



CITY COUNCIL STAFF REPORT

TO: Honorable Mayor and City Council **DATE:** May 21, 2018

FROM: Matthew Bronson, City Manager

PREPARED BY: Bruce Buckingham, Community Development Director
David Hale, City Attorney
John Peters, Police Chief
Steve Lieberman, Five Cities Fire Chief

SUBJECT: Second Reading and Adoption of Ordinance Nos. 18-04 and 18-05 to Amend Articles IX and III of the Grover Beach Municipal Code and Approve a Local Coastal Program Amendment on Commercial Cannabis Uses

RECOMMENDATION

1. Conduct second reading, by title only, and adopt Ordinance No. 18-04 amending Article IX of the Municipal Code to allow adult use and change the Review Authority;
 2. Conduct second reading, by title only, and adopt Ordinance No. 18-05 amending Article III of the Municipal Code to revise definitions, expand the use of Manufacturing Level Two volatile compounds, and revise personal cultivation standards; and
 3. Adopt the Resolution approving a Local Coastal Program Amendment.
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BACKGROUND

At the May 7, 2018 Council meeting, the City Council conducted a public hearing, introduced and conducted a first reading, by title only, of an Ordinance amending Article IX of the Grover Beach Municipal Code to allow adult use and change the Review Authority and an Ordinance amending Article III of the Grover Beach Municipal Code to revise definitions, expand the use of Manufacturing Level Two volatile compounds, and revise personal cultivation standards. The amendment to Article IX requires the Council adopt a resolution to approve a Local Coastal Program (LCP) Amendment. Staff is requesting that the Council conduct second reading of both Ordinances, by title only, and adopt the Resolution to approve the LCP Amendment.

Land Use Ordinance

At the May 7, 2018 Council meeting, the Council discussed whether it was necessary for the Planning Commission to be required to make a recommendation to the Council on retail uses since the City Council is the Review Authority. The Council directed staff to revise Section 4.10.045.B to indicate the Planning Commission "may" make a recommendation to the Council as follows:

Review Authority. For Retailers and/or Microbusinesses with a retailer use, the Council is authorized to approve Use Permits. The Planning Commission shall may make a recommendation to the Council. For all other non-retailer cannabis uses, the Planning Commission is authorized to approve Use Permits subject to an appeal to Council in accordance with Chapter 7 of the Development Code.

However, after further research by staff, there is no Code requirement for the Planning Commission to provide a recommendation on a discretionary permit if the ordinance specifically excludes the requirement for a recommendation. Therefore, if the Council wants to eliminate the Planning Commission from the review process, staff would recommend the following modification:

Review Authority. For Retailers and/or Microbusinesses with a retailer use, the Council is authorized to approve Use Permits and no recommendation is required by the Planning Commission. For all other non-retailer cannabis uses, the Planning Commission is authorized to approve Use Permits subject to an appeal to Council in accordance with Chapter 7 of the Development Code.

The Ordinance amending Article IX of the Grover Beach Municipal Code makes the following revisions (reference Attachment 1):

- Revise Article IX Section 4.10.045.A to allow adult-use (also referred to as recreational use) for all commercial cannabis uses (i.e., cultivation, manufacturing, distribution, testing laboratories and retailers). There would be no change to the State licensing process other than the State would issue an “Type-A” license (adult use) and/or “Type-M” license (medical);
- Revise Article IX Sections 4.10.045.B and 6.10.020 to allow the Planning Commission to be the Review Authority for all non-retailer uses (the Council would remain the Review Authority for retail uses). This would expedite the development review process by eliminating the requirement for a City Council public hearing. All Planning Commission decisions would still be appealable to the Council. The Council would remain the Review Authority for all retailer uses; and
- Revise Article IX Section 9.10.020 to revise the definition of “Commercial Cannabis Uses” to include adult use.

Regulatory Ordinance

At the May 7, 2018 Council meeting, the Council made the following revision to Article III Chapter 18 Section 4000.30.B.1 to clarify that personal cultivation shall be allowed in City permitted accessory structures as follows:

- All cultivation of cannabis must take place within a single room of a residential structure ~~and shall not be allowed within a garage or within a detached accessory building wherein the City has issued a building permit for the construction of the building to the residential structure.~~ No cultivation of cannabis shall be allowed within a garage of a residential structure.

The Ordinance amending Article III of the Grover Beach Municipal Code makes the following revisions (reference Attachment 2):

- Revise Article III Chapter 18 to change or eliminate most references to the term “medical” and makes it clear that both medical and adult use are allowed;
- Revise Article III Chapter 18 Section 4000.20 to modify the definition of delivery to make it applicable to both types of cannabis sales;
- Revise Article III Chapter 18 Section 4000.20 to clarify the definition of “retailer” that delivery services require a “facility”;
- Revise Article III Chapter 18 Section 4000.40 to create some flexibility as to when the year term (and expiration) ends and allows for that to be amended by notations on the permit;
- Revise Article III Chapter 18 to clarify that if you are a Type-M license, 18 year old individuals and older are allowed within the premises; and
- Revise Article III Chapter 18 Section 4000.240 to eliminate the restriction on the type of volatile solvents that will be allowed in Level Two Manufacturing.

In addition, the Ordinance amending Article III of the Grover Beach Municipal Code makes the following revisions to add significantly greater restrictions or requirements on personal grows within the home/structure:

- Cultivation shall be limited to a single room of a residential structure that is locked and secure;
- Indoor grow lights shall not exceed 3,800 watts and be shielded from exiting the structure; and
- Odors shall not be detectable from adjacent properties, residences, or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, patios, balconies, or any other areas available for use by common tenants, or the visiting public, or within any other residential unit.

Local Coastal Program Amendment

The ordinance would amend Chapters 4 and 9 of the Development Code (Article IX of the Municipal Code). Development Code Section 1.20.060 identifies all chapters and sections that constitute the ordinances for the implementation of the City's Local Coastal Program (LCP) in compliance with the California Coastal Act. Therefore, any amendment to Chapter 4 or Chapter 9 of the Development Code requires a LCP Amendment (reference Attachment 3). An LCP Amendment requires the Coastal Commission's approval prior to the ordinance taking effect in the Coastal Zone.

ALTERNATIVES

The City Council has the following alternatives:

1. Conduct second reading, by title only, and adopt Ordinance No. 18-04 amending Article IX of the Municipal Code; and
2. Conduct second reading, by title only, and adopt Ordinance No. 18-05 amending Article III of the Municipal Code; and
3. Adopt the Resolution approving a Local Coastal Program Amendment; or
4. Provide alternative direction to staff.

PUBLIC NOTIFICATION

The agenda was posted in accordance with the Brown Act.

