



PUBLIC ADVISORY:
THE CITY COUNCIL CHAMBER WILL NOT BE OPEN TO THE PUBLIC

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the meeting of the Planning Commission will be conducted electronically through Zoom and broadcast live through Granicus on the City's website which can be located on the [Streaming Media](#) page. If you do not have internet access, the meeting will also be available to the public in a listening-only mode via telephone call-in line. To listen to the meeting, dial 1 (669) 900-6833. When prompted, dial in the Webinar ID, 863 6303 7794 and Password 086252.

Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber will not be open for the meeting. Planning Commissioners will be participating electronically and will not be physically present in the Council Chamber.

As of January 26, 2021, Planning Commission Meeting, live comments will be allowed by members of the public via teleconferencing during Zoom meetings and emailed comments will no longer be read aloud by staff. To be placed in a queue to comment, please adhere to the following instructions.

To Participate in Public Comment During the Meeting:

- Notify the City Clerk's Office via email by 3:00 p.m. on the meeting date that you would like to be placed in the queue for general Public Comments, or comments on a specific agenda item. Requests received after 3:00 p.m. on the date of the meeting will not be able to comment.
- Email your name and telephone number to meetingcomments@ci.pittsburg.ca.us. We need both identifications to pair you with the item you wish to speak on. You must also be sure that you call in using the number you have provided, or we may not be able to identify you as a speaker.
- Your email must include the words **"FOR PUBLIC COMMENT"** in the subject line and specify the **Agenda Item number or non-Agenda** as appropriate.
- You will receive an email confirmation with instructions to log in.
- Once the meeting starts (check the Streaming Media link on our website – www.ci.pittsburg.ca.us) you can phone in to Zoom. If you log in before the event has started, you may be disconnected.
- You will be added to the meeting as an attendee and will be called upon by staff for phone-in comments.
- Speakers will be muted until their opportunity to provide public comment.
- All comments will be subject to the three-minute time limitation (approximately 350 words).
- Begin your comment by providing your name and city of residence for the record – although providing this is not required for participation.
- Just as in a live meeting inside the Council Chamber, only one comment per agenda item per person is allowed.

The City of Pittsburg thanks you in advance for taking all precautions to prevent the spread of the COVID 19 virus.



City of Pittsburg Planning Commission Agenda

June 22, 2021

**City Hall Council Chamber
65 Civic Avenue, Pittsburg, CA 94565**

**Regular Meeting
7:00 P.M.**

Planning Commission Members

**Christopher Moreno, Chair
James Coniglio, Vice-Chair
Elissa Robinson, Commissioner
Heliodoro Moreno Jr., Commissioner
Henry Perkins, Commissioner
Ivelina Popova, Commissioner
Sarah Foster, Commissioner**

A decision by the Planning Commission is not final until the appeal period expires 10 calendar days after the date the decision occurred. The applicant, City Council member(s), City Manager, or any affected person may appeal the denial, approval, recommendation, or any condition of approval of an item within the 10-day appeal period. A completed appeal form and the applicable filing fee must be filed with the City Planner, 65 Civic Avenue, Pittsburg. The appeal form must include the name and address of the appellant and state the reasons for the appeal. The appeal will be set for City Council consideration and appropriate public notification given.

The Commission requests that you refrain from disruptive conduct during the meeting and that you observe the order and decorum of the Council Chamber. Please turn off or set to vibrate all cellular phones, and refrain from making personal, impertinent, or slanderous remarks. Boisterous or disruptive behavior while the Commission is in session, is considered counterproductive and will not be tolerated.

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

DELETIONS, WITHDRAWALS OR CONTINUANCES

COMMENTS FROM THE AUDIENCE

CONSENT

1. **Minutes**
Minutes of June 8, 2021

PUBLIC HEARINGS

2. **Recommendation for City Council Approval of Amendments to Titles 5 and 18 of the Pittsburgh Municipal Code Related to Commercial Cannabis Business Permitting**
This is a public hearing on a request for recommendation of City Council approval for comprehensive amendments to City of Pittsburgh Municipal Code (PMC) Titles 5 and 18 related to commercial cannabis business permitting. The proposed updates would facilitate the expansion of the types of cannabis businesses allowed, including uses such as retail, cultivation, and microbusinesses, as well as the process and standards for business approval.

ZONING ADMINISTRATOR REPORTS

STAFF COMMUNICATIONS

COMMITTEE REPORTS / COMMISSIONER COMMENTS

ADJOURNMENT OF PLANNING COMMISSION MEETING

NOTICE TO PUBLIC

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 Commission 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)

GENERAL INFORMATION

Copies of the open session agenda packets that are distributed to the Planning Commission are on file in the office of the Planning Department, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning no fewer than 72 hours in advance of the meeting, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except city holidays). Additionally, if any reports or documents that are public records are distributed to the Planning Commission fewer than 72 hours before the meeting, those reports and documents will also be available for public inspection in the city's Planning Department and at the Commission meeting. The Pittsburg Library is also provided a full agenda packet for your convenience. As a courtesy, the agenda is also located on the city's website at www.ci.pittsburg.ca.us.

**MINUTES
OF A REGULAR MEETING
OF THE
PITTSBURG PLANNING COMMISSION**

June 8, 2021

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the regular meeting of the Planning Commission for June 8, 2021, was conducted telephonically through Zoom with broadcasting live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber was not open for the meeting. Council Members participated telephonically or through Zoom and were not physically present in the Council Chamber.

Chair Moreno called the meeting of the Pittsburg Planning Commission to order at 7:05 p.m. on Tuesday June 8, 2021, via Zoom teleconference.

ROLL CALL

Present: Chair Moreno, Vice-Chair Coniglio, Commissioners Foster, Moreno, Perkins, Popova, Robinson

Staff: City Attorney Donna Mooney, Interim Deputy City Manager for Operations Jill Hecht, Director of Public Works/City Engineer Richard Abono, Acting Planning Manager/Secretary Jordan Davis, Senior Civil Engineer Gina Haynes, Assistant Planner Celina Palmer, Assistant City Clerk Amanda McVey, Administrative Coordinator Shelby Rose

PLEDGE OF ALLEGIANCE

Commissioner Perkins led the Pledge of Allegiance.

DELETIONS / WITHDRAWALS / CONTINUANCES

There were none.

COMMENTS FROM THE AUDIENCE

There were no comments from the audience.

CONSENT

1. Minutes of April 27, 2021

On motion by Commissioner Coniglio, seconded by Commissioner H. Moreno Jr. to approve the Minutes of April 27, 2021, and carried unanimously.

PUBLIC HEARINGS

2. Recommendation on Adoption of Amendments to Title 18 of the Pittsburg Municipal Code for Miscellaneous Zoning Code Updates

A public hearing to consider a recommendation for City Council approval of amendments to Title 18 (“Zoning”) of the Pittsburg Municipal Code (PMC) in order to clarify minor inconsistencies and ensure compliance with recently updated provisions of State Law. The proposed amendments would generally include updates to zoning definitions, parking requirements, screening requirements, and allowable use regulations to ensure clarity and consistency with State Law. These updates would apply city-wide.

Assistant Planner Palmer gave a presentation.

Chair Moreno opened the public hearing.

There being no one to speak, Chair Moreno closed the public hearing.

On motion by Commissioner Foster and seconded by Commissioner Robinson to adopt Resolution No. 10164 recommending City Council approval of the proposed zoning text changes, with further amendments to ensure consistency between the definition of “mobile food vendors,” with those uses identified within Senate Bill 946 (2018), and carried by the following vote:

AYES:	Foster, H. Moreno Jr., Perkins, Popova, Robinson, C. Moreno
NAYES:	Coniglio
ABSTAIN:	None
ABSENT:	None

COMMISSION CONSIDERATION

3. Recommendation on Adoption of Five-Year Capital Improvement Program (CIP) – General Plan Consistency Determination

This was a consideration for the Planning Commission to determine whether the projects in the proposed Five-Year CIP are consistent with the City’s General Plan.

Senior Civil Engineer Haynes gave a presentation.

