



## CITY COUNCIL STAFF REPORT

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**TO:** Honorable Mayor and City Council                      **DATE:** March 6, 2017

**FROM:** Matthew Bronson, City Manager

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

**SUBJECT:** Consideration and Direction on an Ordinance for the Operation and Regulation of Commercial Medical Cannabis Uses

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### **RECOMMENDATION**

Provide input and direction to staff on a draft ordinance to operate and regulate commercial medical cannabis uses.

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### **BACKGROUND**

The Grover Beach Municipal Code currently prohibits all commercial cannabis activities in the city. In July 2016, the City Council directed staff to start working on a draft ordinance that would regulate commercial medical cannabis uses consistent with the Council's FY 2016-17 Goals and Work Program. Subsequently, the Council held meetings in August and September to provide staff direction on the framework for a draft ordinance that would allow and regulate commercial medical cannabis uses. In November 2016, residents approved Measure L-16 to impose a tax on gross receipts for medical and non-medical commercial cannabis uses and a square footage tax on cultivation.

At the February 6, 2017 Council meeting, staff brought the Commercial Medical Cannabis Uses Land Use Ordinance to Council for an introduction and first reading following review and recommendation by the Planning Commission on January 11, 2017. This ordinance allowed the following commercial medical cannabis activity and uses: cultivation, nurseries, manufacturing, testing laboratories, transportation, delivery, distribution (includes storage), and dispensaries (retail sales). These proposed commercial medical cannabis uses would be allowed subject to the approval of a Use Permit within an Overlay Zone on approximately 70 acres consisting of the Industrial (I) Zone and a portion of the Coastal Industrial (CI) Zone as shown within the Land Use Ordinance staff report.

Following ordinance amendments, including modifying setback requirements and limiting manufacturing to non-volatile Level One activities, Council provided direction for staff to return to the Council for a second reading and adoption of the land use ordinance on February 21, 2017. Council ultimately did not adopt the proposed land use ordinance at the February 21<sup>st</sup> meeting but rather directed staff to develop a revised ordinance to allow commercial medical cannabis uses in the Industrial (I), Coastal Industrial (CI), and Coastal Industrial Commercial (CIC) Zones rather than create an Overlay Zone. Staff is working with Rincon to amend the environmental report for this expanded geography and will bring this revised ordinance to the Planning Commission on April 12, 2017 for a recommendation to the Council. Staff anticipates bringing the first reading of this revised ordinance to the Council in late April or early May.

However, the land use ordinance deals with the establishment of commercial medical cannabis businesses rather than the operation and regulation of such businesses, which is the focus of this separate regulatory ordinance and corresponding staff report. Staff gave a brief overview presentation of this draft regulatory ordinance at the February 6<sup>th</sup> meeting and Council requested to bring the ordinance back at the February 21<sup>st</sup> meeting for further discussion and then continued this item to the March 6<sup>th</sup> meeting for additional discussion and direction to staff.

This draft regulatory ordinance (see Attachment 1) was developed by a staff team consisting of the City Manager, City Attorney, Community Development Director, Police Chief, and Fire Chief of the Five Cities Fire Authority. The staff team reviewed ordinances from other jurisdictions and worked with an outside consultant (HdL Companies) to review an initial draft of the ordinance. Staff's overall goal in developing this ordinance was to develop a suitable regulatory structure for this emerging industry to begin operating in the city as cannabis businesses continue to evolve as part of a legal, market-based industry. Prior to taking this draft ordinance to the Council, staff met with the Council cannabis subcommittee (Mayor Shoals and Council Member Lee) to review and receive input on both the land use and regulatory ordinances.

Staff is seeking Council's input and direction on this draft regulatory ordinance and will plan to return to the Council in April for an introduction and first reading of a final version of the ordinance. Staff would also share information at that time about the proposed resource requirements to implement the ordinance. It is important to note that both the land use and regulatory ordinances must be adopted by the Council for commercial medical cannabis businesses to submit applications for use permits approved by the Council.

#### State Regulatory Framework

One of the initial assumptions in developing this regulatory ordinance was to ensure compliance with the evolving State regulatory framework for medical marijuana while addressing emergent issues given passage of Proposition 64. In 2015, the State Legislature adopted AB 243, AB 266 and SB 643 which comprised the Medical Marijuana Regulation and Safety Act (MMRSA) establishing the foundation for regulating the use of medical marijuana within California. In 2016, the State Legislature updated MMRSA by approving AB 21 and SB 837 to address issues not previously addressed in prior legislation and changed the name of MMRSA to the Medical Cannabis Regulation and Safety Act (MCRSA).

On November 8, 2016, Proposition 64 was approved by California voters and authorized the use, possession, cultivation and processing of marijuana and its products for non-medical (or recreational) uses. As with previous legislation, Proposition 64 provides local agencies the ability to completely ban marijuana uses or allow those uses consistent with local policies and ordinances. The only exception is allowing the personal cultivation, possession and use of marijuana and prohibiting local agencies from banning the cultivation and processing of marijuana within an individual's personal residence or accessory building to the residence for up to six (6) plants. As a result, this draft regulatory ordinance limits recreational use to personal use and cultivation and allows for only commercial medical marijuana uses rather than all commercial marijuana uses consistent with the land use ordinance.

A common element of the above legislation is the requirement that ultimately a local and state permit will be required to operate either a medical or non-medical commercial cannabis business. The State allows local licenses for commercial medical marijuana businesses to be issued now, but licenses for recreational uses will not be allowed either locally or by the State until 2018. The Council could amend both the land use and the regulatory ordinances later in the year to allow commercial recreational businesses in preparation for State licensing of such businesses in 2018.