ATTACHMENTS

1. Ordinance No. 18-04
2. Ordinance No. 18-05
3. Local Coastal Program Amendment Resolution

ORDINANCE NO. 18-04

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH
AMENDING ARTICLE IX SECTIONS 4.10.045, 6.10.020 AND 9.10.020 TO
ALLOW ADULT USE OF CANNABIS AND MODIFY THE REVIEW AUTHORITY**

WHEREAS, the City of Grover Beach is a General Law city organized pursuant to Article XI of the California Constitution; and

WHEREAS, pursuant to the authority granted the City by Article XI, Section 7 of the California Constitution, the City has the police power to adopt regulations designed to promote the public convenience or the general prosperity, as well as regulations designed to promote the public health, the public morals or public safety; and

WHEREAS, comprehensive zoning regulations and regulations upon the use of land and property lie within the City's police power; and

WHEREAS, the Federal Controlled Substances Act, 21 U.S.C. Sections 801 et seq. classifies marijuana as a Schedule 1 Drug and makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute, dispense, or possess with intent to manufacture, distribute or dispense, marijuana; and

WHEREAS, the Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation or possession of cannabis for medicinal purposes; and

WHEREAS, notwithstanding federal law, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code Section 11362.5 and titled the "Compassionate Use Act of 1996"), the intent of Proposition 215 being to enable persons who are in need of marijuana for medical purposes to be able to obtain and use it without fear of state criminal prosecution under limited, specified circumstances; and

WHEREAS, in 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code Section 11362.7 et seq. and titled the "Medical Marijuana Program Act" to clarify the scope of the Compassionate Use Act of 1996 ("CUA"); and

WHEREAS, the Medical Marijuana Program Act ("MMPA") promulgates rules wherein counties and cities can adopt and enforce rules and regulations consistent with its provisions; and

WHEREAS, in 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code Section 11362.768) affirming that counties and cities can under state law adopt ordinances that control and restrict the location and establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider; and

WHEREAS, In 2015, California enacted three bills – Assembly Bill 243; Assembly Bill 266; and Senate Bill 643 – that collectively established a comprehensive state regulatory framework for the licensing and enforcement of cultivation, manufacturing, retail sales, transportation, storage, delivery, and testing of medicinal cannabis in California. This regulatory scheme was known as the Medical Cannabis Regulation and Safety Act (MCRSA); and

WHEREAS, In November, 2016, Proposition 64 was enacted and entitled “The Adult Use of Marijuana Act” (“AUMA”) (codified as amendments to California Health and Safety Code, Business and Professions Code, Revenue and Taxation Code and Food and Agricultural Code). The intent of Proposition 64 being to establish a comprehensive system to decriminalize, control and regulate the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of marijuana, as well as other marijuana related activities; and

WHEREAS, June 27, 2017, the State Legislature adopted the State Budget along with a number of trailer bills including Senate Bill 94 which enacted “The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). This bill repealed MCRSA and included certain provisions of MCRSA in the licensing provisions of AUMA. Under this bill, these consolidated provisions make up the MAUCRSA and includes the regulations for both medical and nonmedical cannabis uses; and

WHEREAS, the California Supreme Court held in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729, 753 (“*Inland Empire*”) that the objectives of the CUA and MMPA were modest and that those acts did not create a broad right to access medical marijuana, and *Inland Empire* goes on to provide that neither the CUA nor the MMPA “expressly or impliedly preempts the authority of California cities and counties, under their traditional land use and police powers, to allow, restrict, limit, or entirely exclude” the distribution of medical marijuana. (Id. At p. 762.); and

WHEREAS, the Court of Appeal, Third Appellate District, held in *James Maral, et al. v. City of Live Oak* (2013) 221 Cal.App.4th 975, that the reasoning of *Inland Empire* applies to the cultivation of medical marijuana as well as its distribution, as both are addressed in the CUA and the MMPA; and

WHEREAS, with limited exceptions, neither the Compassionate Use Act (CUA), the Medical Marijuana Program Act (MMPA), the Medical Cannabis Regulation and Safety Act (MCRSA), the Adult Use of Marijuana Act (AUMA) or the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) require or impose an affirmative duty or mandate upon local governments to allow, authorize or sanction the establishment and the operation of facilities for distribution, cultivation, manufacturing or processing medical or non-medical marijuana within its jurisdiction, and

WHEREAS, notwithstanding the comprehensive nature of both the Adult Use of Marijuana Act and the Medicinal and Adult-Use Cannabis Regulation and Safety Act, both Acts under state law protect the ability of local entities to maintain reasonable control over medical and non-medical marijuana activities; and

WHEREAS, the City Council desires to establish reasonable land use controls and reasonable regulations on the operation of commercial medical and adult use marijuana-related businesses and personal use which are intended to operate in conjunction with the City of Grover Beach Development Code’s land use regulation and which are intended to address the negative impacts and nuisance impacts of marijuana-related businesses and use; and

WHEREAS, commercial Medical and Adult Use marijuana-related businesses and personal use will be subject to the zoning and land use regulations as set forth in Article IX, Development Code, of the City of Grover Beach Municipal Code; and

WHEREAS, mindful of the fact that marijuana possession and use is prohibited under federal law and partially decriminalized under state law, it is the Council's intention that nothing in this ordinance shall be construed, in anyway, to expand the rights of anyone to use or possess marijuana under state law; engage in any public nuisance; violate federal law, or engage in any activity in relation to the cultivation, distribution, testing or consumption of marijuana that is otherwise illegal. It is further the intent of the City Council of the City of Grover Beach to maintain local control over these matters to the fullest extent permitted by law; and

WHEREAS, the Planning Commission held a public hearing on May 1, 2018 and recommended the City Council approve the Development Code amendment; and

WHEREAS, the City Council held a public hearing on May 7, 2018 and conducted an introduction and first reading to approve the amendments to the commercial cannabis land use and regulatory ordinances.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF GROVER BEACH AS FOLLOWS:

PART 1. Findings of No Subsequent Negative Declaration Required for the purposes of the California Environmental Quality Act:

A. The proposed amendment does not substantially change the previously approved Negative Declaration because the amendment will not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant impacts. Therefore, the proposed amendment does not require a subsequent Negative Declaration consistent with the California Environmental Quality Act (CEQA) Guidelines Section 15162. Future development proposed in the areas of the City allowable under the proposed ordinance would undergo environmental review, pursuant to CEQA. At that time, the potential physical environmental effects of such development would be evaluated.