On motion by Commissioner Coniglio, seconded by Commissioner Foster to approve and carried unanimously.

ZONING ADMINISTRATOR REPORT

4. The Zoning Administrator submit two notices of intent to exercise delegated design review authority for: 1) changes to the parking lot and placement of ancillary structures at 375 Central Avenue, in the CS (Service Commercial) District (APN: 086-131-005); and 2) exterior façade improvements, interior commercial and residential

improvements, and ancillary site improvements at 14 East 4th Street in the CP (Pedestrian Commercial) District (APNs: 085-104-004 and -009).

STAFF COMMUNICATIONS

There were none.

COMMITTEE REPORTS / COMMISSIONER COMMENTS

Commissioners C. Moreno and Robinson reported on the Land Use Subcommittee Meeting held on May 21st.

Commissioner Foster noted the upcoming TransPlan meeting to be held on June 10th.

Planning Manager proposed a staff presentation on the background and history of the Railroad Avenue Specific Plan (RASP).

Commissioner Robinson reported that the former Concord Naval Weapon Station has a new name, "Thurgood Marshall Regional Park".

ADJOURNMENT

The meeting was adjourned at 8:49 p.m. to June 22, 2021.

Respectfully Submitted,

Jordan Davis, Planning Manager/Secretary

**CITY OF PITTSBURG
PLANNING COMMISSION
STAFF REPORT
June 22, 2021**

ITEM: Recommendation for City Council Approval of Amendments to Titles 5 and 18 of the Pittsburg Municipal Code Related to Commercial Cannabis Business Permitting.

ORIGINATED BY: City of Pittsburg Economic Development Department, 65 Civic Avenue, Pittsburg, CA 94565

SUBJECT: This is a public hearing on a request for recommendation of City Council approval for comprehensive amendments to City of Pittsburg Municipal Code (PMC) Titles 5 and 18 related to commercial cannabis business permitting. The proposed updates would facilitate the expansion of the types of cannabis businesses allowed, including uses such as retail, cultivation, and microbusinesses, as well as the process and standards for business approval.

RECOMMENDATION:

Staff recommends that the Planning Commission adopt Resolution No. 10170, recommending City Council approval of the proposed amendments to PMC Titles 5 and 18 related to cannabis regulations.

BACKGROUND:

In 2015, the state legislature enacted the Medical Marijuana Regulation and Safety Act (MMRSA) to regulate the medical cannabis industry. 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 State of California voted to approve Proposition 64, which legalized the adult use of cannabis within the state. Pittsburg voters also supported Proposition 64, with 61% voting in support of the measure. At this time, Pittsburg voters also 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 68% to 31.7%. As approved by the voters, the maximum marijuana business tax rate is 10% on all marijuana related transactions.

In 2017, the State Legislature adopted the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which combined and harmonized MMRSA and Prop. 64 for the regulation of medicinal and recreational cannabis industries. Later

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that same year, the state's licensing authorities adopted emergency regulations to implement MAUCRSA. In 2018, the state licensing authorities readopted the emergency regulations, and promulgated final regulations effective 2019.

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, currently in effect, 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. The total number of commercial cannabis permits that may be issued within the City is limited to nine medical and nine non-medical. Cultivation, dispensaries, and retail deliveries of cannabis in the City of Pittsburgh remain prohibited. On June 4, 2018, the City Council adopted Ordinance No. 18-1448, amending PMC Title 18 to specify how cannabis uses were defined and zone districts in which they would be allowed to operate.

Similar to state law at the time, in 2018, the City chose to require a 600-foot radius between cannabis businesses and schools, parks, youth centers, day cares, and libraries. In 2019, the City Council adopted Ordinance No. 19-1465 to: 1) specify how required distances between cannabis businesses and potentially sensitive uses are measured; 2) clarify definitions of specific potentially sensitive uses; and 3) establish a minimum distance of 1,000 feet between cannabis dispensaries and potentially sensitive uses, in the event cannabis dispensaries are allowed in the future.

In July 2020, the Land Use Subcommittee met to discuss potential proposals related to cannabis retail within the City. The Land Use Subcommittee recommended a workshop be held to gain feedback from all members of the City Council.

On March 22, 2021, the City Council held a workshop to discuss the City's cannabis policy. During the workshop, the City Council voiced general support for amending the PMC to allow for additional cannabis business types, including retail, cultivation, and microbusinesses, and identified preliminary areas where these businesses would be appropriate. The City Council also discussed the types of "sensitive uses" (i.e. uses that would be considered generally incompatible with cannabis businesses) that should be buffered from cannabis businesses.

During the workshop, the City Council received a presentation from staff which included an overview of the types of zoning districts being considered for cannabis retail, cultivation, and microbusinesses to solicit feedback. While it was generally agreed that uses such as manufacturing, distribution, testing laboratories, cultivation, and microbusinesses (which generally must include a cultivation and/or manufacturing component) should remain in areas normally reserved for industrial users, there was a

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lengthy discussion regarding the best areas to locate stand-alone cannabis retail users. Further description of this discussion is provided in the “Analysis” section of this report.

PROJECT DESCRIPTION:

Surrounding Land Uses: The proposed amendments to the PMC would apply Citywide, though the proposed amendments do limit the areas in which these commercial cannabis businesses could operate consistent with the direction of the City Council.

Proposed Project: The proposed amendments would revise PMC Title 18 and the City’s commercial cannabis policy to allow the operation of retail (which include delivery services), cultivation, and microbusinesses. Key changes include:

- elimination of differentiation between medical and non-medical commercial cannabis businesses;
- creation of use classifications for “cannabis delivery;” “cannabis retail;” cannabis testing laboratory;” “cannabis manufacturing;” “cannabis cultivation,” including “indoor,” “outdoor,” and “mixed light;” “cannabis distribution;” and “cannabis microbusinesses;”
- revision of “food and drug processing,” use classification to remove reference to commercial medical and non-medical cannabis businesses and applicable Limitations;
- revision to PMC 18.52.010 Schedule A to add “cannabis delivery,” and “cannabis retail,” as uses potentially permitted within the Community Commercial (CC) and Service Commercial (CS) districts, subject to limitations;
- revision to PMC 18.54.010 Schedule A to add “cannabis delivery,” “cannabis retail,” “cannabis manufacturing,” cannabis microbusiness,” “cannabis distribution,” and “cannabis cultivation – indoor,” as uses potentially permitted within all industrial districts, subject to limitations;
- amendments to definitions within Chapter 18.88, including those of “cannabis” and “commercial cannabis business;”
- specifications on application and approval procedures for commercial cannabis permits, including establishing required findings for permit approval and findings the City Council may make to deny an application;
- establishment of buffer areas surrounding sensitive uses;
- cannabis permit holder qualifications;
- performance standards for all cannabis businesses; and
- various further amendments to Chapter 18.88 to ensure internal consistency for allowable uses.

In addition, amendments to Title 5 are proposed to ensure internal consistency while also eliminating duplication. Further, Title 5 would be amended to specify the City Council may, by resolution, adopt a maximum number of commercial cannabis permits allowed within the City. While amendments to Title 5, which deals with business licensing, do not require a Planning Commission recommendation, as the proposed amendments are substantially intertwined, staff is including these as part of the proposed project.

CODE COMPLIANCE:

General Plan: The proposed amendments 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 Pittsburg (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.

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.

Findings: In order to recommend approval of an amendment to the Zoning Ordinance, the Commission 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. the land use regulation is compatible with uses and regulations of 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.

As mentioned above, amendments to Title 5, which deals with business licensing, do not require a Planning Commission recommendation, as the proposed amendments are substantially intertwined, staff is including these as part of the proposed project.

Environmental: This project is exempt from the requirements of the California Environmental Quality Act 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.

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The amendments proposed are procedural in nature and would not materially change the type of uses permitted within any areas of the City, but rather create specific definitions for similar businesses utilizing cannabis. 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 June 12, 2021, notice of the June 22, 2021, 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.

