to use any hazardous materials in its operations, the applicant shall provide a hazardous materials management plan that complies with all federal, state, and local requirements for management of such substances. "Hazardous materials" includes any hazardous substance regulated by any federal, state, or local laws or regulations intended to protect human health or the environment from exposure to such substances.
- L. Property owner(s) and applicant(s), shall sign the application and shall include affidavit(s) agreeing to abide by and conform to the conditions of the Permit and all provisions of the Pittsburgh Municipal Code pertaining to the establishment and operation of the medical cannabis manufacturing business, including, but not limited to, the provisions of this article. The affidavit(s) shall acknowledge that the approval of the Permit shall, in no way, allow any activity contrary to the Pittsburgh Municipal Code, or any activity which is in violation of applicable laws.
- M. Statement in writing by the applicant, that they will, to the fullest extent allowed by law, give preference to residents of the city for employee hiring.
- N. Signed indemnity provision.
- O. Any other information the city deems necessary.

Pursuant to applicable law, private information will be exempt from disclosure to the public, in order to protect an applicant's privacy interest and safety.

5.70.163 Commercial Nonmedical Cannabis Business Operating Agreement.

The operating agreement shall set forth the terms and conditions under which the commercial medical cannabis business will operate, which are in addition to the requirements of this article, including, but not limited to: a business operating plan as set forth in 5.70.164; a security plan as set forth in 5.70.165; payment of fees and other charges mutually agreed to; and additional terms and conditions that will protect and promote public health, safety, and welfare. The operating agreement shall be approved by the City Council during a duly noticed, open and public meeting. The operating agreement may be approved concurrently with the Commercial Nonmedical Cannabis Permit. An approved operating agreement shall only be in force with a valid Commercial Nonmedical Cannabis Permit.

5.70.164 Commercial Nonmedical Cannabis Business Operating Plan.

An operating plan shall be in conformance with the requirements of this article, and shall include, at a minimum:

- A. A list of the names, addresses, telephone numbers, and responsibilities of each applicant, manager and employees of the medical cannabis manufacturing business.
- B. Planned hours and days of operations of the medical cannabis manufacturing business.
- C. Floor plan of the proposed business facility.
- D. If applicant is a commercial nonmedical cannabis manufacturing business, procedures to be utilized at the facility, including, as applicable, a description of which chemicals will be used, how chemicals will be stored, handled, and used; extraction and infusion methods; the transportation process; inventory procedures; cannabis track and trace procedures; inventory procedures; quality control procedures; and testing procedures.
- E. If applicant is a commercial nonmedical cannabis manufacturing business, a detailed description of the product(s) to be manufactured at the business, including a description of the product's intended final use by consumers.
- F. Transportation plan detailing how and when nonmedical cannabis will be delivered to and from the commercial medical cannabis business.
- G. Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated, or excess nonmedical cannabis and nonmedical cannabis products.
- H. Procedures for inventory control to prevent diversion of nonmedical cannabis or nonmedical cannabis products to unintended uses; employee screening; storage of nonmedical cannabis; personnel policies; and recordkeeping.
- I. Odor management plan detailing the reasonable steps that will be taken by the business to ensure that the odor of nonmedical cannabis and other physical impacts on neighboring properties will be minimized.
- J. Policies and procedures for adopting, monitoring, implementing, and enforcing all requirements of this article.

The city shall have the discretion to require changes to a business's operating plan. A Commercial Nonmedical Cannabis Permit holder is required to submit any proposed change(s) to an approved operating plan to the City Manager for approval, at least thirty (30) days before the proposed change(s) is/are to take effect. Failure to do so will result in a suspension and/or revocation of the Permit. The City Manager shall have the authority to suspend a Permit, and the City Council shall have the authority to revoke a Permit.

5.70.165 Commercial Nonmedical Cannabis Business Security Plan.

A security plan must be developed in consultation with, and approved by, the city's Chief of Police, to ensure the safety of persons working inside the business, and to protect the premises from theft, vandalism, and fire. The applicant's approved security plan must be filled with the City Manager or City Manager's designee. The applicant shall agree to implement all measures set forth in the security plan. The security plan shall include, but not be limited to, the following security measures:

- A. Storing nonmedical cannabis and nonmedical cannabis products not being manufactured or tested, in a secure room(s). Access to this/these room(s) shall be limited to key officers or employees.
- B. Installation of 24-hour security surveillance cameras of at least high definition quality, to monitor all entrances and exits to and from the premises, all interior spaces where cannabis, cash, or currency is being stored, and all interior spaces where diversion of cannabis could reasonably occur. Access to the security surveillance camera network shall be given to the Police Department.
- C. Retention of 24-hour surveillance camera footage for at least sixty (60) days. All surveillance camera footage shall be made immediately available to the Chief of Police or the Chief of Police's designee, or to any other state or local law enforcement, upon request.
- D. Professionally installed, maintained and monitored alarm system. Notice of the triggered alarm shall be sent to the Police Department.
- E. Sensors installed to detect entry and exit from all secure areas.
- F. Use of commercial-grade, non-residential locking mechanisms at all points of ingress and egress.
- G. Procedure whereby police are notified immediately upon any incidents of theft, vandalism, or any other instances stipulated by the Chief of Police.
- H. Designation of a responsible individual, who will be the business's point of contact with city, police, and other law enforcement entities.
- I. Transportation plan detailing how and when nonmedical cannabis will be delivered to and from the commercial nonmedical cannabis business.

5.70.170 Commercial Nonmedical Cannabis Permit Revocation and Suspension.

A Commercial Nonmedical Manufacturing Permit issued under this article maybe immediately suspended and/or revoked for any of the following reasons:

- A. An operator/permit holder ceases to meet any of the minimum qualifications listed in this article.
- B. An operator/permit holder fails to comply with the requirements of this article or any conditions of approval of the Permit.
- C. An operator/permit holder's state license for commercial nonmedical cannabis operations is revoked, terminated, or not renewed.
- D. An operator/permit holder's Commercial Medical Permit is suspended or revoked.
- E. The commercial nonmedical cannabis business fails to become operational within six (6) months of obtaining its Commercial Nonmedical Cannabis Permit.
- F. Once operational, the business ceases to be in regular and continuous operation for ninety (90) consecutive days
- G. State law allowing the use for which the Permit was issued is amended or repealed resulting in the prohibition of such use, or the city receives credible information that the federal government will commence enforcement measures against such businesses and/or local governments that allow them.
- H. Circumstances under which the Permit was granted have significantly changed and the public health, safety, and welfare require the suspension, revocation, or modification.
- I. The Permit was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the Permit application.
- J. An operator/permit holder is not current on city taxes or fees.
- K. An operator/permit holder initiates changes to its operating plan or operating agreement without first obtaining city approval.
- L. An operator/permit holder's state license for commercial nonmedical cannabis operations is suspended. The city shall not reinstate the Permit until documentation is received showing that the state license has been reinstated or reissued. It shall be the city's discretion whether the city reinstates any Permit.

The City Manager shall have the authority to suspend a Permit, and the City Council shall have the authority to revoke a Permit. A suspension and/or revocation of a Permit,

automatically suspends and/or revokes the Permit holder's Commercial Nonmedical Cannabis Business Operating Agreement.

5.70.180 Commercial Nonmedical Cannabis Permit Indemnification.

To the fullest extent permitted by law, Commercial Nonmedical Cannabis Permit holders shall indemnify, defend with counsel acceptable to city, and hold harmless, city and its officers, officials, employees, agents and volunteers (collectively, "Indemnitees") from and against any and all liability, loss, damage, claims, expenses, and costs, including without limitation, attorney's fees, costs and fees of litigation (collectively, "Liability") of every nature arising out of, pertaining to, or relating to the city's suspension and/or revocation of a Permit, except such liability cause by the sole gross negligence or willful misconduct of city.

5.70.190 Dual Application Process

A person may apply for a Commercial Medical Cannabis Permit and Commercial Nonmedical Cannabis Permit concurrently.

5.70.200 Penalty.

- A. Violation of this article is a public nuisance.
- B. Nothing in this article in any way limits any other remedy that may be available to the city, or any penalty that may be imposed by the city, for violations of this ~~article~~chapter. Such additional remedies, include, but are not limited to, injunctive relief ~~and, administrative citations,~~ or a cause of action under the California Narcotics Nuisance Abatement Act (Health and Safety Code Section 11570).



RECEIVED

APR - 3 2018

City of Pittsburg
Planning Department
 65 Civic Avenue, Pittsburg, CA 94565
 Phone: (925) 252-4920, Fax: (925) 252-4814

PLANNING DIVISION

DECLARATION OF APPEAL

Name: Joe Sbranti Phone No.: 925-252-4923

Address: 65 Civic Avenue

City: Pittsburg State: CA Zip: 94565

Appealed By: ☐ Applicant
☒ Interested Party (Please specify.): Appeal by City Manager pursuant to
PMC section 18.18.100(A)

Project Name: Title 18 Cannabis Amendments Application No. (s): AP-18-1308

Appealing Decision Of: ☐ City Staff
☐ Zoning Administrator
☒ Planning Commission

Date of Decision: 3/27/18

Action Being Appealed: ☐ Code/Policy Interpretation

☒ Resolution No. 10094

☐ Other _____

Specify reason(s) for appeal: (may attach additional page(s), if needed.)

Planning Commission decision is inconsistent with the direction previously provided by
the City Council with adoption of recent amendments to PMC Title 5 related to Cannabis.

Signature of Appellant [Signature]

FOR STAFF USE ONLY:

Resolution No(s): 10094

Date Received: 4/3/18

Deadline for Appeal: 4/6/18

Scheduled for: TBD

Applicant Fee/Receipt No.: N/A

Interested Party Fee/Receipt No: N/A



City of Pittsburg

Community Development Department – Planning Division

65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the **CITY COUNCIL** of the City of Pittsburg will conduct a public hearing on:

DATE: May 7, 2018
TIME: 5:30 p.m.
PLACE: City Council Chamber at City Hall
 65 Civic Avenue, Pittsburg, California

Concerning the following matter:

Appeal of the Planning Commission's Decision to Recommend Denial of an Ordinance to Amend Pittsburg Municipal Code Title 18 Related to Cannabis, AP-18-1308 (RZ).

On March 27, 2018, the Planning Commission held a public hearing and subsequently voted 4-3 to recommend denial of amendments to Title 18, "Zoning," of the Pittsburg Municipal Code (PMC) to allow for use of cannabis within medical and nonmedical product manufacturing. On April 3, 2018, pursuant to PMC section 18.18.100(A), the City Manager filed an appeal of the Planning Commission's decision.

Should the City Council uphold the appeal, a separate public hearing will be held to consider introduction and waive of first reading of an ordinance to amend PMC Title 18 related to cannabis regulations. This item has been noticed separately.

PROJECT PLANNER: Jordan Davis, (925) 252-4015 or jdavis@ci.pittsburg.ca.us

Why am I receiving this notice? You are receiving this notice because you have either previously requested notifications from the Planning Division, or a project has been proposed in your neighborhood and all property owners within a minimum 300-foot radius of the project site are required to be notified under the Pittsburg Municipal Code.

Where can I get more information about this project?

The complete file for this project is available for public inspection at the Planning Division, weekdays during the hours of 8:00 AM to 12:00 PM and 1:00 PM to 5:00 PM. You can also find out more about the project by contacting the project planner listed above.

What can I do if I have comments on the project?

Comments or objections to the project can be made by writing or through oral testimony during the public hearing. Written comments citing the project name may be emailed to the project planner listed above, or may be mailed or delivered to: Pittsburg Planning Division, 65 Civic Avenue, Pittsburg, CA 94565. You may also register your comments or objections by attending the public hearing on the date and time listed above.

Pursuant to Section 65009 of the California Government Code, if you challenge this matter in court, you may be limited to those issues you or someone else raised at the public hearing described in this notice, or in written correspondence on the matter delivered to this agency at, or prior to the public hearing. Any written correspondence delivered to the Planning Division before the hearing body's action on the matter will become a part of the administrative record.


 ALICE E. EVENSON, CITY CLERK
 CITY OF PITTSBURG



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

DATE: 4/30/2018

TO: Mayor and Council Members

FROM: Joe Sbranti, City Manager

SUBJECT: Introduction and Waive First Reading of an Ordinance to Amend
Pittsburg Municipal Code Title 18 Related to Cannabis Regulations, AP-
18-1308 (RZ)

MEETING DATE: 5/7/2018

EXECUTIVE SUMMARY

On March 27, 2018, the Planning Commission held a public hearing and subsequently voted 4-3 to recommend denial of amendments to Title 18, "Zoning," of the Pittsburg Municipal Code (PMC) to allow for use of cannabis within medical and nonmedical product manufacturing. On April 3, 2018, pursuant to PMC section 18.18.100(A), the City Manager filed an appeal of the Planning Commission's decision. On May 7, prior to the regularly scheduled meeting, the City Council held a duly-noticed public hearing to consider the appeal. If this appeal is denied, this item will be removed from consideration by the City Council during the May 7 meeting.

FISCAL IMPACT

The proposed amendments, in combination with the previously approved amendments to PMC Title 5 regarding cannabis regulations, would allow for issuance of commercial cannabis permits, each of which would require an operating agreement that could potentially result in general fund revenues in excess of \$100,000 a year, per agreement.

RECOMMENDATION

City Council open the public hearing, take public comment, close the public hearing, and introduce, waive further reading, and pass to second reading, the attached ordinance approving amendments to Title 18 of the PMC as it relates to cannabis regulations.

BACKGROUND

On October 3, 2016, the City Council adopted amendments to Titles 5 and 18 of the PMC to both regulate and ban cannabis activities. The changes regulated the delivery of cannabis

for medical purposes and banned the utilization, delivery, and other cannabis activities including testing, manufacturing, and cultivation.

On November 8, 2016, the voters of the City of Pittsburg approved Measure J, allowing for implementation of a Marijuana Business Tax on all commercial marijuana businesses that may operate within the City, should land use regulations and applicable provisions of the PMC be amended to allow for such businesses and/or if local control over such businesses is removed by the courts, the Legislature, or statewide initiative in the future. Measure J passed with 13,693 (68.3%) “yes” votes and 6,364 (31.7%) “no” votes. As approved by the voters, the maximum marijuana business tax rate is 10% on all marijuana related transactions.

On March 19, 2018, the City Council adopted Ordinance No. 18-1442, amending PMC Title 5 to allow for use of cannabis within medical and nonmedical product manufacturing, and establishing procedures for issuing medical and nonmedical commercial cannabis permits. These amendments limit the types of commercial cannabis businesses to those designated as Type 6 (Manufacturers), Type 7 (Manufacturers), Type 8 (Testing Laboratories), and Type 11 (Distributors). Commercial entities seeking to manufacture cannabis-related products would be required to obtain a commercial cannabis permit, which is subject to City Council approval, and is mandated to include: 1) a Business Operating Agreement, which would set forth the terms and conditions under which the commercial medical cannabis business would operate; 2) a Business Operating Plan; and 3) a Business Security Plan approved by the Chief of Police. Cultivation, dispensaries, and retail deliveries of cannabis in the City of Pittsburg remain prohibited.

On March 27, 2018, the Planning Commission held a public hearing and voted 4-3 to recommend denial of proposed amendments to Title 18, “Zoning,” of the Pittsburg Municipal Code (PMC) to allow for use of cannabis within medical and nonmedical product manufacturing. Pursuant to PMC section 18.48.040, a Planning Commission recommendation of denial of an application for a zoning map amendment or zoning regulation amendment submitted by application or petition terminates proceedings, unless appealed.

On April 3, 2018, pursuant to PMC section 18.18.100(A), the City Manager filed an appeal of the Planning Commission’s decision. A public hearing to consider the appeal is scheduled to be held prior to the regularly scheduled City Council meeting of May 7, 2018.

Environmental: This project would be categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under the general rule of applicability of the state CEQA Guidelines, section 15061, in that there is no possibility that the activity in question would have a significant negative physical impact on the environment. The amendments proposed are procedural in nature and would not modify the type of uses permitted within any areas of the City, nor would they expand or alter the nature of “food and drug processing” uses or the areas in which they are permitted. Staff believes that the use of cannabis by Type 6, Type 7, Type 8, and Type 11 commercial cannabis businesses currently would be classified as “food and drug processing” uses, and the proposed amendments to the use classification definition, the added limitation applicable to these uses in industrial districts, and other amendments to Chapter 18.88 are intended only to provide clarity as to the required procedures for approving these uses, and would therefore not result in any new impacts beyond those that could exist without the change, specifically as they may relate to aesthetics, air quality, transportation, noise, hazards, utilities and/or public services. Further, specific proposals to establish commercial cannabis businesses

would be subject to approval of a Commercial Cannabis Permit, at which time impacts resulting from the establishment of any potential use would be further reviewed once more details are made available.

Public Notice: On or prior to April 27, 2018, notice of the May 7, 2018, public hearing to consider this item was posted at City Hall and on the 'public notices' page of the City's website; was delivered to the Pittsburg Library; was published in the local newspaper (East Contra Costa County Times) as a 1/8 page advertisement; and was mailed via first class mail or electronic mail to interested parties and individuals and organizations that requested such notice, in accordance with PMC sections 18.14.010, and Government Code section 65090 and 65091.

SUBCOMMITTEE FINDINGS

A proposal by BioZone Laboratories, Inc., to utilize cannabis in product manufacturing was brought before the Land Use Subcommittee on September 19, 2017, and before the City Council and Planning Commission during a joint study session on December 18, 2017. During the study session, the City Council and Planning Commission were presented background information on BioZone's operation, as well as cannabis and cannabis-related products. City Council members and Commissioners discussed concerns regarding security and cultivation of cannabis within the City limits, but noted the growing use of cannabis in medicine and health products, and directed staff and the applicant to proceed in exploring amendments to the PMC to allow for advanced manufacturing and testing of cannabis by businesses in Pittsburg, while maintaining the ban on dispensing to the end user within the City limits.

STAFF ANALYSIS

Project: The proposed changes to Title 18 would generally reflect those already adopted by the City Council on March 19, 2018, as described above. The Title 18 amendments would also modify the use definition of "food and drug processing," to specifically include commercial medical and nonmedical cannabis businesses, and add a limitation which specifies that businesses utilizing cannabis as a primary or accessory use are not required to obtain a use permit, but rather shall comply with the requirements prescribed by Title 5 (including obtaining a Commercial Cannabis Permit along with an operating agreement, business operating plan, and security plan approved by the City Council), and prohibits onsite tasting, sampling, or retailing of cannabis products to or by the public.

Food and drug processing uses are currently permitted only within the IG (General Industrial), IL (Limited Industrial), and IP (Industrial Park) Districts, as well as areas where allowable uses defer to the uses allowed within these districts, such as the 'Business Commercial' land use designation of the Railroad Avenue Specific Plan. The proposed amendments would not allow for such uses within any additional zoning districts. A map of these areas has been provided as Attachment 3.

General Plan: As previously mentioned, the proposed amendments would not expand the areas of the City in which "food and drug processing" uses would be permitted, and as such are consistent with the current General Plan Land Use goals, specifically goals 2-G-12 and 2-G-15, which call for maintaining and supporting industrial character and activities in appropriate, designated areas.

The proposed changes which would potentially allow businesses to utilize cannabis commercially are consistent with General Plan Economic Development goals and policies that call for maintaining and enhancing an attractive climate for conducting business in Pittsburgh (6-G-4) and efficient licensing and development permitting procedures and regulations (6-P-6). The amendments would also support the City's continued effort to develop a research and development and office attraction strategy to promote economic diversification, ensure appropriate location, and maximize growth opportunities, while retaining and expanding existing businesses (6-P-12).

Lastly, as the City would enter into operating agreements with potential commercial cannabis businesses that allow for a marijuana business tax rate of up to 10% on all cannabis-related transactions, the City would potentially see increased General Fund revenues. Since the 2015-16 fiscal year, 57-62% of General Fund expenditures have gone to police services, and additional General Fund revenues would help the City reach and maintain the goal of a ratio of 1.8 sworn police officers per 1,000 residents (10-P-39).

Zoning: California Government Code sections 65853 – 65855, and PMC sections 18.48.010 – 18.48.060, identify the procedures for processing zoning amendments. As identified in these code sections, the Planning Commission is the recommending body for zoning changes, with final decision-making authority assigned to the City Council.

Pursuant to PMC Section 18.16.020 and 18.48.030, specifically, the Planning Commission shall include written findings to support any recommendation it makes to the City Council to amend the Municipal Code.

Required Findings: California Government Code sections 65853 – 65855, and PMC sections 18.48.010 – 18.48.060, identify the procedures for processing zoning amendments. As identified in these code sections, the Planning Commission is the recommending body for zoning changes, with final decision-making authority assigned to the City Council. PMC sections 18.18.050 and 18.18.060 designate the City Council as the hearing body in the case of an appeal of a Planning Commission decision and specify that the City Council consider the subject of the appeal as a new matter.

In order to recommend approval of an amendment to the Zoning Ordinance, the City Council must find (in accordance with PMC Section 18.48.030) that:

1. The changes proposed are consistent with the objectives, policies, general land uses, and programs specified in the General Plan.
2. In the case of a base district, the change proposed is compatible with the uses authorized in, and the regulations prescribed for, the land use district for which it is proposed.
3. A community need is demonstrated for the change proposed.
4. Its adoption will be in conformity with public convenience, general welfare and good zoning practice.

Analysis: As previously mentioned, the City Council has adopted amendments to Title 5 which would allow a limited number and type of commercial cannabis businesses upon City Council approval of a Business Operating Agreement, Operating Plan, and Security Plan. The proposed amendments to Title 18 generally reflect the changes already put into place by the City Council and identify how these businesses would be classified and in what zone

districts they potentially could locate. The Planning Commission's decision to deny the proposed changes to Title 18 is potentially inconsistent with the recent action of the City Council related to cannabis. The proposed amendments to Title 18 would affect multiple properties throughout the City and are not specific to one site or operation, nor do they provide permission for any company to operate without first obtaining a Commercial Cannabis Permit approved by the City Council.