PART 2. Subsection A of Section 4.10.045 of Chapter 4, of Article IX, Commercial Cannabis Uses, is hereby amended as follows:

A. Purpose. This Section provides standards for Adult and Medical Commercial Cannabis Uses, where allowed by Chapter 2 (Zones and Allowable Land Uses). These standards apply in addition to the regulatory requirements in Municipal Code Article III Chapter 18 and the State's licensing requirements. Commercial Cannabis Uses allowed by the City shall include those uses licensed in Chapter 5, Division 10, Cannabis, of the Business and Professions Code, and those Cannabis regulations issued by the California Bureau of Cannabis Control, Department of Public Health and the Department of Food and Agriculture, sections 26050, 26061, and 26070 and as further modified and restricted within this Chapter 2 and in Chapter 18 of Article III of the Grover Beach Municipal Code. ~~With the exception of testing laboratory licenses, which may be used to test cannabis and cannabis products regardless of whether they are intended for use by individuals who possesses a physician's recommendation, all Use Permits and Commercial Cannabis Permits issued by the City shall be only for medical cannabis purposes and be consistent with the State's issuance of a "M" licenses designation consistent with Business and Professions Code Section 26050 (b).~~

PART 3. Subsection B of Section 4.10.045 of Chapter 4, of Article IX, Commercial Cannabis Uses, is hereby amended as follows:

B. Review Authority. For Retailers and/or Microbusinesses with a retailer use, the The Council is authorized to approve Use Permits and no recommendation is required by the Planning Commission for commercial cannabis uses. The Planning Commission shall make a recommendation to the Council. For all other non-retailer cannabis uses, the Planning Commission is authorized to approve Use Permits subject to an appeal to Council in accordance with Chapter 7 of the Development Code.

PART 4. Subsection C of Section 4.10.045 of Chapter 4, of Article IX, Commercial Cannabis Uses, is hereby amended as follows:

C. Permit requirements. A land Use Permit shall be approved by the Planning Commission or Council consistent with Subsection B to ensure compliance with this Section and a Coastal Development Permit shall be required when located in the Coastal Zone. Approval of a land Use Permit does not allow the applicant to operate until a Commercial Cannabis Permit is approved in accordance with Municipal Code Article III Chapter 18.

PART 5. Section 6.10.020 of Chapter 6, of Article IX Authority for Land Use and Zoning Decisions is hereby amended as follows:

Type of Action	Code Section	Review Authority		
		Director	Commission	Council
General Plan Amendment	7.30	Recommend	Recommend	Decision
Local Coastal Program Amendment	7.30	Recommend	Recommend	Decision ¹
Development Code Amendment	7.30	Recommend	Recommend	Decision
Coastal Development Permit	6.20.040	Recommend ²	Decision	Appeal
Development Permit	6.20.060	Recommend	Decision	Appeal
Use Permit	6.20.090	Recommend	Decision ³	Appeal ³
Variance	6.20.100	Recommend	Decision	Appeal
Administrative Development Permit	6.20.020	Decision	Appeal	Appeal
Administrative Use Permit	6.20.030	Decision	Appeal	Appeal
Home Occupation Permit	6.20.070	Decision	Appeal	Appeal
Temporary Use Permit	6.20.080	Decision	Appeal	Appeal
Interpretations	1.10.050	Decision	Appeal	Appeal

Note:
 1. The decision by the City Council does not take effect until it is certified by the California Coastal Commission.
 2. The Director may approve a Coastal Development Permit in compliance with Section 6.20.040.
 3. The City Council shall be the Review Authority for Use Permits for Commercial Cannabis Retailer and Microbusinesses with retailer uses Uses.

PART 6. Section 9.10.020 of Chapter 9, of Article IX Definitions is hereby amended as follows:

Commercial Cannabis Uses. The uses are ~~solely~~ limited to commercial Medical and Adult Uses licensed in Chapter 5, Division 10, Cannabis, of the Business and Professions Code, and those

Cannabis regulations issued by the California Bureau of Cannabis Control, Department of Public Health and the Department of Food and Agriculture, medical cultivation, nursery, manufacturing, testing laboratories, transportation, distribution (includes storage), microbusiness, and retailer as defined in Business and Professions Code Sections 26050, 26061, 26070 or as modified and restricted hereinafter, and in Municipal Code Article III, Chapter 18.

PART 7. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases, be declared invalid.

PART 8. All ordinances and parts of ordinances in conflict with those sections amended or added herein are hereby repealed.

PART 9. Effective Date. This Ordinance shall not become effective and in full force and effect until 12:01 a.m. on the thirty first day after its final passage for areas not located within the Coastal Zone. This Ordinance shall not become effective and in full force and effect for areas located within the Coastal Zone until final certification by the California Coastal Commission. However, within fifteen (15) days after adoption by the City Council, the Ordinance shall be published once, together with the names of the Council Members voting thereon, in a newspaper of general circulation within the City.

INTRODUCED at a regular meeting of the City Council held on May 7, 2018 and **PASSED, APPROVED, and ADOPTED** by the City Council on May 21, 2018, on the following roll call vote, to wit:

AYES: Council Members -
NOES: Council Members -
ABSENT: Council Members -
ABSTAIN: Council Members -
RECUSED: Council Members -

**** D R A F T ****

JOHN P. SHOALS, MAYOR

Attest:

DONNA L. McMAHON, CITY CLERK

Approved as to Form:

DAVID P. HALE, CITY ATTORNEY

ORDINANCE NO. 18-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH AMENDING CHAPTER 18, ARTICLE III OF THE GROVER BEACH MUNICIPAL CODE AMENDING SUBSECTION (A) OF SECTION 4000.10, SECTION 4000.20, SECTION 4000.30, SUBSECTION (A) AND (C) OF SECTION 4000.40, SUBSECTION (A) OF SECTION 4000.50, SUBDIVISION (9) OF SUBSECTION (A) OF SECTION 4000.160, SUBSECTION (G) AND (H) OF 4000.200, SUBSECTION (F) OF SECTION 4000.220, SUBSECTION (B) OF SECTION 4000.230, AND SECTION 4000.240 TO REVISE DEFINITIONS, ALLOW ADULT USE CANNABIS BUSINESSES, ALLOW LEVEL TWO MANUFACTURING, ESTABLISH GREATER REGULATIONS ON PERSONAL CULTIVATION, ALLOW MEDICAL CANNABIS BUSINESSES TO SELL TO 18 YEARS OF AGE AND OLDER INDIVIDUALS AND MAKE REVISIONS CONSISTENT WITH RECENT STATE LAW CHANGES

WHEREAS, the City of Grover Beach is a General Law city organized pursuant to Article XI of the California Constitution; and