ANALYSIS:

The proposed amendments have been developed with feedback from the City Council, specifically during the workshop held on March 22, 2021, as well as discussions amongst the Land Use Subcommittee, staff research, stakeholder feedback, past voting results, and comments during multiple public meetings.

The proposed amendments to expand the range of allowable cannabis businesses is considered by the City Council as an economic development initiative, as well as a way to help provide community members with access to products increasingly seen as viable and popular health products. Since Californians approved Prop 64 in 2016, legal cannabis businesses have been contributing to the economic development goals common amongst cities, such as employment growth, business expansion, economic diversification, and reinvestment in blighted areas.

Perhaps the most significant way cannabis would potentially impact the local economy is via increased tax revenue. In addition to the standard Bradley Burns tax paid on all retail sales, these transactions would also be subject to the Measure M half-cent sales tax, and the voter approved cannabis tax, likely to range between four and five percent. Staff estimates that a single retail business could result in \$500,000-\$1,000,000 in increased revenue annually. These funds would bolster the general fund, and would be spent on economic development programs, public safety enhancements, or community programming.

From a job creation perspective, multiple cannabis businesses such as retailers, cultivation facilities, and microbusinesses would bring new, well-paying jobs that often include full benefits, paid time off, and potential for advancement. As described by Marc

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Doussard in the Journal of Planning and Research (2017) labor-intensive goods such as cannabis, which require constant monitoring and care, generate net job growth.

Cannabis businesses also tend to cluster in cities and regions, and, along with the fact that interstate transport of cannabis remains prohibited, shifts local consumer spending from imported consumer goods to locally produced goods and services that draw highly skilled employees. These reinvestments in community and consumption-driven development would also have positive secondary and tertiary effects, such as creating a place that is seen as appealing to professionals as well as new industries centered around local consumption. Researchers have estimated that this type of development may help promote a growing interest in arts, innovation, artisanal industries, and the popularizing of initiatives like urban agriculture (Doussard 2017).

Lastly, staff believes cannabis businesses, and retail in particular, has the potential to increase reinvestment in blighted areas. The International City/County Management Association (ICMA) has published case studies that show commercial and industrial areas that have been recently underutilized are more marketable and receive significant reinvestment, including façade enhancements and public improvements (ICMA 2018). Other cities within Contra Costa County and the State have seen land-standing vacant and blighted buildings along major thoroughfares updated with modern designs by cannabis companies, which are competing for customers seeking a safe and enjoyable shopping experience without and stigma.

As mentioned, during the workshop the City Council indicated general support for expanding the types of allowable commercial cannabis businesses to include retail (which includes delivery), cultivation, and microbusinesses (defined as a cannabis business which includes three of the four following components: retail, delivery, cultivation of less than 10,000 square feet of canopy, and manufacturing). Staff further provided several areas for consideration in which cannabis businesses could operate. The City Council supported limiting the areas where non-retail businesses would be allowed to operate to four industrial areas, which have generally been reflected in the proposed amendments.

Regarding the question of where to allow retail, the City Council discussed whether to allow these types of cannabis businesses in areas designed for retail businesses and housing similar uses. The benefits of allowing cannabis retail in these areas mentioned during the workshop include adequate lighting for safety purposes, relatively high levels of parking, high visibility, ease of access for patrons and public safety personnel, safe and reliable infrastructure such as roadways and driveways, surrounding uses that could both support and be supported by new businesses, and anticipated success of retailers in these areas versus industrial areas. However, it should be noted that, based on results of neighboring communities, staff believes industrial areas would also have significant draw to customers, and cannabis businesses in these areas would be successful. Drawbacks mentioned during the meeting largely surrounded the location of existing commercial centers along arterials traveled by youth to sensitive uses, and as such, commercial areas along roads like Railroad Avenue, Harbor Street, Leland Road, California Avenue, and Loveridge Road are not proposed as areas where commercial cannabis retailers would be able to locate, while areas such as the North Park Shopping

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Center would be.

Additionally, during the workshop, the City Councilmembers in attendance reviewed the list of “sensitive uses,” and staff presented maps showing the locations of schools, parks, the library, and childcare facilities, as well as houses of worship which are not currently listed sensitive uses. The proposed amendments would maintain the existing required 600-foot buffer distance between cannabis businesses and sensitive uses, as well as require a 1,000-foot buffer between retailers and schools, consistent with the requirements currently in place for smoke shops and smoking lounges. While staff has not proposed the addition of houses of worship to the list of sensitive uses, the proposed cannabis business areas are not proximate to sensitive uses or houses of worship.

The City Council also indicated they wanted to see reciprocation in the required buffers, meaning sensitive uses not be allowed within 600 feet of established cannabis businesses. While certain statutes may prevent the City from implementing formal buffers banning these uses in several instances, staff would note that in the Industrial Districts, schools and libraries are not permitted, while day cares are only allowed as ancillary to a business for employee use, and religious assemblies and youth centers are only permitted in the IP district with a use permit, but are otherwise prohibited; in the CS and CC District, private schools, youth centers, religious assemblies in spaces large enough to allow for 50 persons, and day cares require a use permit, while public schools, parks, and libraries are permitted but under the development control of the City, County, or local school district, minimizing impacts.

ACTION REQUIRED:

Move to adopt Resolution No. 10170, recommending City Council approval of the proposed amendments to PMC Titles 5 and 18 related to cannabis regulations.

ATTACHMENTS:

1. Proposed Resolution No. 10170
2. Public Hearing Notice

WORKS CITED:

Doussard, Marc. “The Other Green Jobs: Legal Marijuana and the Promise of Consumption-Driven Economic Development.” *Journal of Planning Education and Research*, vol. 39, no. 1, 2017, pp. 79–92.

Various. “Local Impacts of Commercial Cannabis.” *International City/County Management Association*, 2018.

Prepared by: Jordan Davis, Director of Economic Development/Acting Planning Manager

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Recommending the City Council Adopt	)	
Amendments to Title 18 of the Pittsburgh	)	
Municipal Code	)	Resolution No. 10164

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

- A. In 2015, the state legislature enacted the Medical Marijuana Regulation and Safety Act (MMRSA) to regulate the medical cannabis industry.
- B. 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.
- C. On November 8, 2016, the voters of the State of California voted to approve Proposition 64, which legalized the adult use of cannabis within the state. Pittsburgh voters also supported Proposition 64, with 61% voting in support of the measure. At this time, Pittsburgh voters also 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 68% to 31.7%. As approved by the voters, the maximum marijuana business tax rate is 10% on all marijuana related transactions.
- D. In 2017, the State Legislature adopted the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which combined and harmonized MMRSA and Prop. 64 for the regulation of medicinal and recreational cannabis industries. Later that same year, the state's licensing authorities adopted emergency regulations to implement MAUCRSA. In 2018, the state licensing authorities readopted the emergency regulations, and promulgated final regulations effective 2019.
- E. 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, currently in effect, 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. The total number of commercial cannabis permits that may be issued within the City is limited to nine medical and nine non-medical. Cultivation, dispensaries, and retail deliveries of cannabis in the City of Pittsburgh remain prohibited.