ATTACHMENTS: 1. Proposed Ordinance
2. Exhibit A to Proposed Ordinance
3. Map of Industrial Zone Districts and RASP Business Commercial Areas
4. Title 5 Amendments, as adopted by the City Council on March 19, 2018
5. Public Hearing Notice

Report Prepared By: Jordan Davis, AICP, Senior Planner

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Ordinance Amending Title 18 of the) ORDINANCE NO. 18-_____
 Pittsburg Municipal Code Related to Cannabis)
Regulations, AP-18-1308 (RZ))

The City Council of the City of Pittsburg DOES ORDAIN as follows:

SECTION 1. Recitals

- A. On January 11, 2018, Richard Fischler, on behalf of BioZone Laboratories, Inc., filed application no. 18-1308, requesting approval of a text amendment to Pittsburg Municipal Code (PMC) Titles 5 and 18, in order to allow for use of cannabis within pain management and consumer product manufacturing.
- B. BioZone Laboratories, Inc. has operated in the City of Pittsburg since 1992. BioZone is a global developer, manufacturer, and marketer of over-the-counter drugs and preparations, cosmetics, and nutritional supplements intended to improve personal health. BioZone has developed hundreds of products throughout its history and sold millions of units. The company's strong customer base is made up of large, well-known industry leaders.
- C. On October 3, 2016, the City Council amended Titles 5 and 18 of the PMC to further regulate and ban cannabis activities. The changes regulated the delivery of cannabis for medical purposes, and banned the utilization, delivery, and other cannabis activities including testing, manufacturing, and cultivation.
- D. On November 8, 2016, the voters of the City of Pittsburg approved Measure J, allowing for implementation of a Marijuana Business Tax on all commercial marijuana businesses that may operate within the City, should future land use regulations and applicable provisions of the PMC be amended to allow for such businesses and/or if local control over such businesses is removed by the courts, the Legislature, or statewide initiative in the future. Measure J passed with 13,693 (68.3%) "yes" votes and 6,364 (31.7%) "no" votes. As approved by the voters, the maximum marijuana business tax rate is 10% on all marijuana related transactions.
- E. The proposal by BioZone was brought before the Land Use Subcommittee on September 19, 2017, and before the City Council and Planning Commission during a joint study session on December 18, 2017. During the study session, the City Council and Planning Commission were presented background information on

BioZone's operation, as well as cannabis and cannabis-related products. City Council members and Commissioners discussed concerns regarding security and cultivation of cannabis within the City limits but noted the growing use of cannabis in medicine and health products and directed staff and the applicant to proceed in exploring amendments to the PMC to allow for advanced manufacturing and testing of cannabis by businesses in Pittsburg, while maintaining the ban on dispensing to the end user within the City limits.

- F. On March 19, 2018, the City Council adopted Ordinance No. 18-1442, amending PMC Title 5 to allow for use of cannabis within medical and nonmedical product manufacturing, and establishing procedures for issuing medical and nonmedical commercial cannabis permits.
- G. On March 27, 2018, the Planning Commission held a public hearing and voted 4-3 to recommend denial of proposed amendments to Title 18, "Zoning," of the Pittsburg Municipal Code (PMC) to allow for use of cannabis within medical and nonmedical product manufacturing. Pursuant to PMC section 18.48.040, a Planning Commission recommendation of denial of an application for a zoning map amendment or zoning regulation amendment submitted by application or petition terminates proceedings, unless appealed.
- H. On April 3, 2018, pursuant to PMC section 18.18.100(A), the City Manager filed an appeal of the Planning Commission's decision.
- I. On May 7, 2018, prior to the regularly scheduled meeting, the City Council held a public hearing on the appeal and proposed PMC amendments, at which time oral and/or written testimony was considered. Following close of the public hearing, the City Council adopted a resolution to uphold the appeal and reverse the Planning Commission's decision.
- J. On or prior to April 27, 2018, notice of the May 7, 2018, public hearing to consider the project was posted at City Hall; was delivered to the Pittsburg Library; was posted on the City's website; was published as a 1/8-page legal advertisement in the East County Times; and, was mailed via first class mail or email to service agencies who may be affected by the proposed amendment, and interested parties and individuals and organizations that requested such notice, in accordance with PMC section 18.14.010 and Government Code section 65090 and 65091.
- K. On May 7, 2018, the City Council held a public hearing on the proposed zoning amendments, at which time oral and/or written testimony was considered

SECTION 2. Findings

A. Based on the City Council Staff Report entitled, "Introduction and Waive First Reading of an Ordinance to Amend Pittsburg Municipal Code Title 18 Related to Cannabis Regulations, AP-18-1308 (RZ)," dated May 7, 2018, and based on all the information contained in the Planning Division files, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the meeting, the City Council finds that:

1. All recitals above are true and correct and are incorporated herein by reference.
2. This project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under the general rule of applicability of the state CEQA Guidelines, section 15061, in that there is no possibility that the activity in question will have a significant negative physical impact on the environment. The amendments proposed are procedural in nature and will not modify the type of uses permitted within any areas of the City, nor will they expand or alter the nature of "food and drug processing" uses or the areas in which they are permitted. Staff believes that the use of cannabis by Type 6, Type 7, Type 8, and Type 11 commercial cannabis businesses currently would be classified as "food and drug processing" uses, and the proposed amendments to the use classification definition, the added limitation applicable to these uses in industrial districts, and other amendments to Chapter 18.88 are intended only to provide clarity as to the required procedures for approving these uses, and will therefore not result in any new impacts beyond those that could exist without the change, specifically as they may relate to aesthetics, air quality, transportation, noise, hazards, utilities and/or public services. Further, specific proposals to establish commercial cannabis businesses will be subject to approval of a Commercial Cannabis Permit, at which time impacts resulting from the establishment of any potential use will be further reviewed once more details are made available.
3. The California Constitution grants cities the broad power to enact local, police, sanitary, and other ordinances and regulations not in conflict with the general laws, as long as they are reasonably related to promoting public health, safety, comfort and welfare of the City's residents.
4. In enacting this article, it is the intent of the City Council of the City of Pittsburg to protect the safety and welfare of the general public. The Federal Controlled Substances Act, 21 U.S.C. Section 841, prohibits the possession, sale and distribution of cannabis, and the City Council finds that sanctioning the opening or establishment of medical cannabis collectives, cooperatives and dispensaries,

- or allowing the delivery of medical cannabis within the city, would be inconsistent with federal law. However, the City acknowledges that state law allows commercial cannabis businesses, and that certain commercial cannabis businesses that operate in accordance with state law and are properly vetted, regulated, and monitored, can have positive economic impacts in the communities in which they operate.
5. In order to protect the integrity of the City and the goals upon which this City was founded, the City Council finds that it is in the best interest of the residents of the City to only allow certain commercial cannabis businesses to operate, subject to specific permitting requirements and execution of an operating agreement, and continue to prohibit cannabis collectives, cooperatives and dispensaries, and cannabis deliveries.
 6. The changes proposed are consistent with the objectives, policies, general land uses, and programs specified in the General Plan. The proposed amendments will not expand the areas of the City in which uses determined to qualify as “food and drug processing,” will be permitted, and as such are consistent with current General Plan Land Use goals, specifically goals 2-G-12 and 2-G-15, which call for maintaining and supporting industrial character and activities in appropriate, designated areas. Allowing businesses to utilize cannabis in product manufacturing is consistent with General Plan Economic Development goals and policies that call for maintaining and enhancing an attractive climate for conducting business inPittsburg (Goal 6-G-4) and efficient licensing and development permitting procedures and regulations (Policy 6-P-6). The amendments will also support the City’s continued effort to develop a research and development and office attraction strategy to promote economic diversification, ensure appropriate location, and maximize growth opportunities, while retaining and expanding existing businesses (6-P-12). Further, as the City may enter into operating agreements with potential commercial cannabis businesses that allow for a marijuana business tax rate of up to 10% on all cannabis-related transactions, the City will potentially see additional General Fund revenues, which will help the City reach and maintain the goal of a ratio of 1.8 sworn police officers per 1,000 residents (Policy 10-P-39).
 7. The proposed amendments are compatible with uses and regulations of the land use district for which they are proposed, in that the proposed text amendment to the use classification definition of “food and drug processing” is procedural in nature, and intended to clarify how commercial cannabis businesses are classified, and will not permit these uses in any zoning district in which they are not currently allowed or alter any development standards which would substantially alter the character of the zone districts in which these uses are

permitted. Further, the allowed use of cannabis will not result in a substantial change to the type of raw materials or products produced by these types of businesses.

8. There is a community need for the proposed amendments, in that recent studies have shown medical and nonmedical products that contain cannabis can have positive health benefits, and the increased production and availability of these products will potentially allow the community to more readily obtain effective treatments. Additionally, the use of cannabis in products will allow companies to experience increased sales, adding to the tax revenue base, and creating additional job opportunities.
9. The proposed amendments will be in conformity with the public convenience, general welfare, and good zoning practice, in that businesses that proposed to utilize cannabis in product manufacturing, testing, or distribution will be required to enter into an operating agreement with the City, which allows for a maximum tax rate of 10% on all cannabis-related transactions, and will potentially provide the City with increased tax revenues, which may be used to fund services that support the general welfare of the public, such as police services and parks. Further, the proposed amendments will not permit “food and drug processing,” uses in any zoning district in which they are not currently allowed or alter any development standards which would substantially alter the character of the zone districts in which these uses are permitted.

- B. The Staff Report entitled, “Introduction and Waive First Reading of an Ordinance to Amend Pittsburg Municipal Code Title 18 Related to Cannabis Regulations, AP-18-1308 (RZ),” dated May 7, 2018, is referenced hereto as additional support for findings.

SECTION 3. Decision

Based on the findings and the authority set forth above, the City Council hereby amendsPMC Title 18, as identified in the attached “Exhibit A.”

SECTION 4. Severability

If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5. Effective Date

This Ordinance shall be in full force and effective thirty (30) days after its adoption.

SECTION 6. Publication

The City Clerk shall either (a) have this ordinance published once within 15 days after adoption in a newspaper of general circulation or (b) have a summary of the ordinance published twice in a newspaper of general circulation, once 5 days before its adoption and again 20 days after its adoption.

The foregoing ordinance was introduced at a meeting of the City Council of the City of Pittsburg held on May 7, 2018, and was adopted and ordered published at a meeting of the City Council held on _____, 2018, by the following vote:

AYES:

NAYES:

ABSTAIN:

ABSENT:

Dwaine "Pete" Longmire, Mayor

ATTEST:

Alice E. Evenson, City Clerk

Amend Pittsburgh Municipal Code, Title 18 as follows (new text shown in underline font, and text proposed for deletion is shown in ~~strikethrough font~~):

Chapter 18.08

USE CLASSIFICATIONS

...

Article V. Industrial Uses

...

18.08.100 Industrial use classifications.

A. Food and Drug Processing. Establishment engaged in the manufacture, processing, production, or packaging of drugs, beverages, or food products within an enclosed building. This classification includes brewery, bottler, winery, meat processing plant, candy and dairy product manufacturer, commercial medical and nonmedical cannabis businesses as defined by PMC section 18.88.010, and related activities within an enclosed building, but excludes slaughterhouse, rendering plant, cannery or tannery. Uses in this classification may provide for the incidental onsite tasting or retailing of products.

...

Chapter 18.54

INDUSTRIAL DISTRICTS (I)

...

18.54.010 IP, IL and IG district – Land use regulations.

...

	IP	IL	IG
Industrial			
Food and drug processing	<u>U, L-175</u>	<u>U, L-175</u>	<u>U, L-175</u>

...

<u>L-175</u>	<u>Use permit required. Businesses utilizing cannabis as a primary or accessory use are not required to obtain a use permit, but shall comply with the requirements prescribed by PMC Title 5, Chapter 5.70 and Chapter 18.88 of this title. Onsite tasting, sampling, or retailing of cannabis products to or by the public is prohibited.</u>
--------------	---

...

Chapter 18.88

MARIJUANACANNABIS USES

Sections:

- 18.88.010 Definitions.
- 18.88.020 Medical ~~marijuana~~cannabis dispensaries prohibited.
- 18.88.030 Medical ~~marijuana~~cannabis deliveries prohibited.
- 18.88.035 Commercial nonmedical ~~marijuana~~cannabis businesses ~~prohibited~~allowed.
- 18.88.040 Commercial medical ~~marijuana~~cannabis businesses ~~prohibited~~allowed.
- 18.88.045 Nonmedical ~~marijuana~~cannabis deliveries prohibited.
- 18.88.050 Medical ~~marijuana~~cannabis cultivation prohibited.
- 18.88.055 Nonmedical ~~marijuana~~cannabis cultivation.
- 18.88.060 Violations.

18.88.010 Definitions.

~~“Commercial medical marijuana business” means any activity licensed pursuant to~~
cannabis business” means Type 6-Manufacturer 1, Type 7-Manufacturer 2, Type 8-
Testing laboratory, and Type 11-Distributor activities defined by the Medical~~Medicinal~~
and Adult-Use Cannabis Regulation and Safety Act, (“MAUCRSA”), Business and
Professions Code Section 19300- 26000 et seq., including but not limited to medical
marijuana cultivation, distribution, manufacturing, transporting and testing.

~~“Commercial nonmedical marijuana business” means any activity licensed by~~
cannabis
business” means any nonmedical Type 6-Manufacturer 1, Type 7-Manufacturer 2, Type
8-Testing laboratory, and Type 11-Distributor activities defined by the Medicinal and
Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), Business and
Professions Code Section 26000 et seq., including but not limited to nonmedical
marijuana cultivation, distribution, manufacturing, retail, testing, and operation of a
microbusiness.

“Fully enclosed and secure structure” means a space within a building that complies with the applicable building code, and has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent

base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roof must be constructed of solid materials that cannot be easily broken through, and must be constructed with nontransparent material.

“Indoors” means inside a fully enclosed and secure structure or within a private residence.

“Medical marijuanacannabis” means marijuanacannabis used for medical purposes in accordance with the Compassionate Use Act (~~California~~, Health and Safety Code Section ~~11362.5~~), 11362.5, and the ~~Medical Marijuana Program Act (California Health~~ Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), Business and Professions Code Section 11362.7, 26000 et seq.).

“Medical marijuanacannabis cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuanacannabis as defined in ~~California Business and Professions Code Section 19300.5(l)~~, as that section may be amended from time to time 26000 et seq.

“Medical marijuanacannabis delivery” means the transfer of medical marijuanacannabis or medical marijuanacannabis products from a medical marijuanacannabis dispensary to a qualified patient or primary caregiver, as well as the use by a dispensary of any technology platform to arrange for or facilitate the transfer of medical marijuanacannabis or medical marijuanacannabis products.

“Medical marijuanacannabis dispensary” or “dispensary” means (1) any facility, building, structure or location, whether fixed or mobile, where a primary caregiver makes available, sells, transmits, gives or otherwise provides medical marijuanacannabis to three or more of the following: a qualified patient or a person with an identification card, or a primary caregiver, in strict accordance with ~~California~~ Health and Safety Code Section 11362.5 et seq.; or (2) any facility, building, structure or location where three qualified patients and/or persons with identification cards and/or primary caregivers meet or congregate in order to collectively or cooperatively distribute, sell, dispense, transmit, process, deliver, exchange or give away marijuanacannabis for medicinal purposes pursuant to ~~California~~ Health and Safety Code Section 11362.5 et seq., and such group is organized as a medical marijuanacannabis cooperative or collective as set forth in the Attorney General’s guidelines. The terms “primary caregiver,” “qualified patient,” and “person with an identification card” shall be as defined in ~~California~~ Health and Safety Code Section 11362.5 et seq.

For purposes of this chapter, a “medical marijuanacannabis dispensary” shall not include the following uses, as long as the location of such uses is otherwise regulated

by applicable law and complies strictly with applicable law, including but not limited to ~~California~~ Health and Safety Code Section 11362.5 et seq.:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the ~~California~~ Health and Safety Code;
2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the ~~California~~ Health and Safety Code;
3. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the ~~California~~ Health and Safety Code;
4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the ~~California~~ Health and Safety Code;
5. A residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the ~~California~~ Health and Safety Code.

“Medical ~~marijuana-cannabis~~ products” means medical ~~marijuana-cannabis~~ that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing ~~marijuana-cannabis~~ or concentrated cannabis and other ingredients.

“Nonmedical ~~marijuana-cannabis~~” means ~~marijuana-cannabis~~ that is intended to be used for nonmedical purposes pursuant to Health and Safety Code Section 411362.1 et seq. and Business and Professions Code Section 26000 et seq.

“Nonmedical ~~marijuana-cannabis~~ cultivation” means the planting, growing, harvesting, drying or processing of ~~marijuana-cannabis~~ plants or any part thereof pursuant to Health and Safety Code Section 11362.1 et seq., ~~as those sections may be amended from time to time.~~ and Business and Professions Code Section 26000 et seq.

“Nonmedical ~~marijuana-cannabis~~ delivery” means the commercial transfer of nonmedical ~~marijuana-cannabis~~ or nonmedical ~~marijuana-cannabis~~ products to a person, including any technology that enables persons to arrange for or facilitate the commercial transfer of nonmedical ~~marijuana-cannabis~~ or nonmedical ~~marijuana-cannabis~~ products.

“Nonmedical ~~marijuana-cannabis~~ products” means nonmedical ~~marijuana-cannabis~~ that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing ~~marijuana-cannabis~~ or concentrated cannabis and other ingredients.

“Outdoors” means any location within the city that is not within a fully enclosed and secure structure or a private residence.

“Person” means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability corporation, collective, cooperative, or combination thereof in whatever form or character.

“Private residence” means a house, an apartment unit, a mobile home or other similar dwelling.

“Solid fence” means a fence constructed of substantial material, such as wood or metal, that prevents viewing the contents from one side to the other side of the fence.

18.88.020 Medical ~~marijuana~~cannabis dispensaries prohibited.

Medical ~~marijuana~~cannabis dispensaries are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to ~~permit~~allow to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of a medical ~~marijuana~~cannabis dispensary.

18.88.030 Medical ~~marijuana~~cannabis deliveries prohibited.

Medical ~~marijuana~~cannabis deliveries are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to ~~permit~~allow to be engaged in, conducted or carried on, in or upon any premises in the city, medical ~~marijuana~~cannabis deliveries. This section shall not be interpreted to prohibit the transportation of medical ~~marijuana~~cannabis through the city on public roads, as long as such transportation does not involve the delivery of medical ~~marijuana~~cannabis within the city.

18.88.035 Commercial nonmedical ~~marijuana~~cannabis businesses ~~prohibited~~allowed.

~~A. Commercial Nonmedical Marijuana Businesses as a Prohibited Use. A commercial nonmedical marijuana business is prohibited in all zones of the city. No permit or any other applicable license or entitlement for use, nor any business license, shall be approved or issued for the establishment, maintenance or operation of a commercial nonmedical marijuana business. Commercial nonmedical cannabis businesses are subject to the permit requirements outlined in the base district applicable to the site, and subject to additional permitting requirements as outlined in PMC section 5.70.150.~~

18.88.040 Commercial medical ~~marijuana~~cannabis businesses ~~prohibited~~allowed.

~~Commercial medical marijuana businesses are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, a commercial medical marijuana~~

business. ~~[Ord. 16-1414 § 4, 2016.]~~ Commercial medical cannabis businesses are subject to the permit requirements outlined in the base district applicable to the site, and subject to additional permitting requirements as outlined in PMC section 5.70.050.

18.88.045 Nonmedical ~~marijuana~~ cannabis deliveries prohibited.

~~A. Nonmedical Marijuana~~ Cannabis Deliveries as a Prohibited Use. Nonmedical ~~marijuana~~ cannabis deliveries are prohibited in all zones of the city. No permit or any other applicable license or entitlement for use, nor any business license, shall be approved or issued for the establishment, maintenance or operation of nonmedical ~~marijuana~~ cannabis deliveries.

18.88.050 Medical ~~marijuana~~ cannabis cultivation prohibited.

Medical ~~marijuana~~ cannabis cultivation is prohibited in the city. No person shall engage in medical ~~marijuana~~ cannabis cultivation in or upon any premises or property in any district in the city.

18.88.055 Nonmedical ~~marijuana~~ cannabis cultivation.

The following regulations shall apply to the cultivation of nonmedical ~~marijuana~~ cannabis within the city:

A. Cultivation Not in Compliance with This Chapter. It is declared to be unlawful and a public nuisance for any person owning, leasing, occupying or having charge or possession of any parcel or premises within any zoning district in the city to cultivate nonmedical ~~marijuana~~ cannabis except as provided for in this code. No person other than an individual 21 years of age or older may engage in the cultivation of nonmedical ~~marijuana~~ cannabis.

B. Outdoor Cultivation. It is unlawful and a public nuisance for any person owning, leasing, occupying, or having possession of any legal parcel or premises within any zoning district in the city to cause or allow such parcel or premises to be used for the outdoor cultivation of nonmedical ~~marijuana~~ cannabis.

C. Indoor Cultivation. Indoor cultivation of nonmedical ~~marijuana~~ cannabis is prohibited in all zoning districts of the city, except when such cultivation occurs on a parcel or premises with an approved private residence. All cultivation must be in compliance with this chapter.