### Summary of Regulatory Ordinance Provisions

Below is a summary of key provisions within the draft regulatory ordinance followed by further information on two particularly notable provisions for the Council's consideration:

- Operation of a commercial cannabis use or business requires a City of Grover Beach Commercial Medical Cannabis Permit and a State license.
- Commercial Medical Cannabis Permits will be issued by the Council following staff review and recommendation of applications.
- All recreational use of cannabis, other than personal use and cultivation, are banned.
- In the event that a State license is ever revoked, the local permit will become null and void and the licensee will be required to terminate its operations.
- The ordinance establishes very stringent security measures that will be imposed on commercial cannabis businesses.
- All dispensaries must be set back 100 feet from any residential zoning, except where a public road is between the residential lot and the dispensary.
- No marijuana or alcohol is allowed to be consumed on the premises.
- Each business will be subject to City inspection and fees.
- Business records will be required and the City will retain audit rights to those records.
- Commercial Medical Cannabis Permits shall be issued for a given property and are not transferable.
- No person under 21 will be allowed on the premises.
- Background checks will be performed by the City on all owners and employees of commercial cannabis businesses along with issuance of work permits.
- Only Level One cannabis manufacturing is authorized by this ordinance.
- Clarification that the San Luis Obispo County Health Agency will not regulate edible cannabis products as such substances cannot be regulated under the California Retail Food Code because cannabis is not considered an approved food source.

### Background Checks and Work Permits

The draft regulatory ordinance requires background checks performed by the City of all owners, employees and individuals that work within any commercial cannabis business. The intent of this regulation is that background checks give the City a tool to screen out individuals with a prior criminal background within these businesses that may create secondary adverse and criminal effects from their operations. This affords the City the ability to conduct an initial review of individuals participating within the industry to minimize the potential of unforeseen criminal activity as this industry begins operating in the city. Similar background checks are carried out by the City for owners and employees in card rooms and for taxicab, tow truck, and ice cream truck operators and are generally more extensive and search more law enforcement databases than a typical background process that private businesses can conduct. A number of cities carry out such background checks for both owners and employees of cannabis businesses including Berkeley, Richmond, San Jose, Sacramento, and San Diego.

Following a successful background check, a work permit would be issued which would be required for all employees working within any commercial medical cannabis business. Staff believes that such background checks and work permits would help the City set up an effective regulatory and enforcement system as the industry begins operating in the city. On a related note, the draft ordinance stipulates that an application for a Commercial Medical Cannabis Permit may be denied if any person on the application has been convicted of a felony in the past ten (10) years.

As an alternative, the Council could provide direction to have the City conduct background checks for only owners of cannabis businesses and require the owners to conduct background checks for their employees. This approach is used in some cities including Oakland and Cathedral City. Such an approach would limit the City's role in the background process and put the responsibility on business owners to do the necessary background checks of employees and submit verification of such checks to the City. The ordinance could also be amended in the future with this alternative after the initial cannabis businesses were established to assess any public safety impacts. The Council could also choose to eliminate the requirement for a work permit for all employees in cannabis businesses as part of the regulatory structure. In addition, the Council could also provide direction to explore modifying the language about individuals with prior felonies to provide flexibility for marijuana-related convictions that would now be legal under Proposition 64 which some cities are considering such as Sacramento. Proposition 64 allows individuals to apply to the court for a re-sentencing of such convictions.

#### Level One and Level Two Manufacturing

Cannabis manufacturing involves producing products from the marijuana plant such as extracts that contain substantially higher concentrations of tetrahydrocannabinol (THC). The State will be issuing licenses for both Level One and Level Two cannabis manufacturing. The principal distinction between the two levels is that Level One requires the use of non-volatile solvents for the manufacturing process while Level Two may involve use of volatile solvents. Allowing both types of manufacturing opens up the possibility of additional cannabis businesses to operate though Level Two manufacturing has greater potential for explosion and fire.

Based on staff's initial research, many cities only allow non-volatile (Level One) manufacturing including Sacramento, Santa Rosa, and San Diego and staff recommended a similar approach to only allow Level One manufacturing at this time in Grover Beach. Council concurred with this approach at the February 6<sup>th</sup> meeting and requested that Five Cities Fire Authority staff engage experts in the area of laboratory design to determine the appropriate conditions and standards to be imposed upon Level Two manufacturing licenses and bring a report back to the Council for future consideration of Level Two manufacturing by the end of this fiscal year. As a result, the draft regulatory ordinance at this time only includes Level One manufacturing.

#### **FISCAL IMPACT**

The establishment of commercial medical cannabis businesses through adoption of the land use and regulatory ordinances would create a new revenue source to the City. The amount of annual revenue is estimated from \$1,000,000 to \$2,000,000 as indicated in the tax measure approved by the voters in November 2016. However, the actual revenue generated would depend on the number of businesses that operate and the gross sales and total square footage of cultivation area. There would also be a regulatory fee assessed to cannabis businesses to offset the City's costs of regulating these businesses. This fee has not yet been determined and will be established in the City's Master Fee Schedule presented to Council this spring.

The cost of preparing the ordinances to date is approximately \$45,000 for preparation of the Negative Declaration, consulting services with HdL Companies and the City Attorney. In addition, staff has spent several hundred hours associated with researching and preparing the ordinances, and responding to public inquiries. These costs will be reflected in a future budget adjustment to the Council.

**ALTERNATIVES**

1. Provide input and direction to staff on a draft ordinance to regulate commercial medical cannabis uses; or
2. Provide alternative direction to staff.

**PUBLIC NOTIFICATION**

The agenda was posted in accordance with the Brown Act.

**ATTACHMENTS**

1. Draft Regulatory Ordinance

## ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH REPEALING CHAPTER 1.2, ARTICLE III, MEDICAL MARIJUANA DISPENSARIES, AND ADDING CHAPTER 18, ARTICLE III OF THE GROVER BEACH MUNICIPAL CODE TO ALLOW THE ESTABLISHMENT, OPERATION AND REGULATIONS OF COMMERCIAL CANNABIS USES FOR THE CULTIVATION, MANUFACTURING, DISPENSATION, TRANSPORTATION AND TESTING OF MEDICAL MARIJUANA AND MEDICAL MARIJUANA PRODUCTS**

**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 marijuana 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 need 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 November, 2016, Proposition 64 was enacted ("The Adult Use 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 legalize, 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.

