PLEDGE TO THE FLAG

1. PRELIMINARY MATTERS:
   
   A. Public Comment: Requests from the public to speak to the Commission on matters not on the agenda
   
   B. Requests for Continuance, Withdrawals, or Addition of Ex-Agenda items
   
   C. Conflicts and/or Ex-Parte Communications
   
   D. Approval of Minutes
      March 5, 2018

2. PUBLIC HEARINGS ON NEW DEVELOPMENT AND CITY PROJECTS
   
   A. Review of Existing Ordinance Regarding Marijuana
      Location: Citywide
      Planner: Roy Hanley, Assistant City Attorney
      Comprehensive review of existing ordinances regarding Adult Use Marijuana and Medical Marijuana for the purposes of making recommendations to the City Council for ordinance changes to govern all aspects of Adult Use and Medical Marijuana including, but not limited to, from agricultural cultivation through processing, delivery, retail, dispensary, and personal cultivation.

3. DISCUSSION ITEMS

4. PLANNING COMMISSIONER’S COMMENTS
5. PLANNING/COMMUNITY DEVELOPMENT DIRECTOR’S COMMENTS
(Oral reports only/no written materials provided in packet)

6. ADJOURNMENT
CALL TO ORDER:  Chair Clarke called the meeting to order at 6:00 p.m.

PLEDGE TO THE FLAG

1. PRELIMINARY MATTERS:

A. Swearing in of New Planning Commissioner
   Lisa Martin, City Clerk, swore in the new Planning Commissioner, Daniel Johnson.

B. Public Comment: Requests from the public to speak to the Commission on matters not on the agenda
   None.

C. Requests for Continuance, Withdrawals, or Additions of Ex-Agenda items
   None.

D. Conflicts and/or Ex-Parte Communications
   Commissioner Petersen explained he has a conflict with Item 2A.

E. Approval of Minutes
February 5, 2018

Motion to approve the minutes with revisions made by Commissioner Infanti and seconded by Commissioner Williams. Vote is 5-0.

2. PUBLIC HEARING ON NEW DEVELOPMENT AND CITY PROJECTS

A. Old Mill Shops Development Plan
   Location: 486-490 First Street
   APN: 139-182-029 and 139-182-030
   Planner: Brynda Messer

   Hearing on the request of RRM Design Group, agent for the owner, FPA Old Mill Associates, LP, to consider the approval of a Development Plan located at 486-490 First Street [application filed June 5, 2017] for the renovation and change of use of an existing restaurant, retail and commercial building into restaurant, retail and fourteen (14) hotel rooms within the TRC zone district, pursuant to Section 11-7A-1-B.2 of the Title 11 Zoning Regulations; consider a Modification of Parking Requirements pursuant to Section 11-11-7A.6; and to accept the Categorical Exemption pursuant to Section 15332 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA).

   Commissioner Petersen excused himself from participating on this item due to a possible conflict of interest.

   Brynda Messer presented the staff report and PowerPoint presentation, noting the applicant is requesting a parking modification to waive eight (8) spaces and pay for one space with in-lieu fees.

   Chair Clarke asked staff how many spaces did the Solvang Suites project pay for, and staff responded they paid for seventeen (17).

   Scott Martin, architect for the owner, followed with their presentation of the project. He gave a briefing of the exterior changes, interior renovations, and explained the structural upgrades proposed for the building. He explained the reasoning for their request for the parking modification, stating that they have conjunctive parking for the hotel use and the restaurant. He followed stating they are requesting a 30% reduction of parking, they are providing 17 spaces on site and are deficient in 9.

   Chair Clarke opened the meeting to public comment at 6:28, and seeing no speakers, closed public comment.

   Commissioner Infanti stated it is a beautiful project, likes the design, and will compete with the other high end hotels in the valley. She followed stating that
their request for conjunctive parking is too optimistic, and that it is unfair to the other applicants that have paid in-lieu fees. She stated she would like the hotel room parking spaces preserved, and give the lower percentages to the other uses. She asked if any structures will be removed from the site. Mr. Martin answered yes, portions of the garage and storage will be removed to allow for more parking. He followed stating there is major structural repairs that need to be done anyway, and the lower level is great for parking.

Commissioner Johnson likes the project but does see the issue with parking.

Commissioner Williams stated the architecture looks great. He is inclined to give some relief to parking requirements, considering there are two parking lots very close to the project property. He followed stating he has concerns regarding the structural work, to which Mr. Martin responded they are proposing to add more structural elements.

Chair Clarke stated he thinks a reduction of 30% of parking is extreme, that he hopes it does not end up painted like the Landsby, and stated the project shall not interrupt the Farmers Market.

Mr. Martin said they had to start somewhere in regard to parking and requesting the modification. He followed saying the applicant is ready to pay for more parking, and will wait to hear the answer from PC.

Holly Owen, Planning Director, stated that staff had spoken with the applicants during the submittal process that other projects had traffic and parking analysts provide parking information for their conjunctive parking modification request. She followed stating that PC might be setting a precedent by approving conjunctive use without analysis.

Commissioner Infanti stated she would have liked to have seen a study provided, but thinks the conjunctive use can be applied to the retail, restaurant and employee parking.

Chair Clarke responded asking if the applicant could get a study done. Ms. Owen answered that the item could be continued to wait for a study.

Discussion followed regarding how to determine a number that is reasonable for the parking modification and a reasonable number to pay in-lieu parking fees. Commissioner Williams said four was reasonable. Roy Hanley, Assistant City Attorney stated that using a former project as precedent is that each project is different and the Commissioners may grant concessions as they see fit. Commissioner Infanti stated if the hotel is at 80% occupancy rate, then perhaps they can pay for five deficient spaces. Commissioner Johnson agreed.
Fran Corso, the owner’s representative, stated that providing a parking study and analysis would take up to 6-8 weeks for several thousand dollars. They would rather gain approval and pay in-lieu fees to get going on the project. Ideally they would like to pay for three spaces. They do not want to waste time and want a good relationship with the City.

Motion made by Chair Clarke to adopt Planning Commission Resolution 18-03 to approve the Development Plan, with the Parking Modification that the applicant shall purchase five (5) in-lieu parking spaces, and accept the Categorical Exemption pursuant to Section 15332 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA), and seconded by Commissioner Infanti. Vote is 4-0-1, with Commissioner Petersen not participating in voting due to a possible conflict of interest.

B. 1731 Laurel Avenue Lot Split (TPM 30,078)
Location: 1731 Laurel Avenue
APN: 139-091-019
Planner: Holly Owen

Hearing on the request of Jones and Jones, LLP, agent for owner, 1731 Laurel Avenue, LLC, for approval of Tentative Parcel Map No. 30,078 under Title 12, Subdivision Regulations, to divide one parcel of 23,617 square feet into two parcels of 13,201 (Parcel 1), and 10,416 (Parcel 2) in the 7-R-1 zone district; and to accept the Categorical Exemption pursuant to Section 15315 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA).

Holly Owen, Planning Director, presented staff report, noting there was one comment letter received from the public.

Brett Jones, agent for the owner, introduced himself. He thanked Holly Owen and Brynda Messer for their work on this item. He thanked Angela Janes for her work on the project. He followed stating he was here to answer any questions the commissioners had.

Commissioner Williams asked staff if any construction is proposed for the project, to which Ms. Owen replied no, only the TPM.

Commissioner Johnson asked about the letter from the public and if there were any consequences to the City, to which Mr. Hanley answered there was nothing to consider legally, as the previous owner never applied for any entitlements previously.

Chair Clarke opened public comment at 7:02, and with no comments, closed public comment.
Commissioner Petersen stated the fact that flag lots are permitted, they are everywhere, it should be clear they are permissible. Do we need a policy change to say that flag lots are ok?

Commissioner Williams asked about certain conditions of approval, specifically D6-8. Ms. Owen answered that those conditions are standard and customary for lot splits and refer to future construction. Mr. Hanley followed up stating that some things can be built without a permit, but would still need to comply with the conditions. Ms. Owen stated the future construction would need to come back for a Development Plan approval. Ms. Messer followed stating that they would not need to return, as uses in 7-R-1 are ministerial permits and do not require approval from Planning Commission.

Motion made by Commissioner Infanti to accept Planning Commission Resolution 18-04, and approve Tentative Parcel Map No. 30,078, and to accept the Categorical Exemption pursuant to Section 15315 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA), and seconded by Commissioner Petersen. Vote is 5-0.

3. DISCUSSION ITEMS

None.

4. PLANNING COMMISSIONER’S COMMENTS

None.

5. PLANNING/COMMUNITY DEVELOPMENT DIRECTOR’S COMMENTS

None from Ms. Owen. Mr. Hanley stated that cannabis regulations may be coming for discussion to Planning Commission next month.

Chair Clarke closed the meeting at 7:10 pm.
PLANNING COMMISSION
STAFF REPORT

TO:  SOLVANG PLANNING COMMISSION

FROM:  Roy A. Hanley, Assistant City Attorney

MEETING DATE:  April 2, 2018

DATE PREPARED:  March 16, 2018

SUBJECT:  Comprehensive review of existing ordinances regarding Adult Use Marijuana and Medical Marijuana for the purposes of making recommendations to the City Council for ordinance changes to govern all aspects of Adult Use and Medical Marijuana including, but not limited to, from agricultural cultivation through processing, delivery, retail, dispensary, and personal cultivation.

I.  RECOMMENDATION:
This item is on for discussion, and for action to make a recommendation to the City Council. The assistant city attorney makes no recommendation in regards to an approach to the Medical and Adult Use marijuana issues. All approaches mentioned are legal according to state law. Policy decisions in this regard are left to the Commission as far as recommendation and the City Council as far as action.

II.  DISCUSSION:
The City currently has in place an urgency ordinance forbidding Adult Use marijuana establishments in the City of Solvang. This urgency ordinance will expire in August. The City does have a regular ordinance in place (11-12-22) concerning medicinal marijuana which bans retail establishment and other activities in relation to medicinal marijuana, while allowing actual delivery of
medicinal marijuana to patients residing in the City limits. Staff is unaware of any violations of the existing urgency and regular ordinances mentioned.

No action has to be taken by the City in regards to the medicinal marijuana issue. The City must replace the urgency ordinance governing Adult Use before it expires. It is logical to consider both ordinances at the same time, so the medicinal use ordinance is subject to discussion and recommendation of any suggested changes.