WHEREAS, pursuant to the authority granted the City by Article XI, Section 7 of the California Constitution, the City has the police power to adopt regulations designed to promote the public convenience or the general prosperity, as well as regulations designed to promote the public health, the public morals or public safety; and

WHEREAS, comprehensive zoning regulations and regulations upon the use of land and property lie within the City's police power; and

WHEREAS, the Federal Controlled Substances Act, 21 U.S.C. Sections 801 et seq. classifies marijuana as a Schedule 1 Drug and makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute, dispense, or possess with intent to manufacture, distribute or dispense, marijuana; and

WHEREAS, the Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation or possession of cannabis for medicinal purposes; and

WHEREAS, notwithstanding federal law, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code Section 11362.5 and titled the "Compassionate Use Act of 1996"), the intent of Proposition 215 being to enable persons who are in need of marijuana for medical purposes to be able to obtain and use it without fear of state criminal prosecution under limited, specified circumstances; and

WHEREAS, in 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code Section 11362.7 et seq. and titled the "Medical Marijuana Program Act" to clarify the scope of the Compassionate Use Act of 1996 ("CUA"); and

WHEREAS, the Medical Marijuana Program Act ("MMPA") promulgates rules wherein counties and cities can adopt and enforce rules and regulations consistent with its provisions; and

WHEREAS, in 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code Section 11362.768) affirming that counties and cities can under state law adopt ordinances that control and restrict the location and establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider; and

WHEREAS, In 2015, California enacted three bills – Assembly Bill 243; Assembly Bill 266; and Senate Bill 643 – that collectively established a comprehensive state regulatory framework for the licensing and enforcement of cultivation, manufacturing, retail sales, transportation, storage, delivery, and testing of medicinal cannabis in California. This regulatory scheme was known as the Medical Cannabis Regulation and Safety Act (MCRSA); and

WHEREAS, In November, 2016, Proposition 64 was enacted and entitled “The Adult Use of Marijuana Act” (“AUMA”) (codified as amendments to California Health and Safety Code, Business and Professions Code, Revenue and Taxation Code and Food and Agricultural Code). The intent of Proposition 64 being to establish a comprehensive system to decriminalize, control and regulate the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of marijuana, as well as other marijuana related activities; and

WHEREAS, June 27, 2017, the State Legislature adopted the State Budget along with a number of trailer bills including Senate Bill 94 which enacted “The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). This bill repealed MCRSA and included certain provisions of MCRSA in the licensing provisions of AUMA. Under this bill, these consolidated provisions make up the MAUCRSA and includes the regulations for both medical and nonmedical cannabis uses; and

WHEREAS, the California Supreme Court held in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729, 753 (“*Inland Empire*”) that the objectives of the CUA and MMPA were modest and that those acts did not create a broad right to access medical marijuana, and *Inland Empire* goes on to provide that neither the CUA nor the MMPA “expressly or impliedly preempts the authority of California cities and counties, under their traditional land use and police powers, to allow, restrict, limit, or entirely exclude” the distribution of medical marijuana. (Id. At p. 762.); and

WHEREAS, the Court of Appeal, Third Appellate District, held in *James Maral, et al. v. City of Live Oak* (2013) 221 Cal.App.4th 975, that the reasoning of *Inland Empire* applies to the cultivation of medical marijuana as well as its distribution, as both are addressed in the CUA and the MMPA; and

WHEREAS, with limited exceptions, neither the Compassionate Use Act (CUA), the Medical Marijuana Program Act (MMPA), the Medical Cannabis Regulation and Safety Act (MCRSA), the Adult Use of Marijuana Act (AUMA) or the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) require or impose an affirmative duty or mandate upon local governments to allow, authorize or sanction the establishment and the operation of facilities for distribution, cultivation, manufacturing or processing medical or non-medical marijuana within its jurisdiction, and

WHEREAS, notwithstanding the comprehensive nature of both the Adult Use of Marijuana Act and the Medicinal and Adult-Use Cannabis Regulation and Safety Act, both Acts under state

law protect the ability of local entities to maintain reasonable control over medical and non-medical marijuana activities; and

WHEREAS, the City Council desires to establish reasonable land use controls and reasonable regulations on the operation of commercial medical and adult use marijuana-related businesses and personal use which are intended to operate in conjunction with the City of Grover Beach Development Code's land use regulation and which are intended to address the negative impacts and nuisance impacts of marijuana-related businesses and use; and

WHEREAS, commercial Medical and Adult Use marijuana-related businesses and personal use will be subject to Chapter 18, Article III and the zoning and land use regulations as set forth in Article IX, Development Code, of the City of Grover Beach Municipal Code; and

WHEREAS, mindful of the fact that marijuana possession and use is prohibited under federal law and partially decriminalized under state law, it is the Council's intention that nothing in this ordinance shall be construed, in anyway, to expand the rights of anyone to use or possess marijuana under state law; engage in any public nuisance; violate federal law, or engage in any activity in relation to the cultivation, distribution, testing or consumption of marijuana that is otherwise illegal. It is further the intent of the City Council of the City of Grover Beach to maintain local control over these matters to the fullest extent permitted by law; and

WHEREAS, this proposed text amendment does not substantially change the previously approved Negative Declaration done for ordinances 17-05 and 17-06 because the amendment will not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant impacts. Therefore, the proposed amendment does not require a subsequent Negative Declaration consistent with the California Environmental Quality Act (CEQA) Guidelines Section 15162. Future development proposed in the areas of the City allowable under the proposed ordinance would undergo environmental review, pursuant to CEQA. At that time, the potential physical environmental effects of such development would be evaluated.

WHEREAS, the City Council held a public hearing on May 7, 2018 to consider this amendment to the cannabis regulatory ordinance.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF GROVER BEACH AS FOLLOWS:

PART 1. Subsection A of Section 4000.10 of Chapter 18, Article III of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

(A) It is the primary purpose and intent of this Chapter ~~to establish to accommodate the needs of medically ill Persons in need of marijuana for medical purposes while imposing~~ regulations on the use of cannabis and cannabis products ~~and~~ to protect City of Grover Beach's neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter to regulate the cultivation, nursery, manufacturing, testing laboratories, transportation, delivery, distribution (includes storage) retailers and microbusinesses of cannabis and cannabis-related products in a manner which is responsible and which protects the health, safety, and welfare of the residents of the City of Grover Beach; to enforce rules and regulations consistent with State law. In part to meet these objectives, an annual permit shall be required to own and to operate a Commercial Cannabis Business within the City of Grover Beach as authorized under this ordinance and within the City of Grover Beach Development Code. ~~Nothing in this Chapter is intended to authorize the cultivation, possession or use of marijuana for any non-medical purpose~~

~~consisting of either commercial or personal use other than as authorized within this ordinance or wherein the Adult Use of Marijuana Act otherwise preempts local agency regulations.~~

PART 2. Section 4000.20 of Chapter 18, Article III of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

When used in this Chapter, the following words shall have the meanings ascribed to them in this section. Any reference to California statutes includes any regulations established thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

(A) “Accrediting body” means a nonprofit organization that requires conformation to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperative Mutual Recognition Arrangement for Testing.