**WHEREAS**, the California Supreme Court held in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4<sup>th</sup> 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**, on October 9, 2015, Governor Jerry Brown signed the “Medical Marijuana Regulation and Safety Act” (“MMRSA”) into law hereafter known as the “Medical Cannabis Regulation and Safety Act” (MCRSA); and

**WHEREAS**, the MCRSA, which is comprised of three separate pieces of legislation, establishes, among other matters, a dual licensing structure requiring both a state license and a local license or permit for medical marijuana activities, a regulatory structure imposing health, safety and testing standards for cultivation and dispensary facilities, and the criteria for licensing medical marijuana businesses; and

**WHEREAS**, with limited exceptions, neither the Compassionate Use Act, the Medical Marijuana Program, the Medical Cannabis Regulation and Safety Act, nor the Adult Use of Marijuana Act 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**, the City Council desires to establish reasonable land use controls and reasonable regulations on the operation of medical marijuana-related businesses which are intended to operate in conjunction with the City of Grover Beach Zoning Code’s land use regulation and which are intended to address the negative impacts and nuisance impacts of marijuana-related businesses; and

**WHEREAS**, the City Council desires also to establish reasonable land use controls and reasonable regulations on the operation of non-medical marijuana-related business consistent with the Adult Use of Marijuana Act; and

**WHEREAS**, medical marijuana-related businesses will be subject to the zoning and land use regulations of the zone in which such business is established and operates, 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 any way, 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 City of Grover Beach to maintain local control over these matters to the fullest extent permitted by law.

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

**SECTION 1.** Chapter 1.2 of Article III, Medical Marijuana Dispensaries, is repealed in its entirety.

**SECTION 2.** Chapter 18 of Article III, Medical Cannabis Activity is hereby added to the Grover Beach Municipal Code as follows:

Chapter 18. Commercial Cannabis Activity

- 4000.10 Purpose and Intent.
- 4000.20 Definitions
- 4000.30 Non-commercial Cannabis Activity prohibited in any zone.
- 4000.40 Licenses and Permits
- 4000.50 Security Measures
- 4000.60 Employees; Employee Work Permits; Identification
- 4000.70 Right to Occupy and to Use Property
- 4000.80 Location of Commercial Cannabis Business; 100 Foot Setback from Residential Zones
- 4000.90 Restriction on Alcohol Sales
- 4000.100 Concurrent Regulation with State
- 4000.110 Compliance with Laws
- 4000.120 Inspection and Enforcement
- 4000.130 Fees and Charges
- 4000.140 Violation and Enforcement
- 4000.150 Limitations on City's Liability
- 4000.160 Commercial Cannabis Permit Application Procedures and Application Requirements
- 4000.170 Records and Reporting
- 4000.180 Prohibition on Transfer of Commercial Cannabis Permits
- 4000.190 Packaging and Labelling
- 4000.200 Operating Requirements for All Commercial Cannabis Uses
- 4000.210 Operating Requirements for Cultivation, Manufacturing, Waste, and Storage Requirements
- 4000.220 Operating Requirements for Cultivation and Nurseries
- 4000.230 Operating Requirements for Cannabis Manufacturing; Edibles and Other Cannabis Products; Sale or Distribution of Edible and Other Cannabis Products
- 4000.240 Operating Requirements for Cannabis Manufacturing (Level one and two):  
Extraction, etc.
- 4000.250 Promulgation of Regulations and Standards
- 4000.260 Fees Deemed Debt to City of Grover Beach
- 4000.270 Permit Holder Responsible for Violations

4000.10 **Purpose and Intent.**

(a) It is the primary purpose and intent of this Chapter to accommodate the needs of medically-ill persons in need of marijuana for medical purposes while imposing regulations on the use of land 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) and dispensaries 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.

(b) Pursuant to Section 7 of Article XI of the California Constitution, the City of Grover Beach is authorized to adopt ordinances that establish standards, requirements, and regulations for local licenses and permits for Commercial Cannabis Activity. Any standards, requirements, and regulations regarding health and safety, testing, laboratory operations and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Grover Beach to Commercial Cannabis Activity.

4000.20 **Definitions.**

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 promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

(a) "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 Proposition 64. 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 or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or another product.

(b) "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.

- (c) "Collective" or "Cooperative" means any association, cooperative, affiliation, group, or collective of persons organized or associated to cultivate, store and/or dispense marijuana for medical purposes to the Compassionate Use Act of 1996, Senate Bill 420 enacted in 2003, and as provided in Health and Safety Code Section 11362.775.
- (d) "Commercial Cannabis Activity" or "Commercial Cannabis Use" includes cultivation, nursery, possession, manufacture, processing, storing, laboratory testing, labeling, or wholesale and retail sale of medical cannabis or a medical cannabis product as licensed within Chapter 3.5, of Division 8 of the California Business and Professions Code, sections 19300 et seq..
- (e) "Commercial Cannabis Business" means any business or operation which engages in Commercial Cannabis Activity.
- (f) "Commercial Cannabis Permit" means a permit issued by the City of Grover Beach pursuant to this Chapter to a Commercial Cannabis Business.
- (g) "Cultivation" means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (h) "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 Medical Marijuana Regulation and Safety Act.
- (i) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, 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 dispensary of any technology platform owned and controlled by the dispensary, or independently licensed by the State of California under Medical 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 dispensary of medical cannabis or medical cannabis products.
- (j) "Dispensary" means a facility where cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale.
- (k) "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.
- (l) "Distribution" means the procurement, sale, and transport of medical cannabis or medical cannabis products between entities licensed pursuant to the Medical Cannabis Regulation and Safety Act and any subsequent State of California legislation regarding the same.

- (m) "Distributor" means a person licensed under the Medical Cannabis Regulation and Safety Act to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a license manufacturer, for sale to a licensed dispensary.
- (n) "Dried flower" means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- (o) "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.
- (p) "License" means the issuing of a license by the State of California, or one of its departments or divisions, under the Medical Cannabis Regulation and Safety Act to engage in Commercial Cannabis Activity. License shall not consist of any uses for non-medical marijuana that is licensed by the State consistent with the California Business and Professions Code Section 26050, et. seq.
- (q) "Live plants" means living medical cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.
- (r) "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 Medical Cannabis Regulation and Safety Act.
- (s) "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.
- (t) "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.
- (u) "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.