The assistant city attorney does recommend that the Planning Commission discuss the issue of regulating, allowing or banning adult use marijuana growth, processing and sales in the City limits. A regular ordinance needs to be in place by August. The Planning Commission can consider the fact that even if the City adopts the current language in the urgency ordinance as a regular ordinance, effectively banning commercial growth, manufacturing, and retail sales in the City limits, the City is always free to address the issue again in the future and change the ordinance to make it less restrictive. Although we commonly refer to urgency ordinances and “permanent” ordinances, what we call “permanent” ordinances are in fact just regularly adopted ordinances that remain in effect until changed, as opposed to the limited life of an urgency ordinance. A city may not continually use urgency procedures for the same ordinance and Solvang must now consider and adopt a regular ordinance on the topic.

The City may not make marijuana possession or use illegal in the City limits. Marijuana cultivation, processing, sale and use remain illegal under federal law. The same are now legal, albeit with certain licensing requirements and other restrictions, according to state law. State law in turn allows cities the leeway to make determinations about whether or not to allow more than minimal personal growth inside a residence, whether or not to allow manufacturing and processing, and whether or not to allow retail establishments or the establishment of a brick and mortar location for delivery services. Bear in mind that while the City retains the ability to not allow a business of delivery to have a physical commercial location in the City, once such a delivery business obtains a state issued license for delivery of marijuana it is possible that such businesses located outside the City limits will be able to make legal deliveries within the City limits. (This is but one of many issues that are still subject to state regulatory determinations and subject to litigation in court by both local agencies wishing to forbid delivery and by providers arguing that no such rules can be enforced locally nor by the state.)

The current urgency ordinance for adult use does ban all adult use marijuana activities in the City limits. The only draft ordinance before you (attachment 4) that reads as if it is drafted for Solvang continues that ban because the last City Council decision on the matter reflected that policy determination. However, the Planning Commission is free to make other policy recommendations to the City Council and the current City Council is free to make a different policy
determination and allow either dispensaries, or retail adult use outlets, delivery services and growth and manufacturing (processing).

The Commission has also been provided examples of more lenient approaches taken by other jurisdictions. King City, Lompoc, and Grover Beach are examples to be looked at. King City is a city located in an agricultural area and has made the determination to allow processing and manufacturing of adult use marijuana similar to processing and manufacturing activities for produce that have taken place there for decades. Grover Beach has chosen to allow dispensaries of medical marijuana, but for now forbids adult use retail and regulates agricultural growth and processing as opposed to forbidding the same altogether. Lompoc has taken a more expansive approach.

All of the examples provided to the Commission are legal. However, even though the Adult Use initiative passed some time ago, the state regulatory agencies have yet to completely finalize how things will work, and once those regulations are in place, they will be subject to interpretation and litigation. That is a fact of life. It is not a reason to delay discussion, as litigation takes years, and regulations are always subject to change. We know, for instance, that Grover Beach has changed its regulations since adoption, precisely because there are three separate agencies of the state involved in adopting regulations. The regulations from different agencies are not always consistent with each other, and are always subject to interpretation by agencies and by marijuana growers, manufacturers and providers.

Staff has contacted the Sheriff’s office for a recommendation on the issue of adult use marijuana. The Sheriff’s office does not recommend allowing any activities in regards to adult use marijuana. Their concerns include: an increase in public intoxication and driving under the influence, an increase in juvenile use and associated issues resulting from the ease of getting marijuana from parents, older siblings and friends, a potential that in a tourist related economy a retail establishment might attract people from out of the area and increase undesirable conduct, and a concern that adult use marijuana might have an effect on Solvang’s marketing brand as a family oriented tourist destination.

It is difficult for the city attorney to give an accurate forecast on fiscal impacts. The state has set limits on tax revenues that can go to cities. A city can, however, pass a ballot measure establishing taxes on medicinal marijuana and on adult use marijuana. Grover Beach has passed such a tax measure. Officials from Grover Beach report that they expect such taxes to eventually generate tax revenues in excess of a million dollars per year. Such revenues can be general fund revenues, and may be spent on anything a city desires. Each city is in a unique situation, based upon its population, the population of nearby locations, and its geography as well as its relation to agricultural locations that might become licensed to grow adult use marijuana. As such, it is not possible to accurately state that the City of
Commercial Medical Cannabis Permits

On May 15, 2017 the City Council adopted two ordinances, Ordinance No. 17-05 and Ordinance No. 17-06, that allow commercial medical cannabis uses, including cultivation, manufacturing, distribution, testing laboratories, and two (2) dispensaries. The City began developing these ordinances in 2016 which culminated in the adoption of carefully written regulations to ensure the responsible implementation and operation of commercial medical cannabis businesses. The City does not allow commercial recreational cannabis uses at this time.

The City started accepting Use Permit applications on June 14, 2017 for all commercial medical cannabis uses, except for dispensaries, which required a pre-application process.

On June 5, 2017, the City Council approved a Dispensary Pre-Application process for dispensaries in order to establish an Eligibility Ranking List to determine the two applicants that would be able to proceed with applications for a Use Permit and Commercial Cannabis Permit.

On September 7, 2017, the Council reviewed the 12 dispensary pre-applications and affirmed that seven applicants were qualified to be placed on the eligibility list. On October 16, 2017, the Council determined that the Natural Healing Center was the top ranked applicant and The Milkman, The Monarch, and 805 Beach Breaks were tied as the second ranked applicants and authorized all three to proceed with submitting both a Use Permit and Commercial Cannabis Permit application. Based on the current ordinance allowing a maximum of two dispensaries, consideration of the Use Permit for those applicants in a three-way tie will be based upon the order of submittal of a complete application.

At the October 16, 2017 meeting, the Council also provided direction for staff to draft an amendment to the cannabis land use ordinance for Council consideration to allow up to four dispensaries and several amendments to the cannabis regulatory ordinance.

At the December 4, 2017 meeting, the City Council introduced and conducted first reading of two separate ordinances to increase the number of allowable commercial medical cannabis retailers and/or microbusinesses with a retailer use (previously referred to as "dispensaries") from two (2) to up to four (4) allowable permits, revise certain definitions, and make changes consistent with newly established state law. The Ordinances are scheduled for second reading and adoption on January 8, 2018. Additionally, the Council reviewed the eligibility ranking list and provided direction for staff to proceed with processing the top two ranked applications. Once the Ordinance allowing up to four permits becomes effective, the third and fourth ranked applications will be authorized to proceed through the process for a Use Permit.

At the January 22, 2018 meeting, the City Council approved Development Applications and Commercial Medical Cannabis Permits for The Monarch at 239 South 3rd Street and Natural Healing Center at 998 Huston Street in Grover Beach.

Applications for Commercial Medical Cannabis Uses

An applicant may process the Use Permit and Commercial Cannabis Permit concurrently as shown on the Development Review Process Flowchart. There is no limit on the number of applications the City will accept for commercial medical cannabis manufacturing, cultivation, distribution, and testing laboratory uses.

All commercial medical cannabis businesses will be required to obtain the following permits:
- a Use Permit approved by the City Council establishing the location, size, and types of uses allowed, and
- a Commercial Cannabis Permit to assure that all regulatory requirements are met.
- Businesses must also comply with the City’s commercial cannabis tax approved by voters in November 2016.

Use Permit Application forms and submittal requirement checklists:
- Development Application Form
- Authorized Agent Form, if applicable
- Commercial Cannabis Indemnification Agreement Form
Applicants may wish to review Fire & Life Safety Requirements at this time to ensure that the proposed use(s) would be able to comply with the requirements. Any information or reports shall be submitted as part of the Building Permit Application process.

Please note: Applications will need to pay an application deposit (ranging from $6,000 to $10,000 depending on the size and scope of the project) to cover the City's cost for reviewing the Use Permit application. Further information about this deposit is included within the Development Application Form listed above.

For Additional Information or Answers to Frequently Asked Questions
- Please see our: FAQs - Frequently Asked Questions on Commercial Medical Cannabis in Grover Beach
- Please contact the staff member or department as indicated below:

<table>
<thead>
<tr>
<th>Subject</th>
<th>Staff Member or Department</th>
<th>Phone and/or email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application Process</td>
<td>Janet Reese, Planner II</td>
<td>(805) 473-4524 or send an email</td>
</tr>
<tr>
<td>Building Code Requirements</td>
<td>Janet Reese, Planner II</td>
<td>(805) 473-4524 or send an email</td>
</tr>
<tr>
<td>Fire &amp; Life Safety</td>
<td>Five Cities Fire Authority</td>
<td>(805) 473-5490 or send an email</td>
</tr>
<tr>
<td>Live Scan and Background Checks</td>
<td>Laura Vinnedge, Police Administrative Assistant</td>
<td>(805) 473-4507 or send an email</td>
</tr>
<tr>
<td>Water and Sewer Connections or Street Improvements</td>
<td>Lynn Pearson, Administrative Analyst</td>
<td>(805) 473-4523 or send an email</td>
</tr>
</tbody>
</table>
Solvang can’t expect similar tax revenues should it choose to pursue legalization, regulation and taxation as its policy in regards to both Adult Use and Medical marijuana.

III. **ALTERNATIVES:**

There are no additional alternatives mentioned at this time.

IV. **FISCAL IMPACT:**

There is no fiscal impact from the making of a recommendation.

V. **ATTACHMENTS:**

1) Draft Ordinances From Other Jurisdictions for Reference:
   a) Grover Beach
   b) Paso Robles
   c) Lompoc
   d) San Luis Obispo
   e) Ukiah
2) Current City of Solvang Ordinance No. 16-319
3) Draft PC Resolution 18-05
4) Exhibit A – Draft Solvang Ordinance
5) Draft Notice of Exemption

VI. **REFERENCES:**

1) Links for “California Marijuana” explained by Lawyers
   [http://www.shouselaw.com/marijuana](http://www.shouselaw.com/marijuana)
2) Link for King City ordinances
   [http://qcode.us/codes//kingcity/?view=desktop&topic=17-17_03](http://qcode.us/codes//kingcity/?view=desktop&topic=17-17_03)
ORDINANCE NO. 17-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH
AMENDING GROVER BEACH MUNICIPAL CODE SECTIONS 2.40.020, 2.40.030, 6.10.020,
AND 9.10.020 OF ARTICLE IX, AND ADDING SECTION 4.10.045 OF ARTICLE IX, TO
ALLOW THE ESTABLISHMENT OF COMMERCIAL CANNABIS USES FOR THE
CULTIVATION, MANUFACTURING, DISPENSATION, TRANSPORTATION, DISTRIBUTION
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 Ordinance requires a Local Coastal Program Amendment because it
amends Development Code Sections 2.40, 4.10, 6.10, and 9.10 that affects the Coastal
Industrial (CI) and Coastal Industrial Commercial (CIC) Zones; and

WHEREAS, the Planning Commission held a public hearing on April 12, 2017 and
recommended the City Council approve the Development Code amendment; 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 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, 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, on October 9, 2015, Governor Jerry Brown signed the “Medical Marijuana Regulation and Safety Act” (“MMRSA”) into law which name was changed to Medical Cannabis Regulation and Safety Act (“MCRSA”); and

WHEREAS, the MCRSA, which is comprised of five 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, notwithstanding the comprehensive nature of both the Adult Use of Marijuana Act and the MCRSA, 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 medical 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, medical 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, a Negative Declaration was prepared for the project in conformance with the California Environmental Quality Act that concluded that the Development Code amendment would not have a significant impact on the environment.