(B) “Applicant” for purposes of this ordinance means an Owner applying or renewing a local Commercial Cannabis Permit.

(C) “Cannabis” means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the 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. “Cannabis” also means the separated resin, whether crude or purified, obtained from marijuana. “Cannabis” also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacturing, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, “Cannabis” does not mean industrial hemp as that term is defined in Section 11018.5 of the California Health and Safety Code.

(D) “Cannabis concentrate” means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product’s potency. An edible ~~medical~~ cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

(E) “Cannabis Product” as used in this Chapter means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, edible, topical or other product containing cannabis or concentrate cannabis and other ingredients.

~~(EF)~~ “Certificate of Accreditation” means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state and permitted by the City.

~~(EG)~~ “Commercial Cannabis Activity” or “Commercial Cannabis Use” include cultivation, nursery, possession, manufacture (Level one and two), processing, storing, laboratory testing, labeling, dispensaries retailers and microbusinesses including wholesale and retail sale of ~~medical~~ cannabis or a ~~medical~~ cannabis products, distribution, transportation and approved licenses enumerated and defined within Division 10, Chapter 1 (commencing with Section 26000) of the California Business and Professions Code, and ultimately issued a “A-Type” or “M-Type” license consistent with Section 26050 (b), of the California Business and Professions Code, as

~~amended. For purposes of this definition, all authorized uses shall be for commercial medical cannabis uses only unless preempted by state law.~~

(~~G~~H) “Commercial Cannabis Business” means any business or operation which engages in Commercial Cannabis Activity.

(~~H~~I) “Commercial Cannabis Permit or Permit” means a permit issued by the City of Grover Beach pursuant to this Chapter to a Commercial Cannabis Business that authorizes a Person to conduct Commercial Cannabis Activity within the City.

(~~I~~J) “Cultivation” means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(~~J~~K) “Cultivation site” means a facility where ~~medical~~ cannabis is propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, that holds a valid state license pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

(~~K~~L) “Delivery” means the commercial transfer of ~~medical~~ cannabis or ~~medical~~ cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer. ~~from a retailer or microbusiness with a retailer use, up to an amount determined by the State of California, or any of its departments or divisions, to a primary caregiver or qualified patient, or a testing laboratory. “Delivery” also includes the use by a retailer or microbusiness with a retailer use of any technology platform owned and controlled by the retailer or microbusiness, or independently licensed by the State of California under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (as the same may be amended from time to time), that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed retailer or microbusiness of medical cannabis or medical cannabis products.~~

(~~L~~M) “Dispensing” means any activity involving the retail sale of ~~medical~~ cannabis or ~~medical~~ cannabis products from a licensed retailer (State license Type 10) or a microbusiness with a retail use. (State license type 12).

(~~M~~N) “Distribution” means the procurement, sale, and transport of ~~medical~~ cannabis or ~~medical~~ cannabis products between entities licensed pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act or as amended.

(~~N~~O) “Distributor” means a Person licensed under the Medicinal and Adult-Use Cannabis Regulation and Safety Act to engage in the business of purchasing ~~medical~~ cannabis from a licensed cultivator, or ~~medical~~ cannabis products from a licensed manufacturer, for sale to a licensed retailer or microbusiness.

(~~O~~P) “Dried flower” means all dead ~~medical~~ cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(~~P~~Q) “Edible cannabis product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible ~~medical~~ cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.

(QR) "Good Cause" for purposes of refusing or denying an initial application for a Commercial Cannabis Permit, for revoking a Commercial Cannabis Permit, or for refusing or denying renewal or reinstatement of a Permit, or for Rating Applicants for purposes of issuance of a Permit means:

- (1) The Applicant has violated any of the terms, conditions or provisions of this Chapter, of State Law, or any regulations and rules established pursuant to State Law, any applicable rules and regulations, or any special terms or conditions placed upon its Use Permit, State License or Local Permit;
- (2) Failure to provide information required by the City of Grover Beach;
- (3) The Permitted Premises have been operated in a manner that adversely affects the public health, safety or welfare or the safety of the immediate neighborhood in which the establishment is located;
- (4) The Applicant has knowingly made false or misleading statements, misrepresentations or material omissions as part of an interview process, on an application form to request issuance of a Permit or renewal form, or any other document submitted to the City;
- (5) The Commercial Cannabis Business is not created, organized or operated in strict compliance with all applicable laws and regulations;
- (6) The Applicant fails to meet the requirements of this Chapter, or the conditions of the Use Permit;
- (7) The operation of the proposed Commercial Cannabis Business at the proposed location is prohibited by a state or local law or regulation;
- (8) The Council has found consistent with Section 4000.160 that the Applicant's criminal history reflects a conviction of an offense that is substantially related to the qualifications, functions or duties of the business or profession for which the application is made and has found the Applicant is not suitable for issuance of a Permit;
- (9) The Applicant was found, to have a felony or misdemeanor conviction involving fraud, deceit, embezzlement, dishonesty, violent behavior, moral turpitude or committed crimes serving as a basis for denial of a Permit consistent with Section 4000.160. A conviction within the meaning of this section means a plea or a guilty verdict, a conviction or diversion following a plea of nolo contendere or a conviction later expunged by the court;
- (10) The Applicant was found to have a felony or misdemeanor conviction for hiring, employing, or using a minor in transportation, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
- (11) The Applicant was found to have a felony or misdemeanor conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety code.
- (12) The Applicant is employing or being financed in whole or in part by any Person whose criminal history indicates that Person would not be issued a Permit consistent with Section 4000.160 of this Chapter;
- (13) The Applicant or his/her employees fails to allow inspection of the business facilities, security recordings, activity logs, or business records of the Permitted Premise by City Officials;
- (14) The Applicant's business is owned by, or has an officer or director who is a licensed physician making recommendations for Medical Cannabis;

- (15) The Applicant has had a local Permit or State Cannabis License revoked or has had more than one suspension on its local Permit by the City; or
- (16) The Applicant operated a Commercial Cannabis Business in violation of Section 4000.40 of this Chapter;
- (17) The Applicant or the operator listed in the application is less than twenty-one (21) years of age.