D. Indoor Cultivation in Private Residence. The indoor cultivation of nonmedical ~~marijuana~~ cannabis on a parcel or premises with an approved private residence shall only be conducted within a fully enclosed and secure structure or within a residential

structure. Such cultivation shall be in conformance with the following minimum standards:

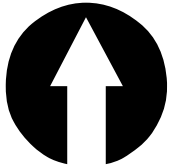
1. The primary use of the property shall be for a residence. Nonmedical ~~marijuana~~cannabis cultivation is prohibited as a home occupation.
2. All areas used for cultivation of nonmedical ~~marijuana~~cannabis shall comply with PMC Title 15 (Buildings and Construction), as well as applicable law.
3. Indoor grow lights shall not exceed 1,000 watts per light, and shall comply with the California Building, Electrical and Fire Codes as adopted by the city.
4. The use of gas products (CO2, butane, propane, natural gas, etc.) or generators for cultivation of nonmedical ~~marijuana~~cannabis is prohibited.
5. Any fully enclosed and secure structure or residential structure used for the cultivation of nonmedical ~~marijuana~~cannabis must have a ventilation and filtration system installed that shall prevent ~~marijuana~~cannabis plant odors from exiting the interior of the structure and that shall comply with PMC Title 15 (Buildings and Construction).
6. A fully enclosed and secure structure used for the cultivation of nonmedical ~~marijuana~~cannabis shall be located in the rear yard area of the parcel or premises, and must maintain a minimum 10-foot setback from any property line. The yard where the fully enclosed and secure structure is maintained must be enclosed by a solid fence at least six feet in height. This provision shall not apply to cultivation occurring in a garage.
7. Adequate mechanical locking or electronic security systems must be installed as part of the fully enclosed and secure structure or the residential structure prior to the commencement of cultivation.
8. Nonmedical ~~marijuana~~cannabis cultivation shall be limited to six ~~marijuana~~cannabis plants per private residence, regardless of whether the ~~marijuana~~cannabis is cultivated inside the residence or in a fully enclosed and secure structure. The limit of six plants per private residence shall apply regardless of how many individuals reside at the private residence.
9. The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping and sanitation facilities with proper ingress and egress. These rooms shall not be used for nonmedical ~~marijuana~~cannabis cultivation where such cultivation will prevent their primary use for cooking of meals, sleeping and bathing.

10. Cultivation of nonmedical ~~marijuana~~cannabis shall only take place on impervious surfaces.
11. From a public right-of-way, there shall be no exterior evidence of nonmedical ~~marijuana~~cannabis cultivation occurring on the parcel.
12. Nonmedical ~~marijuana~~cannabis cultivation area, whether in a fully enclosed and secure structure or inside a residential structure, shall not be accessible to persons under 21 years of age.
13. Written consent of the property owner to cultivate nonmedical ~~marijuana~~cannabis within the residential structure shall be obtained and shall be kept on the premises, and available for inspection by the chief of police or his/her designee.
14. A portable fire extinguisher, that complies with the regulations and standards adopted by the state fire marshal and applicable law, shall be kept in the fully enclosed and secure structure used for cultivation of nonmedical ~~marijuana~~cannabis . If cultivation occurs in a residential structure, the portable fire extinguisher shall be kept in the same room as where the cultivation occurs.

18.88.060 Violations.

- A. Violation of this chapter is hereby declared a public nuisance.
- B. Nothing in this chapter in any way limits any remedy that may be available to the city, or any penalty that may be imposed by the city, for violations of this chapter. Such remedies include, but are not limited to, injunctive relief and administrative citations.

Industrial Zone Districts and RASP Business Commercial Areas



**Amendments to PMC Title 5, as adopted by the City Council on March 19, 2018
(Exhibit "A" to Ordinance No. 18-1442)**

Amend Pittsburgh Municipal Code, Title 5, Chapter 15.70, as follows (new text shown in underline font, and text proposed for deletion is shown in ~~strike through~~ font):

Chapter 5.70

~~MARIJUANA-CANNABIS~~ DISPENSARIES, BUSINESSES AND DELIVERIES

Sections:

Article I. Medical ~~Marijuana~~Cannabis

5.70.010 Purpose.

5.70.020 Definitions.

5.70.030 Medical ~~marijuana~~cannabis dispensaries prohibited.

5.70.040 Medical ~~marijuana~~cannabis deliveries prohibited.

5.70.050 Commercial medical ~~marijuana~~cannabis businesses ~~prohibited~~allowed.

5.70.051 Commercial Medical Cannabis Permit.

5.70.052 Commercial Medical Cannabis Permit Holder Qualifications.

5.70.053 Commercial Medical Cannabis Permit Application.

5.70.054 Commercial Medical Cannabis Business Operating Agreement.

5.70.055 Commercial Medical Cannabis Business Operating Plan.

5.70.056 Commercial Medical Cannabis Business Security Plan.

5.70.057 Commercial Medical Cannabis Permit Revocation and Suspension.

5.70.058 Commercial Medical Cannabis Permit Indemnification.

5.70.060 Penalty.

Article II. Nonmedical ~~Marijuana~~Cannabis

5.70.110 Purpose.

5.70.120 Definitions.

5.70.130 Nonmedical ~~marijuana~~deliveriescannabis dispensaries prohibited.

5.70.140 ~~Commercial nonmedical marijuana businesses prohibited~~Nonmedical cannabis
deliveries prohibited.

5.70.150 ~~Penalty~~ Commercial nonmedical cannabis businesses allowed.

5.70.160 Commercial Nonmedical Cannabis Permit.

5.70.161 Commercial Nonmedical Cannabis Permit Holder Qualifications.

5.70.162 Commercial Nonmedical Cannabis Permit Application.

5.70.163 Commercial Nonmedical Cannabis Business Operating Agreement.

5.70.164 Commercial Nonmedical Cannabis Business Operating Plan.

5.70.165 Commercial Nonmedical Cannabis Business Security Plan.

5.70.170 Commercial Nonmedical Cannabis Permit Revocation and Suspension.

5.70.180 Commercial Nonmedical Cannabis Permit Indemnification.

5.70.190 Dual Application Process

5.70.200 Penalty.

Article I. Medical ~~Marijuana~~ Cannabis

5.70.010 Purpose.

- A. In enacting this article, it is the intent of the ~~city council~~ City Council of the city of Pittsburgh to protect the safety and welfare of the general public. The Federal Controlled Substances Act, 21 U.S.C. Section 841, prohibits the possession, sale and distribution of ~~marijuana~~ cannabis, and the ~~city council~~ City Council finds that sanctioning the opening or establishment of medical ~~marijuana~~ cannabis collectives, cooperatives and dispensaries, or ~~commercial medical marijuana businesses~~, or allowing the delivery of medical ~~marijuana~~ cannabis within the city, would be inconsistent with federal law. However, the city acknowledges that state law allows commercial medical cannabis businesses, and that certain commercial medical cannabis businesses that operate in accordance with state law and are properly vetted, regulated, and monitored, can have positive economic impacts in the communities in which they operate.
- B. Furthermore, the ~~city council~~ City Council finds that medical ~~marijuana~~ cannabis dispensaries are public nuisances in that many violent crimes have been committed that can be traced back to the proliferation of ~~marijuana~~ cannabis dispensaries, including armed robberies and murders. Increased noise and pedestrian traffic, including nonresidents in pursuit of ~~marijuana~~ cannabis, and

out-of-area criminals in search of prey, are commonly encountered near outside ~~marijuana~~cannabis collectives, cooperatives and dispensaries. The ~~city council~~City Council further finds that it is reasonable to conclude that medical ~~marijuana~~cannabis deliveries~~and commercial medical marijuana businesses~~ are likely to cause many of these same adverse impacts.

- C. Therefore, in order to protect the integrity of the city and the goals upon which this city was founded, the ~~city council~~City Council finds that it is in the best interest of the residents of the city to prohibit medical ~~marijuana~~cannabis collectives, cooperatives and dispensaries, ~~as well as and medical cannabis deliveries, and only allow certain~~ commercial medical ~~marijuana~~cannabis businesses ~~and medical marijuana deliveries to operate, subject to specific permitting requirements and execution of an operating agreement.~~
- D. The purpose of this article is to prohibit medical ~~marijuana~~cannabis collectives, cooperatives and dispensaries ~~and commercial medical marijuana businesses~~ from being opened or established in the city of Pittsburg, as well as prohibiting medical cannabis deliveries from occurring in the city of Pittsburg, while also allowing certain commercial medical cannabis businesses to operate subject to requirements set forth in this article. Nothing in this article shall be deemed to ~~permit~~allow or authorize any use or activity which is otherwise prohibited by any state or federal law.

5.70.020 Definitions.

The following words and phrases, whenever used in this article, shall be construed as hereafter set out, unless it is apparent that they have a different meaning:

- A. "City" means the city of Pittsburg.
- B. "Commercial medical ~~marijuana~~cannabis business" means ~~any activity licensed pursuant to~~Type 6-Manufacturer 1, Type 7-Manufacturer 2, Type 8-Testing laboratory, and Type 11-Distributor activities defined by the Medicinal and Adult-Use Cannabis Regulation and Safety Act, ("MAUCRSA"), Business and Professions Code Section 19300- 26000 et seq., including but not limited to medical marijuana cultivation, distribution, manufacturing, transporting and ~~testing.~~
- C. "Medical ~~marijuana~~cannabis" means ~~marijuana~~cannabis used for medical purposes in accordance with the Compassionate Use Act (~~California Health and Safety Code Section 11362.5~~) and the ~~Medical Marijuana Program Act (California Health and Safety~~MAUCRSA, Business and Professions Code Section 11362.7- 26000 et seq.).

- D. “Medical ~~marijuana~~cannabis delivery” means the transfer of medical ~~marijuana~~cannabis or medical ~~marijuana~~cannabis products from a medical ~~marijuana~~cannabis dispensary to a qualified patient or primary caregiver, as well as the use by a dispensary of any technology platform to arrange for or facilitate the transfer of medical ~~marijuana~~cannabis or medical ~~marijuana~~cannabis products.
- E. “Medical ~~marijuana~~cannabis dispensary” or “dispensary” means (1) any facility, building, structure or location, whether fixed or mobile, where a primary caregiver makes available, sells, transmits, gives or otherwise provides medical ~~marijuana~~cannabis to three or more of the following: a qualified patient or a person with an identification card, or a primary caregiver, in strict accordance with ~~California~~ Health and Safety Code Section 11362.5 et seq.; or (2) any facility, building, structure or location where three qualified patients and/or persons with identification cards and/or primary caregivers meet or congregate in order to collectively or cooperatively distribute, sell, dispense, transmit, process, deliver, exchange or give away ~~marijuana~~cannabis for medicinal purposes pursuant to ~~California~~ Health and Safety Code Section 11362.5 et seq., and such group is organized as a medical ~~marijuana~~cannabis cooperative or collective as set forth in the Attorney General’s guidelines. The terms “primary caregiver,” “qualified patient,” and “person with an identification card” shall be as defined in ~~California~~ Health and Safety Code Section 11362.5 et seq.

For purposes of this chapter, a “medical ~~marijuana~~cannabis dispensary” shall not include the following uses, as long as the location of such uses is otherwise regulated by applicable law and complies strictly with applicable law, including but not limited to ~~California~~ Health and Safety Code Section 11362.5 et seq.:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the ~~California~~ Health and Safety Code;
2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the ~~California~~ Health and Safety Code;
3. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the ~~California~~ Health and Safety Code;
4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the ~~California~~ Health and Safety Code;
5. A residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the ~~California~~ Health and Safety Code.

- F. "Medical ~~marijuana~~cannabis products" means medical ~~marijuana~~cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing ~~marijuana~~cannabis or concentrated cannabis and other ingredients.
- G. "Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability corporation, collective, cooperative, or combination thereof in whatever form or character.

5.70.030 Medical ~~marijuana~~cannabis dispensaries prohibited.

Medical ~~marijuana~~cannabis dispensaries are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to ~~permit~~allow to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of a medical ~~marijuana~~cannabis dispensary.

5.70.040 Medical ~~marijuana~~cannabis deliveries prohibited.

Medical ~~marijuana~~cannabis deliveries are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to ~~permit~~allow to be engaged in, conducted or carried on, in or upon any premises in the city, medical ~~marijuana~~cannabis deliveries. This section shall not be interpreted to prohibit the transportation of medical ~~marijuana~~cannabis through the city on public roads, as long as such transportation does not involve the delivery of medical ~~marijuana~~cannabis to retail or end users within the city.

5.70.050 Commercial medical ~~marijuana~~cannabis businesses ~~prohibited~~allowed.

Commercial medical ~~marijuana~~cannabis businesses are ~~prohibited~~allowed in the city, pursuant to the requirements set forth in this article. All commercial medical cannabis businesses must obtain a city business license, a City Medical Cannabis Permit, and a state license prior to operation, and also enter into an operating agreement with the City. Only Type 6-Manufacturers 1, Type 7-Manufacturers 2, Type 8-Testing laboratories, and Type 11-Distributors, as defined by Business and Professions Code §§ 26000 *et seq.*, shall be allowed and permitted by the city. The City Council may, at its discretion, issue up to nine (9) Commercial Medical Cannabis Permits. This number may be changed at a later time by resolution of the City Council. It shall be unlawful for any person to engage in, conduct, carry on, or to ~~permit~~allow to be engaged in, conducted or carried on, in or upon any premises in the city, a commercial medical ~~marijuana business-cannabis business~~ without complying with the requirements of this article.

5.70.051 Commercial Medical Cannabis Permit.

- A. It shall be unlawful for any person to operate a commercial medical cannabis business without a Commercial Medical Cannabis Permit, issued by the city, under the terms and conditions set forth in this article.
- B. Each Commercial Medical Cannabis Permit shall expire five (5) years from its date of issuance. Renewal of the Permit shall be subject to City Council approval, which must be obtained at a duly noticed, open and public meeting. City shall have the right to charge an administrative fee to the Commercial Medical Cannabis Permit holder, to compensate city for its reasonable and actual costs to evaluate the Permit renewal,
- C. The Commercial Medical Cannabis Permit is not transferrable, and any attempt to assign or transfer the Permit shall render the Permit null and void.
- D. No commercial medical cannabis business shall be located within six hundred (600) feet of an existing school, daycare, youth center, park or library. The City Council by ordinance, may amend this restriction or adopt additional restrictions.
- E. The commercial medical cannabis business shall file an application for a Commercial Medical Cannabis Permit with the City Manager or City Manager's designee on forms provided by the city, and shall pay an "application fee" and "processing fee."
- F. The City Council may deny an application for a Commercial Medical Cannabis Permit, if it determines any of the following:
 - i. The applicant made one or more false or misleading statements or omissions on the registration application or during the application process;
 - ii. The applicant fails to meet the requirements of this chapter or any regulation adopted pursuant to this chapter;
 - iii. It is not in the best interest of the city, based upon the applicant's application or operating agreement, to issue a Permit to the business;
 - iv. Potential threats to public health and safety cannot be sufficiently mitigated; or
 - v. Significant public opposition necessitates denial to preserve the health, safety, and general welfare of the city.

5.70.052 Commercial Medical Cannabis Permit Holder Qualifications.

All Commercial Medical Cannabis Permit holders must meet the following minimum qualifications. The city reserves the right to require additional qualifications through the Commercial Medical Cannabis Permit application procedure.

- A. Commercial Medical Cannabis Permit holders, business operators, and employees must be twenty-one (21) years of age or older.
- B. Commercial Medical Cannabis Permit holders, their business operators and employees shall be subject to background search by the California Department of Justice and local law enforcement. At city's discretion, city may conduct a background search of any Commercial Medical Cannabis Permit holder, their business operators, and employees.
- C. Commercial medical cannabis business owners, operators, managers, and employees must not have felony convictions, as specified in Penal Code section 667.5(c) and section 1192.7(c).
- D. Commercial medical cannabis business owners, operators, managers, and employees must not have a criminal conviction that substantially relates to the qualifications, functions, or duties of the business or profession, including a felony conviction involving fraud, deceit, or embezzlement or a criminal conviction for the sale or provision of illegal controlled substances to a minor.

5.70.053 Commercial Medical Cannabis Permit Application.

An application for a Commercial Medical Cannabis Permit shall include, but no be limited to, the following information:

- A. The legal name, and any other names, under which the commercial medical cannabis business will operate.
- B. The address of the location and the on-site telephone number, if known, of the commercial medical cannabis business.
- C. The following information for each owner and manager of the medical cannabis business:
 - i. Complete legal name and any alias(es), address, and telephone number.
 - ii. Date and place of birth.
 - iii. Social security numbers.

- iv. Copy of a valid government issued photo identification card, license, or passport.
- v. List of all criminal convictions, other than infractions for traffic violations, the jurisdiction of the convictions, and the circumstances thereof.
- vi. Names of businesses owned or operated by the owner(s) or manager(s) within the last ten (10) years.
- vii. Investor and/or partner information.
- D. Assessor's Parcel Number of the parcel upon which the commercial medical cannabis business will be located.
- E. Draft operating agreement, in accordance section 5.70.054.
- F. Notarized written authorization from the property owner and/or landlord, to operate a commercial medical cannabis business on the site.
- G. Air Quality Acknowledgement. When deemed necessary by city staff, the applicant shall provide a calculation of the businesses anticipated emissions of air pollutants. The applicant shall also provide assurance that the business will comply with all Best Management Practices established by the Bay Area Air Quality Management District ("BAAQMD"). No Commercial Medical Cannabis Permit shall be issued to any business that would exceed the thresholds of significance established by the BAAQMD for evaluating air quality impacts for operation or construction.
- H. Greenhouse Gas Emissions Acknowledgement. When deemed necessary by city staff, the applicant shall provide calculations of the anticipated greenhouse gas emissions for the operation of the business and, where applicable, the operation of the business. The applicant shall further demonstrate compliance with any applicable state, regional, or local plan for the reduction of greenhouse gas emissions. No Commercial Medical Cannabis Permit shall be granted for any business that would violate any state, regional, or local plan for the reduction of greenhouse gases.
- I. Water Supply Acknowledgement. When deemed necessary by the City Engineer, the applicant shall demonstrate to the satisfaction of the City Engineer that sufficient water supply exists for the use.
- J. Wastewater Acknowledgement. When deemed necessary by the City Engineer, the applicant shall demonstrate to the satisfaction of the City Engineer that sufficient wastewater capacity exists for the proposed use.

- K. To the extent that the applicant intends to use any hazardous materials in its operations, the applicant shall provide a hazardous materials management plan that complies with all federal, state, and local requirements for management of such substances. "Hazardous materials" includes any hazardous substance regulated by any federal, state, or local laws or regulations intended to protect human health or the environment from exposure to such substances.
- L. Property owner(s) and applicant(s), shall sign the application and shall include affidavit(s) agreeing to abide by and conform to the conditions of the Permit and all provisions of the Pittsburgh Municipal Code pertaining to the establishment and operation of the medical cannabis manufacturing business, including, but not limited to, the provisions of this article. The affidavit(s) shall acknowledge that the approval of the Permit shall, in no way, allow any activity contrary to the Pittsburgh Municipal Code, or any activity which is in violation of applicable laws.
- M. Statement in writing by the applicant, that they will, to the fullest extent allowed by law, give preference to residents of the city for employee hiring.
- N. Signed indemnity provision.
- O. Any other information the city deems necessary.

Pursuant to applicable law, private information will be exempt from disclosure to the public, in order to protect an applicant's privacy interest and safety.

5.70.054 Commercial Medical Cannabis Business Operating Agreement.

The operating agreement shall set forth the terms and conditions under which the commercial medical cannabis business will operate, which are in addition to the requirements of this article, including, but not limited to: a business operating plan as set forth in 5.70.055; a security plan as set forth in 5.70.056; payment of fees and other charges mutually agreed to; and additional terms and conditions that will protect and promote public health, safety, and welfare. The operating agreement shall be approved by the City Council during a duly noticed, open and public meeting. The operating agreement may be approved concurrently with the Commercial Medical Cannabis Permit. An approved operating agreement shall only be in force with a valid Commercial Medical Cannabis Permit.

5.70.055 Commercial Medical Cannabis Business Operating Plan.

An operating plan shall be in conformance with the requirements of this article, and shall include, at a minimum:

- A. A list of the names, addresses, telephone numbers, and responsibilities of each applicant, manager and employees of the medical cannabis manufacturing business.
- B. Planned hours and days of operations of the medical cannabis manufacturing business.
- C. Floor plan of the proposed business facility.
- D. If applicant is a commercial medical cannabis manufacturing business, procedures to be utilized at the facility, including, as applicable, a description of which chemicals will be used, how chemicals will be stored, handled, and used; extraction and infusion methods; the transportation process; inventory procedures; cannabis track and trace procedures; inventory procedures; quality control procedures; and testing procedures.
- E. If applicant is a commercial medical cannabis manufacturing business, a detailed description of the product(s) to be manufactured at the business, including a description of the product's intended final use by consumers.
- F. Transportation plan detailing how and when medical cannabis will be delivered to and from the commercial medical cannabis business.
- G. Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated, or excess medical cannabis and medical cannabis products.
- H. Procedures for inventory control to prevent diversion of medical cannabis or medical cannabis products to nonmedical use; employee screening; storage of medical cannabis; personnel policies; and recordkeeping.
- I. Odor management plan detailing the reasonable steps that will be taken by the business to ensure that the odor of medical cannabis and other physical impacts on neighboring properties will be minimized.
- J. Policies and procedures for adopting, monitoring, implementing, and enforcing all requirements of this article.

The city shall have the discretion to require changes to a business's operating plan. A Commercial Medical Cannabis Permit holder is required to submit any proposed change(s) to an approved operating plan to the City Manager for approval, at least thirty (30) days before the proposed change(s) is/are to take effect. Failure to do so will result in a suspension and/or revocation of the Permit. The City Manager shall have the authority to suspend a Permit, and the City Council shall have the authority to revoke a Permit.