WHEREAS, the City Council of the City of Grover Beach makes the following findings that the project is consistent with the applicable policies and requirements of Chapter 6 of the Local Coastal Program as follows:

Policy 6.7.1.(6) Development shall only be approved if it is first clearly demonstrated that the development will be served by an adequate, long-term public water supply.

The ordinance amendment will allow commercial medical cannabis uses including manufacturing, storage/distribution, testing labs and retail dispensaries which are all uses that are currently allowed in the Coastal Industrial and Coastal Industrial Commercial Zones. The only new use allowed is cultivation and nurseries, which as analyzed in the Negative Declaration, could include a small potential increase in water demand. Based on approximately 22 acres within the Coastal Industrial and Coastal Industrial Commercial Zones it is estimated that the cultivation area would be less than one acre which would consume about 2.5 acre-feet of water per year. The City's current water supply is 2,207 acre feet of water per year (AFY). The City's current water demand is 1,200 AFY. Therefore, the ordinance would have a negligible effect on the City's current demand. The City has an adequate long-term water supply in place to serve the new uses.

Policy 6.7.2.(4) Development shall only be approved if it is first clearly demonstrated that there is adequate, long-term public wastewater treatment capacity to serve such development.

The ordinance amendment will allow commercial medical cannabis uses including manufacturing, storage/distribution, testing labs and retail dispensaries which are all uses that are currently allowed in the Coastal Industrial Zone. The City is a member of the South San Luis Obispo County Sanitation District (SSLOCSOD) and is presently entitled to approximately 1.5 million gallons per day (MGD) of the treatment plant's 5 MGD average daily capacity. The city's estimated average flow rate in 2010 is 1.30 MGD, or about 87 percent of the City's allocated daily treatment capacity. Based on the negligible amount of additional water usage being primarily consumptive, wastewater discharge would remain constant. The City currently has excess demand of 0.20 MGD treatment capacity. Therefore, the City has adequate long-term wastewater treatment capacity in place to serve the new uses.

WHEREAS, the City Council of the City of Grover Beach makes the following findings consistent with Development Code Section 7.30.060 as follows:

1. The proposed amendment is consistent with the General Plan. The amendment is consistent with Land Use Element Goal LU-11 for industrial uses. The amendment is also internally consistent with all seven state mandated elements of the General Plan.
2. The proposed amendment is internally consistent with all other applicable provisions of the Development Code. The amendment requires all commercial medical cannabis uses comply with all applicable provisions of the Development Code.

3. The proposed amendment will not be detrimental to the public health, safety, or welfare of the City. The ordinance includes limitations on uses, minimum setbacks and numerous development standards to protect the public health, safety, and welfare. In addition, a regulatory ordinance will be adopted in Article III Chapter 18 that will establish additional operational and security requirements on all commercial medical cannabis uses. The ordinance also requires approval of a Use Permit and Commercial Cannabis Permit prior to operations. These discretionary permits allow for public comment on any proposed commercial medical cannabis use and require specific findings be made in the affirmative.

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

SECTION 1. Section 2.40.020 of Chapter 2 of Article IX, Purpose of the Industrial Zones, is amended as follows:

2.40.020 Purpose of the Industrial Zones

A. Industrial Zone (I). The Industrial Zone applies to areas of the City appropriate for light, medium and heavy manufacturing and assembly, industrial parks, warehouses, commercial cannabis uses, and similar and compatible uses. The area is also appropriate for smaller service businesses such as contractor's yards, vehicle repair and storage, and material sales and supplies. Live-work may be appropriate when compatible with surrounding uses.

B. Coastal Industrial Zone (CI). The Coastal Industrial Zone applies to areas of the City appropriate for light and medium manufacturing and assembly, industrial parks, warehouses, commercial cannabis uses, and similar and compatible uses. The area is also appropriate for smaller service businesses such as contractor's yards, vehicle repair and storage, and material sales and supplies. Live-work may be appropriate when compatible with surrounding uses. All development shall be consistent with the City's Local Coastal Program.

C. Coastal Industrial Commercial Zone (CIC). The Coastal Industrial Commercial Zone applies to the area adjacent to the Coastal Commercial Zone. The area is appropriate for technology businesses, custom and light manufacturing and assembly, commercial cannabis uses, and similar and compatible uses where all operations are conducted within the building. The area is also appropriate for office uses, live-work, recreational uses and similar and compatible uses. All development shall be consistent with the City's Local Coastal Program.

SECTION 2. Section 2.40.030 of Chapter 2, of Article IX, Industrial Zones Allowable Land Uses and Permit Requirements, is amended as follows:
### Industrial Zones Allowable Land Uses and Permit Requirements

<table>
<thead>
<tr>
<th>Land Use</th>
<th>CI</th>
<th>CIC</th>
<th>I</th>
<th>Specific Use Regulations</th>
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<tbody>
<tr>
<td><strong>Industry, Manufacturing &amp; Processing</strong></td>
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<td>Manufacturing, Artisan</td>
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<td>Storage – Personal Storage Facility</td>
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<td>Storage – Vehicles</td>
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<td>Meeting Facility, public or private</td>
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<tr>
<td>&lt; 3,000 sf</td>
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<td>&gt; 3,000 sf</td>
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<td>Studio – Art, Dance, Martial Arts</td>
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<td>Public or Quasi-Public Facility</td>
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<td>Specialized Education/Training</td>
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<td>Live/work Unit</td>
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<td>Fuel Dealer</td>
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<tr>
<td>General Retail</td>
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<tr>
<td>Plant Nursery</td>
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<td>--</td>
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<tr>
<td>Restaurant</td>
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<td>Vehicle Sales</td>
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### Table 2.6 Industrial Zones Allowable Land Uses and Permit Requirements

<table>
<thead>
<tr>
<th>Services</th>
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<th>Specific Use Regulations</th>
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<td>Business Support Services</td>
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<td>Catering Service</td>
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<td>Equipment Rental</td>
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<td>Maintenance Service – Client Site Services</td>
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<td>Medical services – Clinic/Urgent Care</td>
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<td>Mortuary/Funeral Home</td>
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<td>P</td>
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<tr>
<td>Office – Processing</td>
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<tr>
<td>Office – Professional</td>
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<td>Section 4.10.150</td>
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<td>Repair Services – Large Equipment</td>
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<td>Repair Services – Small Equipment</td>
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<tr>
<td>Vehicle Repair &amp; Services</td>
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#### Transportation & Infrastructure

<table>
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<th>Specific Use Regulations</th>
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</thead>
<tbody>
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<td>Telecommunication Facility</td>
<td>UP</td>
<td>UP</td>
<td>UP</td>
<td>Section 4.40</td>
</tr>
</tbody>
</table>

**End Note**

1. Projects located in the Coastal Zone may require a Coastal Development Permit (See Section 6.20.040).

**Legend**

- **P** Permitted Use
- **AUP** Administrative Use Permit Required
- **UP** Use Permit Required
- **--** Use Not Allowed

### SECTION 3.

Section 4.10.045 of Chapter 4, of Article IX, Commercial Cannabis Uses, is hereby added as follows:

**4.10.045 Commercial Cannabis Activity and Uses**

A. **Purpose.** This Section provides standards for 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 shall include those uses...
C. licensed in Business and Professions Code section 19300.7 and defined in Public Resource Code Section 19300.5 or as modified hereafter and Chapter 18 of Article III of the Grover Beach Municipal Code. No uses licensed under Chapter 5 of Division 10 of the California Business and Professions Code, specifically Section 26050 et seq. shall be allowed unless otherwise such restriction is precluded by the Control, Regulate and Tax Adult Use of Marijuana Act.

B. Review Authority. The Council is authorized to approve Use Permits for commercial cannabis uses. The Planning Commission shall make a recommendation to the Council.

C. Permit requirements. A land Use Permit shall be approved by the Council 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.

D. Limitation on number of dispensaries. The maximum number of dispensaries is two.

E. Limitation on manufacturing uses. Level 1 and Level 2 manufacturing (State Licenses Types 6 and 7) shall be authorized subject to Municipal Code Article III Chapter 18.

F. Setbacks. Commercial Cannabis Uses shall comply with the following minimum setbacks:

1. All dispensaries shall be located a minimum of 100 feet from all residential zones as measured from the residential lot boundary to the public entrance of the dispensary, except on Farroll Road where no minimum setback is required from residential zones.
2. All dispensaries and cultivation with storefronts shall be located a minimum of 600 feet from public and private schools grades kindergarten through 12th grade consistent with State law.
3. All commercial cannabis uses shall be located a minimum of 100 feet from the CR2 Zone on the north side of Atlantic City Avenue as measured from the residential lot boundary to the industrial lot boundary.

G. Development standards. Commercial Cannabis Uses shall comply with the following standards:

1. All dispensaries may be open to the public between the hours of 9:00 a.m. and 7:00 p.m. and make and receive deliveries between the hours of 9:00 a.m. and 9:00 p.m. All other non-dispensary uses may operate at any time, but shall only receive deliveries between the hours of 7:00 a.m. and 9:00 p.m.
2. Cultivation and nursery uses shall prepare a Water Recycling Management Plan that demonstrates that irrigation water is recycled to the maximum extent feasible using best management practices. A separate water meter shall be installed for irrigation uses.
3. All cultivation and nursery uses shall be within an enclosed building. Cultivation and nursery uses are prohibited outdoors.
4. Cultivation and nursery uses may use mixed-light buildings when issued a local license consistent with State licensing that allows for mixed-light buildings when no light is visible through the roof and windows of grow areas from dusk to dawn.
5. All delivery areas and loading/unloading areas shall be conducted within a secured area.
6. Odor control devices and techniques shall be incorporated to ensure that marijuana odors are not detectable from the property boundary and public right-of-way. In multi-tenant buildings marijuana odors shall not be detectable from the building exterior, or from exterior and/or interior common areas such as 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. Odor control systems shall include, but are not limited to, ventilation and exhaust systems that provide sufficient odor absorbing to meet the above requirements.
8. Design standards in Section 2.40.050 and any other Council adopted design guidelines.
9. All applicable regulatory requirements of Municipal Code Article III Chapter 18.