~~(RS)~~ “Greenhouse” means a structure with walls and roof made primarily of transparent material, such as glass, in which plants requiring regulated climatic conditions are grown.

~~(ST)~~ “License” means the issuing of a license by the State of California, or one of its departments or divisions, under the Medicinal and Adult-Use Cannabis Regulation and Safety Act to engage in Commercial Cannabis Activity. ~~License shall not consist of any uses for non-medical marijuana that is subject to licensing by the State consistent with the California Business and Professions Code Section 26050, et. seq.~~

~~(TU)~~ “Live plants” means living ~~medical~~ cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.

~~(UV)~~ “Manufacturer” means a Person that conducts the production, preparation, propagation, or compounding of manufactured ~~medical~~ cannabis, as defined in this section, or ~~medical~~ cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages ~~medical~~ cannabis or ~~medical~~ cannabis products or labels or relabels its container, that holds a valid state license pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

~~(VW)~~ “Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate or manufactured product intended for internal consumption or topical application.

~~(WX)~~ “Manufacturing site” means a location that produces, prepares, propagates, or compounds ~~medical~~ cannabis or ~~medical~~ cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a Person issued a license by the State of California, or one of its departments or divisions, for these activities.

~~(XY)~~ “Medical cannabis”, “medical cannabis product,” or “cannabis product” means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code (as the same may be amended from time-to-time). For purposes of this Chapter, “medical cannabis” does not include industrial hemp as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

~~(YZ)~~ “Microbusiness” (State license Type 12) shall mean a use for the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under state and local law, or any combination of at least three (3) uses listed herein provided such licensee can demonstrate compliance with all requirements imposed by the Medicinal and Adult-Use Cannabis Regulation and Safety Act on licensed cultivators, distributors Level 1 manufacturers, and retailers to the extent the licensee engages in such activities.

(ZAA) “Mixed-Light Building” shall mean the cultivation of cannabis using light deprivation and/or artificial lighting below a rate of 25 watts per square foot.

(AABB) “Moral Turpitude,” crimes are defined as acts of baseness, vileness or depravity in the private and social duties, they are contrary to the accepted and customary rule of moral, right and duty between people. Crimes involving moral turpitude require the criminal intent of the offender to cause great bodily injury, defraud, deceive, deprive an owner of property, or to act in a lewd manner or recklessness.

(BBCC) “Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of ~~medical~~ cannabis.

(GGDD) “Owner” means any of the following:

- (1) Owner or owners of a proposed facility, includes all Persons or entities having ownership interest of 5 percent or more, other than a security interest, lien, or encumbrance on property that will be used by the facility.
- (2) If the owner is an entity, “owner” includes within the entity each Person participating in the direction, control, or management of, or having a financial interest in the proposed facility.
- (3) If the applicant is a publicly traded company, “owner” means the chief executive officer or any Person or entity with an aggregate ownership interest of 5 percent or more.
- (4) Owner, will also include any consultants, agents, or contractors hired for the purpose of assisting in the preparation and submittal of an application for a Commercial Cannabis Permit or in the operations and management of a Commercial Cannabis Business.

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

(EEFF) “Rating” means a process wherein the City Council considers numerous applications for a Commercial Cannabis Permit that are greater than the number of permits allocated or authorized by ordinance. The City will implement a process as established by Council wherein they rate the applicants based upon information submitted by the applicant, criminal history defined as a component of Good Cause, and oral interviews. Staff will rate the applicants and submit recommendations to Council for consideration. Council may use their sole discretion in using the information submitted by staff or other factors in considering issuance of permits when the applications are greater in number than the number of allowable permits by ordinance. Wherein a total number of Commercial Cannabis Permits are established by ordinance, nothing in this section nor in Section 4.10.045 of the Grover Beach Municipal Code obligates the Council to issue the total number of authorized permits. Council at their discretion may issue any number of permits up to the maximum number of permits authorized by ordinance.

(FFGG) “Retailer” (State license Type 10) means a use for the retail sale and delivery of ~~medical~~ cannabis or cannabis products to customers. This use is for operations within a fixed location and may consist of a facility open to the general public or may be for delivery only with a facility.

(GGHH) “Stacking” means the practice of growing marijuana plants on platforms or tables and stacking them in multiple layers on top of each other.

(FFII) "State License" or "license" means a state license issued pursuant to the Medicinal and Adult Use Cannabis Regulation and Safety Act.

(GGJJ) "Testing Laboratory" means a facility, entity, or site in the state that offers or performs tests of ~~medical~~ cannabis or ~~medical~~ cannabis products and that is both of the following:

- (1) Holds a valid Certificate of Accreditation by an Accrediting Body that is independent from all other Persons involved in the ~~medical~~ cannabis industry in the state.
- (2) Registered with the State Department of Public Health.

(HHKK) "Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.

(IILL) "Transport" means the transfer of ~~medical~~ cannabis or ~~medical~~ cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting Commercial Cannabis Activity authorized by the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

(JJMM) "Transporter" means a Person issued a state license by the State of California, or one of its departments or divisions, to transport ~~medical~~ cannabis or ~~medical~~ cannabis products in an amount above a threshold determined by the State of California, or one of its departments or divisions, that have been issued a State license pursuant to the Medicinal and Adult-Use Regulation and Safety Act.

PART 3. Section 4000.30 of Chapter 18, Article III of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

4000.30 ~~Non-commercial Cannabis Activity prohibited in any zone other than authorized in Chapter 4 of Article IX of the Grover Beach Municipal Code and personal possession and cultivation.~~

(A) Notwithstanding anything to the contrary contained in the Grover Beach City Municipal Code, ~~activity other than Commercial Cannabis Activity shall not be a permitted use in any zone of the city other than authorized in Chapter 4 of Article IX of the Grover Beach Municipal Code, and no Use Permit shall be issued permitting such use.~~ Further notwithstanding anything contrary contained in the Grover Beach Municipal Code, a violation of this Chapter and or any provision thereof shall not be subject to criminal penalties but may only be enforced by civil and or administrative proceedings.