- (v) “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 request 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.
- (w) “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.
- (x) “Patient” or “qualified patient” shall have the meaning given that term by California Health and Safety Code Section 11362.7, but who does not have an identification card issued by the State Department of Health Services.
- (y) “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.
- (z) “Stacking” means the practice of growing marijuana plants on platforms or tables and stacking them in multiple layers on top of each other.
- (aa) “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) Accredited 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.
- (bb) “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.
- (cc) “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 Medical Cannabis Regulation and Safety Act.
- (dd) “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 Medical Cannabis Regulation and Safety Act.

**4000.30 Non-commercial Cannabis Activity prohibited in any zone.**

(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, 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 individuals reside within that residence. 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.

**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 within one (1) year of the ability to obtain a license from the State of California upon implementation of the Medical Cannabis Regulation and Safety Act, 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) Each Commercial Cannabis Business permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance.

(2) An application for renewal of a Commercial Cannabis Permit 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.

(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 Commercial Cannabis Business has not been in regular and continuous operation in the four (4) months prior to the renewal application.
  - d. 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.
  - e. The permittee fails to renew its State of California license.
- (4) If a renewal application is rejected, 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 Business and Professions Code §19328.
- (b) Prior to commencing operation, a Commercial Cannabis Business shall be subject to a mandatory building inspection and must obtain all required permits or approvals which would otherwise be required including, but not limited to, a Commercial Cannabis Permit, building permit(s), and a valid Use Permit, required by the Grover Beach Municipal Code.
- (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 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.
- (d) Any individual prior to possessing, planting, cultivating, harvesting, drying or processing marijuana plants or possessing the marijuana produced from those plants consistent with paragraph (3) of subdivision (a) of Health and Safety Code Section 11362.1, shall contact the City of Grover Beach Police Department and Register consistent with the procedures established by the Department. There shall be a processing fee as established in the City of Grover Beach's Master Fee Schedule.

**4000.50 Security Measures.**

The City Chief of Police or his/her designee is authorized to promulgate 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 sufficient 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 facility 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 individuals 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 dispensary. 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 the premises 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) 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 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 building.

- (b) Each Commercial Cannabis Business shall identify a liaison to the Grover Beach Police Department who shall be reasonably available to meet with the Chief of Police or his designees regarding security measures and operational issues.
- (c) As part of the application and permitting process, each Commercial Cannabis Business shall have a transportation plan describing the procedures for safely and securely transporting cannabis and cannabis products and currency.
- (d) A Commercial Cannabis Business shall notify the Chief of Police or his/her designee within twenty-four (24) hours after discovering any of the following:
  - (1) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the Chief of Police or his/her designee.
  - (2) Diversion, theft, loss, or any criminal activity involving the Commercial Cannabis Business or any agent or employee of the Commercial Cannabis Business.
  - (3) The loss or unauthorized alteration of records related to cannabis, or employees or agents of the Commercial Cannabis Business.
  - (4) Any other breach of security.

4000.60 **Employees; Employee Work Permits; Identification.**

- (a) Work permit required. Any person who is an employee or who otherwise works or volunteers within a Commercial Cannabis Business must obtain a work permit from the City Manager or his/her designee. The City Manager or his/her designee is hereby authorized to promulgate all regulations necessary to implement the work permit process contemplated in this section including, but not limited to, the reasons for denial of a work permit to any person. A work permit shall be valid for a twelve (12) month period and must be renewed on an annual basis. Applications for work permits shall be submitted under oath and shall contain a statement of the past criminal record, if any, of the applicant and such information as may be deemed necessary by the City Manager or his/her designee to determine whether the applicant is a person to be issued a work permit. The application shall be accompanied by fingerprints and a recent photograph of the applicant in a form and manner as required by the Chief of Police or his/her designee. In the event a person changes employment from one Commercial Cannabis Business within the city to another, the work permit holder shall notify Chief of Police or his/her designee(s) in writing of the change of employment within ten (10) days of such change or the work permit shall be suspended or revoked and such person shall not be permitted to work within any Commercial Cannabis Business within the City.

- (b) Identification. Each person to whom a work permit is issued shall wear his or her personal identification card, issued by the City of Grover Beach, at a prominent and readily-visible location on the outermost garment and approximately chest-high. Such identification card shall at all times be in good and readable condition.
- (c) Employee Records. Each owner or operator of a Commercial Cannabis Business shall maintain on-site a current register of all the employees currently employed by the Commercial Cannabis Business and shall produce such register to the Chief of Police or his/her designee or any other City of Grover Beach official authorized to enforce the Grover Beach Municipal Code for purposes of determining compliance with this Chapter.
- (d) Fees. Each application for a work permit and renewal of an existing work permit shall be accompanied by a fee set by resolution of the City Council and shall be valid for a period of twelve (12) months from the date of issuance, unless terminated, suspended, or revoked sooner. The fee is non-refundable and shall not be returned in the event the work permit is denied, revoked, or suspended.

**4000.70 Right to Occupy and to Use Property.**

As a condition precedent to the City's issuance of a Commercial Cannabis Permit pursuant to this Chapter, any person intending to open and to operate a Commercial Cannabis Business shall provide sufficient evidence of the legal right to occupy and to use the proposed location. In the event the proposed location is leased from another person, the applicant for a permit under this Chapter shall provide a signed and notarized statement from the owner of the property to demonstrate the property owner has acknowledged and has consented to the operation of a Commercial Cannabis Business on the property.

**4000.80 Location of Commercial Cannabis Business; 100 Foot Setback from Residential Zones.**

- (a) Commercial Cannabis Businesses shall be required to comply with all zoning, land use, and development regulations applicable to the underlying zone in which they are permitted to establish and operate as set forth in Article IX, Development Code of the Grover Beach Municipal Code.