5.70.056 Commercial Medical Cannabis Business Security Plan.

A security plan must be developed in consultation with, and approved by, the city's Chief of Police, to ensure the safety of persons working inside the business, and to protect the premises from theft, vandalism, and fire. The applicant's approved security plan must be filled with the City Manager or City Manager's designee. The applicant shall agree to implement all measures set forth in the security plan. The security plan shall include, but not be limited to, the following security measures:

- A. Storing cannabis and cannabis products not being manufactured or tested, in a secure room(s). Access to this/these room(s) shall be limited to key officers or employees.
- B. Installation of 24-hour security surveillance cameras of at least high definition quality, to monitor all entrances and exits to and from the premises, all interior spaces where cannabis, cash, or currency is being stored, and all interior spaces where diversion of cannabis could reasonably occur. Access to the security surveillance camera network shall be given to the Police Department.
- C. Retention of 24-hour surveillance camera footage for at least sixty (60) days. All surveillance camera footage shall be made immediately available to the Chief of Police or the Chief of Police's designee, or to any other state or local law enforcement, upon request.
- D. Professionally installed, maintained and monitored alarm system. Notice of the triggered alarm shall be sent to the Police Department.
- E. Sensors installed to detect entry and exit from all secure areas.
- F. Use of commercial-grade, non-residential locking mechanisms at all points of ingress and egress.
- G. Procedure whereby police are notified immediately upon any incidents of theft, vandalism, or any other instances stipulated by the Chief of Police.
- H. Designation of a responsible individual, who will be the business's point of contact with city, police, and other law enforcement entities.
- I. Transportation plan detailing how and when medical cannabis will be delivered to and from the commercial medical cannabis business.

5.70.057 Commercial Medical Cannabis Permit Revocation and Suspension.

A Commercial Medical Manufacturing Permit issued under this article maybe immediately suspended and/or revoked for any of the following reasons:

- A. An operator/permit holder ceases to meet any of the minimum qualifications listed in this article.
- B. An operator/permit holder fails to comply with the requirements of this article or any conditions of approval of the Permit.
- C. An operator/permit holder's state license for commercial medical cannabis operations is revoked, terminated, or not renewed.
- D. The commercial medical cannabis business fails to become operational within six (6) months of obtaining its Commercial Medical Cannabis Permit.
- E. Once operational, the business ceases to be in regular and continuous operation for ninety (90) consecutive days
- F. State law allowing the use for which the Permit was issued is amended or repealed resulting in the prohibition of such use, or the city receives credible information that the federal government will commence enforcement measures against such businesses and/or local governments that allow them.
- G. Circumstances under which the Permit was granted have significantly changed and the public health, safety, and welfare require the suspension, revocation, or modification.
- H. The Permit was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the Permit application.
- I. An operator/permit holder is not current on city taxes or fees.
- J. An operator/permit holder initiates changes to its operating plan or operating agreement without first obtaining city approval.
- K. An operator/permit holder's state license for commercial medical cannabis operations is suspended. The city shall not reinstate the Permit until documentation is received showing that the state license has been reinstated or reissued. It shall be the city's discretion whether the city reinstates any Permit.

The City Manager shall have the authority to suspend a Permit, and the City Council shall have the authority to revoke a permit. A suspension and/or revocation of a Permit, automatically suspends and/or revokes the Permit holder's Commercial Medical Cannabis Business Operating Agreement.

5.70.058 Commercial Medical Cannabis Permit Indemnification.

To the fullest extent permitted by law, Commercial Medical Cannabis Permit holders shall indemnify, defend with counsel acceptable to city, and hold harmless, city and its officers, officials, employees, agents and volunteers (collectively, "Indemnitees") from and against any and all liability, loss, damage, claims, expenses, and costs, including without limitation, attorney's fees, costs and fees of litigation (collectively, "Liability") of every nature arising out of, pertaining to, or relating to the city's suspension and/or revocation of a Permit, except such liability cause by the sole gross negligence or willful misconduct of city.

5.70.060 Penalty.

- A. Violation of this article is a public nuisance.
- B. Nothing in this article in any way limits any other remedy that may be available to the city, or any penalty that may be imposed by the city, for violations of this chapter. Such additional remedies include, but are not limited to, injunctive relief, administrative citations, or a cause of action under the California Narcotics Nuisance Abatement Act (Health and Safety Code Section 11570).

Article II. Nonmedical ~~Marijuana~~Cannabis

5.70.110 Purpose.

- A. In enacting this article, it is the intent of the city council to protect the safety and welfare of the general public. The Federal Controlled Substances Act, 21 U.S.C. Section 841, prohibits the possession, sale and distribution of ~~marijuana~~cannabis, and the city council finds that sanctioning the opening or establishment of nonmedical ~~marijuana businesses~~cannabis collectives, cooperatives, and dispensaries, or allowing the delivery of nonmedical ~~marijuana~~cannabis within the city would be inconsistent with federal law. ~~The purpose of this article is to prohibit~~However, the city acknowledges that state law allows commercial nonmedical ~~marijuana~~cannabis businesses, and that certain commercial nonmedical cannabis businesses from being opened or established that operate in the city, and to prohibit nonmedical marijuana deliveries from occurringaccordance with state law and are properly vetted, regulated, and monitored, can have positive economic impacts in the city- communities in which they operate.
- B. Furthermore, the city council finds that nonmedical cannabis dispensaries are public nuisances in that many violent crimes have been committed that can be traced back to the proliferation of cannabis dispensaries, including armed robberies and murders. Increased noise and pedestrian traffic, including

nonresidents in pursuit of cannabis, and out-of-area criminals in search of prey, are commonly encountered near outside cannabis collectives, cooperatives and dispensaries. The city council further finds that it is reasonable to conclude that cannabis deliveries are likely to cause many of these same adverse impacts.

- C. Therefore, in order to protect the integrity of the city and the goals upon which this city was founded, the city council finds that it is in the best interest of the residents of the city to prohibit nonmedical cannabis collectives, cooperatives and dispensaries, and cannabis deliveries, and only allow certain commercial cannabis businesses to operate, subject to specific permitting requirements and execution of an operating agreement.
- D. The purpose of this article is to prohibit cannabis collectives, cooperatives and dispensaries from being opened or established in the city of Pittsburg, as well as prohibiting nonmedical cannabis deliveries from occurring in the city of Pittsburg, while also allowing certain commercial nonmedical cannabis businesses to operate subject to requirements set forth in this article. Nothing in this article shall be deemed to allow or authorize any use or activity which is otherwise prohibited by any state or federal law.

5.70.120 Definitions.

The following words and phrases, whenever used in this article, shall be construed as hereafter set out, unless it is apparent that they have a different meaning:

- A. "City" means the city of Pittsburg.
- B. "Commercial nonmedical ~~marijuana~~cannabis business" means ~~any activity licensed~~Type 6-Manufacturer 1, Type 7-Manufacturer 2, Type 8-Testing laboratory, and Type 11-Distributor activities defined by the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), Business and Professions Code Section 26000 et seq., including but not limited to nonmedical~~marijuana cultivation, distribution, manufacturing, retail, testing, and operation of a microbusiness.~~
- C. "Nonmedical ~~marijuana~~cannabis" means ~~marijuana~~cannabis that is intended to be used for nonmedical purposes pursuant to ~~Health~~Business and Safety~~Professions~~ Code Section~~11362.1- 26000~~ et seq.
- D. "Nonmedical ~~marijuana~~cannabis delivery" means the commercial transfer of nonmedical ~~marijuana~~cannabis or nonmedical ~~marijuana~~cannabis products ~~from a nonmedical cannabis dispensary to a person, including as well as the use by a dispensary of any technology that enables persons~~platform to arrange for or

facilitate the ~~commercial~~ transfer of nonmedical ~~marijuana~~cannabis or nonmedical ~~marijuana~~cannabis products.

E. “Nonmedical ~~marijuana~~cannabis dispensary” or “dispensary” means any retail business that is required to possess a “Type 10-Retailer” or “Type 12 Microbusiness” under Business and Professions Code Section 2600 *et seq.*

F. “Nonmedical cannabis products” means nonmedical ~~marijuana~~cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing ~~marijuana~~cannabis or concentrated cannabis and other ingredients.

G. “Person” means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability corporation, collective, cooperative, or combination thereof in whatever form or character.

5.70.130 Nonmedical ~~marijuana~~ deliveries ~~cannabis~~ dispensaries prohibited.

Nonmedical ~~marijuana~~ deliveries ~~cannabis~~ dispensaries are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to ~~permit~~allow to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of a nonmedical ~~marijuana~~ dispensary.

5.70.140 Nonmedical cannabis deliveries prohibited.

Nonmedical cannabis deliveries are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to allow to be engaged in, conducted or carried on, in or upon any premises in the city, nonmedical cannabis deliveries. This section shall not be interpreted to prohibit the transportation of nonmedical ~~marijuana~~cannabis through the city on public roads, as long as such transportation does not involve the delivery of nonmedical ~~marijuana~~cannabis within the city.

5.70.140-150 Commercial nonmedical ~~marijuana~~ businesses prohibited~~allowed~~.

Commercial nonmedical ~~marijuana~~cannabis businesses are ~~prohibited~~allowed in the city~~;~~, pursuant to the requirements set forth in this article. All commercial nonmedical cannabis businesses must obtain a city business license, a City Nonmedical Cannabis Permit, and a state license prior to operation, and also enter into an operating agreement with the City. Only Type 6-Manufacturers 1, Type 7-Manufacturers 2, Type 8-Testing laboratories, and Type 11-Distributors, as defined by Business and Professions Code §§ 26000 *et seq.*, shall be allowed and permitted by the city. The City Council may, at its discretion, issue up to nine (9) Commercial Nonmedical

Cannabis Permits. This number may be changed at a later time by resolution of the City Council. It shall be unlawful for any person to engage in, conduct, carry on, or to permit allow to be engaged in, conducted or carried on, in or upon any premises in the city, a commercial nonmedical marijuana business. cannabis business without complying with the requirements of this article.

5.70.150-5.70.160 Commercial Nonmedical Cannabis Permit.

- A. It shall be unlawful for any person to operate a commercial nonmedical cannabis business without a Commercial Nonmedical Cannabis Permit, issued by the city, under the terms and conditions set forth in this article.
- B. Each Commercial Nonmedical Cannabis Permit shall expire five (5) years from its date of issuance. Renewal of the Permit shall be subject to City Council approval, which must be obtained at a duly noticed, open and public meeting. City shall have the right to charge an administrative fee to the Commercial Nonmedical Cannabis Permit holder, to compensate city for its reasonable and actual costs to evaluate the Permit renewal.
- C. The Commercial Nonmedical Cannabis Permit is not transferrable, and any attempt to assign or transfer the Permit shall render the Permit null and void.
- D. No commercial nonmedical cannabis business shall be located within six hundred (600) feet of an existing school, daycare, youth center, park or library. The City Council by ordinance, may amend this restriction or adopt additional restrictions.
- E. The commercial nonmedical cannabis business shall file an application for a Commercial Nonmedical Cannabis Permit with the City Manager or City Manager's designee on forms provided by the city, and shall pay an "application fee" and "processing fee."
- F. The City Council may deny an application for a Commercial Nonmedical Cannabis Permit, if it determines any of the following:
 - i. The applicant made one or more false or misleading statements or omissions on the registration application or during the application process;
 - ii. The applicant fails to meet the requirements of this chapter or any regulation adopted pursuant to this chapter;
 - iii. It is not in the best interest of the city, based upon the applicant's application or operating agreement, to issue a Permit to the business;
 - iv. Potential threats to public health and safety cannot be sufficiently mitigated; or

- v. Significant public opposition necessitates denial to preserve the health, safety, and general welfare of the city.

5.70.161 Commercial Nonmedical Cannabis Permit Holder Qualifications.

All Commercial Nonmedical Cannabis Permit holders must meet the following minimum qualifications. The city reserves the right to require additional qualifications through the Commercial Nonmedical Cannabis Permit application procedure.

- A. Commercial Nonmedical Cannabis Permit holders, business operators, and employees must be twenty-one (21) years of age or older.
- B. Commercial Nonmedical Cannabis Permit holders, their business operators and employees shall be subject to background search by the California Department of Justice and local law enforcement. At city's discretion, city may conduct a background search of any Commercial Nonmedical Cannabis Permit holder, their business operators, and employees.
- C. Commercial nonmedical cannabis business owners, operators, managers, and employees must not have felony convictions, as specified in Penal Code section 667.5(c) and section 1192.7(c).
- D. Commercial nonmedical cannabis business owners, operators, managers, and employees must not have a criminal conviction that substantially relates to the qualifications, functions, or duties of the business or profession, including a felony conviction involving fraud, deceit, or embezzlement or a criminal conviction for the sale or provision of illegal controlled substances to a minor.

5.70.162 Commercial Nonmedical Cannabis Permit Application.

An application for a Commercial Nonmedical Cannabis Permit shall include, but no be limited to, the following information:

- A. The legal name, and any other names, under which the commercial nonmedical cannabis business will operate.
- B. The address of the location and the on-site telephone number, if known, of the commercial nonmedical cannabis business.
- C. The following information for each owner and manager of the nonmedical cannabis business:
 - i. Complete legal name and any alias(es), address, and telephone number.
 - ii. Date and place of birth.
 - iii. Social security numbers.

- iv. Copy of a valid government issued photo identification card, license, or passport.
 - v. List of all criminal convictions, other than infractions for traffic violations, the jurisdiction of the convictions, and the circumstances thereof.
 - vi. Names of businesses owned or operated by the owner(s) or manager(s) within the last ten (10) years.
 - vii. Investor and/or partner information.
- D. Assessor's Parcel Number of the parcel upon which the commercial nonmedical cannabis business will be located.
- E. Draft operating agreement, in accordance section 5.70.163.
- F. Notarized written authorization from the property owner and/or landlord, to operate a commercial nonmedical cannabis business on the site.
- G. Air Quality Acknowledgement. When deemed necessary by city staff, the applicant shall provide a calculation of the businesses anticipated emissions of air pollutants. The applicant shall also provide assurance that the business will comply with all Best Management Practices established by the Bay Area Air Quality Management District ("BAAQMD"). No Commercial Nonmedical Cannabis Permit shall be issued to any business that would exceed the thresholds of significance established by the BAAQMD for evaluating air quality impacts for operation or construction.
- H. Greenhouse Gas Emissions Acknowledgement. When deemed necessary by city staff, the applicant shall provide calculations of the anticipated greenhouse gas emissions for the operation of the business and, where applicable, the operation of the business. The applicant shall further demonstrate compliance with any applicable state, regional, or local plan for the reduction of greenhouse gas emissions. No Commercial Nonmedical Cannabis Permit shall be granted for any business that would violate any state, regional, or local plan for the reduction of greenhouse gases.
- I. Water Supply Acknowledgement. When deemed necessary by the City Engineer, the applicant shall demonstrate to the satisfaction of the City Engineer that sufficient water supply exists for the use.
- J. Wastewater Acknowledgement. When deemed necessary by the City Engineer, the applicant shall demonstrate to the satisfaction of the City Engineer that sufficient wastewater capacity exists for the proposed use.

- K. To the extent that the applicant intends to use any hazardous materials in its operations, the applicant shall provide a hazardous materials management plan that complies with all federal, state, and local requirements for management of such substances. "Hazardous materials" includes any hazardous substance regulated by any federal, state, or local laws or regulations intended to protect human health or the environment from exposure to such substances.
- L. Property owner(s) and applicant(s), shall sign the application and shall include affidavit(s) agreeing to abide by and conform to the conditions of the Permit and all provisions of the Pittsburg Municipal Code pertaining to the establishment and operation of the medical cannabis manufacturing business, including, but not limited to, the provisions of this article. The affidavit(s) shall acknowledge that the approval of the Permit shall, in no way, allow any activity contrary to the Pittsburg Municipal Code, or any activity which is in violation of applicable laws.
- M. Statement in writing by the applicant, that they will, to the fullest extent allowed by law, give preference to residents of the city for employee hiring.
- N. Signed indemnity provision.
- O. Any other information the city deems necessary.

Pursuant to applicable law, private information will be exempt from disclosure to the public, in order to protect an applicant's privacy interest and safety.

5.70.163 Commercial Nonmedical Cannabis Business Operating Agreement.

The operating agreement shall set forth the terms and conditions under which the commercial medical cannabis business will operate, which are in addition to the requirements of this article, including, but not limited to: a business operating plan as set forth in 5.70.164; a security plan as set forth in 5.70.165; payment of fees and other charges mutually agreed to; and additional terms and conditions that will protect and promote public health, safety, and welfare. The operating agreement shall be approved by the City Council during a duly noticed, open and public meeting. The operating agreement may be approved concurrently with the Commercial Nonmedical Cannabis Permit. An approved operating agreement shall only be in force with a valid Commercial Nonmedical Cannabis Permit.

5.70.164 Commercial Nonmedical Cannabis Business Operating Plan.

An operating plan shall be in conformance with the requirements of this article, and shall include, at a minimum:

- A. A list of the names, addresses, telephone numbers, and responsibilities of each applicant, manager and employees of the medical cannabis manufacturing business.
- B. Planned hours and days of operations of the medical cannabis manufacturing business.
- C. Floor plan of the proposed business facility.
- D. If applicant is a commercial nonmedical cannabis manufacturing business, procedures to be utilized at the facility, including, as applicable, a description of which chemicals will be used, how chemicals will be stored, handled, and used; extraction and infusion methods; the transportation process; inventory procedures; cannabis track and trace procedures; inventory procedures; quality control procedures; and testing procedures.
- E. If applicant is a commercial nonmedical cannabis manufacturing business, a detailed description of the product(s) to be manufactured at the business, including a description of the product's intended final use by consumers.
- F. Transportation plan detailing how and when nonmedical cannabis will be delivered to and from the commercial medical cannabis business.
- G. Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated, or excess nonmedical cannabis and nonmedical cannabis products.
- H. Procedures for inventory control to prevent diversion of nonmedical cannabis or nonmedical cannabis products to unintended uses; employee screening; storage of nonmedical cannabis; personnel policies; and recordkeeping.
- I. Odor management plan detailing the reasonable steps that will be taken by the business to ensure that the odor of nonmedical cannabis and other physical impacts on neighboring properties will be minimized.
- J. Policies and procedures for adopting, monitoring, implementing, and enforcing all requirements of this article.

The city shall have the discretion to require changes to a business's operating plan. A Commercial Nonmedical Cannabis Permit holder is required to submit any proposed change(s) to an approved operating plan to the City Manager for approval, at least thirty (30) days before the proposed change(s) is/are to take effect. Failure to do so will result in a suspension and/or revocation of the Permit. The City Manager shall have the authority to suspend a Permit, and the City Council shall have the authority to revoke a Permit.

5.70.165 Commercial Nonmedical Cannabis Business Security Plan.

A security plan must be developed in consultation with, and approved by, the city's Chief of Police, to ensure the safety of persons working inside the business, and to protect the premises from theft, vandalism, and fire. The applicant's approved security plan must be filled with the City Manager or City Manager's designee. The applicant shall agree to implement all measures set forth in the security plan. The security plan shall include, but not be limited to, the following security measures:

- A. Storing nonmedical cannabis and nonmedical cannabis products not being manufactured or tested, in a secure room(s). Access to this/these room(s) shall be limited to key officers or employees.
- B. Installation of 24-hour security surveillance cameras of at least high definition quality, to monitor all entrances and exits to and from the premises, all interior spaces where cannabis, cash, or currency is being stored, and all interior spaces where diversion of cannabis could reasonably occur. Access to the security surveillance camera network shall be given to the Police Department.
- C. Retention of 24-hour surveillance camera footage for at least sixty (60) days. All surveillance camera footage shall be made immediately available to the Chief of Police or the Chief of Police's designee, or to any other state or local law enforcement, upon request.
- D. Professionally installed, maintained and monitored alarm system. Notice of the triggered alarm shall be sent to the Police Department.
- E. Sensors installed to detect entry and exit from all secure areas.
- F. Use of commercial-grade, non-residential locking mechanisms at all points of ingress and egress.
- G. Procedure whereby police are notified immediately upon any incidents of theft, vandalism, or any other instances stipulated by the Chief of Police.
- H. Designation of a responsible individual, who will be the business's point of contact with city, police, and other law enforcement entities.
- I. Transportation plan detailing how and when nonmedical cannabis will be delivered to and from the commercial nonmedical cannabis business.

5.70.170 Commercial Nonmedical Cannabis Permit Revocation and Suspension.

A Commercial Nonmedical Manufacturing Permit issued under this article maybe immediately suspended and/or revoked for any of the following reasons:

- A. An operator/permit holder ceases to meet any of the minimum qualifications listed in this article.
- B. An operator/permit holder fails to comply with the requirements of this article or any conditions of approval of the Permit.
- C. An operator/permit holder's state license for commercial nonmedical cannabis operations is revoked, terminated, or not renewed.
- D. An operator/permit holder's Commercial Medical Permit is suspended or revoked.
- E. The commercial nonmedical cannabis business fails to become operational within six (6) months of obtaining its Commercial Nonmedical Cannabis Permit.
- F. Once operational, the business ceases to be in regular and continuous operation for ninety (90) consecutive days
- G. State law allowing the use for which the Permit was issued is amended or repealed resulting in the prohibition of such use, or the city receives credible information that the federal government will commence enforcement measures against such businesses and/or local governments that allow them.
- H. Circumstances under which the Permit was granted have significantly changed and the public health, safety, and welfare require the suspension, revocation, or modification.
- I. The Permit was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the Permit application.
- J. An operator/permit holder is not current on city taxes or fees.
- K. An operator/permit holder initiates changes to its operating plan or operating agreement without first obtaining city approval.
- L. An operator/permit holder's state license for commercial nonmedical cannabis operations is suspended. The city shall not reinstate the Permit until documentation is received showing that the state license has been reinstated or reissued. It shall be the city's discretion whether the city reinstates any Permit.