- F. On June 4, 2018, the City Council adopted Ordinance No. 18-1448, amending PMC Title 18 to specify how cannabis uses were defined and zone districts in which they would be allowed to operate.
- G. Similar to state law at the time, in 2018, the City chose to require a 600-foot radius between cannabis businesses and schools, parks, youth centers, day cares, and libraries. In 2019, the City Council adopted Ordinance No. 19-1465 to: 1) specify how required distances between cannabis businesses and potentially sensitive uses are measured; 2) clarify definitions of specific potentially sensitive uses; and 3) establish a minimum distance of 1,000 feet between cannabis dispensaries and potentially sensitive uses, in the event cannabis dispensaries are allowed in the future.
- H. In July 2020, the Land Use Subcommittee met to discuss potential proposals related to cannabis retail within the City. The Land Use Subcommittee recommended a workshop be held to gain feedback from all members of the City Council.
- I. On March 22, 2021, the City Council held a workshop to discuss the City's cannabis policy. During the workshop, the City Council voiced general support for amending the PMC to allow for additional cannabis business types, including retail, cultivation, and microbusinesses, and identified preliminary areas where these businesses would be appropriate. The City Council also discussed the types of "sensitive uses" (i.e. uses that would be considered generally incompatible with cannabis businesses) that should be buffered from cannabis businesses. During the workshop, the City Council received a presentation from staff which included an overview of the types of zoning districts being considered for cannabis retail, cultivation, and microbusinesses to solicit feedback. While it was generally agreed that uses such as manufacturing, distribution, testing laboratories, cultivation, and microbusinesses (which generally must include a cultivation and/or manufacturing component) should remain in areas normally reserved for industrial users, there was a lengthy discussion regarding the best areas to locate stand-alone cannabis retail users.
- J. PMC section 18.16.020 identifies the Planning Commission as the advisory body to the City Council on proposed changes to zoning text amendments. While amendments to Title 5, which deals with business licensing, do not require a Planning Commission recommendation, as the proposed amendments are substantially related.
- K. In order to recommend approval of a zoning text amendment, the Planning

Commission must find (in accordance with PMC sections 18.16.020 and 18.48.030) that:

1. the amendments are consistent with the objectives, policies, general land uses and programs in the General Plan;
 2. the land use regulation is compatible with uses and regulations of the land use district for which it is proposed;
 3. there is a community need for the change proposed; and
 4. the change will be in conformity with the public convenience, general welfare, and good zoning practice.
- L. On or prior to June 12, 2021, notice of the June 22, 2021, 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.
- M. On June 22, 2021, the Planning Commission held a duly noticed public hearing to consider recommendation for City Council approval of amendments to PMC Titles 5 and 18 related to commercial cannabis businesses.

Section 2. Findings

- A. Based on the Planning Commission staff report entitled, "Consideration of a Recommendation for City Council Approval of Amendments to Titles 5 and 18 of the Pittsburg Municipal Code Related to Commercial Cannabis Business Permitting," dated June 22, 2021, 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 Pittsburg, and based on all written and oral testimony presented at the public hearing, the Planning Commission finds that:
1. All recitals above are true and correct and are incorporated herein by reference.
 2. This project is exempt from the requirements of the California Environmental Quality Act 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 materially change the type of uses permitted within any areas of the City, but rather create specific definitions for similar businesses utilizing cannabis. 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 proposed amendments 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 Pittsburg (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.
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 amendments will not permit any specific type of cannabis uses in any zoning district in which similar uses 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. Additionally, 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, and mandatory buffers from sensitive uses will be required.
5. There is a community need for the proposed amendments, in that 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 for retail sales, cultivation, product manufacturing, testing,

or distribution, or any combination of these uses, 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, no development standards will be substantially altered as to change the character of the zone districts in which these uses are permitted.

- B. The Staff Report entitled, "Consideration of a Recommendation for City Council Approval of Amendments to Titles 5 and 18 of the Pittsburgh Municipal Code Related to Commercial Cannabis Business Permitting," dated June 22, 2021, is referenced hereto as additional support for findings.

Section 3. Decision

Based on the findings and the authority set forth above, the Planning Commission hereby recommends that the City Council adopt an ordinance amending Pittsburgh Municipal Code, Titles 5 and 18, in order to read substantially as shown below (~~strikethrough~~ indicates deletion; ***bold italic*** indicates insertion):

- A. The title of Chapter 5.70 is amended to read:

CANNABIS ***BUSINESSES*** ~~DISPENSARIES, BUSINESSES AND DELIVERIES~~

- B. Article I of Chapter 5.70 is hereby repealed and reserved.

- C. Article II is hereby amended to read as follows:

Article II. ~~Nonmedical Cannabis~~ ***Businesses***

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 cannabis, and the city council finds that sanctioning the opening or establishment of ~~nonmedical~~ cannabis collectives, cooperatives, and dispensaries, or allowing the delivery of ~~nonmedical~~ cannabis within the city would be inconsistent with federal law. However, the city acknowledges that state law allows commercial ~~nonmedical~~ cannabis businesses, and that certain commercial ~~nonmedical~~ 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 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 or 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.~~

~~DB. The purpose of this article is to prohibit cannabis collectives, cooperatives and dispensaries from being opened or established in the city of Pittsburgh, as well as prohibiting nonmedical cannabis deliveries from occurring in the city of Pittsburgh, while also allowing **establish** certain **regulations for** commercial nonmedical cannabis businesses to operate subject to requirements **as** set forth in this article. Nothing in this article shall be deemed to allow or authorize any use or activity which is **not expressly permitted by this article and 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 Pittsburgh.

B. "Commercial nonmedical cannabis business" means ~~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.~~ **business engaged in commercial activity involving cannabis and holding one or more state licenses. A single commercial cannabis business may hold multiple state licenses under a single city commercial cannabis permit.**

C. "Nonmedical eCannabis" **shall have the same meaning as set forth in California Health and Safety Code Section 11018, et seq. Consistent with state law, it does not include industrial hemp, as defined in Health and Safety Code Section 11018.5.** ~~includes marijuana and means any or all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not, the seeds thereof, the resin or separated resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. means cannabis that is intended to be used for nonmedical purposes pursuant to Business and Professions Code Section 26000 et seq.~~

D. "Nonmedical eCannabis delivery" means ~~the commercial transfer of nonmedical cannabis or nonmedical cannabis products from a nonmedical cannabis dispensary~~

to a person, as well as the use by a dispensary of any technology platform to arrange for or facilitate the transfer of nonmedical cannabis or nonmedical cannabis products. ***shall have the same meaning as set forth in PMC section 18.08.080.***

E. “Nonmedical ~~c~~Cannabis dispensary~~retail~~” or “~~Retail~~dispensary” means any retail business that ~~Commercial cannabis activity that is required to possess a “Type 10 – Retailer” or “Type 12 Microbusiness” under Business and Professions Code Section 260050 et seq.~~ ***shall have the same meaning as set forth in PMC section 18.08.080.***

F. “Nonmedical ~~c~~Cannabis product(s)” means, ***consistent with state law,*** nonmedical ***unprocessed cannabis plant material and/or*** 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 cannabis or concentrated cannabis and other ingredients.

G. “***Licensee***” means any person or business with a commercial cannabis permit and Operating Agreement approved by the city.

H. “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 cannabis dispensaries prohibited ***Reserved.***

~~Nonmedical cannabis dispensaries 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, the operation of a nonmedical cannabis dispensary.~~

5.70.140 Nonmedical cannabis deliveries prohibited ***Reserved.***

~~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 cannabis through the city on public roads, as long as such transportation does not involve the delivery of nonmedical cannabis within the city.~~

5.70.150 Commercial nonmedical cannabis businesses allowed.

~~Commercial nonmedical cannabis businesses are 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 – Manufacturer 1, Type 7 – Manufacturer 2, Type 8 – Testing laboratory, and Type 11 – Distributor, as defined by Business and Professions Code Section 26000 et seq., shall be allowed and permitted by the city.~~

~~The city council may, at its discretion, issue up to nine 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 allow to be engaged in, conducted or carried on, in or upon any premises in the city, a commercial nonmedical cannabis business without complying with the requirements of this article.~~

No Commercial Cannabis Business is allowed in the city, except in compliance with the requirements set forth in this article and all applicable provisions of the Pittsburgh Municipal Code. Prior to operation, a Commercial Cannabis business must obtain a city business license, one or more city cannabis permits, all necessary state licenses, and enter into an operating agreement with 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, a Commercial Cannabis Business without complying with the requirements of this article.

The city council may by resolution establish and/or modify the number and type of future commercial cannabis businesses allowed within the city, including establishing moratoria.