**4000.90 Restriction on Alcohol Sales.**

No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of any Commercial Cannabis Business. No Commercial Cannabis Business may operate at the same location as an alcohol-related use as that term is defined in the Grover Beach Municipal Code.

**4000.100 Concurrent Regulation with State.**

It is the stated intent of this Chapter to regulate Commercial Cannabis Activity in the City of Grover Beach concurrently with the State of California.

**4000.110 Compliance with Laws.**

It is the responsibility of the owners and operators of the Commercial Cannabis Business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions which violate state law or local law with respect to the operation of a Commercial Cannabis Business. It shall be the responsibility of the owners and the operators of the Commercial Cannabis Business to ensure that the Commercial Cannabis Business is, at all times, operating in a manner compliant with all applicable state and local laws, any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the Commercial Cannabis Permit. Nothing in this Chapter shall be construed as authorizing any actions which violate State law with regard to the operation of a Commercial Cannabis Business.

**4000.120 Inspection and Enforcement.**

- (a) The Chief of Police or his/her designee and any other City of Grover Beach official charged with enforcing the provisions of the City of Grover Beach Municipal Code, or any provision thereof, may enter the location of a Commercial Cannabis Business at any time during the hours of operation without notice and inspect the location of any Commercial Cannabis Business as well as the recordings and records maintained pursuant to this Chapter or the applicable provisions of State law.
- (b) It is unlawful for any person having any responsibility over the operation of a Commercial Cannabis Business to refuse to allow, impede, obstruct, or interfere with an inspection, or the review of the copying of records and monitoring (including recordings) including, but not limited to, the concealment, destruction, and falsification of any recordings or records.
- (c) The Chief of Police or his/her designee or any other person charged with enforcing the provisions of this Chapter may enter the location of a Commercial Cannabis Business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for law enforcement and/or public safety purposes. Any samples obtained by the City of Grover Beach shall be logged, recorded, and maintained in accordance with City of Grover Beach Police Department standards for evidence. At all other times, the Chief of Police or his/her designee may enter the location of a Commercial Cannabis Business to obtain samples of cannabis upon reasonable notice.

**4000.130 Fees and Charges.**

- (a) No person may commence or continue any Commercial Cannabis Activity in the City of Grover Beach without timely paying in full all fees and charges associated with the operation of a Commercial Cannabis Activity. Fees and charges associated with the operation of a Commercial Cannabis Activity shall be established by resolution of the City Council and contained within the City's Master Fee Schedule.

- (b) All Commercial Cannabis Businesses operating pursuant to this Chapter shall pay any and all applicable sales, use, business or other taxes, and all license, registration, or other fees pursuant to federal, state, and local law.

**4000.140 Violation and Enforcement.**

- (a) Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance.
- (b) Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City of Grover Beach Municipal Code. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, any permit issued pursuant to this Chapter being deemed null and void, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Grover Beach may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the Commercial Cannabis Activity or persons related thereto, or associated with, the Commercial Cannabis Activity. Additionally, when the Chief of Police or his/her designee determines there is an imminent threat to public health, safety or welfare, the Commercial Cannabis Permit, issued by the City of Grover Beach pursuant to this Chapter, shall immediately become suspended, pending an administrative hearing pursuant to GBMC Chapter 4 of Article I..
- (c) Notwithstanding an initial verification of compliance by the Commercial Cannabis Activity with the provisions of this Chapter, any Commercial Cannabis Business later found to be in violation of any of the requirements of this Chapter at any time is subject to the enforcement provisions provided in this section.
- (d) The remedies provided herein are not to be construed as exclusive remedies and in the event of a violation the City may pursue any proceedings or remedies otherwise provided by law.

**4000.150 Limitations on City's Liability.**

To the fullest extent permitted by law, the City of Grover Beach shall not assume any liability whatsoever with respect to having issued a Commercial Cannabis Permit pursuant to this Chapter or otherwise approving the operation of any Commercial Cannabis Business pursuant to this Chapter. As a condition of approval of any Commercial Cannabis Permit issued pursuant to this Chapter, the person to which a Commercial Cannabis Permit is issued shall be required to meet all of the following conditions:

- (a) Execute an agreement indemnifying, defending (at its sole cost and expense), and holding the City of Grover Beach and its officers, employees, attorneys, representatives, and agents harmless from any and all claims, losses, damages, injuries, or liabilities associated with the permitting or approving the operation of a Commercial Cannabis Activity or the operation thereof or associated with the Commercial Cannabis Business or its members' violation of any federal, state or local laws.

- (b) Maintain insurance at coverages, limits, and with conditions thereon determined necessary by the City Attorney and City's Administrative Services Director.
- (c) Reimburse the City of Grover Beach for any and all costs and expenses, including attorney fees and costs and court costs that the City of Grover Beach may be required to pay as a result of any legal challenge related to the City's approval of a Commercial Cannabis Permit pursuant to this Chapter or the City of Grover Beach's approval of the operation of a Commercial Cannabis Activity. The City of Grover Beach may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the obligations imposed under this section.

4000.160      **Commercial Cannabis Permit Application Procedures and Application Requirements.**

Permittee Selection Process; Criteria for Review; Renewal, Suspension, or Revocation of a Permit: In addition to those requirements set forth in this section and elsewhere in this Chapter, the City Council shall by resolution or ordinance adopt such forms, fees, and procedures as are necessary to implement this Chapter with respect to the initial selection, future selection, investigation process, renewal, revocation, and suspension of Commercial Cannabis Business permits..