SECTION 4. Section 6.10.020 of Chapter 6, of Article IX, Permit Application Filing and Processing, is amended as follows:

Table 6.1 (Review Authority), below, identifies the Review Authority responsible for reviewing and making decisions on each type of development application required by this Development Code.

<table>
<thead>
<tr>
<th>Type of Action</th>
<th>Code Section</th>
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<tbody>
<tr>
<td></td>
<td>7.30</td>
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<tr>
<td>General Plan Amendment</td>
<td>7.30</td>
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<tr>
<td>Local Coastal Program Amendment</td>
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<tr>
<td>Development Code Amendment</td>
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<td>Use Permit</td>
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<tr>
<td>Variance</td>
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<td>Administrative Development Permit</td>
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<td>Home Occupation Permit</td>
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<td>Temporary Use Permit</td>
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<tr>
<td>Interpretations</td>
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<td>Decision</td>
</tr>
</tbody>
</table>

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 Uses.
SECTION 5. Section 9.10.020 of Chapter 9, of Article IX Definitions is amended to add the following definition:

Commercial Cannabis Uses. The uses are solely limited to the cultivation, nursery, manufacturing, testing laboratories, transportation, delivery, distribution (includes storage), and dispensaries as defined in Public Resources Code Section 19300.5 or as modified hereafter, and Municipal Code Article III Chapter 18.

SECTION 6. 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.

SECTION 7. All ordinances and parts of ordinances in conflict with those sections amended or added herein are hereby repealed.

SECTION 8. Effective Date. Sections 1, 2, 3, 4, and 5 that are applicable to the Industrial Zone shall become effective and in full force and effect at 12:01 a.m. on the thirty first day after its final passage and Council approval and passage of the regulatory ordinance adopting Article III, Chapter 18. Within fifteen (15) days after its adoption by the City Council, it shall be published once, together with the names of the Council Members voting thereon, in a newspaper of general circulation within the City.

SECTION 9. Effective Date. Sections 1, 2, 3, 4 and 5 that are applicable to the Coastal Industrial Zone shall not become effective until final certification by the California Coastal Commission and Council approval and passage of the regulatory ordinance adopting Article III, Chapter 18. 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 May 1, 2017 and PASSED, APPROVED, and ADOPTED by the City Council on May 15, 2017, on the following roll call vote, to wit:

AYES: Council Members Lee, Nicolls, and Mayor Pro Tem Shah.
NOES: Mayor Shoals.
ABSENT: Council Members – None.
ABSTAIN: Council Members – None.
RECUSED: Council Member Peterson (due to a conflict of interest)

(signatures on following page)
Attest:

DONNA L. McMAHON, CITY CLERK

Approved as to Form:

DAVID P. HALE, CITY ATTORNEY

JOHN P. SHOALS, MAYOR
ORDINANCE NO. 17-06


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 and 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") establishes 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 twenty-one (21) years and older, and to tax the commercial growth and retail sale of marijuana; 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, 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:

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

PART 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 Establishment 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 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 the following:

(1) Owner or owners of a proposed facility, including all Persons or entities having ownership interest 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.

(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) "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.

(F) "Commercial Cannabis Activity" or "Commercial Cannabis Use" includes cultivation, nursery, possession, manufacture (Level one and two), processing, storing, laboratory testing, labeling, dispensaries including wholesale and retail sale of medical cannabis or a medical cannabis products, distribution, transportation and approved licenses enumerated and defined within Chapter 3.5, of Division 8 of the California Business and Professions Code, sections 19300 et seq., as amended.

(G) "Commercial Cannabis Business" means any business or operation which engages in Commercial Cannabis Activity.

(H) "Commercial Cannabis 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) "Cultivation" means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(J) "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.

(K) "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.

(L) "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, including an establishment that delivers, pursuant to Section 19340, of the California Business and Professions Code, medical cannabis and medical cannabis products as part of a retail sale.

(M) "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

(N) "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 or as amended.

(O) "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.

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

(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.

(R) "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, 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. 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;
3. The Applicant has knowingly made false statements, misrepresentations or material omissions on an application form renewal form, or any other document submitted to the City;
4. 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;
5. 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;
(6) The Applicant fails to allow inspection of the security recordings, activity logs, or business records of the Permitted Premise by City Officials;

(7) The Applicant is owned by, or has an officer or director who is a licensed physician making recommendations for Medical Cannabis;

(8) The Applicant has had a local Permit revoked or has had more than one suspension on its local Permit by the City; or

(9) The Applicant operated a Commercial Cannabis Business in violation of Section 4000.40 of this Chapter.

(S) "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.

(T) "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.

(U) "Live plants" means living medical cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.

(V) "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.

(W) "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.

(X) "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.

(Y) "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.

(Z) "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.
(AA) "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.

(BB) "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.

(CC) "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.

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

(EE) "State License" or "license" means a state license issued pursuant to the Medical Cannabis Regulation and Safety Act.

(FF) "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.

(GG) "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.

(HH) "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.

(II) "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 Persons 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) 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.

(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 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 Person 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 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 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 Persons from remaining on the premises of the Commercial Cannabis Business if they are not engaging in the activity expressly related to the operation 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 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) 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 area.

(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 established 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 establish 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 Applicant will be required to submit Live Scan fingerprinting and a photograph for the purpose of the City performing a background investigation and issuance of a Work Permit. 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 personal identification card is issued shall wear his or her card, issued by the City of Grover Beach, at a prominent and readily-visible location on the outermost garment. Such identification card shall at all times be in good and readable condition. In the event a personal identification card is lost or stolen, the City shall be notified within twenty-four (24) hours of when the Person owning the card realized it was missing. The issuance of a personal identification card shall constitute for purposes of this section a work permit.

(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 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. Evidence of lawful possession consists of properly executed deeds of trust, leases, evidence of ownership of the premises, or other written documents acceptable to the City Manager.
4000.80  Location of Commercial Cannabis Business.

(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 or retail dispensing of alcoholic beverages on or about the premises of any Commercial Cannabis Business. No Commercial Cannabis Business may operate as a licensed retailer of alcohol.

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 established 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 Permits.

(A) At a minimum, the application shall contain the following requirements:

1. The printed full name, signature, date of birth 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 Person 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 (5) 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) The City Council or City Manager may deny an application for a Commercial Cannabis Permit for Good Cause or if the applicant has been convicted of an offense that is substantially related to the qualifications, functions or duties of the business or profession for which the application is made within five (5) years of submitting the permit, except that if the City Council determines that the applicant is otherwise suitable to be issued a permit and granting the permit would not compromise public safety, the City Council may conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the City Council will include, but not be limited to, the following:
(1) A felony conviction for the illegal possession for sale, manufacture, transportation or cultivation of a controlled substance.

(2) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(3) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

(4) A felony conviction involving fraud, deceit, or embezzlement.

(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 will endeavor to conclude their review within thirty (30) 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 Good Cause for a Commercial Cannabis Permit when submitted to Council along with a Use Permit issued in accordance with Article IX of the Municipal Code. The City Manager shall have the authority to either grant or deny the application for Good Cause for a Commercial Cannabis Permit when submitted for consideration without a Use Permit, except all Commercial Cannabis Permits for Level Two Manufacturing shall be approved by the City Council. Notwithstanding what is otherwise provided in this Chapter, the City Council or City Manager, when approving a Commercial Cannabis Permit, may place any additional limitations and conditions on the operation of a Commercial Cannabis Business the Council or City Manager deems necessary, consistent with the public interest and with this Chapter.

(F) In the event the City Manager shall consider the application for a Commercial Cannabis Permit, as proposed in this Section, a mailed notice of an application for a Commercial Cannabis Permit shall be provided at least ten (10) calendar days prior to the City Manager taking action on the Permit to all property owners and occupants within 300 feet of the proposed Commercial Cannabis Business. The notice shall contain the following:

(1) A description of the proposed Commercial Cannabis Business and its location;

(2) The date the application will be acted upon by the City Manager;

(3) The general procedure for submitting comments prior to the City Manager taking action on the proposed Commercial Cannabis Permit;

(4) A statement that any comments must be received within ten (10) calendar days of the notice date.

(5) A statement that an administrative hearing may be scheduled upon request by any member of the public to allow the City Manager to receive public input prior to making a decision.
If an administrative hearing is requested by the public, the City Manager shall conduct an administrative hearing and make a decision.

(G) When an application is denied, the City Council or City Manager 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. The City Clerk shall mail a copy of the statement of decision to the applicant upon filing. In the event the City Manager shall review and deny the application, the applicant may, within ten (10) days of the mailing of written notice of the filing of the statement of decision, appeal the decision to the City Council. All appeals shall be in writing and submitted to the City Clerk. An appeal fee must accompany the written appeal in an amount as indicated in the Master Fee Schedule.

(H) In addition to whatever additional findings may be made by the City Council or City Manager, an application for a Commercial Cannabis Permit may be denied upon the finding of Good Cause which include one or more 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 established 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 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.

(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 five (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 unless medically necessary 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 an 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 prevent Persons from remaining on the premises of the facility or business if they are not engaged in activity expressly related to the operations of the business.

(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 City 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 City 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, is prohibited. The use of greenhouses will be prohibited in all zones of the City.

(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 unless approved by resolution of the City Council.

(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 established 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 seq.

(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 and Two): Extraction, etc.

Cannabis manufacturing facilities requiring a Type-6 state license (using non-volatile solvents) or Type-07 state license (using volatile solvents) as defined in Business and Professions Code §19341, 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.

4000.250 Establishment of Regulations and Standards.

(A) The City Council or their designee is authorized to establish all regulations necessary to implement the requirements and fulfill the policies of this Chapter related to cannabis and cannabis products.

(B) Regulations shall be published on the City's website.

(C) Regulations promulgated by the City Council or their designee shall have the same force and effect of law and become effective upon date of approval.

4000.260 Fees Deemed Debt to City of Grover Beach.

The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed a debt to the City of Grover Beach that is recoverable in any court of competent jurisdiction.