5.70.160 Commercial nonmedical cannabis permit ***Reserved.***

~~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 transferable, unless approved in writing by the City Manager. and a Any attempt to assign or transfer the permit without prior written consent from the City Manager shall render the permit null and void.~~

~~D. No commercial nonmedical cannabis business shall be located within 600 feet of an existing school (as defined by PMC 18.08.060(V)), general day care (as defined by PMC 18.08.060(F)), club or lodge (as defined by PMC 18.08.060(B)) used exclusively as a youth center, city-owned park space which is open to the public, or library, as measured from the main entrance of the business to the nearest access point of the other use, following the shortest publicly accessible path of travel, including but not limited to streets, alleys, sidewalks, pathways, or trails. However, in no event shall a commercial nonmedical cannabis dispensary providing cannabis products to the end user be located less than 1,000 feet from any of the uses~~

~~described above, as measured by the shortest direct line distance between the subject parcel lines. The city council, by ordinance, may amend this restriction and/or allow permit modifications to allow for unique parameters of a specific commercial cannabis businesses. The permit modifications can take into consideration, but not be limited to:~~

~~Facility layout and orientation
Physical natural or manmade barriers
Low visual impact 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:~~

- ~~1. The applicant made one or more false or misleading statements or omissions on the registration application or during the application process;~~
- ~~2. The applicant fails to meet the requirements of this chapter or any regulation adopted pursuant to this chapter;~~
- ~~3. 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;~~
- ~~4. Potential threats to public health and safety cannot be sufficiently mitigated; or~~
- ~~5. 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~~ ***Reserved.***

~~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 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 Sections 667.5(c) and 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 ***Reserved***.

~~An application for a commercial nonmedical cannabis permit shall include, but not 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 commercial cannabis business:~~

- ~~1. Complete legal name and any alias(es), address, and telephone number.~~
- ~~2. Date and place of birth.~~
- ~~3. Social security numbers.~~
- ~~4. Copy of a valid government issued photo identification card, license, or passport.~~
- ~~5. List of all criminal convictions, other than infractions for traffic violations, the jurisdiction of the convictions, and the circumstances thereof.~~
- ~~6. Names of businesses owned or operated by the owner(s) or manager(s) within the last 10 years.~~
- ~~7. 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 with PMC 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 business's 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 nonmedical commercial 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 nonmedical cannabis business will operate, which are in addition to the requirements of this article, including, but not limited to:

(A) a business operating plan as set forth in PMC 5.70.164;

(B) a security plan as set forth in PMC 5.70.165;

(C) **Required cannabis business tax;**

(B) payment of fees and other charges mutually agreed to; and

(D) 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 employee of the ~~nonmedical~~ **commercial** cannabis manufacturing business.

~~B. Prior to operation of the commercial cannabis business, the applicant shall submit to the Chief of Police or his designee, an exhibit listing the names, addresses, telephone numbers, and responsibilities of all employees not considered Responsible Parties. All employees must be twenty-one (21) years of age or older or as specified as in the business operating agreement. This list shall remain confidential. Any changes to this list shall be submitted to the Chief of Police as soon as reasonably possible. These changes shall not be considered an amendment to this agreement, and shall not require any prior approval.~~

~~CB.~~ Planned hours and days of operations of the ~~nonmedical~~ **commercial** cannabis manufacturing business.

C. **Site plan of the proposed facility.**

D. Floor plan of the proposed business facility.

~~DE.~~ If applicant is a commercial ~~nonmedical~~ cannabis manufacturing business, ~~p~~**P**rocedures 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.

~~EF.~~ If applicant is a commercial nonmedical cannabis manufacturing business, a ~~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, **as applicable**.

G. A detailed description of the types of product(s) to be sold at the business, as applicable.

~~H.~~ Transportation plan detailing how and when nonmedical cannabis will be delivered to and from the commercial nonmedical cannabis business. **Licensee shall only transport cannabis and/or cannabis products via a transport service(s) licensed by the state and in compliance with state law.**

~~GI.~~ Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated, or excess nonmedical cannabis and nonmedical cannabis products.

~~HJ.~~ 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.

~~IK.~~ 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.

~~JL.~~ 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 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 **or their designee**, to ensure the safety of persons working inside the business, and to protect the premises from theft, vandalism, and fire. The applicant's approved ~~proposed~~ security plan must be filed with the city manager or city manager's designee **at the time of application, and the final security plan as approved by the chief of police or their designee shall be kept on file with the police department and city manager's office at all times**. 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. The location, make(s) and model(s) of all security infrastructure.

D. A floor plan showing the location of secure areas

~~E. Any proposed building modifications~~

~~F. All other requirements determined by the city manager and/or city's chief of police.~~

CE. Retention of 24-hour surveillance camera footage for at least 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.

~~H. Should the business necessitate an increased police presence, the Chief of Police may require Licensee to provide additional public safety measures, including but not limited to, additional video cameras, additional exterior lighting, hiring licensed and bonded security guards approved by the Police Department, or such other measures as determined necessary by the Chief of Police. Any such additional measures required by the Chief of Police shall be at the business owner's sole expense.~~

F. The total amount of concentrated THC stored by a manufacturing business at any one time shall be documented, and records shall be made available to the chief of police or his/her designee at all times. The chief of police shall reserve the right to establish a limit on the amount of concentrated THC stored at any time.

~~J. All inventory, testing, usage, or other logs shall be made available to the Police Department or City Manager upon request.~~

~~K. All cannabis concentrate shall be stored in a secure facility as shown in approved floor plan. The secure area shall remain locked at all times, and shall be accessible only by those individuals identified and approved as "Responsible Parties."~~

DLG. Professionally installed, maintained and monitored alarm system. Notice of the triggered alarm shall be sent to the police department.

~~E~~***H.*** Sensors installed to detect entry and exit from all secure areas.

~~FI.~~ Use of commercial-grade, nonresidential locking mechanisms at all points of ingress and egress.

~~GJ.~~ Procedure whereby police **department** ~~are-is~~ notified immediately upon any incidents of theft, vandalism, or any other instances stipulated by the chief of police **or their designee**.

~~HK.~~ Designation of a responsible individual, who will be the business's point of contact with city, police, and other law enforcement entities.

~~IL.~~ Transportation plan detailing how and when nonmedical cannabis will be delivered to and from the commercial ~~nonmedical~~ cannabis business.

M. If the chief of police determines a business is disproportionately impacting police resources, the chief of police may require Licensee to provide additional public safety measures, including but not limited to, additional video cameras, additional exterior lighting, hiring licensed and bonded security guards approved by the police department, or such other measures as determined necessary by the chief of police. Any such additional measures required by the chief of police shall be at the Licensee's sole expense.

N. All inventory, testing, usage, or other logs shall be made available to the police department or city manager upon request.

O. All other requirements determined by the city manager and/or city's chief of police in their sole discretion.

~~5.70.170 Commercial nonmedical cannabis permit revocation and suspension~~
Reserved.

~~A commercial nonmedical manufacturing permit issued under this article may be 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 nonmedical cannabis 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 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 fails to adhere to the Security Plan, as may be modified by the Chief of Police.~~

~~LM. 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 ***Reserved.***

~~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 caused by the sole gross negligence or willful misconduct of city.~~

5.70.190 Dual application process ***Reserved.***

~~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 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).

D. PMC section 18.08.080, is hereby amended to include the following commercial use classifications:

Cannabis Delivery. Consistent with state law, a facility or business that holds a valid and appropriate state license and conducts the retail sale of cannabis or cannabis products via delivery service to the end user. Cannabis Delivery includes both storefront retail businesses open to the public and engaged in the delivery of cannabis or cannabis products, as well as non-storefront cannabis businesses with a physical location in the city that sell and deliver cannabis or cannabis products to customers without a premises that is open to the public. This definition excludes "Cannabis Microbusiness."

Cannabis Retail. Consistent with state law, a facility or business that holds a valid state license and conducts the retail sale of cannabis or cannabis products. This definition excludes "Cannabis Microbusiness."

E. PMC section 18.08.100, is hereby amended as follows:

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 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 on-site tasting or retailing of products.

B. Industrial Service. Establishment that provides services in which industrial-type equipment, materials, and supplies are maintained on the site or that require on-site processing or handling of materials or substances.

1. Boatyard. Establishment providing facilities for the repair, detailing, painting, maintenance, fabrication and handling of small boats such as pleasure craft and commercial fishing and tour boats, and related equipment. This includes ancillary boat ramps, drydocks, and handling facilities, and sail-making lofts.