(B) Notwithstanding subsection (a) above, this section shall not be intended to preclude or limit personal possession or use of six living marijuana plants and possession of the marijuana produced by the plants consistent with paragraph (3) of subdivision (a) of Health and Safety Code Section 11362.1. Moreover, in accordance with Health and Safety Code section 11362.2, not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time. The limitation of six living plants per residence is a maximum number of plants allowed at any residence no matter how many Persons reside within that residence. No person owning, leasing, occupying or having charge or possession of any premises within a residential zone or used for

residential purposes, shall cause, allow or permit the indoor cultivation for personal use of cannabis on the premises, unless it is conducted in accordance with the following provisions:

- (1) All cultivation of cannabis must take place within a single room of a residential structure or within a detached accessory building wherein the City has issued a building permit for construction of the building. No cultivation of cannabis shall be allowed within a garage of a residential structure.
- (2) Indoor grow lighting system must not exceed 3,800 watts; be shielded to confine light and glare to the interior of the structure; and complies with the City's Building and Fire Code.
- (3) Odors shall not be detectable from adjacent properties, residences, or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, patios, balconies, or any other areas available for use by common tenants, or the visiting public, or within any other residential unit.
- (4) Cannabis cultivation must be concealed from public view at all stages of growth and there shall be no exterior evidence of cultivation occurring at the premises from a public right-of-way or from an adjacent parcel.
- (5) The cannabis cultivation must not create offensive odors; create excessive dust, heat, noise, smoke, traffic, or other impacts that are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; or be hazardous due to the use or storage of materials, processes, products or wastes.
- (6) Cannabis cultivation areas, inside a residence, must be kept locked when not occupied.

~~All possession, planting, cultivation, harvesting, drying, or processing must be conducted inside a private residence or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure. At no time, shall any cultivation, possession or use of marijuana plants or marijuana produced by the plants or manner of operations arise to the level of a public or private nuisance including but not limited to odors or light emanating from a structure.~~

PART 4. Subsection (A) and (C) of Section 4000.40 of Chapter 18, Article III of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

4000.40 Licenses and Permits.

(A) In addition to the requirements which may be imposed pursuant to this Chapter, no Person shall engage in Commercial Cannabis Activity or open or operate a Commercial Cannabis Business without possessing both a Commercial Cannabis Permit issued by the City Council and a license issued by the State of California or one of its departments or divisions. Commercial Cannabis Activity shall be permitted in the City of Grover Beach only as expressly provided in this Chapter and Article IX and if not expressly permitted by this Chapter and Article IX shall be prohibited.

- (1) An application for a Commercial Cannabis Business permit shall be consistent with this chapter, section and regulations adopted by Council. Each Commercial Cannabis Business permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance unless otherwise defined on the Permit.
- (2) In the event of an application for renewal of a Commercial Cannabis Permit, it shall be filed at least sixty (60) calendar days prior to the expiration date of the permit

with the City Manager or his/her designee. The permit's term will be extended until such time the City takes action.

(3) An application for renewal of a Commercial Cannabis Permit shall be rejected if any of the following exists:

- (a) The application is filed less than sixty (60) days before its expiration.
- (b) The Commercial Cannabis Permit is suspended or revoked at the time of the application.
- (c) The City Council or City Manager finds Good Cause to reject the permit as defined with the application process resolution approved by Council.
- (d) Any other Commercial Cannabis Permit held by the applicant is suspended or revoked at the time of the application for the subject Permit being considered by the City.
- (e) The Commercial Cannabis Business has not been in regular and continuous operation in the four (4) months prior to the renewal application.
- (f) The Commercial Cannabis Business fails to conform to the requirements of this Chapter, any regulations adopted pursuant to this Chapter or the conditions imposed as part of any Use Permit or zoning requirements.
- (g) The permittee fails to renew its State of California license.

(4) If a renewal application is rejected for reasons other than Good Cause, a Person may file a new application pursuant to this Chapter.

~~(5) Applicants seeking multiple licenses for different types of cannabis activity shall be required to comply with multiple licensing restrictions contained within State Law.~~

(C) Revocation, termination, non-issuance or suspension of a license issued by the State of California, or any of its departments or divisions, shall immediately terminate the ability of a ~~medical C~~ commercial B cannabis business to operate within the City of Grover Beach until the State of California, or its respective department or division, reinstates or issues the State license.

PART 5. Subsection (A) of Section 4000.50 of Chapter 18, Article III of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

The City Chief of Police or his/her designee is authorized to establish all regulations necessary to implement the requirements and fulfill the policies of this Chapter related to Commercial Cannabis Businesses including, but not limited to, the following subjects:

(A) A permitted Commercial Cannabis Business shall implement security measures to both deter and to prevent unauthorized entrance into areas containing ~~medical~~ cannabis or ~~medical~~ cannabis products and theft of ~~medical~~ cannabis or ~~medical~~ cannabis products at the Commercial Cannabis Business. Except as may otherwise be determined by the City Manager or his/her designee, these security measures shall include, but shall not be limited to, all of the following:

- (1) All public access to the facility must be through a secured single point of entry. Entry into ~~the a~~ facility with a M-Type State license from the outside must be completed through a secured vestibule area that is designed to allow for identification confirmation prior to entry into the main lobby area.
- (2) Preventing Persons from remaining on the premises of the Commercial Cannabis Business if they are not engaging in the activity expressly related to the operations of the Commercial Cannabis Business.

- (3) Establishing limited access areas accessible only to authorized Commercial Cannabis Business personnel.
- (4) Except for live growing plants which are being cultivated at a cultivation facility, all ~~medical~~ cannabis and ~~medical~~ cannabis products shall be stored in a secured and locked room, safe, or vault, except for limited amounts of cannabis used for display purposes or immediate sale at a retailer or microbusiness with a retail use. All ~~medical~~ cannabis and ~~medical~~ cannabis products, including live plants which are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.
- (5) Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from a secure area and to monitor all interior spaces within the Commercial Cannabis Business which are open and accessible to the public. The security surveillance cameras shall be remotely accessible to the Grover Beach Police Department and shall be compatible with the Grover Beach Police Department's software and hardware and remote real-time, live access to the video footage from the cameras shall be provided to the Grover Beach Police Department. Video recordings shall be maintained by the business for a minimum of ~~forty-five (45)~~ ninety (90) days.
- (6) Sensors shall be installed to detect entry and exit from all secure areas.
- (7) Panic buttons shall be installed in all Commercial Cannabis Businesses.
- (8) Having a professionally installed, maintained, and monitored alarm system.
- (9) Any bars installed on the windows or the doors of the Commercial Cannabis Business shall be installed ~~only~~ on the interior or exterior of the building if allowed by the California Building Code.
- (10) All Security personnel, whether employed by the Commercial Cannabis Business or contracted by the Commercial Cannabis Business, shall be subject to the prior review and approval of the Chief of Police or his/her designee.
- (11) Each Commercial Cannabis Business shall have the capability to remain secure and operational during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- (12) All deliveries of cannabis products shall be made within an enclosed area not open to the public.

PART 6. Subdivision 9, of Subsection (A) of Section 4000.160 of Chapter 18, Article III of the Grover Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

- (9) Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated or excess ~~medical~~ cannabis product.