4000.270 Permit Holder Responsible for Violations.

The Person to whom a permit is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and the ordinances of the City of Grover Beach, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the premises of the Commercial Cannabis Business whether or not said violations occur within the permit holder's presence.
PART 3. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be in violation of the law, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared in violation of the law.

PART 4. This Ordinance shall become effective thirty (30) days after the date of its adoption, and within fifteen (15) days after its adoption, it 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 May 1, 2017 and PASSED, APPROVED, and ADOPTED by the City Council on May 15, 2017 on the following roll call vote, to wit:

AYES: Council Members Lee, Nicolls, Mayor Pro Tem Shah, and Mayor Shoals.
NOES: Council Members – None.
ABSENT: Council Members – None.
ABSTAIN: Council Members – None.
RECUSED: Council Member Peterson (due to a conflict of interest)

Attest:

DONNA L. McMahan, CITY CLERK

APPROVED AS TO FORM:

DAVID P. HALE, CITY ATTORNEY

JOHN P. SHOALS, MAYOR
WHEREAS, the City of El Paso De Robles, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, California Government Code section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

WHEREAS, the City passed Ordinance No. 1023 on January 19, 2016; and

WHEREAS, the City desires to continue to ban all marijuana dispensaries and cultivation land uses within City Limits to the extent allowed by California law. This Ordinance updates the Municipal Code to effectuate that aim; and

WHEREAS, on June 28, 2016, the Secretary of State certified Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”), for the November 8, 2016 ballot; and

WHEREAS, the AUMA would become law if a majority of the electorate votes “Yes” on the proposition; and

WHEREAS, the AUMA would regulate, among other items, the use of marijuana for personal and commercial purposes, including the recreational use of marijuana by adults over 21 years of age; and

WHEREAS, to regulate personal use of marijuana the AUMA would add Section 11362.1 to the Health and Safety Code, which makes it “lawful under state and local law” for persons 21 years of age or older to “possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever” up to 28.5 grams of marijuana in the form of concentrated cannabis or not more than eight grams of marijuana in the form of concentrated cannabis contained in marijuana products; and

WHEREAS, the AUMA would make it lawful for those individuals to “possess, plant, cultivate, harvest, dry, or process not more than six living marijuana plants and possess the marijuana produced by the plants; and

WHEREAS, the AUMA would make it lawful for those individuals to smoke or ingest marijuana or marijuana products; and

WHEREAS, should the AUMA pass, many of its provisions would take effect on November 9, 2016; and

WHEREAS, to regulate commercial use of marijuana, the AUMA would add Division 10 (Marijuana) to the Business & Professions Code, which grants state agencies “the exclusive authority to create, issue, renew, discipline, suspend, or revoke” licenses for businesses including the transportation, storage, distribution, sale, cultivation, manufacturing, and testing of marijuana; and

WHEREAS, the AUMA provides that the above state agencies shall promulgate rules and regulations and shall begin issuing licenses under Division 10 by January 1, 2018; and

WHEREAS, the AUMA states that a local jurisdiction shall not prevent transportation of marijuana or marijuana products on public roads by a licensee transporting marijuana or marijuana products in compliance with Division 10; and

WHEREAS, the AUMA would authorize cities to “reasonably regulate” without completely prohibiting cultivation of marijuana 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”; and

WHEREAS, the AUMA would authorize cities to completely prohibit outdoor cultivation on the grounds of a private residence, up to and until a “determination by the California Attorney General that nonmedical use of marijuana is lawful in the State of California under federal law”; and

WHEREAS, the AUMA would authorize cities to completely prohibit the establishment or operation of any marijuana business licensed under Division 10 within its jurisdiction, including marijuana dispensaries, marijuana retailers, and marijuana delivery services; and

WHEREAS, absent appropriate local regulation authorized by the AUMA, state regulations will control; and

WHEREAS, the “Medical Marijuana Regulation and Safety Act” (“MMRSA”), which took effect January 1, 2016 regulates use of marijuana for medical purposes; and
WHEREAS, the indoor cultivation of marijuana has potential adverse effects to the health and safety of the occupants; including structural damage to the building due to increased moisture and excessive mold growth which can occur and can pose a risk of fire and electrocution; additionally, the use of pesticides and fertilizers can lead to chemical contamination within the structure; and

WHEREAS, based on the experiences of other cities, these negative effects on the public health, safety, and welfare are likely to occur, and continue to occur, in the City due to the establishment and operation of marijuana cultivation, processing, and distribution uses; and

WHEREAS, the subject Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3) and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; the activity is not a project as defined in Section 15378, and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, this Ordinance would amend Chapter 21.33 to clarify the substantive objectives of the Municipal Code regarding the City’s regulation of marijuana within its City limits and to preemptively address some proposed changes to California law in the event AUMA passes on November 8, 2016.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES ORDAIN AS FOLLOWS:

SECTION 1: The City Council of the City of El Paso De Robles hereby finds and determines that all of the above Recitals are true and correct and incorporates such Recitals into this Ordinance as if fully set forth herein.

SECTION 2. The City Council of the City of El Paso De Robles hereby amends Chapter 21.33 to read in its entirety as follows:

Chapter 21.33 - MARIJUANA REGULATIONS

21.33.010 Purpose.

The purpose of this Chapter is to regulate personal, medical, and commercial marijuana uses. Nothing in this Chapter shall preempt or make inapplicable any provision of state or federal law.

21.33.020 Definitions.

For purposes of this Chapter, the following definitions shall apply:

A. “Commercial marijuana activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, or sale of marijuana and marijuana products.

B. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

C. “Delivery” means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under California law, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

D. “Distribution” means the procurement, sale, and transport of marijuana and marijuana products between entities for commercial use purposes.

E. “Licensee” means the holder of any state issued license related to marijuana activities, including but not limited to licenses issued under Division 10 of the Business & Professions Code.
intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

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

J. “Person” includes any individual, firm, co-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 the plural as well as the singular.

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

L. "Sale" includes any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.

M. Any term defined in this Section also means the very term as defined in the California Business & Professions Code or the California Health & Safety Code, unless otherwise specified.

21.33.030 Personal Recreational Use.

A. For purposes of this subsection, personal recreational use, possession, purchase, transport, or dissemination of marijuana shall be considered unlawful in all areas of the City to the extent it is unlawful under California law.

B. Outdoor Cultivation. A person may not plant, cultivate, harvest, dry, or process marijuana plants outdoors in any zoning district of the City. No use permit, building permit, variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved or issued for any such use or activity.

C. Indoor Cultivation.

1. A person may not plant, cultivate, harvest, dry, or process marijuana plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence, or inside any other enclosed structure within any zoning district of the City. No use permit, building permit, variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved or issued for any such use or activity.

2. To the extent a complete prohibition on indoor cultivation is not permitted under California law, a person may not plant, cultivate, harvest, dry, or process marijuana plants inside a private residence; however, a person may plant, cultivate, harvest, dry, or process marijuana plants inside an accessory structure to a private residence located upon the grounds of a private residence, but only if the person is first issued an indoor cultivation permit by the Community Development Department. A person may not plant, cultivate, harvest, dry, or process marijuana plants inside any enclosed structure within any zoning district of the City that is not an accessory structure to a private residence located upon the grounds of a private residence.

3. The Community Development Department will issue application and processing guidelines for the indoor cultivation permit. No indoor cultivation permit shall be issued prior to the release of these guidelines, and no permit shall be granted which has not complied fully with the application and processing requirements. The City Council may institute a fee for the indoor cultivation permit by resolution.

21.33.040 Medical Use.

A. Cultivation of medical marijuana pursuant to Section 11362.77 of the California Health & Safety Code is subject to the cultivation requirements laid out in Section 21.33.030 of this Chapter.

B. The establishment or operation of any medical marijuana collective, cooperative, dispensary, operator, establishment, or provider shall be considered a prohibited use in all zoning districts of the City. No use
discretionary, shall be approved or issued for the establishment or operation of any such business or operation. Such prohibited businesses or operations may include, but are not limited to:

1. The transportation, storage, distribution, or sale of marijuana, marijuana products, or marijuana accessories;
2. The cultivation of marijuana;
3. The manufacturing or testing or marijuana, marijuana products, or marijuana accessories; or
4. Any other business licensed by the state or other government entity under Division 10 of the California Business & Professions Code, as it may be amended from time to time.

21.33.060 Penalty for Violations.

No person, whether as principal, agent, employee or otherwise, shall violate, cause the violation of, or otherwise fail to comply with any of the requirements of this section. Every act prohibited or declared unlawful, and every failure to perform an act made mandatory by this section, shall be a misdemeanor or an infraction, at the discretion of the City Attorney or the District Attorney. In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of this section is declared a public nuisance and may be abated as provided Chapters 1.02 and 1.03 of this Municipal Code and/or under state law.

SECTION 3: CEQA. This Ordinance is not a project within the meaning of Section 15337 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of San Luis Obispo in accordance with CEQA Guidelines.

SECTION 4: Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof are declared invalid or unconstitutional.

SECTION 5. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk’s office located at 1000 Spring Street, Paso Robles, CA 93446. The custodian of these records is the City Clerk.

SECTION 6. Restatement of Existing Law. Neither the adoption of this ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof. The provisions of this ordinance, insofar as they are substantially the same as ordinance provisions previously adopted by the City relating to the same subject matter or relating to the enumeration of permitted uses under the City’s zoning code, shall be construed as restatements and continuations, and not as new enactments.

SECTION 7. This Ordinance shall take effect thirty (30) days after its final passage and adoption. A summary of this Ordinance shall be published and a certified copy of the full text of this proposed Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the City Council meeting at which this proposed Ordinance is to be adopted. Within fifteen (15) days after adoption of this Ordinance, the City Clerk is instructed to publish a summary of this Ordinance with the names of those City Council members voting for and against this Ordinance and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of the adopted Ordinance along with the names of those City Council members voting for and against this Ordinance or amendment at least until the day of such publication.