2. Contractor. Establishment that furnishes supplies, equipment, or products, and performs services at off-site locations but which maintains equipment, vehicles with a gross vehicle weight in excess of 15,000 pounds, stock-in-trade, and related activities on-site within an enclosed building. Typical uses are construction, janitorial, excavation, demolition, pest control, landscape or building contracting services.

a. Contractor Yard. Storage yard and maintenance of equipment and supplies outside of a building.

3. Equipment Sales and Rental. Retail or wholesale sale or rental of new or used large vehicles such as tractors, construction or agricultural equipment, commercial utility trucks, and utility or freight trailers. Establishments in this classification may offer incidental repair and maintenance of equipment for sale or rent.

4. Laboratory. Establishment over 2,000 square feet, other than medical/dental lab, providing commercial testing, photofinishing, chemical or biological analytical service within an enclosed building.

a. Cannabis Testing Laboratory. Consistent with state law, an establishment that holds a valid state license that offers or performs tests of cannabis or cannabis products and that is both accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state and licensed by the state.

5. Laundry. Establishment that provides on-site cleaning services within an enclosed building. This classification includes industrial dry cleaning plant, commercial laundry and linen supply services, or diaper services.

6. Processor. Establishment in which materials or items are handled or processed including their related storage and sale. This classification includes rock or mineral crushing and processing services; lumber, building material and scrap metal salvage and handling; solid waste facility/materials recovery facility and transfer station; and auto dismantler within an enclosed building.

7. Repair/Jobbing Service. Establishment providing facilities within an enclosed building for the repair or custom manufacture of heavy business and industrial equipment, other than automobile, recreational vehicle and boat repair. Uses include welding and machine shop, foundry, metal finishing, tool making, or construction and material handling equipment repair services.

C. Manufacturing. An industrial activity involving the making of goods or products by manual labor or machine process, including incidental and related processing, storage, wholesaling and distribution.

1. Heavy. Establishment engaged in the primary production of and extraction of metals or chemical products from raw materials or the pre-production processing of

basic products, including bulk storage and handling of such products and materials. Uses in this classification typically involve a high incidence of truck, rail, or ship traffic, and/or outdoor storage of products, materials, equipment, or bulk fuel. This classification includes steelworks and finishing mill; chemical and fertilizer plant; petroleum and gas refinery; lumber, paper, or textile mill; asphalt, concrete, and hot mix batch plant; stoneworks, glassworks, brick refractory; and concrete products manufacturing within an enclosed building.

2. Limited. Establishment engaged in the fabrication, assembly, processing, treatment, or packaging of finished parts or products from previously prepared materials within an enclosed building, excluding food and drug processing.

3. Custom. Establishment primarily engaged in on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment. This classification may include the incidental direct sale to consumers of only those products produced on-site. Typical uses include ceramic studio, candle-making, boatwright, custom jewelry manufacture, ornamental iron works, cabinet shop, or stained/leaded glass studio.

4. Cannabis Manufacturing. Consistent with state law, an establishment that holds a valid state license and conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or container, but excludes “Cannabis Microbusiness.”

5. Cannabis Microbusiness. Consistent with state law, an establishment that holds a valid state license and is engaged in three of the following four commercial cannabis activities: cultivation of cannabis in an area less than 10,000 square feet; cannabis distributor; cannabis manufacturing; and cannabis retail.

D. Research and Development Production. Establishment primarily engaged in the research, development, testing, and controlled production and wholesale of high-technology electronic, industrial, or scientific products or commodities within an enclosed building, but does not include uses that may be objectionable by reason of production of offensive odor, dust, noise, vibration, or storage of hazardous materials. Uses include biotechnology, film, and nontoxic electronic and computer component manufacturers.

E. Transportation/Distribution. Activity and facility involving the distribution of freight or transportation services.

1. Commercial/Personal Transport Services. Establishment providing transportation services including the incidental maintenance and storage of vehicles, but excluding establishments with facilities for long- or short-term storage of transported goods. This classification includes limousine, bus, taxi, or armored car services.

2. Railroad Terminal and Switchyard. Facility for distributing freight from rail cars and making up trains.

3. Truck Terminal. Establishment providing truck storage or facilities for the distribution, handling, processing, and long- or short-term storage of transported goods or packages. This classification does not include trucking activities accessory to a permitted or conditionally permitted use.

4. Wharf. Facility comprised of one or more docks and adjacent land, that is used for the berthing of ships and barges, and the distribution and handling of cargo.

5. Cannabis Distribution. Consistent with state law, an establishment that holds a valid state license and is engaged in the procurement, sale, and transport of cannabis and cannabis products between commercial cannabis businesses licensed by the state. This definition excludes “Cannabis Microbusiness.”

F. Wholesaling and Storage. Establishment engaged in the wholesale, distribution and warehousing of goods. Uses in this category provide storage space for bulk quantities of commercial goods, or sell or arrange the sale of goods from suppliers to other wholesalers or retailers. Establishments under this classification may sort, package and label products for distribution, but do not display merchandise or accommodate walk-in retail customers.

1. With Interior Storage. Storage and handling of goods and equipment is entirely within an enclosed building.

2. With Exterior Storage. Storage and handling of goods and equipment is entirely or partially outdoors, even if screened from public view. This classification does not include junk or vehicle dismantling yard, or disposal facility.

F. PMC section 18.08.120 is hereby amended to add the following use classification:

Cannabis Cultivation.

1. Indoor. Consistent with state law, an establishment that holds a valid state license and is engaged in cannabis cultivation indoors for the purpose of commercial use, but excludes a “Cannabis Microbusiness.”

2. Outdoor. Consistent with state law, an establishment that holds a valid state license and is engaged in cannabis cultivation outdoors for the purpose of commercial use, but excludes a “Cannabis Microbusiness.”

3. Mixed Light. Consistent with state law, an establishment that holds a valid state license and is engaged in cannabis cultivation utilizing a mixture of indoor and outdoor lighting for the purpose of commercial use, but excludes a “Cannabis Microbusiness.”

- G. PMC section 18.52.010, Schedule A, is amended to include the following uses and limitations:

	CO	CN	CC	CS	CSD	CW	CP
<i>Cannabis Delivery</i>	-	-	<i>L-175, L-176</i>	<i>L-175, L-176</i>	-	-	-
<i>Cannabis Retail</i>	-	-	<i>L-175, L-176</i>	<i>L-175, L-176</i>	-	-	-

<i>L-175</i>	<i>Businesses utilizing cannabis as a primary or accessory use shall comply with the requirements prescribed by Chapters 5.70 and 18.88 PMC. On-site tasting or sampling of cannabis products to or by the public is prohibited.</i>
<i>L-176</i>	<i>Limited to parcels located north of State Route 4 and east of Loveridge Road.</i>

- H. PMC section 18.54.010, Schedule A, is amended to include the following uses and limitations, amend the identified permitting procedure related to 'Food and drug processing,' and amend Limitation 175 ("L-175"):

	IP	IL	IG
Commercial			
<i>Cannabis Delivery</i>	<i>L-175, L-177</i>	<i>L-175, L-178</i>	<i>L-175, L-178</i>
<i>Cannabis Retail</i>	<i>L-175, L-177</i>	<i>L-175, L-178</i>	<i>L-175, L-178</i>
Industrial			
Food and drug processing	U, L-175	U, L-175	U, L-175
<i>Cannabis Testing Laboratory</i>	<i>L-175; L-178</i>	<i>L-175; L-178</i>	<i>L-175; L-178</i>
<i>Cannabis Manufacturing</i>	<i>L-175; L-177</i>	<i>L-175; L-178</i>	<i>L-175; L-178</i>
<i>Cannabis Microbusiness</i>	<i>L-175; L-177</i>	<i>L-175; L-178</i>	<i>L-175; L-178</i>
<i>Cannabis Distribution</i>	<i>L-175; L-177</i>	<i>L-175; L-178</i>	<i>L-175; L-178</i>
Agricultural and Extractive			