The City Manager shall have the authority to suspend a Permit, and the City Council shall have the authority to revoke a Permit. A suspension and/or revocation of a Permit,

automatically suspends and/or revokes the Permit holder's Commercial Nonmedical Cannabis Business Operating Agreement.

5.70.180 Commercial Nonmedical Cannabis Permit Indemnification.

To the fullest extent permitted by law, Commercial Nonmedical Cannabis Permit holders shall indemnify, defend with counsel acceptable to city, and hold harmless, city and its officers, officials, employees, agents and volunteers (collectively, "Indemnitees") from and against any and all liability, loss, damage, claims, expenses, and costs, including without limitation, attorney's fees, costs and fees of litigation (collectively, "Liability") of every nature arising out of, pertaining to, or relating to the city's suspension and/or revocation of a Permit, except such liability cause by the sole gross negligence or willful misconduct of city.

5.70.190 Dual Application Process

A person may apply for a Commercial Medical Cannabis Permit and Commercial Nonmedical Cannabis Permit concurrently.

5.70.200 Penalty.

- A. Violation of this article is a public nuisance.
- B. Nothing in this article in any way limits any other remedy that may be available to the city, or any penalty that may be imposed by the city, for violations of this ~~article~~chapter. Such additional remedies, include, but are not limited to, injunctive relief ~~and, administrative citations,~~ or a cause of action under the California Narcotics Nuisance Abatement Act (Health and Safety Code Section 11570).



City of Pittsburg

Community Development Department – Planning Division

65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the **CITY COUNCIL** of the City of Pittsburg will conduct a public hearing on:

DATE: May 7, 2018
TIME: 7:00 p.m.
PLACE: City Council Chamber at City Hall
 65 Civic Avenue, Pittsburg, California

Concerning the following matter:

Introduction and Waive First Reading of an Ordinance to Amend Pittsburg Municipal Code Title 18 Related to Cannabis, AP-18-1308 (RZ).

On March 27, 2018, the Planning Commission held a public hearing and subsequently voted 4-3 to recommend denial of amendments to Title 18, "Zoning," of the Pittsburg Municipal Code (PMC) to allow for use of cannabis within medical and nonmedical product manufacturing. On April 3, 2018, pursuant to PMC section 18.18.100(A), the City Manager filed an appeal of the Planning Commission's decision.

Should the City Council uphold the appeal, a separate public hearing will be held at the time noted above to consider introduction and waive of first reading of an ordinance to amend PMC Title 18 related to cannabis regulations.

PROJECT PLANNER: Jordan Davis, (925) 252-4015 or jdavis@ci.pittsburg.ca.us

Why am I receiving this notice? You are receiving this notice because you have either previously requested notifications from the Planning Division, or a project has been proposed in your neighborhood and all property owners within a minimum 300-foot radius of the project site are required to be notified under the Pittsburg Municipal Code.

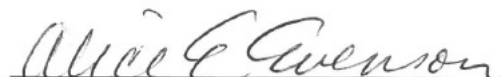
Where can I get more information about this project?

The complete file for this project is available for public inspection at the Planning Division, weekdays during the hours of 8:00 AM to 12:00 PM and 1:00 PM to 5:00 PM. You can also find out more about the project by contacting the project planner listed above.

What can I do if I have comments on the project?

Comments or objections to the project can be made by writing or through oral testimony during the public hearing. Written comments citing the project name may be emailed to the project planner listed above, or may be mailed or delivered to: Pittsburg Planning Division, 65 Civic Avenue, Pittsburg, CA 94565. You may also register your comments or objections by attending the public hearing on the date and time listed above.

Pursuant to Section 65009 of the California Government Code, if you challenge this matter in court, you may be limited to those issues you or someone else raised at the public hearing described in this notice, or in written correspondence on the matter delivered to this agency at, or prior to the public hearing. Any written correspondence delivered to the Planning Division before the hearing body's action on the matter will become a part of the administrative record.


 ALICE E. EVENSON, CITY CLERK
 CITY OF PITTSBURG



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

DATE: 4/30/2018

TO: Mayor and Council Members

FROM: Joe Sbranti, City Manager

SUBJECT: Adoption of a City Council Resolution Providing Staff with Direction Related to the Delta View Golf Course

MEETING DATE: 5/7/2018

EXECUTIVE SUMMARY

The City of Pittsburg and Delta View Golf Club LLC (the “Former Operator”) entered into a lease agreement (the “Lease Agreement”) on January 18, 2011. The Former Operator ceased to operate the Delta View Golf Course (the “Property”) effective March 1, 2018. The Property consists of 175 acres out of the total 420 acres of the Stoneman Property. Staff is seeking direction from the City Council on a future use of the Property that would provide the greatest benefit to Pittsburg residents.

On March 19, 2018, the City Council directed staff to seek public input through on-line polling of potential uses of the Property. The four categories used to poll the public are:

1. Golf Course and Events Venue – Conduct a search to find an operator to continue the operations of the golf course and events venue.
2. Economic Development and Employment Opportunities – Develop projects that generate revenue and employment opportunities (i.e. technology business park, hotel, retail, etc.)
3. Diverse Recreational Opportunities – Multi-sports facility such as base/softball, soccer, volleyball, gymnasium, community center, miniature golf, 3-hole practice course, etc.
4. Other Public Uses – 9-hole course, open space, walking/running trail, dirt and/or mountain bike trail, exercise course, etc.

On March 28, 2018, staff presented the four categories used to poll the public at the Land Use Subcommittee Meeting. After considering the suggestions heard in the meeting, the categories were clarified and simplified.

The survey opened on April 9, 2018 and closed on May 7, 2018. Staff will be presenting the results of the survey during the May 7, 2018 City Council meeting.

FISCAL IMPACT

The fiscal impacts are dependent on the option(s) that the City Council chooses.

Option 1 – Golf Course and Events Venue

Historically, the City's average annual General Fund subsidy to maintain and operate the 18-hole golf course had been approximately \$250,000. As of 2011, the maintenance of the golf course became the Former Operator's responsibility since the Lease Agreement outsourced this effort. At this time, it is anticipated that there are approximately \$1,000,000 in deferred maintenance issues on the golf course and on-site buildings that must be addressed before the golf course could be reopened to the Public. This amount of effort would restore the golf course at a very basic level.

This option includes utilizing all 175 acres and reviving the now closed golf course, banquet facility, and restaurant/bar. To bring the banquet facility and restaurant/bar up to the caliber of other successful golf course venues and remedy the potential litigation matters, it is estimated that a new venue and complete rehabilitation of the existing cart paths and tee boxes, walk-ways, and parking lot must be completed. It is estimated that a larger investment of approximately \$10,000,000 would be required to complete this level of improvements. Currently, a \$10,000,000 bond would cost the City \$978,000 a year for the next 20 years at 7% interest.

Option 2 – Economic Development and Employment Opportunities

Approximately 50% of the Property is unrestricted and may be developed in ways that do not involve a recreational component. Therefore, this option considers development of portions of the Property, between 75 and 100 acres, with projects that generate revenue and employment opportunities such as a technology business park, hotel, retail, etc. The sale of a portion of the Property would result in one-time revenue that could be as much as \$10,000,000, depending on the acreage of land sold. In addition, as a commercial development, there would be anticipated on-going revenue generated that may be used to support the growing demands on City services and maintenance needs that could include public safety, recreation, and infrastructure. This option does not require a subsidy from the City's General Fund.

Option 3 – Diverse Recreational Opportunities

All or a portion of the Property could be repurposed to include a multi-sports facility such as base/softball, soccer, volleyball, gymnasium, community center, 3-hole practice course, etc. Capital investment to construct these listed facilities could cost between \$5,000,000 and \$20,000,000, depending upon the design and size of the project and amenities. Unless a new revenue source is identified, the City's General Fund would be required to pay for ongoing maintenance of the fields and buildings.

Option 4 – Other Public Uses

This option anticipates using all or a portion of the Property for such uses as a 9-hole course, open space, walking/running trail, dirt and/or mountain bike trail, exercise course, etc. These uses have varying costs.

As a 9-hole course, the anticipated one-time and ongoing expenses may be a little less than Option 1 because there will be fewer improvements and less ongoing maintenance required on a smaller golf course. However, any retention of golf related facilities will incur costs for course management operations and improvements. The other amenities included as part this option such as open space and hiking trails are lower in cost to construct and maintain. Without a plan, it is difficult to estimate actual costs.

Option 1 utilizes the entire 175-acre Property while Options 2, 3, and 4 may divide the 175 acres. Currently, there are no funds available to complete the necessary improvements to reopen the golf course and related amenities. Funding for Options 3 and 4 may be possible as a result of Option 2 and a combination of Park Dedication Fees, benefactors, endowments, and grants.

RECOMMENDATION

City Council consider the options available to them and provide direction to staff.

BACKGROUND

Based on financial records that date back to 1991, the expenses related to the golf course operations have always been greater than the revenues generated and therefore, the City subsidized the golf course in order to maintain the service levels. As the economy started to decline in 2007 and expenses increased, the City had to make changes in order to meet the continued demands on City services. One of the changes made was the outsourcing of the golf course maintenance and operations.

Pursuant to the Lease Agreement, the Former Operator was required to administer and maintain the golf course operations. The lease payment to the City for the Property was \$1 per year. The Former Operator retained the revenues collected from the golf course operations. In return, the Former Operator was responsible for operations and maintenance and all associated costs for the 18-hole course, driving range, practice greens, golf shop, maintenance building and yard, clubhouse, parking lot, and other amenities associated with the Property. The Former Operator was also required to maintain sufficient level of insurance and to indemnify the City.

On February 26, 2018, the Former Operator confirmed that it was ceasing operation on March 1, 2018. A combination of legal and economic factors led to the closure by the Former Operator. The golf course was subject to a series of slip and fall claims and an ADA golf cart litigation. The ADA lawsuit settlement, which includes legal fees, was approximately \$100,000. In addition, the Former Operator owes approximately \$70,000 in outstanding water bills and \$11,000 in other costs.

As a result of the City notifying the public of the Property's closure, several potential uses of the Stoneman Property have been suggested through telephone calls, Facebook, and emails. Some of these suggestions are to find a new golf course operator to operate and maintain the Property, operate a 9-hole golf course, develop a water park, and create open space. Other options have come from Neighbor Improvement Team meetings and a most recent survey. These options include projects that would encourage retail, employment opportunities, economic growth, and diverse recreational opportunities.

SUBCOMMITTEE FINDINGS

Not Applicable.

STAFF ANALYSIS

In an attempt to be inclusive, staff has posted the survey information on the City website and Facebook. In addition, staff has provided the survey information to the Pittsburg and Mt. Diablo Unified School Districts who have Pittsburg families attending their schools, the faith-based community, two private schools, and to various organizations.

Each of the four options have costs and benefits. As seen with the survey, there are many strong opinions on how best to use such a unique property.

As a golf course and events venue, Option 1, the City would conduct a request for proposal process to identify a golf course operator. As of the date of this staff report, staff has received inquiries from 12 different interested parties regarding the operations of the golf course. The 12 parties vary in industry experience and capital ability to fund operations.

Members of the community have expressed the need for economic development and employment opportunities; their desire for competitive wages without having to commute to work. Option 2 provides an opportunity to meet these needs. As of the date of this staff report, staff has received one inquiry regarding the development of a technology business park. The company interested in developing the technology business park has invested over \$500,000,000 in the community on past projects.

In the last two decades, the City has lost its community centers such as the Marina Center and the Del Monte Center, also known as the City Gym. While soccer fields have been constructed, Stoneman ballfield was eliminated. With a growing community that is extremely active in sports, Option 3 provides diverse recreational opportunities. As of the date of this staff report, staff has received one inquiry regarding the development of a diverse recreational facility. The inquiring entity has developed other projects in Contra Costa County exceeding an aggregate amount of \$100,000,000.

Other Public Uses may involve a combination of the listed proposed uses under Option 4. The type of public use under this option will determine cost. As of the date of this staff report, staff has not received any inquiries to facilitate this option.

Determining the best use(s) of the Property is difficult because there are many people who will be impacted by the decision. It is the City's goal to provide options that would most benefit the community and provide a stable future.

ATTACHMENTS: Resolution

Report Prepared By: Joe Sbranti, City Manager
Garrett Evans, Assistant City Manager
Maria M. Aliotti, Director of Community Services

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Adoption of a City Council Resolution Providing)
Staff with Direction Related to the Delta View Golf) RESOLUTION NO. 18-
Course)

The City Council of the City of Pittsburgh DOES RESOLVE as follows:

WHEREAS, on January 18, 2011, by City Council Resolution 11-11588, the City of Pittsburgh approved the lease agreement (the "Lease Agreement") with Delta View Golf Club LLC (the "Former Operator") to administer and maintain the golf course operations at Delta View Golf Course; and

WHEREAS, pursuant to the Lease Agreement, the Former Operator leased the Golf Course from the City for \$1 per year and retained the revenues collected at the Golf Course. In return, the Former Operator was responsible for the operations and maintenance and all associated costs for the 18-hole course, driving range, practice greens, golf shop, maintenance building and yard, clubhouse, parking lot, and other amenities associated with the Golf Course (collectively, the "Property"); and

WHEREAS, the Former Operator ceased to operate the Property effective March 1, 2018. A combination of legal and economic factors led to the closure by the Former Operator. The golf course was subject to a series of slip and fall claims and an ADA golf cart litigation. The ADA lawsuit settlement, which includes legal fees, was approximately \$100,000. In addition, the Former Operator owes approximately \$70,000 in outstanding water bills and \$11,000 in other costs; and

WHEREAS, on March 19, 2018, the City Council directed staff to seek public input through on-line polling of potential uses of the Property. The four categories used to poll the public are:

1. Golf Course and Events Venue – Conduct a search to find an operator to continue the operations of the golf course and events venue.
2. Economic Development and Employment Opportunities – Develop projects that generate revenue and employment opportunities (i.e. technology business park, hotel, retail, etc.)
3. Diverse Recreational Opportunities – Multi-sports facility such as base/softball, soccer, volleyball, gymnasium, community center, miniature golf, 3-hole practice course, etc.
4. Other Public Uses – 9-hole course, open space, walking/running trail, dirt and/or mountain bike trail, exercise course, etc.; and

WHEREAS, March 28, 2018, staff presented the four categories used to poll the public at the Land Use Subcommittee Meeting. After considering the suggestions heard in the meeting, the categories were clarified and simplified; and

WHEREAS, the survey opened April 9, 2018 and closed on May 7, 2018; and

WHEREAS. the Property consists of 175 acres out of the total 420 acres of the Stoneman Property. Staff is seeking direction from the City Council on a future use of the Property that would provide the greatest benefit to Pittsburg residents.

NOW, THEREFORE, the City Council finds and determines as follows:

Section 1.

All the recitals above are true and correct and incorporated herein.

Section 2.

The City Council hereby adopts this Resolution providing staff with direction related to the Delta View Golf Course.

Section 3.

The City Manager is hereby authorized to execute any and all documents and take such further actions as may be necessary or appropriate to carry out the City Council's direction pursuant to this Resolution. Any consideration of a lease agreement or project will be taken through the appropriate process and presented to the authorized commission and City Council.

Section 4.

The City Clerk shall certify to the adoption of this Resolution.

Section 5.

This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 7th day of May 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Dwaine "Pete" Longmire, Mayor

ATTEST:

Alice E. Evenson, City Clerk

**CITY OF PITTSBURG
CITY COUNCIL/AGENCY CONCURRENT MEETING MINUTES**

DATE: April 16, 2018

LOCATION: Council Chamber, City Hall, 65 Civic Avenue, Pittsburg, CA 94565

CITY COUNCIL/AGENCY MEMBERS

Dwaine "Pete" Longmire, Mayor/Chair
Sal Evola, Vice-Mayor/Chair
Juan Antonio Banales, Council/Agency Member
Jelani Killings, Council/Agency Member
Marilyn Craft, Council/Agency Member
Michelle Bond, Agency Member
Annie Hill Herring, Agency Member

APPOINTED OFFICIALS

Joe Sbranti, City Manager/Executive Director
Ruthann Ziegler, City Attorney/Legal Counsel
Alice E. Evenson, City Clerk/Agency Secretary (elected)
Nancy Parent, City Treasurer (elected)

The following Planning Commission Appeal was heard at 5:35 P.M.:

1. Appeal of the Planning Commission's Decision to Deny Variance and Design Review Application No. 17-1274 (VA, DR).

After staff's presentation, Mayor Longmire opened the Public Hearing.

Mayor Longmire arrived at 6:00 P.M., prior to the Appellant's presentation.

Randy Baugh, Appellant, presented his appeal.

As there were no speakers, Mayor Longmire closed the Public Hearing.

On motion by Vice-Mayor Evola, seconded by Member Killings to adopt the resolution approving the Variance and Design Review Application No. 17-1274 (VA, DR) with the modification to grant the appeal as conditioned and recommended by staff with the modification of not requiring the elevator to be installed up front, but in conjunction with the planning and building department's review of the tenant improvements for the buildout of said space and if such space and use and necessitates it, it shall then be required.

Vice-Mayor Evola amended the motion, seconded by Member Killings, to adopt the resolution approving the Variance and Design Review Application No. 17-1274 (VA, DR) with the following change to Condition 3 in the resolution as suggested by staff as follows:

"3. The developer shall construct the building with a fully-finished, accessible, and ready-to-lease second floor (excluding any standard tenant specific improvements). Necessary interior improvements to be completed prior to issuance of a certificate of occupancy shall

include, but are not limited to, walls ready to paint, electrical panel and outlets, a finished floor, finished ceiling with lighting, HVAC including duct work and controls, plumbing for a restroom space, and sprinkler system, if required by the Contra Costa County Fire Protection District. Future elevator access to the second floor shall be required only as mandated by the California Building Code, and shall be shown on future second-floor tenant improvement plans as required.”

The resolution was adopted by the following vote:

AYES: Craft, Evola, Killings, Longmire
NAYES: Banales

Mayor Longmire called the meeting of the City Council to order at 7:03 P.M. in the City Council Chamber at City Hall, 65 Civic Avenue, Pittsburg, CA after convening at 6:00 P.M. for Closed Session for the following items:

Wolfgang Croskey, Croskey Realty, addressed the Council regarding Item 2 below: Property at 615 Railroad Avenue.

2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Pursuant to Section 54956.8):

Property: Center Drive (APNs 086-100-040 and 086-100-041); Agency Negotiators: Joe Sbranti, Maria Aliotti; Negotiating Parties: Garaventa Enterprises; Under negotiation: Both price and terms of payment

Property: 615 Railroad Avenue APN 085-171-012; Agency Negotiators for the Pittsburg Power Company: Joe Sbranti, Garrett Evans, and Maria Aliotti; Negotiating Parties: Natalie Cooper dba Lumpy's; Under negotiations: both price and terms of payment

3. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION FOR THE CITY OF PITTSBURG; Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9:

One (1) case

4. CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION FOR THE CITY OF PITTSBURG; Significant exposure to litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9:

One (1) case

ROLL CALL

All Members were present.

PLEDGE OF ALLEGIANCE

Chief Addington led the Pledge of Allegiance.

CITY MANAGER'S REMARKS

Assistant City Manager Evans reported on upcoming events throughout the city.

CITIZENS REMARKS

Mark Linde, Pittsburg, spoke regarding homelessness and asked for a committee to be formed to help address the issue.

Wolfgang Croskey, Pittsburg, thanked the Council for the local preference policy amendment (Item 11 on the Consent Calendar).

CITY COUNCIL MEETING

PUBLIC HEARING

7. Introduction and Waive First Reading of an Ordinance Regarding the Use of the City Seal and City Logo Allowing for Their Limited Use; and Approval of the Use of City Seal and Logo Application

Mayor Longmire opened the Public Hearing. There being no one to speak to the item, Mayor Longmire closed the Public Hearing.

On motion by Member Craft, seconded by Member Banales to introduce and waive first reading of the ordinance and carried unanimously.

8. Adoption of a City Council Resolution Approving the Community Development Block Grant 2018-2019 Annual Action Plan

Member Craft stated she would recuse herself from this item due to her financial interest. She left the dais at this time.

Mayor Longmire opened the Public Hearing.

Mark Linde, Pittsburg, was concerned about the amount of funding to some of the non-profits.

There being no one to speak further to the item, Mayor Longmire closed the Public Hearing.

On motion by Member Killings, seconded by Member Banales to adopt and carried by the following vote:

AYES: Banales, Craft, Evola, Killings, Longmire
ABSENT: Craft

Member Craft returned to the dais at this time.

CONFLICT OF INTEREST STATEMENT

There were no conflict of interest statements.

**COMBINED CITY COUNCIL, PITTSBURG ARTS AND COMMUNITY FOUNDATION,
PITTSBURG POWER COMPANY AND SUCCESSOR AGENCY CONSENT CALENDAR**

On motion by Member Banales, seconded by Member Killings to adopt and carried unanimously.