PASSED AND ADOPTED this 4th day of October, 2016 by the following vote:

AYES: Gregory, Strong, Hamon, Reed, Martin
An Ordinance of the City Council of the City of Lompoc, County of Santa Barbara, State of California, Amending Chapter 9.36 of the Lompoc Municipal Code, Regarding Use of Cannabis Citywide

WHEREAS, in 1996, the voters of the state of California approved Proposition 215, codified at Health and Safety Code section 11362.5 et seq. and entitled “The Compassionate Use Act of 1996” (CUA); and

WHEREAS, the CUA was intended to provide seriously ill Californians the ability to possess, use and cultivate cannabis for medical use once a physician has deemed the use beneficial to a patient’s health; and

WHEREAS, in 2003, California Senate Bill (SB) 420 was enacted by the Legislature to clarify the scope of the CUA and to allow California cities and counties to adopt and enforce rules and regulations consistent with SB 420 and the CUA; and

WHEREAS, in 2007, the City Council of the City of Lompoc (City) adopted a prohibition on medical cannabis dispensaries citywide by adopting Ordinance No. 1540(07), codified in the Lompoc Municipal Code (LMC) at Title 9 (Public Peace and Safety), Chapter 9.36, “PROHIBITION OF MEDICAL MARIJUANA DISPENSARIES”; and

WHEREAS, Ordinance No. 1540(07) prohibited the establishment and operation of medicinal cannabis dispensaries, fixed and mobile, and deemed those uses to be a “public nuisance” pursuant to the City’s police powers, subject to abatement by the City, as well as criminal and civil penalties; and

WHEREAS, on October 9, 2015, the Governor signed the Medical Marijuana Regulation and Safety Act (MMRSA), comprised of California Assembly and Senate Bills (AB) 243, AB 266, and SB 643. MMRSA creates a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, distribution, delivery, and testing of medical cannabis, all subject to local control. One of the purposes of MMRSA is to ensure uniformity among jurisdictions that wished to allow medical cannabis operations; and

WHEREAS, in 2016, the City Council adopted Ordinance No. 1621(16) clarifying the provisions of LMC Chapter 9.36; and

WHEREAS, on June 27, 2016, the Governor signed SB 837, effective immediately, changing the terms in MMRSA from “medical cannabis” or “cannabis” to “medical cannabis” or “cannabis,” and making other technical changes to the MMRSA. SB 837
also adopted regulations relating to the use and diversion of water in connection with the cultivation of cannabis; and

WHEREAS, at the general election of November 8, 2016, the voters approved the Adult Use of Marijuana Act (AUMA). The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis, including cannabis products. Adults, age 21 and older, will be allowed to possess cannabis and grow certain amounts at home for personal use; and

WHEREAS, under MMRSA and AUMA, the City retains its police powers and land use authority to regulate or ban cannabis activities, including commercial cannabis operations, cultivation, distribution for the health, safety, and welfare of the citizens of Lompoc; and

WHEREAS, the City Council has duly considered all information presented to it, including written staff reports and any testimony provided at the public hearing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOMPOC DOES HEREBY ORDAIN AS Follows:

SECTION 1. Findings. The City Council finds and determines the recitals above are true and correct, and are hereby incorporated by reference. Additionally, the City Council finds as follows:

A. The provisions of LMC Chapter 9.36 enacted by this Ordinance will further the public health, safety and general welfare. The provisions of LMC Chapter 9.36 enacted by this Ordinance will regulate cannabis use, cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery and wholesale or retail sale of cannabis or cannabis products, whether fixed or mobile, within the City limits and will help protect the public health, safety and general welfare of the City and its residents. They will also mitigate or reduce the crime-related secondary impacts associated with cannabis use, cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery and wholesale or retail sale of cannabis or cannabis products, whether fixed or mobile, which are contrary to policies that are intended to promote and maintain the public’s health, safety and welfare. The regulation of those activities will help preserve the City’s law enforcement services, in that monitoring and addressing the negative secondary effects and adverse impacts will likely burden the City’s law enforcement resources.

B. The provisions of LMC Chapter 9.36 enacted by this Ordinance are consistent with the General Plan and in compliance with all applicable provisions of the LMC and other ordinances and regulations of the City. The provisions of LMC Chapter 9.36 enacted by this Ordinance regulating cannabis
use, cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery and wholesale or retail sale of cannabis or cannabis products, whether fixed or mobile, within the City limits are consistent with the General Plan and other provisions of the LMC that regulate businesses.

C. The proposed Amendments are consistent with applicable State Laws. The provisions of LMC Chapter 9.36 enacted by this Ordinance are fully consistent with the Conditional Use Permit, MMRSA and AUMA as they relate to cannabis use, cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery and wholesale or retail sale of cannabis or cannabis products, whether fixed or mobile.

SECTION 2. Chapter 9.36 of the LMC is hereby amended in its entirety to read as follows:

Chapter 9.36
CANNABIS USES

9.36.010 Purpose
9.36.020 Definitions
9.36.030 General Prohibition
9.36.040 Regulation of Personal Cannabis Cultivation and Commercial Cannabis Activity
9.36.050 Regulation of Personal Cannabis Use
9.36.060 Regulation of Commercial Cannabis Activity
9.36.070 Cannabis Application Form
9.36.080 Commercial Cannabis Activity Use Licenses
9.36.090 Dispensaries
9.36.100 Deliveries
9.36.110 Commercial Cultivation
9.36.120 Manufacturing, Distributing, Processing, Storing, Staking, Testing, Packing and Labelling
9.36.130 Use License Revocation and Appeal
9.36.140 Violations and Penalties; Public Nuisance

Section 9.36.010 Purpose.

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 the City’s neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter (i) to regulate the cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery and wholesale or retail sale of cannabis and cannabis products, whether fixed or mobile, in a manner that is responsible and protects the health, safety, and welfare
of the residents of the City and (ii) to enforce rules and regulations consistent with State laws. In part to meet those objectives, an initial permit shall be required to own and to operate a Commercial Cannabis Business (as defined in Section 9.36.020) within the City, as authorized pursuant to State laws and this Chapter and Code. Nothing in this Chapter is intended to authorize the cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery and wholesale or retail sale of cannabis or cannabis products, whether fixed or mobile, for any non-medical purpose consisting of either commercial or personal use other than as authorized within this Chapter 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 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 to commercial cannabis activity, as defined in Section 9.36.020.

C. The City Council finds and determines it expressly or impliedly does not intend to and does not create any vested right for any real property owner, tenant, commercial cannabis business owner, personnel cannabis user or anyone else, by the enactment of this Chapter or any rule or regulation adopted pursuant hereto, or by any cannabis use license or any permission granted pursuant to this Chapter. The City Council reserves the right, at any time, to modify, repeal, rescind and amend any provision of this Chapter and any Resolution, regulation or rule adopted hereunder.

Section 9.36.020 Definitions

When used in this Chapter, the following words shall have the meanings ascribed to them in this section.

“Annual certification” means a form provided by the City and signed, under penalty of perjury, by the individual to whom the City issued the use license for a cannabis commercial activity certifying that activity was, is and will be in full compliance with this code and State laws.

“Cannabis” or “Marijuana” means any or 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.

“Cannabis Application” means a form provided by the City.

“Cannabis Concentrate” means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product’s potency. An edible 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.

“Cannabis Cultivation” means the propagation, growing, planting, harvesting, drying, curing, grading, trimming or processing of marijuana or any part thereof.

“Cannabis Dispensary” means any for-profit or not-for-profit facility or location, whether permanent or temporary, where the owner(s) or operator(s) intends to or does possess and distribute cannabis, or allows others to possess and distribute cannabis, to more than one person. A “cannabis dispensary” includes a “collective” or “cooperative” as described in Health and Safety Code Section 11362.775, and includes an establishment that delivers cannabis to offsite locations. A “cannabis dispensary” shall not include the following uses; provided, that the location of such uses is permitted by the Code and the uses comply with State laws, including Health and Safety Code section 11362.5 et seq.:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code;

2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code;

3. A facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code;

4. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code;

5. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; or

6. A residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code.
“Commercial Cannabis Activity” or “Commercial Cannabis Use” includes cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery or wholesale or retail sale of cannabis or a cannabis product, whether fixed or mobile.

“Commercial Cannabis Business” means any business or operation which engages in commercial cannabis activity.

“Commercial Cannabis Use License” means a permit issued to a commercial cannabis business by the City, pursuant to this Chapter and Resolution of the City Council.

“Delivery” means the commercial transfer of one or more cannabis products from a dispensary, up to an amount determined by the State of California, or any of its departments or divisions, to any person, business or location. “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, that enables any person to arrange for or facilitate the commercial transfer by a licensed dispensary of cannabis or cannabis products.

“Dispensary” means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale.

“Distribution” means the procurement, sale, and transport of cannabis or cannabis products between entities licensed pursuant to State Law.

“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.

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

“Operation” means any effort to locate, operate, own, lease, supply, allow to be conducted, or aid, abet or assist in the conduct of an commercial cannabis activity.

“Person” means any individual, firm, corporation, partnership, association, club, society, or other organization. The term person shall include any owner, manager, proprietor, employee, volunteer or salesperson.

“Personal Cannabis Cultivation“ means cultivation of cannabis permitted by Health and Safety Code sections 11362.1 or 11362.2.
“Smoke” means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts, except when the combusting material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term “Smoke” includes, but is not limited to, tobacco smoke, electronic cigarette vapors, and cannabis smoke.

“Smoking” means engaging in an act that generates smoke, such as, for example: possessing a lighted pipe, a lighted hookah pipe, an operating electronic cigarette, a lighted cigar, or a lighted cigarette of any kind or lighting or igniting a pipe, a hookah pipe, a cigar, or a cigarette of any kind.

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

“State laws” mean all applicable (i) legislation chaptered as part of a State of California code, (ii) rules and regulations adopted by any State of California agency and (iii) final supreme or appellate court decisions.

“Transport” or “Transportation” means the transfer of cannabis or 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.

“Video monitoring” means 24-hour security surveillance cameras of at least HD quality to show all entrances and exits to and from a secure area and to show all interior spaces within the premises where a commercial cannabis activity, including each retail transaction, is conducted and are open and accessible to the public.

Section 9.36.030   General Prohibition

A. Except as otherwise expressly and conditionally allowed pursuant to this Chapter, no person shall conduct, establish or operate personal cannabis use, personal cannabis cultivation or commercial cannabis activity in any area or districts within the City.

B. Notwithstanding subdivision 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 consistent with State laws, including, but not limited to, Health and Safety Code sections 11362.1 and 11362.2, subject also to the reasonable, applicable regulations set forth in this Chapter.

Section 9.36.040   Regulation of Personal Cannabis Cultivation and Commercial Cannabis Activity
Each person conducting either or both commercial cannabis activity or personal cannabis cultivation shall be subject and adhere to the following:

A. Full compliance with the terms, spirit and intent of State laws,

B. If, pursuant to this code, any building/mechanical/electrical/plumbing permit is required for such use, then each shall be obtained prior to commencement of any work for which such permit is required,

C. If the person conducting personal cannabis cultivation and commercial cannabis activity is not the fee interest owner of the real property on which that activity occurs, then that person must obtain written permission from that fee interest owner before conducting that cultivation activity on that real property, and

D. Control odors, which are disturbing to people residing or present on adjacent or nearby property or areas open to the public.