Cannabis Cultivation			
Indoor	L-175; L-177	L-175; L-178	L-175; L-178
Outdoor	-	-	-
Mixed Light	-	-	-

IP, IL AND IG DISTRICTS – ADDITIONAL
USE REGULATIONS

L-175	<i>Businesses utilizing cannabis as a primary or accessory use shall comply with the requirements prescribed by Chapters 5.70 and 18.88 PMC. On-site tasting or sampling of cannabis products to or by the public is prohibited.</i> 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, and Chapters 5.70 and 18.88 PMC. On-site tasting, sampling, or retailing of cannabis products to or by the public is prohibited.
<u>L-177</u>	<u>Limited to areas located within the Railroad Avenue Specific Plan area south of State Route 4 and east of Harbor Street. Uses must also be set back a minimum of 200 feet from the right-of-way of Harbor Street, Leland Road, and Loveridge Road.</u>
<u>L-178</u>	<u>Limited to areas located north of Pittsburg-Antioch Highway and east of Loveridge Road.</u>

I. PMC Chapter 18.88 is amended as follows:

18.88.010 Definitions.

“Cannabis” shall have the same meaning as set forth in California Health and Safety Code Section 11018, et seq. Consistent with state law, it does not include industrial hemp, as defined in Health and Safety Code Section 11018.5.

“Commercial medical-cannabis business” means business engaged in commercial activity involving cannabis and holding one or more state licenses. A single commercial cannabis business may hold multiple state licenses under a single city commercial cannabis permit. ~~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.~~

“Commercial nonmedical 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.~~

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

“Medical cannabis cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis as defined in Business and Professions Code Section 26000 et seq.

“Medical cannabis delivery” means the transfer of medical cannabis or medical cannabis products from a medical 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 cannabis or medical cannabis products.

“Medical 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 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 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 cannabis for medicinal purposes pursuant to Health and Safety Code Section 11362.5 et seq., and such group is organized as a medical 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 Health and Safety Code Section 11362.5 et seq.

For purposes of this chapter, a “medical 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 Health and Safety Code Section 11362.5 et seq.:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code;
2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the 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 Health and Safety Code;
4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code;
5. A residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code.

“Medical cannabis products” means medical 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 cannabis or concentrated cannabis and other ingredients.

“Nonmedical cannabis” means cannabis that is intended to be used for nonmedical purposes pursuant to Health and Safety Code Section 11362.1 et seq. and Business and Professions Code Section 26000 et seq.

~~“Nonmedical cannabis cultivation” means the planting, growing, harvesting, drying or processing of cannabis plants or any part thereof pursuant to Health and Safety Code Section 11362.1 et seq. and Business and Professions Code Section 26000 et seq.~~

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

~~“Nonmedical cannabis products” means nonmedical 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 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 cannabis dispensaries prohibited.~~ **Reserved.**

~~Medical cannabis dispensaries 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, the operation of a medical cannabis dispensary.~~

18.88.030 ~~Medical cannabis deliveries prohibited.~~ **Reserved.**

~~Medical 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, medical cannabis deliveries. This section shall not be interpreted to prohibit the transportation of medical cannabis through the city on public roads, as long as such transportation does not involve the delivery of medical cannabis within the city.~~

18.88.035 ~~Commercial nonmedical cannabis businesses allowed.~~

~~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 5.70.150.~~

18.88.040 ~~Commercial medical cannabis businesses allowed.~~ **Commercial cannabis permit.**

~~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 5.70.050.~~

A. It shall be unlawful for any person to operate a commercial cannabis business without a commercial cannabis permit, issued by the city, under the conditions set forth in this article and any other applicable provisions of the Pittsburgh Municipal Code.

B. Each commercial cannabis permit shall be subject to approval by the city council.

1. To approve a commercial cannabis permit, the city council must make findings consistent with those set forth under section 18.16.040.

2. The city council may deny an application for a commercial cannabis permit, if it determines any of the following:

- (a) The applicant made one or more false or misleading statements or omissions on the registration application or during the application process;**
- (b) The applicant fails to meet the requirements of this chapter or any regulation adopted pursuant to this chapter;**
- (c) 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;**
- (d) Potential threats to public health and safety cannot be sufficiently mitigated;**
- (e) Significant public opposition necessitates denial to preserve the health, safety, and general welfare of the city; or**
- (f) The proposed location would create a visual impact which would, in the sole discretion of the city council, negatively impact the character and image of the city as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality.**

C. Each commercial 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. Any permit holder is subject to an administrative fee to compensate city for its reasonable and actual costs to evaluate the renewals of permit and/or Operating Agreement, as well as annual evaluations of Operating Agreement compliance.

D. The commercial cannabis permit is not transferable, unless approved in writing by the city manager. Any attempt to assign or transfer the permit without prior written consent from the city manager shall render the permit null and void.

E. No commercial cannabis business shall be located within 600 feet of an existing, legally established school (as defined by PMC 18.08.060(V)), general day care (as defined by PMC 18.08.060(F)), club or lodge (as defined by PMC 18.08.060(B)) used exclusively as a youth center, city-owned park space which is open to the public, or library, as measured from the main entrance of the cannabis business to the nearest access point of the other use, following the shortest publicly accessible path of travel, including but not limited to streets, alleys, sidewalks, pathways, or trails. However, in no event shall a cannabis retail business, excluding microbusinesses, be located less than 1,000 feet from any legally established school, as measured by the shortest direct line distance as measured from the main entrance of the cannabis business to the nearest parcel boundary of the other use.

F. The commercial cannabis business shall file an application for a commercial cannabis permit with the city manager on forms provided by the

city, and shall pay an application fee and processing fee, which shall cover the actual costs associated with the city's processing of the application.

18.88.045 Nonmedical cannabis deliveries prohibited. Commercial cannabis permit holder qualifications.

~~Nonmedical Cannabis Deliveries as a Prohibited Use. Nonmedical 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 cannabis deliveries.~~

All commercial cannabis permit holders must meet the following minimum qualifications. The city reserves the right to require additional qualifications through the commercial cannabis permit application procedure.

A. Commercial cannabis permit holders shall apply in a timely manner for such other permits and approvals from other governmental agencies as may be required by state law. Prior to commencing operation of the business, Commercial cannabis permit holders shall secure all required governmental permits and supply copies to the city for review.

B. At all times, Commercial cannabis permit holder is required to maintain an active Business License and Commercial Cannabis Permit(s) with city, as well as all licenses required by the State of California.

C. Commercial cannabis permit holders, business operators, and employees must be 21 years of age or older.

D. Commercial 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 cannabis permit holder, their business operators, and employees.

E. Commercial cannabis business owners, operators, managers, and employees must not have any felony conviction (other than felony convictions related solely to cannabis possession prior to the age of 21 and not within the previous twenty [20] years), as specified in Penal Code Sections 667.5(c) and 1192.7(c) or any 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.

18.88.050 Medical cannabis cultivation prohibited. Commercial cannabis permit application.

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

An application for a commercial cannabis permit shall include, but not be limited to, the following information:

A. The legal name, and any other names, under which the commercial cannabis business will operate.

B. The address of the location and the on-site telephone number, if known, of the commercial cannabis business.

C. The following information for each owner and manager of the commercial cannabis business:

- 1. Complete legal name and any alias(es), address, and telephone number.***
- 2. Date and place of birth.***
- 3. Social security numbers.***
- 4. Copy of a valid government issued photo identification card, license, or passport.***
- 5. List of all criminal convictions, other than infractions for traffic violations, the jurisdiction of the convictions, and the circumstances thereof.***
- 6. Names of businesses owned or operated by the owner(s) or manager(s) within the last 10 years.***
- 7. Investor and/or partner information.***

D. Assessor's parcel number of the parcel upon which the commercial cannabis business will be located.

E. Notarized written authorization from the property owner and/or landlord, to operate a commercial cannabis business on the site.

F. 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.

G. 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.

H. 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.

I. 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 commercial cannabis 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.