9. Minutes of April 2, 2018

10. Adoption of City Council, Pittsburg Power Company and Southwest Pittsburg Geologic Hazard Abatement District II Resolutions Approving a List of Civil Engineering Firms for On-Call Professional Engineering Services and Authorizing the City Manager/ Executive Director to Enter into Agreements with Selected Firms

11. Adoption of a City Council Resolution to Amend the Purchasing Policies by Increasing Local Preference for the Purchase of Goods

12. Adoption of a City Council Resolution Approving a List of Projects to be Funded by SB 1, the Road Repair and Accountability Act of 2017 for Fiscal Year 2018-19

13. Adoption of a City Council Resolution to Authorize a Lease/Purchase Agreement for Upgrades to Key Components of the City's Computer Network and Continuing Support Services

14. Adoption of a City Council Resolution Accepting the Transfer of Property Located at 1425 Railroad Avenue (APN 086 180-031) from the Successor Agency of the City of Pittsburg

15. Adoption of a City Council Resolution Approving a Lease Agreement by and between the City of Pittsburg and Frank P. Macaluso, as Trustee of the Frank P. Macaluso 2015 Living Trust, U/A dated October 19, 2015 for the Properties Known as Contra Costa County APNs 085-020-003 and 085-020-004

16. Adoption of City Council Ordinance Adding Polystyrene Products Regulation to the Pittsburg Municipal Code

17. Adoption of a City Council Ordinance Amending Chapter 8.07, "Plastic Bag Regulation" of the Pittsburg Municipal Code

COUNCIL MEMBER REPORTS/REMARKS

Member Killings attended the joint town hall meeting by Assembly Member Tim Grayson and Senator Steve Glazer held at Ambrose Recreation Center. He also attended the League of California cities subcommittee in Pomona, the Pittsburg Rotary "Rise Against Hunger" event gathering some 10,000 bags of food for shipment to Puerto Rico, and joined the Clean Pittsburg crew which is becoming popular. He also attended the AAU Basketball Tournament which was a very successful event.

Member Craft attended the AAU Tournament as well as the town hall meeting. She thanked staff that put together a joint Pittsburg and Bay Point activity guide. She also attended the East Bay Economic Development Alliance event where Pittsburg businesses Bishop Wisecarver and Grid Alternatives were honored, and Tri Delta Transit took first place in transportation.

Mayor Longmire attended the Giacomelli Park ribbon cutting and noted the EOW (End of Watch) Anniversary of Inspector Giacomelli, as well as the unexpected loss of Police K9 Freddy.

Council adjourned to continue Closed Session at 8:20 P.M.

The Mayor, with Council Members Craft and Killings, returned to the dais in open session at 9:10 P.M. Mayor Longmire stated the following action was taken in Closed Session:

The Council by a five to zero vote authorized the City Attorney to file suit. The action, the defendants, and the other particulars shall, once the lawsuit is filed, be disclosed to any person upon request, unless doing so would jeopardize service of the lawsuit.

ADJOURNMENT

The City Council meeting was adjourned at 9:13 P.M. to May 7, 2018 ***in memory of Inspector Ray Giacomelli and K9 Freddy.***

Respectfully submitted,

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

DATE: 4/13/2018

TO: Mayor and Council Members

FROM: Joe Sbranti, City Manager

SUBJECT: Adoption of an Ordinance Regarding the Use of the City Seal and City Logo Allowing for Their Limited Use; and Approval of the Use of City Seal and Logo Application

MEETING DATE: 5/7/2018

EXECUTIVE SUMMARY

The City of Pittsburg does not have an existing ordinance relating to the use of the City Logo and/or Seal. This Ordinance will provide guidance for such usage. This is the second reading of this Ordinance.

FISCAL IMPACT

There is no fiscal impact associated with this action.

RECOMMENDATION

City Council adopt an Ordinance regarding the Use of the City Seal and City Logo allowing for their limited use; and approve the City's use of the Use of City Seal and Logo Application.

BACKGROUND

From time to time, questions are raised regarding the use of the City seal and/or logo for private purposes. The City currently does not have an existing policy relating to the use of the seal and/or logo. Restrictions on the use of an agency's seal or logo are common.

SUBCOMMITTEE FINDINGS

This item was discussed at an economic development/waterfront development subcommittee meeting on January 30, 2018. The subcommittee was in full support of this ordinance.

STAFF ANALYSIS

The City has adopted an official seal and logo, which are used in the authentication of official documents and to identify City programs. The official seal and logo are considered symbols of the authority and jurisdiction of the City. As property of the City of Pittsburg, it is imperative that the City have an ordinance with approved procedures in place to prescribe how, where, when and by whom the City seal and logo shall be used. The adoption of the Use of City Seal and Logo Ordinance will memorialize those procedures.

While the logo and seal are for City use only, there are, on occasion, events in which the City sponsors or partners with other organizations. The attached ordinance allows for the use of the City seal and logo by an outside organization upon the approved written consent of the City Manager.

ATTACHMENTS: Ordinance
Use of City Seal and Logo Application

Report Prepared By: Alice E. Evenson, City Clerk

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

An Ordinance Adding Chapter 1.28,)
"City Seal and City Logo" To the)
Pittsburg Municipal Code)

ORDINANCE NO. 18-1447

The City Council of the City of Pittsburg DOES ORDAIN as follows:

SECTION 1. Recitals.

- A. The City of Pittsburg has adopted an official seal and logo, which are used in the authentication of official records and to identify City programs, initiatives, partnerships, and sponsorships. The official seal and logo are considered symbols of the authority and jurisdiction of the City.
- B. The City of Pittsburg has not established or codified regulations identifying the proper use and permissions for the City seal and City logo.
- C. As property of the City, it is imperative that the City establish regulations to mandate how, where, when, and by whom the City seal and City logo may be used.
- D. On April 16, 2018 the City Council held a public hearing on the proposed City seal and City logo ordinance, at which time oral and/or written testimony was considered.

SECTION 2. Findings.

- A. Article XI, Section 7 of the California Constitution provides that a city may make and enforce within its limits all local police, sanitary and other ordinances and regulations not in conflict with general laws.
- B. Preventing misleading representations that one is speaking on behalf of the government is recognized as fundamental to maintaining the integrity of public service under *United States v. Alvarez* (2012) 132 S. Ct. 2537, 2546.
- C. California Government Code Section 34501 requires every city to have a common seal, which can be alterable at the pleasure of the legislative body.
- D. The City of Pittsburg has developed a seal as its official emblem as well as an official logo, and the City Council desires to enact reasonable regulations for the use of same.

SECTION 3. Additions.

Title 1 of the Pittsburg Municipal Code, is amended to add Chapter 1.28, entitled "City Seal and City Logo," which shall read as set forth below:

Chapter 1.28	City Seal and City Logo
1.28.010	City Seal
1.28.015	City Logo
1.28.020	Use of City Seal and City Logo
1.28.025	Additional City Seals and City Logos
1.28.030	Organizational Use of City Seal and City Logo
1.28.035	Penalty

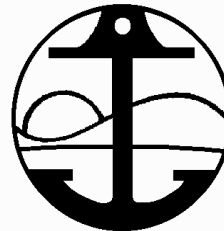
1.28.010 City Seal

The seal of the city is the same as that heretofore used and depicted below:



1.28.015 City Logo

The logo of the city is the same as that heretofore used and depicted below:



1.28.020 Use of City Seals and City Logos

A.. The city seal and city logo are the property of the city; they are used for different purposes. The city uses the seal to certify official city records and instruments. The city uses the logo as a graphic symbol to identify city programs, initiatives, partnerships and sponsorships.

B. The city clerk shall be the official custodian of the official city seal and city logo, as well as any other city seals, insignia, or logos adopted by the city council.

C. The city seal and city logo shall be used for official purposes only, or as authorized by the city manager or his or her designee. The city seal and city logo, or any variation thereof, shall only be used for the official business of the city, its city council, boards and

commissions, officers or departments, except upon written approval of the city council by ordinance or resolution. The city seal and city logo may further be used by the city on city equipment, buildings, vehicles, fixtures such as signage, brochures, publications, insignias, websites, paintings, pamphlets, promotional materials and elected official pins.

D. Except as provided in this chapter, it shall be unlawful for any person to make or use the city seal, the city logo, or any cut, facsimile or reproduction thereof, or make or use any design, symbol, emblem, insignia or similar device that is an imitation of the city seal or city logo, or that may be mistaken therefor, that is designed, intended or likely to confuse, deceive or mislead the public, for private or commercial purposes, or for any purpose other than for the official business of the city, its council, officers or departments, without the express written consent of the city manager or his or her designee.

E. No person shall use the city seal or city logo, or any facsimile thereof, for purposes of supporting or opposing the nomination or election to any city or other public office of him or herself or any other person, or for purposes of supporting or opposing any ballot measure, nor include such city seal or city logo on any writing distributed for purposes of influencing the action of the electorate or any part thereof, in any election.

F. No person shall use or reproduce the city website banner, or any facsimile thereof, for any purpose without the express written consent of the city manager or his or her designee.

1.28.025 Additional City Seals and City Logos

A. The city council retains the right to create variations of the city seal and city logo, and to adopt and establish other official city seals and city logos. Such variations may include, but are not limited to, centennial seals, or other seals which mark anniversaries, events, apparel, and any other city occasion the city council wishes to commemorate.

B. The city manager is authorized to develop and approve other city logos and any city logo so approved by the city manager shall be retained on file with the city clerk.

1.28.030 Organizational Use of City Seal or City Logo

Any organization wishing to use the city seal or city logo shall make an application for such use to the city manager.

A. *Contents of Application.* The organization's application for use of the city seal or city logo shall be on a form approved by the city council. The application shall contain such information as is prescribed by the city council, but shall include, at a minimum, the following:

1. The name of the organization that wishes to use the city seal or city logo;
2. If applicable, acknowledgement and proof of the organization's identification as a recognized 501 (c)(3) tax-exempt organization;

3. If applicable, acknowledgement of the organization's identification as a non-profit organization;
4. The complete address and telephone number of the contact person submitting the application on behalf of the organization;
5. The event or advertising material for which the city seal or city logo will be used by the organization;
6. The starting and ending dates in which the organization will use the city seal or city logo;
7. The location in which the organization will use the city seal or city logo; and
8. Information that provides whether any promotional materials or items using the city seal or city logo will be sold.

B. *Application Assessment and Issuance.* Within thirty (30) days of receiving a complete application submitted pursuant to this section, the city manager shall review the application and determine whether the application should be approved or denied. The city manager will not consider any application submitted to the city that is incomplete and such applications will be denied without further review.

C. *Appeal.*

1. An appeal pursuant to this section shall be in writing and shall state the specific reasons for the appeal and the grounds asserted for relief. The appeal shall be filed with the city clerk, no later than 14 days after the date of service of the city manager's decision. The failure to file an appeal in the time or in the manner prescribed in this section waives the organization's right to appeal.

2. After a timely appeal has been filed with the city clerk, a hearing date, time and place shall be set. The city council shall hear the appeal. The hearing shall be set for a date within a reasonable time period after the date of receipt of the appeal. Reasonable efforts shall be made to set the hearing date not less than 10 days nor more than 20 days after receipt of the appeal.

3. The organization requesting the hearing shall be notified in writing by first class mail of the date, time, and place set for the hearing. The city clerk shall send the notice to the appellant at the address provided on the appeal by the appellant. Service shall become effective on the date of first class mailing. Failure of the appellant to receive such notice shall not affect the validity of any proceedings taken.

4. The city council may affirm the city manager's decision or direct the city manager to allow the organization to use the city seal or city logo. The city council's decision shall be final. The city clerk shall issue to the appellant the city council's decision in writing within 10 business days, stating the reasons for its decision. The city clerk shall

send the written decision by first class mail to the appellant at the address provided on the appeal.

D. *Approved Use Restrictions.* The city seal or city logo may be used by an organization only with the approved, written consent of the city manager or his or her designee. Such use is permitted so long as the city seal or city logo remains in its entirety with no alterations. Elements of the city seal or city logo may not be isolated or used alone or in combination with any other art, symbols, or words. The resolution of the city seal or city logo must be clear when it is enlarged or reduced for reproduction. The city's prior approval of a use shall not constitute approval for any future or recurring use.

1.28.035 Penalty.

Any person who violates this chapter is guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars and/or imprisonment not to exceed six months. This chapter may also be enforced via administrative or civil action as authorized by the Pittsburgh Municipal Code, as well as any actions pursuant to State and/or Federal law.

SECTION 3. Severability.

If any section, subdivision, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. CEQA.

Pursuant to the California Environmental Quality Act ("CEQA") and CEQA Guidelines, this Ordinance is exempt from CEQA in that it is not a project within the meaning of CEQA Guidelines Section 15378, because it has no potential to result in physical change to the environment, and further is not subject to CEQA under the general rule of CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and there is no possibility that this Ordinance will do so.

SECTION 4. Effective Date.

This ordinance shall be in full force and effective thirty (30) days after its adoption.

SECTION 5. Publication.

The City Clerk shall either (a) have this ordinance published once within fifteen (15) days after adoption in a newspaper of general circulation or (b) have a summary of the ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again twenty (20) days after its adoption.

The forgoing ordinance was introduced at a meeting of the City Council of the City of Pittsburg held on April 16, 2018, and was adopted and ordered published at a meeting of the City Council held on May 7, 2018, by the following vote:

AYES:

NOES:

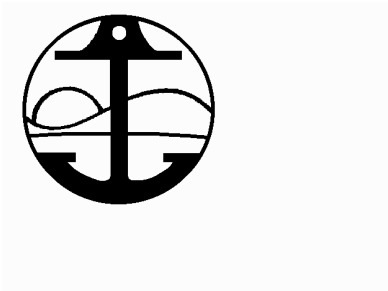
ABSTAINED:

ABSENT:

ATTEST:

Dwaine "Pete" Longmire, Mayor

Alice E. Evenson, City Clerk



City of Pittsburgh

Use of City Seal and Logo Application

The City of Pittsburgh's branding logo and formal seal should be considered the sole property of the City, and thus should only be used upon the expressed, written consent of the City Manager or a designee under the authority granted by the City Council in accordance with Chapter 1.28 of the Pittsburgh Municipal Code. Prior approval of a use shall not constitute approval for any future or recurring use. An organization may make a written appeal of the City Manager's decision to the City Council within fourteen (14) days of the City Manager's decision by submitting a written protest to the City Clerk's Office.

Date: _____

NAME OF ORGANIZATION REQUESTING USE (Please Print):

CONTACT PERSON: _____

ADDRESS: _____

PHONE NUMBER: _____ EMAIL ADDRESS: _____

1. Is the organization requesting use of the City seal or logo a recognized 501 (c)(3) tax-exempt organization?

Yes – Please attach evidence of Tax-Exempt Status No

2. Is the organization requesting use of the City seal or logo a Non-Profit organization?

Yes – Please attach evidence of Non-Profit Status No

3. Please explain what event or advertising material the City seal or logo will be used for:

Use of the City Seal or Logo Application
Page 2 of 2

4. When will your organization use the City's seal or logo?

Starting Date: _____

Ending Date: _____

5. Where will your organization use the City's seal or logo?

6. Will any promotion materials or items using the City's seal or logo be sold?

Yes No

Signature and Title of Representative of Organization

A completed application for use of the Pittsburg City seal or logo should be submitted to:

City Clerk
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
Fax: (925) 252-4905
Email: aevenson@ci.pittsburg.ca.us

FOR INTERNAL USE	NOTES
Date Received: Staff:	
Approved:	
Denied:	
Reason for denial:	



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

DATE: 4/18/2018

TO: Mayor and Council Members

FROM: Joe Sbranti, City Manager

SUBJECT: Adoption of a City Council Resolution to Direct the Engineer of Work to Prepare and File an Annual Report for the Citywide Landscaping and Lighting Assessment District 88-01 for Fiscal Year 2018-2019

MEETING DATE: 5/7/2018

EXECUTIVE SUMMARY

Landscaping and Lighting Assessment District 1988-01 ("88-01 District"), has been in existence since 1988 and the funds collected are necessary for the City to maintain the public desired level of lighting and landscaping throughout the City. Each year, prior to ordering the improvements and levying the assessments, the City Council holds a public hearing.

FISCAL IMPACT

The fiscal impact of the approval of Landscaping & Lighting Assessment District 88-01 has not yet been determined for FY 2018-19. This will be part of the next step with review of the Engineer's Report. For FY 2017-18 the assessments collected are estimated at \$2,891,696. This amount reflects the increase approved by voters in June 2007 of \$25 per benefit factor for each residential land use, resulting in a total assessment of \$102.18 per benefit factor. The approved spending plan to maintain the district was estimated at \$4,094,379. A transfer of \$1,097,616 which includes the City's subsidy of assessments on school properties and assessments on City-owned properties has been budgeted from the General Fund to cover expenditures that exceed the assessments collected for this Citywide Maintenance District. In addition, last year the City budgeted Measure J Funds in the amount of \$105,000 to cover the cost of concrete repairs (damaged by street trees) within the District.

RECOMMENDATION

City Council approve the attached resolution directing the Engineer of Work to prepare and file an annual report for Fiscal Year 2018-19 for District 88-01.

BACKGROUND

In June 1988, the City Council confirmed the Engineer's Report, ordered improvements and levied the first annual assessment for District 88-01. Since then, the funds collected annually by this district support the City's landscaping and lighting operations citywide. Services include the following:

1. Park maintenance, including park related structures (restrooms, pool, etc.);
2. Street median and right-of-way landscaping maintenance;
3. Street tree maintenance;
4. Sidewalk repair related to street tree damage only; and
5. Street light energy costs and maintenance.

SUBCOMMITTEE FINDINGS

none

STAFF ANALYSIS

State statutes mandate the annual renewal procedures for District 88-01. The first step is for the City Council to direct the Engineer of Work to prepare and file an annual report. The report will be submitted for Council consideration in June. Following preparation of the annual Engineer's Report, the City Council will be asked to adopt a resolution of intention to levy and collect assessments within the district. In July, the Council will hold a public hearing before considering confirming the district and levying the annual assessments.

ATTACHMENTS: Resolution

Report Prepared By: Gina Haynes
Civil Engineer II

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Directing the Engineer of Work to Prepare)
and File An Annual Report for Landscaping &)
Lighting Assessment District 88-01, Citywide)
(Fiscal Year 2018-19)) RESOLUTION 18-

The Pittsburgh City Council DOES RESOLVE as follows:

WHEREAS, Streets and Highways Code Section 22500, et seq. contains the Landscaping & Lighting Act of 1972 (the "Act"), which governs assessments to be levied for landscaping and lighting improvements; and

WHEREAS, the Act outlines certain steps that must be taken each year to renew existing landscaping and lighting maintenance assessment districts; and

WHEREAS, the City Council desires to renew Landscaping & Lighting Maintenance Assessment District 88-01.

NOW, THEREFORE, the City Council finds and determines as follows:

Section 1:

The recitals set forth above are true and correct statements.

Section 2:

The City Council finds that there are no proposed new improvements or any substantial changes in the existing improvements to Landscaping & Lighting Assessment District 88-01, Citywide (District 88-01).

Section 3:

The City Council hereby directs Fritz McKinley, Engineer of Work for District 88-01, to prepare and file with the City Clerk an annual report in accordance with Section 22622 of the Act.

Section 4:

This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 7th day of May, 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Dwayne "Pete" Longmire, Mayor

ATTEST:

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

DATE: 4/18/2018

TO: Mayor and Council Members

FROM: Joe Sbranti, City Manager

SUBJECT: Adoption of a City Council Resolution to Direct the Engineer of Work to Prepare and File an Annual Report for the Oakhills Landscaping and Lighting Assessment District 88-02 for Fiscal Year 2018-2019

MEETING DATE: 5/7/2018

EXECUTIVE SUMMARY

Directing the Engineer of Work (City Engineer) to prepare and file the Engineer's Report is the first of three steps in the annual renewal process for the Oakhills Landscaping & Lighting Assessment District 88-02. Upon receipt and approval of the Engineer's Report, the City Council may order that the assessments be placed on the County tax roll. Revenue collected through this district is necessary to fund the City's landscaping and lighting operations in the Oakhills area.

FISCAL IMPACT

The fiscal impact of the approval of Landscaping & Lighting Assessment District 88-02 has not yet been determined for FY 2018-19. This will be part of the next step with review of the Engineer's Report. For FY 2017-18 the estimated assessments collected totaled \$33,959. The approved spending plan was \$34,622.

RECOMMENDATION

City Council approve the attached resolution directing the Engineer of Work to prepare and file an annual report for Fiscal Year 2018-19 for District 88-02.

BACKGROUND

In June 1988, the City Council confirmed the Engineer's Report, ordered improvements and levied the first annual assessment for District 88-02. Since then, the funds collected annually by this district support the City's landscaping and lighting operations in the Oakhills area. Services include the following:

1. Park maintenance, including park related structures (restrooms, playground structures, etc.);
2. Street median and right-of-way landscaping maintenance;
3. Street tree maintenance;
4. Sidewalk repair related to street tree damage; and
5. Street light energy costs and maintenance.

SUBCOMMITTEE FINDINGS

none

STAFF ANALYSIS

State statutes mandate annual renewal of District 88-02. The first step is for the City Council to direct the Engineer of Work to prepare and file an annual report. The report will be submitted for Council consideration in June. Following preparation of the annual Engineer's Report, the City Council will be asked to adopt a resolution of intention to levy and collect assessments within the district. In July, the Council will hold a public hearing prior to considering confirming the district and levying the annual assessments.

ATTACHMENTS: Resolution

Report Prepared By: Gina Haynes
Civil Engineer II

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In The Matter of:

Adoption of a City Council Resolution to Direct)
the Engineer of Work to Prepare and File An) RESOLUTION 18-
Annual Report for Landscaping & Lighting)
Assessment District 88-02, Oakhills)
(Fiscal Year 2018-19))

The Pittsburgh City Council DOES RESOLVE as follows:

WHEREAS, Streets and Highways Code Section 22500, et seq. contains the Landscaping & Lighting Act of 1972 (the "Act"), which governs assessments to be levied for landscaping and lighting improvements; and

WHEREAS, the Act outlines certain steps that must be taken each year to renew existing landscaping and lighting maintenance assessment districts; and

WHEREAS, the City Council desires to renew Landscaping & Lighting Maintenance Assessment District 88-02.

NOW, THEREFORE, the City Council finds and determines as follows:

Section 1:

The recitals set forth above are true and correct statements.