Section 9.36.050 Regulation of Personal Cannabis Use

A. Notwithstanding any other provision of this code, no person shall conduct any smoking activity of cannabis within the following areas:

1. The common area of any duplex, triplex or other multi-family residential complex not open to the public and

2. Any public park where tobacco smoking may otherwise be allowed, pursuant to this Code.

B. No person shall smoke cannabis, without controlling odors emanated from that smoking, which are disturbing to people residing or present on adjacent or nearby property or areas open to the public.

Section 9.36.060 Regulation of Commercial Cannabis Activity

Each person conducting a commercial cannabis activity shall:

A. Obtain a commercial cannabis use license from the City for that commercial cannabis activity,

B. Pay all required taxes, as approved by the City-electorate, and business taxes and file the application and renewal for a business tax certificate, as required by this Code,
C. Pay all initial and annual fees to cover the City's costs for processing, reviewing and auditing the commercial cannabis use license and activity, as established by a Resolution of the City Council,

D. Not commence a commercial cannabis activity until a final inspection of the premises where such activity will be conducted has been approved, in writing, by the Fire Chief, Police Chief, Planning Manager and Building Official, or their designees,

E. Not continue an approved commercial cannabis activity, unless a then current annual certification has been properly filed within no less than 30 days and not more than 45 days before the end of the 12-month period immediately preceding each annual anniversary of the approval of the final inspection, and

F. Ensure (i) a video monitoring system is provided, (ii) the security surveillance cameras for that system are remotely accessible to the Lompoc Police Department and compatible with the Lompoc Police Department's software and hardware, (iii) remote real-time, live access to the video footage from the cameras is provided to the Lompoc Police Department and (iv) video recordings are maintained by that person for a minimum of 45 days.

Section 9.36.070 Cannabis Application Form

At a minimum, the cannabis application filed shall contain the following:

A. The printed full name, signature, date of birth, social security number, and present address and telephone number of the individual to whom the license would be issued, if at all, as well as for all persons who would have any financial interest in that commercial cannabis business,

B. The address to which correspondence from the City is to be sent,

C. The names and addresses of all businesses operated by and the employment of the applicant for the five years immediately preceding the date of the application,

D. Any litigation in which the applicant or any person with a financial interest in the proposed commercial cannabis business has been involved within the five years immediately preceding the date of the application,

E. A statement whether, within the five years immediately preceding the date of the application, another business operated by the applicant or any person with a financial interest in the proposed commercial cannabis business has been investigated or the permit or license authorizing the operation of such business has been revoked or suspended,
F. The address of any commercial cannabis business currently being operated by the applicant or in which any person with a financial interest in the proposed commercial cannabis business has with another commercial cannabis business within the last five years.

G. The supply sources for all cannabis and cannabis products to be sold or used at the commercial cannabis business,

H. The product supply chain, including all the sites where cultivation, processing and manufacturing of the cannabis and cannabis edible product occurs, as well as any required testing and transportation and packaging and labelling criteria.

I. The names and telephone numbers of the persons to be regularly engaged in the operation of the proposed commercial cannabis business, whether an employee, volunteer or contractor.

J. The names and telephone numbers of those persons who will have management and supervisory responsibilities for the proposed commercial cannabis business.

K. Odor control devices and techniques to prevent odors from cannabis from being detectable off-site,

L. Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated or excess medical cannabis product.

M. 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.

N. 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.

O. 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.

P. An operations and security plan.

Q. Standard operating procedures detailing how operations will comply with State laws and local laws and regulations, how safety and quality of products will be
ensured, recordkeeping procedures for financing, testing, and adverse event recording, and product recall procedures,

R. Proposed hours of operation.

S. Recycling and Waste disposal information.

T. Youth access restriction procedures.

U. Detailed description of energy and water usage plan enumerating best practices and leading industry practices in efficient utilization of both resources. and

V. A statement in writing by the applicant, he or she certifies under penalty of perjury all the information contained in the application is true and correct.

Section 9.36.080 Commercial Cannabis Activity Use Licenses

A. Each individual who intends to operate any commercial cannabis activity must first file a cannabis application and obtain a separate commercial cannabis activity use license for each commercial cannabis business to be operated.

B. Subject to compliance with this Chapter and State law, the City Manager is authorized to issue or deny issuance of commercial cannabis activity use licenses. The City Manager’s decision to issue or deny issuance of a commercial cannabis activity use license is final and not appealable.

C. A commercial cannabis activity use license shall only be issued to an individual who has:

1. Not had a commercial cannabis activity use license terminate or be denied or revoked within the immediately preceding 24 months,

2. Successfully completed the background check required by and is in compliance with all State laws,

3. Completely and satisfactorily filed a complete cannabis application for the pertinent commercial cannabis activity as required by the rules and regulations described in subparagraph 4., below, and

4. Complied with all the requirements of this Chapter and the rules and regulations established by Resolution of the City Council, including payment of fees and filing a complete cannabis application, which requirements and fees shall be recommended to the City Council by the City Manager after consultation with the Police Chief, Fire Chief and Economic Development
Director/Assistant City Manager, Management Services Director or their designees.

D. No commercial cannabis activity use license shall be transferred, assigned or otherwise given to any other person by the individual issued that use license, whether by voluntary or involuntary action, bequest or probate (collectively, hereinafter referred to as transfer in Subdivision E., below).

E. Any attempt to transfer a commercial cannabis use license shall immediately and automatically void and terminate that use license without any notice, hearing or further action required by the City or any of its officers, officials or employees.

F. A commercial cannabis use license for a commercial cannabis activity shall be immediately and automatically void and terminated, without any notice, hearing or further action required by the City or any of its officers, officials or employees, when the State license required for that commercial cannabis activity is terminated or revoked for any reason.

Section 9.36.090 Dispensaries

A. Dispensaries are permitted within the City only where, pursuant to Title 17 of this Code, retail pharmacies (i) are allowed by right and (ii) do not require a special or conditional use permit.

B. No more than four dispensaries shall be permitted within the City; provided, that the City Council may, based on experience with the operation of this Chapter, increase or decrease that number.

C. If more complete cannabis applications are filed for the issuance of permits for dispensaries than are available pursuant to Subdivision B., above, then the City Manager shall determine which applicant(s), if any, shall be issued the available permit(s). The City Manager's determination shall be based on ranking of those applicants using criteria established by Resolution of the City Council after consideration of recommendations received from the City Manager, in consultation with the Police Chief, Fire Chief and Economic Development Director/Assistant City Manager, or the successor positions. The City Manager's determination shall be final and not appealable.

D. The criteria used by the City Manager to rank each applicant, pursuant to Subdivision C., above, should include consideration of some or all of the following:

1. Operations plan for the business,

2. Security plan for the business, as well as for the non-diversion of cannabis or cannabis products to illegal uses,
3. Experience of the operators, managers and employees,
4. Capitalization of the business,
5. Employment opportunities for City residents,
6. Economic benefits for the City,
7. Benefits for the community,
8. Compliance with requirements of this Chapter, this Code and applicable State laws, and
9. Any additional criteria the City Council establishes to assist the City Manager with making a determination the applicant is committed to the health, safety and welfare of the residents, businesses and visitors of the City.

E. If on-site smoking of cannabis is to be conducted on the premises of a dispensary, then such shall be done in accordance with State laws and only if proper filtering is provided to handle the smoke created by that smoking. The cannabis application filed for that dispensary shall include information to show compliance with this subdivision. Such smoking shall only be allowed if the permit issued for the dispensary expressly states that activity is permitted.

Section 9.36.100   Deliveries

Deliveries shall be permitted from dispensaries located within or outside the City.

Section 9.36.110   Commercial Cultivation

A. No person shall conduct cannabis cultivation as a commercial cannabis business unless it is within a fully enclosed structure.

B. The enclosure may be by means of a greenhouse; provided, that filters and venting systems are designed, installed, maintained and operated specifically to prevent cannabis odors from escaping through openings of the greenhouse.

C. Cannabis cultivation as a commercial cannabis activity shall be permitted within the City only where, pursuant to Title 17 of this Code, agribusiness is allowed or industrial or business park districts are established; provided, that such activity shall not be allowed in any community garden permitted by Title 17.
Section 9.36.120 Manufacturing, Distributing, Processing, Storing, Staking, Testing, Packing and Labeling

Manufacturing, distributing, processing, storing, staking, laboratory testing, packaging and labeling of cannabis shall be permitted within the City only where, pursuant to Title 17 of this Code, industrial or business park districts are established.

Section 9.36.130 Use License Revocation and Appeal

A. Revocation. A cannabis use license may be revoked by the Police Chief upon making any of the following findings:

1. The cannabis use license was issued in error or the application contained materially incorrect or false information.

2. The commercial cannabis business has not commenced actually being open to serve the public within 45 days after issuance of the cannabis use license.

3. The commercial cannabis business has ceased being open to serve the public for three consecutive workdays for any reason other than one completely outside the control of the individual to whom the cannabis use license was issued, such as fire damage, water damage, order of the Police Chief or other calamity.

4. The commercial cannabis business has not been conducted in full compliance with this Chapter, this Code or State laws.

5. The commercial cannabis business has become a public nuisance or has been operated in a manner constituting a public nuisance, as defined by this Code or State Laws

B. Appeals. Any decision to revoke a cannabis use license may be appealed to the City Manager, or his/her designee, by the person to whom the cannabis use license was issued as follows:

1. That individual must file a written appeal with the City Clerk within 10 calendar days after the date the cannabis use license was revoked. The written appeal shall specify the person making the appeal, identify the decision appealed from, state the reasons for the appeal, and include any evidence in support of the appeal.

2. Notice of the time and place of an appeal hearing shall be provided to the appellant within 30 days after receipt by the City Clerk of the written appeal.
3. The appeal hearing shall be held within 60 days after receipt by the City Clerk of the written appeal, unless the 60-day time limit is waived by the appellant, or unless the City Manager continues the appeal hearing date for good cause and upon written notification to the appellant.

4. The appellant shall personally appear at the hearing and may be accompanied by a representative.

5. No oral testimony, other than from the Police Chief and appellant, shall be allowed at the appeal hearing and the rules of evidence shall not strictly apply.