- (a) At a minimum, the application shall contain the following requirements:
  - (1) The printed full name, signature, date of birth, social security number, and present address and telephone number of all persons and entities responsible for the operation of the Commercial Cannabis Business including managers, corporate officers, investors, any individual with an ownership interest, any member of a board of directors, any general or limited partner, and/or any member of a decision-making body for the Commercial Cannabis Business.
  - (2) The address to which correspondence from the City of Grover Beach is to be sent.
  - (3) The names and addresses of all businesses operated by and the employment of the applicant(s) for the five (5) years immediately preceding the date of the application.
  - (4) Any litigation in which the applicant(s) has been involved within the five (5) years immediately preceding the date of the application and a statement of whether any business currently operated by the applicant(s) or operated by the applicant(s) within the five (5) years immediately preceding the date of the application has been investigated or the permit or license authorizing the operation of such business has been revoked or suspended within the five (5) years immediately preceding the date of the application.
  - (5) The address of any Commercial Cannabis Business currently being operated by the applicant(s), or any of them, or which have been previously operated by them within the last five years.

- (6) The supply sources for all cannabis and cannabis products sold at the Commercial Cannabis Business. Product supply chain including the site(s) where cultivation occurs, the product is processed or manufactured, any required testing of cannabis or cannabis products, transportation, and packaging and labelling criteria.
- (7) The names and telephone numbers of the person(s) to be regularly engaged in the operation of the proposed Commercial Cannabis Business, whether an employee, volunteer or contractor. The application shall also have the names and telephone numbers of those persons having management and supervisory responsibilities for the proposed Commercial Cannabis Business.
- (8) Odor control devices and techniques to prevent odors from marijuana from being detectable off-site.
- (9) Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated or excess medical cannabis product.
- (10) Procedures for inventory control to prevent diversion of cannabis and cannabis product, employee screening, storage of cannabis and cannabis product, personnel policies, and record-keeping procedures.
- (11) A detail of the procedures to be utilized at the facility including a description of how chemicals and fertilizers will be stored, handled, used and disposed of; manufacturing methods, the transportation process, inventory procedures, and quality control procedures.
- (12) A site plan and floor plan of the Commercial Cannabis Business denoting the property lines and the layout of all areas of the Commercial Cannabis Business including storage, cultivation, manufacturing, testing, distributing, reception/waiting, and all ancillary support spaces, and the relationship of the facility to adjacent properties and land uses.
- (13) An operations and security plan in conformance with Section 4000.50.
- (14) Standard operating procedures detailing how operations will comply with state and local regulations, how safety and quality of products will be ensured, record-keeping procedures for financing, testing, and adverse event recording, and product recall procedures.
- (15) Proposed hours of operation.
- (16) Recycling and Waste disposal information.
- (17) Medical recommendation verification and youth access restriction procedures.

- (18) A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
- (19) Detailed description of energy and water usage plan enumerating best practices and leading industry practices in efficient utilization of both resources.
- (b) No person who has a record of being convicted of a felony or crime of moral turpitude within the past ten (10) years may be engaged (actively or passively) in the operation of any Commercial Cannabis Business. A conviction within the meaning of this sections means a plea or verdict of guilty or a conviction or diversion following a plea of nolo contendere.
- (c) The Chief of Police or his/her designee shall review each application to determine whether it contains all the required information. If the application does not contain all of the required information, it shall be returned to the applicant for completion. The Chief of Police or his/her designee shall endeavor to conclude their review within ninety (90) days of the filing of the application. If additional time is necessary, the Chief of Police or his/her designee will advise the applicant of an estimated review time.
- (d) In reviewing an application for a permit pursuant to this Chapter or in reviewing the proposed Commercial Cannabis Business, the Chief of Police or his/her designee may request whatever additional information is deemed necessary to carry out the purposes of this Chapter.
- (e) The City Council shall have the authority to either grant or deny the application for a Commercial Cannabis Permit. Notwithstanding what is otherwise provided in this Chapter, the City Council, when approving a Commercial Cannabis Permit, may place any additional limitations and conditions on the operation of a Commercial Cannabis Business the Council deems necessary, consistent with the public interest and with this Chapter.
- (f) When an application is denied, the City Council shall prepare and file a statement of decision giving the reasons for the denial and the findings of fact upon which the decision is based.
- (g) In addition to whatever additional findings may be made by the City Council, an application for a Commercial Cannabis Permit may be denied upon making any of the following findings:
- (1) The applicant made one or more false or misleading statements or omissions on the Commercial Cannabis Permit application or during the application process.
  - (2) The Commercial Cannabis Business is not organized in strict compliance with all applicable laws and regulations.
  - (3) The applicant fails to meet the requirements of this Chapter, or the conditions of the Use Permit.

- (4) The operation of the proposed Commercial Cannabis Business at the proposed location is prohibited by any state or local law or regulation.
- (5) Any person who is listed on the application has been convicted of a felony within the past ten (10) years. A conviction within the meaning of this section means a plea or a guilty verdict or a conviction or diversion following a plea of nolo contendere.
- (6) Any person who is listed on the application is a licensed physician making patient recommendations for medical cannabis pursuant to State law.
- (7) The applicant or the operator listed in the application is less than twenty one (21) years of age.

**4000.170 Records and Reporting.**

- (a) Subject to the Health Insurance Portability and Accountability Act (HIPAA) regulations, each Commercial Cannabis Business shall allow City of Grover Beach officials to have access to the Commercial Cannabis Business's books, records, accounts, and any and all data relevant to its permitted activities for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data will be produced no later than twenty-four (24) hours after receipt of the City's request or within a reasonable time as authorized in writing by the City.
- (b) Each Commercial Cannabis Business shall file with the Chief of Police or his/her designee an audit of its financial operations for the previous fiscal year, complete and certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles. The audit shall include but not be limited to a discussion, analysis, and verification of each of the records required to be maintained pursuant to this Chapter. The information contained in the audit shall be made available in standard electronic format which shall be compatible with Microsoft Office programs and software and which can easily be imported into either Excel, Access or any other contemporary software designated by the Chief of Police.
- (c) All Commercial Cannabis Businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing and distribution processes until sold or distributed.
- (d) Each owner and/or operator of a Commercial Cannabis Business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of all employees currently employed by the Commercial Cannabis Business and shall disclose such register to any City of Grover Beach official upon request.