Section 2:

The City Council finds that there are no proposed new improvements or any substantial changes in the existing improvements to Landscaping & Lighting Assessment District 88-02, Oakhills (District 88-02).

Section 3:

The City Council hereby directs Fritz McKinley, Engineer of Work for District 88-02, to prepare and file with the City Clerk an annual report in accordance with Section 22622 of the Act.

Section 4:

This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 7th day of May, 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

ATTEST:

Dwaine "Pete" Longmire, Mayor

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

DATE: 4/19/2018
TO: Mayor and Council Members
FROM: Joe Sbranti, City Manager
SUBJECT: Adoption of a City Council Resolution to Approve Revisions to the Marina Rules and Regulations
MEETING DATE: 5/7/2018

EXECUTIVE SUMMARY

The Pittsburg Marina Rules and Regulations have not been substantially updated since their drafting over 15 years ago. The list of various proposed revisions to the Marina Rules and Regulations will better serve boaters as well as align with overall City policies and practices, federal, state, and regional Maritime regulations, and those observed at other local marinas.

FISCAL IMPACT

There will be no fiscal impact caused by the update to Marina Rules and Regulations.

RECOMMENDATION

City Council adopt the Resolution approving revisions to the Marina Rules and Regulations.

BACKGROUND

With the exception of one minor amendment in 2017, the Marina Rules and Regulations have received no revisions since their drafting over 15 years ago. Proposed substantial revisions aim to align operation of the Pittsburg Marina with modern marina management practices seen at other local marinas, federal, state, and regional Maritime regulations, as well as overall City management policies, and include:

Format, Align, Clarify and Simplify:

- Formatted titles and sections for improved readability of the Handbook.
- Aligned enforcement and various charges with those approved by City Council in the City's Master Fee Schedule
- Clarified distinction between three berthing categories: permanent, transient, and live-aboard

- Clarified late fee and eviction procedures
- Clarified correct contact information for the Coast Guard Marine Safety Station
- Clarified the area under the Marina's jurisdiction
- Simplified timeline process required for removal of sunken vessels and emergency actions

Additions:

- Added definitions for terms including: Emergency Conditions, Public Nuisance, Renter/Lessee, Hazardous Substance, Owner, Sinkers, and Habitual Late Payer
- Added language describing Council-approved fees
- Added language City's liability policy
- Added language detailing local police's role in enforcement of Marina Rules and Regulations

Removal:

- Removed expired, repetitive, and unnecessary provisions:
 - o "If this rulebook does not specifically say you can do something consider it not allowed."
 - o "Owner hereby appoints the Marina as his/her agent for designating a place of storage and safekeeping at his/her expense in the event that the Marina cannot store the boat described above on its own premises. Under the provisions of this contract, owner shall also reimburse the Marina for the cost of removal and transportation to and from said storage facility. Owner hereby grants the Marina permission to board the vessel for the said purpose."
 - o "No person shall remove or cause to be removed from the Marina any vessel upon which charges are delinquent, without paying all such delinquent charges."
 - o "In an effort to provide security for Marina tenants, boats, vehicles, and other property, we have a gate key system, The system is only as secure as the people using it."
 - o Provisions for solicitation, advertising, and signs
 - o "The vessel must be equipped with a telephone capable of accessing the local telephone system. The installation, maintenance and monthly cost of said telephone is to be borne solely by the permittee."
 - o "At the end of each quarter of the calendar year, a permittee granted residence privileges must submit a log of his or her vessel's trips out of the Marina and a log of the dates the holding tank pump out station was used by the permittee."

SUBCOMMITTEE FINDINGS

The proposed updates were provided to the Economic Development Subcommittee at a Subcommittee meeting on April 3rd, 2018.

STAFF ANALYSIS

The purpose of the Marina Rules and Regulations is to maintain a safe, orderly and peaceful Marina as described in the Marina's Mission Statement. Staff developed these recommendations by conducting a survey of local marina rules and regulations, federal, state, and regional maritime regulations, and engaging in several in-depth discussions with all Marina staff. The discussions with Marina staff helped identify common roadblocks to efficiency and exceptional customer service that can be clarified and improved through the proposed updates.

ATTACHMENTS: Resolution
Proposed Rules and Regulations of the Pittsburgh Municipal Marina

Report Prepared By: Sara Aliotti, Administrative Analyst II

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Adoption of a City Council Resolution to)
Approve Revisions to the Marina Rules)
and Regulations _____)

RESOLUTION NO. 18-

The City Council of the City of Pittsburgh DOES RESOLVE as follows:

WHEREAS, the Pittsburgh Marina Rules and Regulations have not been substantially updated since their drafting over 15 years ago; and

WHEREAS, the proposed revisions to the Marina Rules and Regulations provide updates that will better serve boaters as well as align with overall City policies and practices, federal, state, and regional Maritime regulations, and those observed at other local marinas.

NOW, THEREFORE, the City Council finds and determines as follows:

Section 1.

All the recitals above are true and correct and incorporated herein.

Section 2.

The City Council hereby adopts this Resolution and approves revisions to the Marina Rules and Regulations.

Section 3.

The City Manager is hereby authorized to execute any and all documents and take such further actions as may be necessary or appropriate to carry out the City Council's direction pursuant to this Resolution.

Section 4.

The City Clerk shall certify to the adoption of this Resolution.

Section 5.

This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 7th day of May, 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

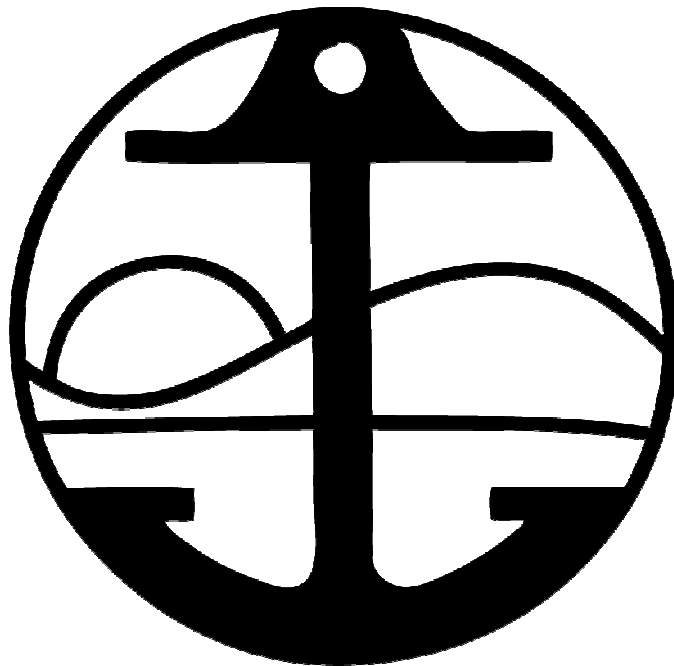
ABSENT:

Dwaine "Pete" Johnson, Mayor

ATTEST:

Alice E. Evenson, City Clerk

RULES AND REGULATIONS OF THE PITTSBURG MUNICIPAL MARINA



Pittsburg Municipal Marina
51 E Marina Blvd.
Pittsburg, CA 94565
(925) 439-4958

MISSION STATEMENT

The spirit and intent of these Rules and Regulations is to provide a clean, safe, orderly and peaceful Marina for your vessel, and individuals permitted to live here.

PITTSBURG MUNICIPAL MARINA
51 E MARINA BLVD.
PITTSBURG, CA 94565
RULES AND REGULATIONS.

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
1. DEFINITIONS	4
2. COMPLIANCE WITH RULES AND REGULATIONS	5
3. ENFORCEMENT.....	5
4. LIABILITY AND VESSEL INSURANCE	6
5. REGISTRATION AND NUMBERING	7
6. BERTHING	7
7. LIVE-ABOARD RENTALS.....	9
8. CHARGES.....	11
9. NON-PAYMENT OF CHARGES	11
10. CARE OF FACILITIES	12
11. CARE, SEAWORTHINESS AND CONTINUOUS USE OF VESSEL.....	13
12. ABANDONED VESSELS.....	14
13. SUNKEN VESSELS	14
14. USE OF WATER AND ELECTRICITY.....	15
15. LABOR AND SERVICES FOR HIRE.....	16
16. TEMPORARY CLOSING.	16
17. ACCIDENTS/INCIDENTS.....	16
18. BBQ RULES OF OPERATION	16
19. MINORS IN MARINA	17

20.	FISHING	17
21.	UNNECESSARY DISTURBANCE.....	17
22.	SWIMMING IN MARINA PROHIBITED.....	17
23.	ANIMALS	18
24.	DISPOSING OF REFUSE.....	18
25.	SEWAGE AND SANITARY FACILITIES PUMPOUTS.....	18
26.	RESTROOMS AND SHOWERS.....	19
27.	SECURITY, GATES, AND FENSES.....	19
28.	PARKING.....	19
29.	VESSEL TRAFFIC WITHIN THE MARINA.....	20
30.	CHARTER VESSELS	20
31.	CONTRA COSTA COUNTY TAXES.....	20

Section 1 – DEFINITIONS

For the purpose of this chapter, unless otherwise apparent from the context, certain words and phrases shall have the meaning ascribed to them as follows:

- A. “BERTH” shall mean a place to tie a vessel assigned by the Harbor Master.
- B. “CHANNEL” shall mean any waterway now navigable by vessels including the structure and facilities created to facilitate navigation.
- C. “CITY” shall mean the City of Pittsburg, California.
- D. “EMERGENCY CONDITIONS” shall be defined as sinking boats, fires, hazardous material spills, alterations, and any other incident that requires immediate attention from Marina or other Maritime staff.
- E. “EXCESSIVE ELECTRICITY USAGE” shall be defined as electricity usage totally twice the average daily usage for a comparable vessel at the Pittsburg Marina.
- F. “FLOAT” shall include any floating platform normally used for the mooring or securing of vessels.
- G. “HABITUAL LATE PAYER” shall mean any berth holder whose berth rent payment is delinquent on three (3) or more occasions with a three (3) year period.
- H. “HARBOR MASTER” shall mean the person charged with the daily operations of the Marina or their duly authorized representative.
- I. “HAZARDOUS SUBSTANCE” shall be defined as oil of any kind or in any form including, but not limited to petroleum, fuel oil, sludge oil, refuse oil, mixed waste and other substance declared hazardous by Coast Guard and the California Department of Toxic Substances Control regulations.
- J. “MARINA” shall mean a portion of inland waters within the jurisdiction of the City including public lands and shore, and the structures and facilities provided within the enclosed body of water and shore for the mooring and servicing of vessels and the servicing of their crews and passengers.
- K. “ONE VISIT REPAIR” shall mean a single repair of an unscheduled nature. A repair that is not part of normal maintenance.
- L. “ON LIFE SUPPORT” shall mean any vessel requiring full time electrical use of bilge pumps or more than two pump-outs per day to keep afloat. These vessels may also be known as “sinkers” or vessels “on life support.”

- M. “OWNER” shall be defined as the person or people listed on the legal and valid registration for a vessel as “owner” of the vessel.
- N. “PIER” shall mean a structure built out into the water with piles for use as a landing place.
- O. “PUBLIC NUISANCE” shall be defined as set forth in the City of Pittsburg Municipal Code Chapter 1.2, Public Nuisances.
- P. “RENTER/LESSEE” shall be defined as the person or people listed on the City of Pittsburg Berth Lease Agreement.
- Q. “RESIDENCE” shall mean any vessel, located within the Marina boundaries, used as a residence in accordance with State of California definitions of a “Residence” as amended from time to time.
- R. “RESIDENTIAL PRIVILEGES” shall refer to vessel owners within the Pittsburg Marina with a valid Live-aboard Permit allowing for the month-to-month contract by which a permittee will rent a berth for more than three (3) of seven (7) consecutive days to be used as a residence. People with Residential Privileges may also be referred to as “Live-aboards.”

Section 2 – COMPLIANCE WITH RULES AND REGULATIONS

- A. All persons using the Marina shall comply with all of the Rules and Regulations adopted by the United States of America, State of California, and local agencies with regard to water safety requirements, operation and maintenance of boats. The Harbor Master is authorized to enforce all said Rules and Regulations and to deny use of the facilities at said Marina for violation of said Rules and Regulations.
- B. With his/her signature on the application form, an applicant for a berth assignment agrees to comply with these Rules and Regulations.
- C. Every person violating the provisions of these Rules and Regulation, local laws and Harbors and Navigation laws, shall be deemed guilty of an infraction and subject to eviction from the Pittsburg Marina. That will include any threats made against the Harbor Master, his/her assistants or other tenants in the Marina.

Section 3 – ENFORCEMENT

- A. The Harbor Master, his/her assistants and Pittsburg Police Department shall enforce the provisions of this document, local laws, and the provisions of the Harbors and Navigation codes.

- B. The Harbor Master for the Pittsburg Marina, or a duly authorized appointee, shall be the City's representative in charge of all Marina operations. All persons entering the Marina area, whether by boat or as pedestrians, should contact the Harbor Master in regard to the rules and operational procedures of these docking facilities.
- C. Every vessel entering the Marina shall immediately become subject to the order and direction of the Harbor Master and he/she will have authority to enter upon any vessel in the Marina in the performance of his/her duties.
- D. The Harbor Master shall interpret and enforce the rules, regulations, and ordinances pertaining to the Pittsburg Marina. In the absence of the appointment of a Harbor Master, the duties of the Harbor Master shall be exercised by the City Manager or any assistant, deputy, or employee designated by the Harbor Master.
- E. Resolution 17-13358 authorizes the Harbor Master to make limited Minor Amendments to Marina Rules and Regulations regarding berth rental rates, maintenance responsibilities, square footage available for lease, and lease terminations.
- F. The Harbor Master, or his/her assistants, shall have the authority to designate the area in which any vessel shall be berthed and may require any vessel to change its berth in the Marina. If a vessel does not change berths after notification, it may be moved by the Harbor Master and towing charges added. Vessels may anchor in the Marina only with the permission of the Harbor Master.
- G. The Harbor Master, or his/her authorized representative, may refuse Marina use to any vessel at his/her discretion. For example, derelict boats, vessels needing major overhaul and non-self-propelled vessels other than sailboats.
- H. The Harbor Master shall have the right to deny the use of the Marina and to cancel the berth assignment and require removal of any boat of any owner, who in the opinion of the Harbor Master fails to comply with the Rules and Regulations of the Pittsburg Marina.
- I. Local Police are responsible for upholding all local, regional, state and federal laws at the Marina.

Section 4 – LIABILITY AND VESSEL INSURANCE

- A. Pittsburg Marina personnel will provide assistance to tenants and other vessels as feasible and during emergency situations. However, the vessel owner shall be responsible and assume all liability for damages caused to City property, or to other vessels within the Marina. Owner agrees to pay any damage caused by his/her vessel, family, guests, employees or agents.

- B. Lessee shall procure and maintain, for the duration of the Lease Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Lessee's use of the Pittsburg Municipal Marina. The cost of such insurance shall be borne by the Lessee and shall in the amounts of no less than Three Hundred Thousand Dollars (\$300,000) combined single limit (CSL) for each occurrence. The City must be listed as additionally insured.
- C. The owner of a vessel must assume all liability for loss to his/her vessel and any other property, while it is within the limits of the boundary of the marina. The City assumes no risk on account of fire, theft, act of God, or damages of any nature to vessels.

Section 5 – REGISTRATION AND NUMBERING

- A. The owners of documented vessels entering the Marina shall furnish all information relating to the vessel and the ownership thereof as may reasonably be required by the Harbor Master.
- B. The owners of every undocumented vessel entering and berthing in the Marina must be registered and numbered as provided by the laws of the State of California, or the State in which it is registered. The owner shall keep the registration of each vessel current.

Section 6 – BERTHING

- A. There are three classes of berth rentals in the Pittsburg Marina; permanent, transient, and live-aboard.
 - 1. Permanent rentals are made to owners desiring to berth their boats for a period of four days or longer.
 - 2. Transient rentals, as available, are assigned to owners desiring to berth their boats as a living space for three days or less.
 - 3. Live-aboard rentals are made to owners desiring to berth their boats as a living space one month at a time.
- B. Applications for berths in the Marina shall be made to the Harbor Master on the forms furnished by the Pittsburg Marina. Berth assignments will be made according to the precedence of the request.
- C. Every boat shall be berthed in the space assigned by the Harbor Master. The Harbor Master shall designate the proper berth size. No exchanges of berths between boat owners will be permitted without the prior approval of the Harbor Master.

- D. An Owner, upon approval of the Harbor Master, may retain the same berth assignment for another boat owned by him/her provided the latter boat is within the classification of the berthing space assigned.
- E. The Harbor Master will not recognize the sale or change of ownership of any vessel berthed within the Pittsburg Marina regarding berth assignment, berth, fee and or overall responsibility, until vacate documents are completed and new ownership is approved through the application process. No guarantee is made or implied that any vessel sold in the Pittsburg Marina will be reinstated under new ownership or given preference over applicants on a waiting list.
- F. Berth assignments will be cancelled for all berth holders absent for an amount of time exceeding six (six) out of twelve (12) months. The only exception to this rule shall be an extended absence for a bona fide reason of which the Harbor Master has been informed in writing prior to the absence. The Harbor Master may require reasonable proof of the continued ownership and location of the vessel from time to time during the absence from the Marina. **Subletting is not allowed.**
- G. The holder of a permanent berth assignment of a specific size has no right to a larger berth in the event the holder purchases a larger boat, and must apply for the assignment of an appropriate berth in accordance with Marina Rules and Regulations. Berthing of a boat that is greater than that of the berth assigned to the holder is not permitted.
- H. A berth holder that desires to cancel a berth agreement must give notice at least two (2) weeks in advance of vessel removal. To cancel a berthing agreement, a Vacate Form must be completed and arrangements will be made to provide credits for any advance payments or deposits that have been made. Vacate Forms are not considered complete until berth holders return all security keys and pay any outstanding bills.
- I. The Harbor Master shall have the authority to move, or relocate in the Marina, any boat berthed therein that is in violation of any rules and regulations for more than ten (business days) after receiving written violation notice from the Harbor Master , or if such relocation is required for the safety and protection of persons or property, or is appropriate in order to obtain optimum utilization of facilities available.
- J. Unauthorized berth occupancy is prohibited and the Harbor Master is authorized to move or secure the boat until berthage has been assigned and fees have been paid.
- K. Unauthorized boats may be charged with trespassing.

- L. No vessel may be berthed in a manner, bow first or stern first, which results in any part of the vessel extending more than two (2) feet beyond the end of the dock.
- M. All extra vessels such as dinghies must be moored within dock space assigned.
- N. All extra vessels moored in other berths will be considered unlawfully berthed and may be moved by the Harbor Master at the Owner's expense.

Section 7 – LIVE-ABOARD RENTALS

- A. Staying aboard a vessel for three (3) nights in any seven (7) consecutive day/night period, regularly, will be considered residing on a vessel, and a Permit to Use Vessel as Residence is required.
- B. The Harbor Master will consider limited written requests for Permits to Use Vessel as Residence such as vacations, medium-term temporary berthing, visitor berthing, extenuating circumstances. or other reasonable uses.
- C. Unauthorized use of a vessel as a place of residence may result in cancellation of the Permit to Use Vessel as Residence.
- D. The Harbor Master shall designate berths available for Live-aboard status at his/her discretion, in accordance with any rules as provided by the Harbors and Navigation Code.
- E. Live-aboard Permits shall be revoked if the Harbor Master receives continuous complaints of loud, boisterous, or unseemly conduct by those on board, or for violation of other Marina regulations as set forth herein.
- F. Live-aboard permittees and their vessels will be subject to the following conditions:
 - Live-aboard Privileges received from the Harbor Master by a permittee must be for a vessel minimum 28-feet in length, kept in good repair and in seaworthy condition.
 - The vessels must not be permanently attached to the dock.
 - Live-aboard vessels must leave the Marina waters at least once for a minimum of four (4) hours in each ninety (90) day period.
 - The applicant shall furnish proof of ownership of the vessel for which live-aboard privileges are requested.
 - The Harbor Master has the right to refuse requests for live-aboard status from derelict vessels, vessels in need of substantial repairs, and vessels not operating as intended by design .
 - Any emergency, unusual event or violation of regulations noted by the permittee shall be reported to the Harbor Master.

- Only owners with live-aboard privileges and two (2) other persons may use the vessel as a residence at a time. All people residing on the vessel must be on the Permit to Use Vessel as Residence. The Harbor Master is to be notified in writing of the names, permanent addresses, and contact information of all persons residing on the vessel.
 - A vessel may not be rented out for residential purposes.
 - Unless aboard a vessel, animals must be kept on a leash not exceeding six (6) feet in length.
 - As outlined in Section 25, the owner of a pet that creates a nuisance or generates more than three (3) complaints will be required to remove that pet from the Marina.
 - Pets are prohibited in the restrooms.
 - Excessive pet violations may result in cancellation of the permit to berth vessel.
 - Live-aboard vessels must be equipped with a sink, toilet, marine head or other permanent waste receptacle, and a holding tank designed to retain all solid and liquid wastes until the wastes can be discharged into a sanitary sewer system or otherwise discharged according to law.
 - Permittees shall allow the Harbor Master to inspect such holding tank(s) from time to time upon demand.
 - As noted in Section 26, no waste matter from toilets, marine heads, holding tanks or any other such receptacle may be discharged into the waters of the Marina, and no waste or other matter may be discharged or thrown into said water.
 - Live-aboard permittees shall keep the area immediately surrounding their vessels in a sanitary and orderly condition to assure the preservation of the public health and safety.
 - As outlined in Section 12, extra dock boxes, lockers, clotheslines, bicycles on deck or dock, etc. are prohibited. Failure of any person residing on a vessel in the Marina to abide by these requirements will be cause for revocation of the privilege of using such vessel for residential purposes
 - As outlined in Sections 10 and 11, payments of berthing fees and all other residence related charges must be kept current. If any charges become delinquent for thirty (30) days, the residence privilege will be revoked.
 - Live-aboard Permittees must maintain a mailing address other than the Pittsburgh Marina, and must have their mail delivered to such address.
- G. The use of any vehicle for the purpose of storage while parked in the Marina area is prohibited.
- H. Live-aboard permittees may park one vehicle in the Marina parking lot per person with a maximum of two vehicles at any time.
- I. Live-aboard privileges are not transferable with the sale of the vessel.