PART 7. Subsection (G) and (H) of Section 4000.200 of Chapter 18, Article III of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

- (G) Minors. Persons under the age of ~~eighteen (18)~~ twenty-one years shall not be allowed on the premises of a Commercial Cannabis Business and shall not be allowed to purchase any Cannabis or Cannabis Concentrate products, except anyone under twenty-one years of age but at least eighteen (18) years of age or older shall only be allowed within a Commercial Cannabis Business if the business holds a state issued M-Type license and entry is authorized in accordance with the Medicinal and Adult Use Cannabis Regulation and Safety Act.

It shall be unlawful and a violation of this Chapter for any Person to employ any other Person at a Commercial Cannabis Business who is not at least twenty-one (21) years of age.

The entrance to the Commercial Cannabis Business shall be clearly and legibly posted with a notice that no Person under the age of ~~eighteen (18) years~~ twenty-one (21) years of age is permitted to enter upon the premises of the Commercial Cannabis Business unless the Commercial Cannabis Business is a M-Type license issued by the state wherein it shall be posted that no Person under the age of eighteen (18) is permitted to enter upon the premises. Persons 18, but under 21, must be in possession of a valid medical marijuana identification card or valid doctor's recommendation.

(H) Odor Control. Odor control devices and techniques shall be incorporated in all Commercial Cannabis Businesses and apply to personal growth, cultivation or processing of marijuana, to the extent necessary, to ensure that odors from marijuana are not detectable off-site. Commercial Cannabis Businesses shall provide an odor absorbing ventilation and exhaust system so that odor generated inside the ~~medical marijuana~~ Commercial Cannabis Business facility that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the Commercial Cannabis Business. As such, Commercial Cannabis Businesses must install and maintain the following equipment or any other equipment which the Chief of Police or his designee determines has the same or better effectiveness:

- (1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
- (2) An air system that creates negative air pressure between the Commercial Cannabis Business's interior and exterior so that the odors generated inside the Commercial Cannabis Business are not detectable on the outside of the Commercial Cannabis Business.

PART 8. Subsection (F) of Section 4000.220 of Chapter 18, Article III, of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

(F) The cultivation of cannabis and any nursery activity shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the Commercial Cannabis Business, visitors to the area, neighboring properties, and the end users of the cannabis being cultivated, to protect the environment from harm to streams, fish, and wildlife; and to ensure the security of the cannabis being cultivated; ~~and to safeguard against the diversion of cannabis for non-medical purposes.~~

PART 9. Subsection (B) of Section 4000.230 of Chapter 18, Article III, of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

(B) All items to be sold or distributed retail shall be individually wrapped at the original point of preparation. Labeling must include any labeling requirements as required under State licensing for ~~medical~~ cannabis products.

PART 10. Section 4000.240 of Chapter 18, Article III, of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

Cannabis manufacturing facilities requiring a Type-6 state license (using non-volatile solvents) or Type-07 state license (using volatile solvents), shall be subject to the operational requirements determined and approved by Council. Council shall establish operational

requirements by resolution. ~~Type 7 state licenses, Level Two Manufacturing, shall be limited to using only ethanol as an allowed volatile solvent.~~

PART 11. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases, be declared invalid.

PART 12. All ordinances and parts of ordinances in conflict with those sections amended or added herein are hereby repealed.

PART 13. Effective Date. This Ordinance shall not become effective and in full force and effect until 12:01 a.m. on the thirty first day after its final passage. However, within fifteen (15) days after adoption by the City Council, the Ordinance shall be published once, together with the names of the Council Members voting thereon, in a newspaper of general circulation within the City.

INTRODUCED at a regular meeting of the City Council held on May 7, 2018 and **PASSED, APPROVED, and ADOPTED** by the City Council on _____, on the following roll call vote, to wit:

- AYES: Council Members -
- NOES: Council Members -
- ABSENT: Council Members -
- ABSTAIN: Council Members -
- RECUSED: Council Members -

**** D R A F T ****

JOHN P. SHOALS, MAYOR

Attest:

DONNA L. McMAHON, CITY CLERK

Approved as to Form:

DAVID P. HALE, CITY ATTORNEY

RESOLUTION NO. 18-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH
AUTHORIZING AND DIRECTING THE COMMUNITY DEVELOPMENT DIRECTOR
TO SUBMIT THE LOCAL COASTAL IMPLEMENTATION AMENDMENT
ASSOCIATED WITH ORDINANCE NO. 18-04 TO THE
CALIFORNIA COASTAL COMMISSION FOR FINAL CERTIFICATION**

WHEREAS, the LCP amendment would amend the City's commercial cannabis land use ordinance to allow adult use and change the Review Authority; and

WHEREAS, the Ordinance requires a Local Coastal Program Amendment because it is amending Development Code Sections 4.10 and 9.10; and

WHEREAS, the Local Coastal Program Amendment is intended to be carried out in a manner that is fully in conformity with the Coastal Act; and

WHEREAS, the Planning Commission held a public hearing on May 1, 2018 and recommended the City Council approve the land use ordinance amendment and Local Coastal Program Amendment; and

WHEREAS, the City Council at its meeting on May 7, 2018 conducted first reading of the Commercial Cannabis Land Use Ordinance and adopted the Land Use Ordinance at its meeting on May 21, 2018; and

WHEREAS, the proposed amendment does not substantially change the previously approved Negative Declaration because the amendment will not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant impacts. Therefore, the proposed amendment does not require a subsequent Negative Declaration consistent with the California Environmental Quality Act (CEQA) Guidelines Section 15162. Future development proposed in the areas of the City allowable under the proposed ordinance would undergo environmental review, pursuant to CEQA. At that time, the potential physical environmental effects of such development would be evaluated.

WHEREAS, the proposed Local Coastal Program Amendment will take effect automatically upon final certification by the Coastal Commission unless revisions are made by the Coastal Commission.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Grover Beach **DOES HEREBY AUTHORIZE AND DIRECT** the Community Development Director to submit amendments to Sections 4.10 and 9.10 of Article IX Development Code associated with Ordinance No. 18-04, to the California Coastal Commission for final certification.

On motion by Council Member _____, seconded by Council Member _____, and on the following roll-call vote, to wit:

AYES: Council Members -
NOES: Council Members -
ABSENT: Council Members -
ABSTAIN: Council Members -
RECUSED: Council Members -

the foregoing RESOLUTION NO. 18-__ was **PASSED, APPROVED**, and **ADOPTED** at a regular meeting by the City Council on May 21, 2018.

**** D R A F T ****

JOHN P. SHOALS, MAYOR

Attest:

DONNA L. MCMAHON, CITY CLERK