All records required by this Chapter shall be maintained by the Commercial Cannabis Business for a period of not less than seven (7) years and shall otherwise keep accurate

records of all Commercial Cannabis Business activity and provide such records for inspection consistent with California Business and Professions Code section 19327 and any additional rules promulgated by the licensing authority pursuant to that section or the City Council by resolution or ordinance.

**4000.180 Prohibition on Transfer of Commercial Cannabis Permits.**

- (a) No person shall operate a Commercial Cannabis Business under a Commercial Cannabis Permit issued pursuant to this Chapter at any place or location other than that identified on the permit.
- (b) No person shall transfer ownership or control of a Commercial Cannabis Business or transfer a permit issued pursuant to this Chapter unless and until that person first obtains the consent of the City Manager or his/her designee and the proposed transferee submits all required application materials and pays all applicable fees and charges and independently meets the requirements of this Chapter such as to be entitled to the issuance of an original Commercial Cannabis Permit pursuant to this Chapter. Ownership shall be defined as including transfer of over 50 percent of equity or ownership control of the subject business/license.
- (c) Any attempt to transfer or any transfer of a Commercial Cannabis Permit issued pursuant to this Chapter is hereby declared void and the Commercial Cannabis Permit deemed immediately revoked and no longer of any force or effect.
- (d) The Chief of Police or their designee(s) shall be notified within 5 calendar days when an employee terminates employment with a licensee and the employee identification badge shall be surrendered to the Police Department at this time.

**4000.190 Packaging and Labelling.**

Prior to the sale or the delivery of any edible cannabis or edible cannabis product the same shall be labelled and in tamper-evident packaging which at least meets the requirements of California Business and Professions Code section 19347, as the same may be amended from time-to-time or superseded or replaced by subsequent State legislation or by any department or division of the State of California. The City Council may impose additional packaging and labelling requirements on cannabis or cannabis products by resolution.

**4000.200 Operating Requirements for All Commercial Cannabis Uses.**

In addition to those operating requirements specifically set forth elsewhere in this Chapter and except as may otherwise be expressly set forth in this Chapter, the following operating requirements shall apply to all Commercial Cannabis Businesses operating in the City of Grover Beach.

- (a) **Restriction on Consumption.** Cannabis shall not be consumed on the premises of any Commercial Cannabis Businesses or elsewhere in the City of Grover Beach other than within private residences.

- (b) No cannabis or cannabis products shall be visible from the exterior of the property or building. No outdoor storage of cannabis or cannabis products is permitted at any time.
- (c) Reporting and Tracking of Product and of Gross Sales. Each Commercial Cannabis Business shall have in place a point-of-sale tracking system to track and to report on all aspects of the Commercial Cannabis Business including, but not limited to, such matters as cannabis tracking, inventory data, and gross sales (by weight and by sale) and shall ensure that such information is compatible with the City's record-keeping systems. The system must have the capability to produce historical transactional data for review by the City of Grover Beach. All information provided to the City pursuant to this subsection shall be confidential and shall not be disclosed, except as may otherwise be required under law.
- (d) All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State and local regulations.
- (e) Emergency Contact. Each Commercial Cannabis Business shall provide the City Chief of Police or his/her designee with the name, telephone number (mobile preferred, if available) of an on-site employee or owner to whom emergency notice can be provided.
- (f) Signage and Notices.
  - (1) In addition to the requirements otherwise set forth in this section, business identification signage for a Commercial Cannabis Business shall conform to the requirements of Article IX of the Grover Beach Municipal Code, including, but not limited to, an issuance of a City of Grover Beach sign permit.
  - (2) No signs placed on the premises of a Commercial Cannabis Business shall obstruct any entrance or exit to the building or any window.
  - (3) Each entrance to a Commercial Cannabis Business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the Commercial Cannabis Business is prohibited.
- (g) Minors. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a Commercial Cannabis Business.

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 twenty-one (21) years of age is permitted to enter upon the premises of the Commercial Cannabis Business.

- (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 a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the medical marijuana 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.
- (i) Display of Commercial Cannabis Permit. The original copy of the permit issued by the City of Grover Beach pursuant to this Chapter shall be posted inside the Commercial Cannabis Business in a location readily-visible to the public.
- (j) Background Check. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which authorizes city authorities to access state and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an owner, manager, supervisor, employee or volunteer, of the Commercial Cannabis Business must submit fingerprints and other information deemed necessary by the Chief of Police or his/her designee(s) for a background check by the Grover Beach Police Department. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which requires that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record, no person shall be issued a permit to operate a commercial cannabis business or a related work permit unless they have first cleared the background check, as determined by the Chief of Police, as required by this section. A fee for the cost of the background investigation, which shall be the actual cost to the City of Grover Beach to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a Commercial Cannabis Business permit is submitted. If this amount is not sufficient, the applicant shall provide additional amounts that are necessary and if the applicant is unable to provide the additional amounts necessary to complete the investigation, the investigation shall cease and shall not continue until such additional amounts are paid. Upon completion of the investigation or in the event

the applicant withdraws their application, any fees paid for this process will be deemed non-refundable.

- (k) Loitering. The owner and/or operator of a Commercial Cannabis Business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.
- (l) Permits and other Approvals. Prior to the establishment of any Commercial Cannabis Business or the operation of any such business, the person intending to establish a Commercial Cannabis Business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zone in which such Commercial Cannabis Business intends to establish and to operate.
- (m) Each Commercial Cannabis Business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the Commercial Cannabis Business can be provided. Each Commercial Cannabis Business shall also provide the above information to all businesses and residences located within one hundred (100) feet of the Commercial Cannabis Business as measured from the property line.

4000.210 **Operation Requirements for Cultivation, Manufacture, Waste, and Storage Requirements.**

(a). Any person issued a permit pursuant to this Chapter must follow all pesticide use requirements of local, state and federal law. The San Luis Obispo County Agricultural Commissioner may inspect the Commercial Cannabis Business at any time during business hours to ensure compliance with this Section.

(b). All weighing devices must be maintained in compliance with local, state or federal law and comply with applicable regulations regarding device registration with the Agricultural Commissioner.