- J. The Harbor Master at his/her sole discretion may cancel the residential privileges upon giving thirty (30) days written notice to the permittee. The Harbor Master may order the immediate cancellation of a residential privilege if the vessel poses a danger to persons or property during a thirty-day cancellation notice period.
- K. Permittees with a Live-aboard permit may purchase a new vessel and retain these privileges, if a suitable berth for the new vessel is available, and the vessel otherwise meets registration and seaworthiness standards in this handbook.

Section 8 – CHARGES

- A. Vessel owners wishing to lease a berth at the Pittsburg Marina with permanent or live-aboard status will be subject to a security deposit per the City of Pittsburg Master Fee Schedule due at the time of application. This deposit will be used in the case of late payments or unpaid damages, emergencies, etc. caused by the lessee. The deposit balance will be returned to the applicant upon check-out.
- B. All charges for rent shall be due and payable monthly before the first day of each month and shall be delinquent on the 15th day of each month for which the payment is due.
- C. All charges for service and supplies shall be due upon billing and shall be delinquent fifteen (15) calendar days thereafter.

Section 9 - NON-PAYMENT OF CHARGES

- A. All bills exceeding fifteen (15) days delinquent shall be given a thirty (30) day written warning. After this warning, a 10% late charge will be imposed on the bill.
- B. After fifteen (15) days and a thirty (30) day written notice, the Harbor Master shall have the option to terminate the berthing agreement, evict the lessee, and move the boat. Delinquent berth rent payments and late charges will be deducted from the renter's deposit upon close out of the owner's account.
- C. In accordance with the provisions of Division 3, Chapter 2 of the Harbors and Navigation Code of the State of California, The Harbor Master may take action to enforce payment by the owner or berth holder for berthing fees or service liens that are delinquent fifty (50) days. The vessel, with all its appurtenances and furnishings, may be attached as security for the satisfaction of any judgment that may be recovered in the action.
- D. If the attachment is not discharged, the judgment is recovered, and an execution is issued thereon, the vessel and all its appurtenances and furnishings may be sold at public auction and the proceeds applied in accordance with the above provisions of the Harbors and Navigation Code.

- E. The Harbor Master shall have the option to terminate the berthing agreement of any “Habitual Late Payer” on the occasion of any subsequent delinquencies in payment of berth rent.

Section 10 – CARE OF FACILITIES

- A. No person shall willfully or carelessly destroy, damage, deface, or interfere with any public property within the Pittsburgh Marina including docks, restrooms, showers, laundry room, and parking areas. No person shall alter any berth or install or construct anything in the Pittsburgh Marina except with the use of a hydro-hoist as approved by the Harbor Master.
- B. Repair or the maintenance of a vessel may be accomplished while such vessel is in its berth provided all such work is done within the confines of the vessel itself and is not carried on in any manner whatsoever upon floats, gangways, docks or boats. All materials used in such repair or maintenance work must also be kept within the confines of the vessel and may not be kept upon floats, gangways or docks. Spray painting is not permitted in the Marina.
- C. Fueling and defueling of vessels other than at fuel pier is prohibited.
- D. Oil absorbent pads must be kept in bilge at all times.
- E. Floats, gangways, top of lockers and docks shall be kept clear at all times, of skiffs, tenders, miscellaneous gear, debris or other hazardous obstructions.
- F. Any condition aboard or around any boat, float, or gangplank caused by the berth holder, which, in the opinion of the Harbor Master constitutes a fire hazard, health menace, or danger to public safety, shall be corrected or removed immediately to the satisfaction of the Harbor Master. In the event of the refusal or neglect of the owner to remedy forthwith the said conditions the Harbor Master shall affect such correction or removal and may cancel the berth assignment for non-compliance.
- G. Boarding platforms or ladders on floats shall be permitted, subject to the prior approval of the Harbor Master, provided that any platform used for boarding shall not be over eighteen (18) inches in width and not over three (3) feet high and shall be of a lightweight construction. The platform shall not be used as a storage locker. Any deviation in specifications must be approved by the Harbor Master.
- H. No person shall build or place in or about the Marina, any structures, such as walkways, gangplanks, finger floats, rubbing piles, dock boxes, etc. without prior written approval of the Harbor Master.
- I. Except for existing dock boxes on docks 1-3, additional dock boxes are not allowed without prior approval of the Harbor Master.

- J. All garbage must be deposited in receptacles furnished by the City for that purpose, or removed from the Marina area. Receptacles provided by the City shall be used only for refuse generated at the Marina. No garbage, trash tree trimmings, grass clippings, discarded furniture, appliances, junk, etc., from outside the Marina area shall be placed in the trash receptacles.
- K. The City of Pittsburg will not be liable for any cost, damage, or service charge incurred in the event that City staff or its agents must act to remove or contain the above discharged or dumped materials. In addition, a service fee will be charged to the responsible party for staff time, materials and equipment used for containment or removal.
- L. Fuel containers may not be stored on docks or walkways. Fuels stored in vessels must be in proper containers and not visible from docks.
- M. Batteries, waste oil or any other hazardous substance may not be placed on any docks, floats or gangways at any time. All such hazardous substances must be hauled for proper disposal to the appropriate facility designated by the Harbor Master.

Section 11 – CARE, SEAWORTHINESS AND CONTINUOUS USE OF VESSEL

- A. All vessels must be maintained in a reasonable manner and not allowed to become unseaworthy or in deteriorated condition.
- B. All vessels shall be berthed and secured with proper care and equipment, and such berthing or equipment shall be maintained at all times in such a condition as to meet with the approval of the Harbor Master.
- C. All berth holders shall use their vessels on a regular basis. Berth holders may be required to demonstrate to the satisfaction of the Harbor Master that the vessel is capable of navigating under its own power. All vessels must be maintained in operable condition less they become subject to eviction.
- D. All vessels not maintained to reasonable standards or considered unseaworthy will be given a thirty (30) day notice of cancellation of berth privileges.
 - Any vessel requiring more than one pump out to avoid sinking will be considered unseaworthy.
 - Any vessel requiring electrical lifeline support for continuous pumping to avoid sinking will be considered unseaworthy.
- E. In the event that vessels are not maintained after a thirty (30) day notice has been issued, the Harbor Master may supply lines or fittings, or replace inadequate lines and fittings or may care for the vessel in such a manner as to minimize damage to the vessel or floats. A charge for repairs due to neglect and parts/equipment

needed to protect vessels may be levied per the City of Pittsburgh Master Fee Schedule and is non-refundable.

- F. If A boat is in danger of sinking Marina staff may pump out the water from the vessel and charge the cost of the emergency service to the berth holder, in accordance with the fee schedule established by the City of Pittsburgh.
- G. It is the vessel owner's responsibility to monitor and maintain the corrosion protection system on his/her vessel as specified by the manufacturers of that vessel.
- N. Any and all canvas on a boat must be maintained in a reasonable condition, free of tears, rips, etc. No plastic tarps are allowed. All vessel coverings must be marine quality canvas material.
- O. No boat shall be materially or structurally altered, repaired, rebuilt or engine(s) removed /installed except in such authorized spaces as designated by the Harbor Master.
- P. No paint shall be removed by any means from any boat in a slip other than for minimum maintenance. All residual, paint and dust must be controlled and kept out of the marina waters and off other boats.

Section 12 – ABANDONED VESSELS

- A. It is unlawful for any owner or other person in control of any vessel to abandon any vessel, watercraft or object in the Marina.
- B. Any such vessel, watercraft or other object may be removed and disposed of by the Harbor Master as provided by the Harbors and Navigation code. An Abandoned Boat Removal Fee may be charged per the City's Master Fee Schedule, and the cost of such removal and disposition incurred shall be paid by the owner or person in control of such vessel, watercraft or other object.

Section 13 – SUNKEN VESSELS

- A. Any owner or operator of a vessel, watercraft or object which sinks accidentally or otherwise within the Marina or entrance thereto, shall immediately mark it with a buoy or beacon by day and by a lantern or light by night and maintain such markings until the sunken vessel, watercraft or obstruction is removed.
- B. The owner or operator of a vessel, watercraft or object shall immediately advise the Harbor Master of the sinking and immediately commence removal of such vessel, watercraft or object and execute the removal diligently to completion as soon as possible.

- C. If the owner or operator of such sunken vessel, watercraft, or other object fails, neglects or refuses to remove such sunken vessel, watercraft or other object within two (2) days, the Harbor Master may cause the removal of such vessel, watercraft or other object and dispose of it as provided by the Harbors and Navigation Code or other applicable law.
- D. The owner or owners of such vessel, watercraft or object shall be subject to a Sunken Vessel Fee per the City's Master Fee Schedule and liable to the City or its service vendor for costs incidental to the removal raising and/or disposition.
- E. In the event a sunken vessel discharges any hazardous substance into the water, it shall be the responsibility by law for the sunken vessel owner/operator to contact and advise the Coast Guard Marine Safety Station at (707) 374-2655 or 1-800-424-8802 that an oil and/or hazardous spill has occurred. (33 United States Code 1321).
- F. It shall also be owner/operator responsibility to assume all liability and cost incurred for the removal of hazardous substance discharged into the water. (33 United States Code 1321).
- G. A fee per the City's Master Fee Schedule will be charged to owners/operators of sunken vessels, and vessel owners may be liable for costs for all City of Pittsburgh staff time, equipment and material expended relative to the sunken vessel.

Section 14 – USE OF WATER AND ELECTRICITY

- A. Charges for water and electricity under normal usage are included in mooring fees.
- B. Continuous use of water for siphoning is prohibited except in the case of emergency. The existence and nature of an emergency requiring continuous siphoning shall be reported immediately to the Harbor Master.
- C. Excessive use of electricity is prohibited. If the Harbor Master believes there is excessive use of electricity by a berth holder, he/she may attach a meter to the outlet for measuring actual consumption, and the berth holder shall become responsible for electricity excessive electricity costs.
- D. Only marine-approved electrical connections shall be allowed.
- E. Only marine-approved shone power cords may be used.
- F. No household extension cords for dockside power shall be used to transfer shore power.
- F. All vessels requiring multiple cords for multiple bilge pumps will be evicted.

Section 15 – LABOR AND SERVICES FOR HIRE

- A. No person shall run a business from their berth at the Marina, unless said person has first complied with the following provisions.
- Lessee has complied with Pittsburg Municipal Code Section 18.50.400 Home Occupation Permit Required
 - Permission has been granted to enter the docking facility by the Harbor Master
 - Acknowledges to agree to perform such service or work in conformity with regulations imposed by the Harbor Master.
 - Proof of liability insurance has been provided to the Pittsburg Marina.
 - A business license has been obtained from the City of Pittsburg.
- B. The Harbor Master must approve all “one visit repairs.” A maximum of one (1) “one visit repair” per year is allowed.

Section 16 – TEMPORARY CLOSINGS

- A. Marina assets, such as parking lots, basins, docks, etc. may be closed temporarily for dredging repairs, maintenance repairs, city wide festivals, water sport activities, etc. The Harbor Master will give notification of any such closures when able.

Section 17 – ACCIDENT/INCIDENTS

- A. An Incident Report shall be filed at the Marina Office for all incidents.
- B. A duplicate copy of any report of any accident occurring in the Marina shall immediately be filed with the Harbor Master.

Section 18 – BBQ RULES OF OPERATION

- A. No open fires are allowed on vessels, docks, or on the Marina Promenade.
- B. A water supply must be available within three (3) feet of a BBQ such as, water hose or bucket of water.
- C. A fire extinguisher must be available within twenty (20) feet of a BBQ.
- D. A BBQ must not be left unattended at any time.
- E. A BBQ must be stored aboard a vessel.

- F. Due to all wood construction there is no dockside BBQ allowed in sheds 1, 2, and 3. Sheds 1, 2, and 3 will require a marine approved BBQ that suspends out over the water.
- G. All tenants using a BBQ understand and accept full responsibility for any BBQ-related fires or other incidents of harm to other tenants or their property.

Section 19 – MINORS IN MARINA

- A. No person under the age of sixteen (16) years old may go, remain, or be upon any of the gangways, floats or vessels in the Marina, unless such person is accompanied by an adult eighteen (18) years or older.

Section 20 – FISHING

- A. No fishing from the rocks lining the Marina shoreline.
- B. No climbing over barriers onto non-pedestrian areas for the purpose of fishing.
- C. No fishing from docks other than the dock containing the berth the tenant has been assigned.
- D. Cleaning of fish on floats, docks and gangways is strictly prohibited within Marina. All fish cleaning must be done onboard a vessel.
- E. All fish caught outside Marina must be processed daily.
- F. No person shall throw fish overboard at the dock or from vessel within Marina.
- G. All fish remains must be securely bagged before disposed of in marina dumpster.

Section 21 – UNNECESSARY DISTURBANCE

- A. Vessel owners are responsible for their conduct and action of their crew and guests at all times.
- B. No excessive noise, constant boarding and debarking of vessel, propping open gates, etc., especially from 10:00 p.m. to 7:00 a.m. Violation of this rule shall be cause for cancellation of the berth assignment by the Harbor Master.

Section 22 – SWIMMING IN MARINA PROHIBITED

- A. No person may swim, bathe, or wade in any portion of the Marina, with the exception of entering the water to clean or maintain the bottom of a vessel. Bottom cleaning by tenant entering the water must be approved by the Harbor Master.

Section 23 – ANIMALS

- A. In accordance with Contra Costa County and City of Pittsburg regulations, animals must be kept under restraint by leash or other secure methods while within the Marina area.
- B. Tenants allowing their animals to defecate on docks, floats, gangways, etc. will be evicted.
- C. Tenants shall not allow their animals to become a nuisance. The owner of a pet that creates a nuisance or generates more than three (3) complaints will be required to remove that pet from the Marina.

Section 24 – DISPOSING OF REFUSE

- A. No person shall throw, discharge or deposit refuse matter of any kind whatsoever into the waters of the Marina, or on the banks, walls, sidewalks, or beaches of any waters within the boundaries of the Marina area.
- B. No person shall discharge upon the waters of the Marina any refuse from cooking activities; this includes food leftovers, dirty dishwater, etc.
- C. No person shall dump or discharge hazardous materials, spirits, inflammable liquid, or contaminated bilge water into the Marina.
- D. All garbage must be deposited in receptacles furnished by the Marina, or removed from the Marina area.
- E. Oil, oily water, and batteries will be accepted and properly disposed of by the Marina office.

Section 25 – SEWAGE AND SANITARY FACILITIES PUMP OUTS

- A. It is unlawful for any person to discharge sewage into the waters of the Marina. People caught discharging sewage into the waters of the Marina may be charged a Hazardous Substance Discharge fee according to the City's Master Fee Schedule.
- B. Pump out services are available at the Marina fuel dock.
- C. Live-aboard vessels must be equipped with a sink, toilet, marine head or other permanent waste receptacle, and a holding tank designed to retain all solid and liquid wastes until the wastes can be discharged into a sanitary sewer system or otherwise discharged according to law.

- D. No person shall operate or berth in the Marina any vessel equipped with a toilet unless such toilet is sealed, otherwise rendered inoperable, or designed so that no human excrement can be discharged into the waters of the Marina.

Section 26 – RESTROOMS AND SHOWERS

- A. Several restrooms are located within the Marina area. If at any time a berther notices something unusual or that the restrooms are in need of service, the berther should notify the Marina office.
- B. Marina restroom facilities are for tenant use only.
- C. No co-ed use of the restrooms is permitted.

Section 27 – SECURITY, GATES, FENCES

- A. Anyone holding gates open, propping gates open, or disabling gates in any way shall be subject to eviction.
- B. Anyone observed within the Marina gates and not a guest of a Marina tenant will be regarded as a trespasser.
- C. Any past tenant having vacated or having been evicted entering this private property with a non-returned key will be regarded as a trespasser.
- D. Anyone observed jumping the fence or on another dock other than his/her own without permission will be regarded as a trespasser.
- E. All trespassers will be reported to the Pittsburgh Police Department.
- F. All keys to security gates must be returned to Marina staff upon termination of lease.

Section 28 – PARKING

- A. Parking allowance is one berth, one vehicle. An additional vehicle may be allowed at the discretion of the Harbor Master. All vehicles parked on Marina property must display a Marina parking decal, which can be obtained from the Marina office.
- B. No boats, trailers, or motor homes are allowed in the Marina parking lots.
- C. All Marina parking decals must be removed from vehicles upon termination of lease.

Section 29 – VESSEL TRAFFIC WITHIN THE MARINA

- A. The water within Basins 1-3 shall be under the jurisdiction of the Pittsburg Municipal Marina.
- B. All vessels approaching or within the Marina must be operated in a safe and prudent manner and in no event shall the entrance to the Marina be blocked.
- C. The speed of any vessel within the Marina shall not exceed five (5) miles per hour, except under emergency conditions.
- D. No vessel shall be operated in the Marina except for the purpose of entering or leaving a berth and necessary maneuvering in connection therewith.

Section 30 – CHARTER VESSELS

- A. All charter vessels must obtain a permit from the Harbor Master and a business license from the City of Pittsburg prior to the use of any Marina facilities for the purpose of boarding or discharging passengers.
- B. Upon obtaining the permit and business license, such vessels must use an area designated by the Harbor Master, schedule activities with the Marina Office, and pay fees established by the City of Pittsburg City Council.

Section 31 – CONTRA COSTA COUNTY TAXES

- A. Each berth holder will be responsible for county property taxes as determined by Contra Costa County.



OFFICE OF THE CITY MANAGER
65 Civic Avenue
Pittsburg, California 94565-3814

DATE: May 7, 2018

TO: Mayor and Council Members

FROM: Joe Sbranti, City Manager

RE: Adoption of a City Council Resolution to Approve Revisions to the Marina Rules and Regulations

EXECUTIVE SUMMARY

The Pittsburg Marina Rules and Regulations have not been substantially updated since their drafting over 15 years ago. The list of various proposed revisions to the Marina Rules and Regulations will better serve boaters as well as align with overall City policies and practices, federal, state, and regional Maritime regulations, and those observed at other local marinas.

FISCAL IMPACT

There will be no fiscal impact caused by the update to Marina Rules and Regulations.

RECOMMENDATION

City Council adopt the Resolution approving revisions to the Marina Rules and Regulations.

BACKGROUND

With the exception of one minor amendment in 2017, the Marina Rules and Regulations have received no revisions since their drafting over 15 years ago. Proposed substantial revisions aim to align operation of the Pittsburg Marina with modern marina management practices seen at other local marinas, federal, state, and regional Maritime regulations, as well as overall City management policies, and include:

Format, Align, Clarify and Simplify:

- Formatted titles and sections for improved readability of the Handbook.
- Aligned enforcement and various charges with those approved by City Council in the City's Master Fee Schedule
- Clarified distinction between three berthing categories: permanent, transient, and live-aboard
- Clarified late fee and eviction procedures
- Clarified correct contact information for the Coast Guard Marine Safety Station
- Clarified the area under the Marina's jurisdiction
- Simplified timeline process required for removal of sunken vessels and emergency actions

Additions:

- Added definitions for terms including: Emergency Conditions, Public Nuisance, Renter/Lessee, Hazardous Substance, Owner, Sinkers, and Habitual Late Payer
- Added language describing Council-approved fees
- Added language City's liability policy
- Added language detailing local police's role in enforcement of Marina Rules and Regulations

Removal:

- Removed expired, repetitive, and unnecessary provisions:
 - "If this rulebook does not specifically say you can do something consider it not allowed."
 - "Owner hereby appoints the Marina as his/her agent for designating a place of storage and safekeeping at his/her expense in the event that the Marina cannot store the boat described above on its own premises. Under the provisions of this contract, owner shall also reimburse the Marina for the cost of removal and transportation to and from said storage facility. Owner hereby grants the Marina permission to board the vessel for the said purpose."
 - "No person shall remove or cause to be removed from the Marina any vessel upon which charges are delinquent, without paying all such delinquent charges."
 - "In an effort to provide security for Marina tenants, boats, vehicles, and other property, we have a gate key system, The system is only as secure as the people using it."
 - Provisions for solicitation, advertising, and signs
 - "The vessel must be equipped with a telephone capable of accessing the local telephone system. The installation, maintenance and monthly cost of said telephone is to be borne solely by the permittee."
 - "At the end of each quarter of the calendar year, a permittee granted residence privileges must submit a log of his or her vessel's trips out of the Marina and a log of the dates the holding tank pump out station was used by the permittee."

SUBCOMMITTEE FINDINGS

The proposed updates were provided to the Economic Development Subcommittee at a Subcommittee meeting on April 3rd, 2018.

STAFF ANALYSIS

The purpose of the Marina Rules and Regulations is to maintain a safe, orderly and peaceful Marina as described in the Marina's Mission Statement. Staff developed these recommendations by conducting a survey of local marina rules and regulations, federal, state, and regional maritime regulations, and engaging in several in-depth discussions with all Marina staff. The discussions with Marina staff helped identify common roadblocks to efficiency and exceptional customer service that can be clarified and improved through the proposed updates.

Attachments: Resolution
 Proposed Rules and Regulations of the Pittsburgh Municipal Marina

Joe Sbranti, City Manager

Report Prepared By:

Sara Aliotti, Administrative Analyst II