J. 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.

K. Signed indemnity provision.

L. A business operating plan as set forth in PMC 5.70.164;

M. A security plan as set forth in PMC 5.70.165;

N. 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.

18.88.051 Performance standards for all commercial cannabis businesses.

A. Licensee shall at all times comply with state law including but not limited to the manufactured cannabis safety regulations at Title 17 California Code of Regulations Sections 40100 et seq. Licensee shall adhere to manufacturing practices as set forth in Title 21 of the Code of Federal Regulations, Parts 210, 211, 225, and 226.

B. All inventory of cannabis raw materials and finished products shall be kept in secured storage areas or as otherwise approved by the chief of police as specified within an approved security plan, to which only authorized personnel shall have access. Use and movement of all cannabis products, shall be logged from acceptance of shipment to delivery at retail location for inventory accuracy and management. Records shall be made available to the Police Department or any other agency with regulatory authority within 72 hours of written request therefor.

C. Licensee shall require all prospective employees to submit to a live scan at a designated service provider and a background check by the California Department of Justice (DOJ) and local law enforcement. The cost of the background check shall be borne by the Licensee or the prospective employee. Licensee shall not employ any person in violation of PMC sections

5.70.052 and 5.70.161.

D. All raw or concentrated cannabis shall be securely stored in areas approved as specified in the operating agreement or as otherwise approved by the chief of police.

E. By-products of any cannabis business operation, including but not limited to those by products resulting from testing, cultivation, trimming, or manufacturing processes shall be disposed of pursuant to local and state laws.

F. The city manager may require measures to be taken to eliminate odors, in the event odors resulting from cannabis are shown to have continually occurred. These measures may include, but are not limited to, installation of industrial grade HEPA filtration and/or activated carbon filtration systems. Any required measures shall be taken at the sole cost of the Licensee.

G. Required Changes. City shall have the discretion to require changes to any of the terms within this section, upon reasonable notice to Licensee.

H. Licensee shall, to the fullest extent allowed by law, give preference to residents of the City of Pittsburg for employee hiring.

I. All signage shall be approved and placed in accordance with Title 19 of the Municipal Code. The Police Department and Planning Division shall reserve sole discretion in determining approved language and imagery at the project site.

J. All cannabis businesses open to the public shall prominently display signage near the public entrance designed to alert consumers to the possible health impact of cannabis use and smoke.

K. City may require additional provisions in the operating agreement.

18.88.052 Commercial cannabis permit revocation and suspension.

A commercial cannabis permit issued under this article may be 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 cannabis operations is revoked, terminated, or not renewed.

D. An operator/permit holder's commercial cannabis permit is suspended or revoked.

E. The commercial cannabis business fails to become operational within six (6) months of obtaining its commercial cannabis permit.

F. Once operational, the business ceases to be in regular and continuous operation for 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 fails to adhere to the Security Plan, as may be modified by the chief of police.

M. An operator/permit holder's state license for commercial 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 cannabis business operating agreement.

18.88.053 Commercial cannabis permit indemnification

To the fullest extent permitted by law, commercial 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 caused by the sole gross negligence or willful misconduct of city.

18.88.055 Nonmedical cannabis cultivation.

The following regulations shall apply to the cultivation of nonmedical 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 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 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 cannabis.~~

~~C. Indoor Cultivation. Indoor cultivation of nonmedical 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.~~

DC. Indoor Cultivation in Private Residence. The indoor cultivation of nonmedical 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 cannabis cultivation is prohibited as a home occupation.
2. All areas used for cultivation of nonmedical 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 cannabis is prohibited.
5. Any fully enclosed and secure structure or residential structure used for the cultivation of nonmedical cannabis must have a ventilation and filtration system installed that shall prevent 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 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 cannabis cultivation shall be limited to six cannabis plants per private residence, regardless of whether the 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 cannabis cultivation where such cultivation will prevent their primary use for cooking of meals, sleeping and bathing.

10. Cultivation of nonmedical cannabis shall only take place on impervious surfaces.

11. From a public right-of-way, there shall be no exterior evidence of nonmedical cannabis cultivation occurring on the parcel.

12. Nonmedical 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 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 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.

J. All titles and numbering shall be updated as necessary to reflect the proposed additions or deletions.

On motion by Commissioner _____, seconded by Commissioner _____, the foregoing resolution was passed and adopted the 22nd day of June 2021, by the Planning Commission of the City of Pittsburg, California by the following vote:

AYES:

NAYES:

ABSTAIN:

ABSENT:

I hereby certify that the above Resolution No. _____ was adopted by the Planning Commission of the City of Pittsburg on June 22, 2021.

JORDAN DAVIS, AICP, SECRETARY
PITTSBURG PLANNING COMMISSION



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 **PLANNING COMMISSION** of the **City of Pittsburg** will conduct a public hearing on:

DATE: June 22, 2021
TIME: 7:00 p.m.
PLACE: Streaming Video (see public advisory on next page)

Concerning the following matter:

Recommendation for City Council Approval of Amendments to Titles 5 and 18 of the Pittsburg Municipal Code Related to Commercial Cannabis Business Permitting

This is a public hearing on a request for recommendation of City Council approval for comprehensive amendments to City of Pittsburg Municipal Code (PMC) Titles 5 and 18 related to commercial cannabis business permitting. The proposed updates would facilitate the expansion of the types of cannabis businesses allowed, including uses such as retail, cultivation, and microbusinesses, as well as the process and standards for business approval.

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 being notified.

Where can I get more information about this project?

The file for this project is available for public inspection; please contact the project planner listed above to make necessary arrangements.

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 to: Pittsburg Planning Division, 65 Civic Avenue, Pittsburg, CA 94565. You may also register your comments or objections by attending the virtual public hearing on the date and time listed above (see advisory on next page for instructions on how to register a phone-in comment).

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 address noted above before the hearing body's action on the matter will become a part of the administrative record.

*Para información en
español:
(925) 252-4920*

JORDAN DAVIS, AICP, SECRETARY
PITTSBURG PLANNING COMMISSION

Project Title: Recommendation for City Council Approval of Amendments to Titles 5 and 18 of the Pittsburgh Municipal Code Related to Commercial Cannabis Business Permitting
Location: City-Wide

PUBLIC ADVISORY:
THE CITY COUNCIL CHAMBER WILL NOT BE OPEN TO THE PUBLIC

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the meeting of the Planning Commission will be conducted electronically through Zoom and broadcast live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber will not be open for the meeting. Planning Commissioners will be participating electronically and will not be physically present in the Council Chamber.

Effective immediately, live comments will be allowed by members of the public via teleconferencing during Zoom meetings and written comments received after 3:00 p.m. on the day of the meeting will be read aloud by staff. To be placed in a queue to comment, please adhere to the following instructions.

To Participate in Public Comment During the Meeting:

- Notify the City Clerk's Office via email by 3:00 p.m. on the meeting date that you would like to be placed in the queue for general Public Comments, or comments on a specific agenda item. Requests received after 3:00 p.m. on the date of the meeting will not be able to comment.
- Email your name and telephone number to meetingcomments@ci.pittsburg.ca.us. We need both identifications to pair you with the item you wish to speak on. You must also be sure that you call in using the number you have provided or we may not be able to identify you as a speaker.
- Your email must include the words **"FOR PUBLIC COMMENT"** in the subject line and specify the **Agenda Item number or Non-Agenda** as appropriate.
- You will receive an email confirmation with instructions to log in.
- Once the meeting starts (check the Streaming Media link on our website – www.ci.pittsburg.ca.us) you can phone in to Zoom. If you log in before the event has actually started you may be disconnected.
- You will be added to the meeting as an attendee and will be called upon by staff for phone-in comments.
- Speakers will be muted until their opportunity to provide public comment.
- All comments will be subject to the three-minute time limitation (approximately 350 words).
- Begin your comment by providing your name and city of residence for the record – although providing this is not required for participation.
- Just as in a live meeting inside the Council Chamber, only one comment per agenda item per person is allowed.

The City of Pittsburg thanks you in advance for taking all precautions to prevent the spread of the COVID 19 virus.