(c). Any person issued a permit pursuant to this Chapter must follow all local, state and federal requirements for solid waste and hazardous waste disposal. The San Luis Obispo County Health Agency may inspect the Commercial Cannabis Business at any time during business hours to ensure compliance with this Section.

(d). In no case, shall any hazardous, flammable, or explosive substances be used to process or manufacture cannabis products on site other than approve by this Chapter. The City of Grover Beach may inspect the Commercial Cannabis Business at any time during business hours to ensure compliance with this Section.

(e). Stacking shall be allowed in a given structure but only to the point that measuring the total canopy of each level of stacking is cumulatively no greater than the maximum canopy size allowed under state licensing.

4000.220 **Operating Requirements for Cultivation and Nurseries.**

- (a) Outdoor Cultivation and Nursery Activity Prohibited. All outdoor cultivation and nursery activity, including greenhouses, is prohibited.
- (b) In no case, shall cannabis plants be visible from a public or private road, sidewalk, park or any common public viewing area.
- (c) If a parcel or lot includes cultivation or nursery activities as defined in Business and Professions Code §19332, the parcel or lot may have only one cultivation license or nursery license located on the parcel or lot and the cultivation and nursery activity must be permitted pursuant to this Chapter and state law.
- (d) Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents, or other wildlife.
- (e) In no case, shall any hazardous, flammable or explosive substances be used to process or manufacture cannabis products on site.
- (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; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis for non-medical purposes.
- (g) All applicants for a cannabis cultivation or nursery permit shall submit the following in addition to the information generally otherwise required for a Commercial Cannabis Business:
  - (1) An operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of the nursery or cultivation activities and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season harvesting.
  - (2) A description of a legal water source, irrigation plan, and projected water use plan.
  - (3) Identification of the source of electrical power and plan for compliance with applicable Building Codes and related codes.
  - (4) Energy efficient lighting systems shall be used.

(5) Mixed light buildings shall include in the Operations Plan the hours that grow lights will be operational. No grow lights shall be operational between the hours of dusk and dawn unless it can be demonstrated that there is no light visible through the roof and windows of grow areas.

(6) The use shall operate in compliance with the approved Water Recycling Management Plan at all times.

**4000.230 Operating Requirements for Cannabis Manufacturing; Edibles and Other Cannabis Products; Sale or Distribution of Edible and Other Cannabis Products.**

The manufacturing of food or other products infused with or which otherwise contain cannabis shall be manufactured within the appropriate zones as defined in Article IX, Development Code, of the City of Grover Beach Municipal Code, subject to the regulations set forth in this section and subject to whatever additional regulations may be promulgated hereunder by an ordinance or resolution of the City Council or otherwise pursuant to this Chapter.

(a) No edible cannabis products shall be sold or distributed on a retail basis at a Commercial Cannabis Business operating unless operating under a permit issued pursuant to this Chapter and consistent with a license issued by the State of California in accordance with Business and Professions Code sections 19334 et sequentes.

(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 and including but not limited to Business and Professions Code section 19347 or any other pertinent State licensing requirements for medical cannabis products.

(c) Any edible cannabis product that is made to resemble a typical food product must be in a properly labeled opaque (non-see-through) package before it leaves the Commercial Cannabis Business. Deliveries must be in a properly labeled opaque package when delivered.

**4000.240 Operating Requirements for Cannabis Manufacturing (Level one): Extraction, etc.**

(a) Cannabis manufacturing facilities requiring a Type-6 state license (using non-volatile solvents) as defined in Business and Professions Code §19341, shall be subject to the following operational requirements at all times. Only Type 6 Manufacturing using non-volatile solvents shall be allowed within the City.

(b) Any compressed gases used in the manufacturing process shall not be stored on any property within the City of Grover Beach in containers that exceed 150 pound tanks in size. Each site or parcel subject to a Commercial Cannabis Permit shall be limited to a total of eight tanks on the property at any time.

(c) Cannabis manufacturing facilities are limited to certain methods, equipment, solvents, gases and mediums when creating marijuana extracts.

- (d) Cannabis manufacturing facilities may use gases exhibiting low to minimal potential human-related toxicity approved by the Five Cities Fire Authority and consistent with Type 6 state licensing for Level One Manufacturing.
- (e) Any extraction process must use a professional grade closed loop CO<sub>2</sub> gas extraction system where every vessel is rated to a minimum of six hundred pounds per square inch. The CO<sub>2</sub> must be of at least ninety-nine percent purity.
- (f) Closed loop systems for CO<sub>2</sub> extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number.
- (g) Certification from a licensed engineer must be provided to the Five Cities Fire Authority for professional grade closed loop systems used by any cannabis manufacturing system to certify that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, such as:
  - a. The American Society of Mechanical Engineers (ASME);
  - b. American National Standards Institute (ANSI);
  - c. Underwriters Laboratories (UL); or
  - d. The American Society for Testing and Materials (ASTM)
- (h) The certification document must contain the signature and stamp of a professional engineer and serial number of the extraction unit being certified.
- (i) Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the Five Cities Fire Authority official and meet any required fire, safety, and building code requirements specified in the California Building Reference Codes.
- (j) Cannabis Manufacturing Facilities may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create keef, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.
- (k) Cannabis Manufacturing Facilities creating marijuana extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace. Any person using non-volatile solvents or gases in a closed looped system to create marijuana extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.
- (l) Parts per million for one gram of finished extract cannot exceed 500 parts per million of residual solvent or gas when quality assurance tested.

**SECTION 4.** All ordinances and parts of ordinances in conflict with those sections amended or added herein are hereby repealed.

**SECTION 5.** Effective Date. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty first day after its final passage.

This Ordinance was introduced and read by title only on the \_\_\_\_ day of \_\_\_\_\_ 2017 and was PASSED, APPROVED, AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2017 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

**\*\* DRAFT \*\***

\_\_\_\_\_  
John P. Shoals, Mayor

Attest:

\_\_\_\_\_  
Donna L. McMahon, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
David P. Hale, City Attorney