6. The City Manager shall (i) review the facts of the matter, written documents submitted for review, oral testimony, if any, the basis for the decision which is under appeal, and (ii) then determine whether the Police Chief’s decision should be reversed or affirmed. The determination made shall be in writing and shall set forth the reasons for the determination.

7. The City Manager’s or his/her designee’s decision shall be final and not appealable.

Section 9.36.140 Violations and Penalties: Public Nuisance

A. Any violation of this Chapter, at the discretion of the City Prosecutor, is punishable as a misdemeanor or as an infraction, pursuant to Chapter 1.24 of this Code, except for as preempted by State law; and, any violation of this Chapter is punishable at the discretion of the City Prosecutor, and in compliance with State law, pursuant to Chapter 1.36 of this Code.

B. A violation of this Chapter and public nuisance shall be deemed to exist if any person conducts any activity, discussed in this Chapter, that results in three or more responses, from any law enforcement or City code enforcement officer in any 12-month period, to the real property where the activity is conducted.

C. A violation of this Chapter and public nuisance shall be deemed to exist if any person conducts any activity, discussed in this Chapter, that results in three or more actual disruptions in any 12-month period to the free passage of persons or vehicles in the neighborhood, as reported to any law enforcement or the City code enforcement officer.

D. A violation and public nuisance shall be deemed to exist if any person conducts any activity discussed in this Chapter, that results in any other impact, which adversely impacts the health, safety or general welfare of people on adjacent or nearby property or areas open to the public.

E. Public nuisance abatement.
1. Any activity conducted in violation of any provision of this Chapter is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation, in accordance with applicable laws.

2. All costs to abate such public nuisance, including reasonable attorneys' fees and court costs, including fees from the City Attorney’s Office, shall be paid by the person causing the nuisance, including the property owner where or from where the nuisance is occurring.

F. The remedies described in this section are not mutually exclusive. Pursuit of any one remedy shall not preclude the City from availing itself of any or all available administrative, civil, or criminal remedies, at law or equity.

SECTION 4. This ordinance shall take effect 30 days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this Ordinance and shall cause this Ordinance to be posted in the manner required by law.

This Ordinance was introduced on October 3, 2017, and duly adopted by the City Council of the City of Lompoc at its duly noticed regular meeting on ______________, 2017, by the following electronic vote:

PASSED AND ADOPTED this __th day of ___ 2017, by the following electronic vote:

AYES:  Council Member(s):
NOES:   Council Member(s):
ABSENT: Council Member(s):

____________________________
Bob Lingl, Mayor
City of Lompoc

Attest:

___________________________
Stacey Haddon, City Clerk
City of Lompoc
Draft Cannabis Regulations
City of San Luis Obispo

• The purpose of this presentation is to provide an overview of the draft Cannabis Regulations under development by the City of San Luis Obispo.
• The City Council has not reviewed or approved the contents of this presentation, and will meet on February 20, 2018 to discuss this proposal and provide further direction to City staff.
Proposition 64 Legalizes Adult Use of Cannabis

- In November 2016, Proposition 64 was approved by California voters.

- City of San Luis Obispo voters approved the measure by a significant margin - 67.52% voted in favor.

- Since the approval of Prop 64, State legislators have been at work consolidating various laws and writing the regulations.
Council Direction (March 2017)

- The City Council took up the issue in March 2017, passing Ordinance 1633, which expressly prohibits all commercial and industrial cannabis business activity within the City.

- At the same time, Council directed staff to:
  - Monitor developments in other jurisdictions
  - Monitor development at the Federal level
  - Engage the community regarding various land use and taxation alternatives that may be appropriate
  - Return to the City Council with a recommendation
Public Outreach

- Zoning Regulations Public Workshop – June 2017
- POSAFY Consultation – June 2017
- Chamber of Commerce, Legislative Action Committee – September 2017
- Downtown SLO Board, Issues Committee – September 2017
- Open City Hall – October 13, 2017
- Public Open House – October 23, 2017
- Publication of Draft Regulations – January 11, 2018
- City Council Policy Level Discussion – February 20, 2018
Scope of Regulations

- Is intended to support the local cannabis economy and industry growth potential by permitting a wide range of cannabis uses
- Allows for access to medical and recreational marijuana in the City, with storefront and delivery options
- Prohibits events and onsite consumption
- Requires vendors to be certified and ranked prior to applying for a permit
- Includes requirements for energy and water efficiency, and limits total amount of cultivation, to ensure consistency with City climate action goals
Scope of Regulations

- Limits manufacturing uses to non-volatile processes only
- Limits cultivation to indoors only, and total amount of cultivation allowed to 70,000 square feet of indoor floor area, cumulatively
- Establishes buffers from cannabis businesses of 200 feet from residential zones, and 600 feet from schools
- Requires stores to be located at least 1,000 ft. apart
- Includes provisions for cost recovery of City expenses related to law enforcement, code enforcement, and administration of the regulations
Draft Cannabis Regulations

- Two-Step Process for Businesses
  1. Annual vendor eligibility/ranking process by 3rd party consultant to City
  2. Cannabis Activity Permit application process

- Administration and Oversight
  - Annual licensing and regular inspections
  - Regulatory Fees
    - Sufficient to support staff work in law enforcement, code enforcement, finance and administration

- Taxation levels and revenue estimates will be developed separately from the regulations
Vendor Selection Process

- Open application period for vendors
  - Annually on July 1
- Submit Application

3rd Party Review

- City Council to establish criteria via resolution
- Applications vetted and background checks performed

- Eligibility list established
- Priority order rankings published

Apply for Cannabis Activity Permit

Apply for Cannabis Activity Permit
Cannabis Activity Permits (Guide)

- **Definitions:**
  - Specialty cultivator – indoor only grows under 5,000 s.f., includes processing.
  - Small cultivator – indoor only grows under 10,000 s.f., includes processing
  - Nursery – indoor only propagation under 10,000 s.f.
  - Manufacturer I – non-volatile processing of cannabis into any other product
  - Testing – lab testing is required by the State prior to distribution to a retailer
  - Retailer – includes storefront and delivery
  - Distributor – retailers must purchase from distributors
  - Microbusiness – allows a single business to integrate cultivation (10,000 s.f. max.), manufacturing, distribution and retail sales

- **Allowed locations:**
  - 5,000 s.f. max.
  - Indoor only
  - C-S, M, BP zones

Type of permit

- Specialty Cultivator

CITY OF SAN LUIS OBISPO
Cannabis Activity Permits (Guide)

- Zones and Permit Types:
  - CS – Service Commercial
  - M – Manufacturing
  - BP – Business Park
    - Specialty Cultivator, Small Cultivator, Nursery, Manufacturing I, Testing, Retailer, Microbusiness
  - CR – Retail Commercial
  - CT – Tourist Commercial
  - CC – Community Commercial
    - Retailer, Microbusiness
  - O – Office zone
    - Testing

- Specialty Cultivator
  - 5,000 s.f. max.
  - Indoor only
  - C-S, M, BP zones

- Allowed locations

Type of permit
Cannabis Activity Permits

Floor area for cultivation and nurseries
Maximum of 70,000 sq. ft. of cumulative

- **Nursery**
  - 10,000 sq. ft. max.
  - Indoor
  - C-S, M, BP zones only

- **Small Cultivator**
  - 10,000 sq. ft. max.
  - Indoor
  - C-S, M, BP zones only

- **Specialty Cultivator**
  - 5,000 sq. ft.
  - C-S, M, BP zones only
  - Indoor
## Cannabis Activity Permits

<table>
<thead>
<tr>
<th>Category</th>
<th>Details</th>
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| Manufacturing | • Non-volatile only  
• C-S, M, BP zones                                                   |
| Testing       | • C-S, M, BP, O zones only                                              |
| Retailer      | • Up to 3 retail storefronts Citywide  
• Storefront retail in C-R, C-C, and C-T zones  
• Non-storefront retailers (delivery only) in C-S, M, BP zones |
Cannabis Activity Permits

**Distributor**
- C-S, M, BP zones

**Microbusiness**
- Indoor cultivation only (subject to limit of 70,000 s.f. city-wide)
- In C-R, C-C, C-T zones, max 50% of gross receipts from cultivating, manufacturing
- In C-S, M, BP zones max 50% of gross receipts from storefront retail sales (subject to limit of 3 retail storefronts city-wide)
Cannabis Activity Permit Locations

Buffers:
- 200 feet residential zone
- 600 feet from any pre-school, elementary, middle or secondary school

Other Zones that do not allow Cannabis activity permits
Additional Requirements for Cannabis Activity Permits

- Cultivators must submit energy and water efficiency plans with permit applications
  - Standard: Achieve Zero-Net Energy compliance by 2020

- Security Plans: All cannabis permit applications shall include site specific security plans for review and approval by the Police Department

- Buffers:
  - 200 feet from premises to any residence in a residential zone
  - 600 feet from premises to any pre-school, elementary, middle or secondary school
  - Retail storefronts must be separated by at least 1,000 feet
Additional Requirements for Cannabis Activity Permits

- **Signage**
  - Must comply with City’s Sign Regulations for size, area and type of sign, no exceptions allowed
  - Internal illumination of signs is prohibited
  - No portion of the cannabis plant may be used in any sign visible from the public right-of-way
  - No cannabis products may be displayed in store windows and visible from the public right-of-way

- On-site consumption, whether at a place of business or event, is prohibited
For Discussion

1. Are the proposed Cannabis Activity Permit types and locations appropriate for the City of San Luis Obispo?

2. Do the proposed buffers of 200 feet from residential zones and 600 feet from schools provide sufficient opportunities and locations for cannabis business activities, while protecting public health, safety and welfare?

3. Should the City allow an additional storefront(s) for sale of medical cannabis products only?

4. Should the City limit or manage the type or strength of products sold in retail stores, delivered, or manufactured in the City?
Next Steps

- February 20 - City Council Study Session
  - Public testimony
  - Council discussion
  - Council policy direction to staff on proposed regulations

- March 28 – Planning Commission
  - Public testimony
  - Review of draft regulations
  - Recommendation to the City Council

- May 1 – City Council review and potential adoption of regulations and related ordinances
CHAPTER 8
MEDICAL MARIJUANA DISPENSARIES

SECTION:
§5700: FINDINGS AND PURPOSE
§5701: INTERPRETATION AND APPLICABILITY
§5702: DEFINITIONS
§5703: DISPENSARY USE PERMIT REQUIRED TO OPERATE
§5704: TERM OF PERMITS AND RENEWALS REQUIRED
§5705: GENERAL TAX LIABILITY
§5706: IMPOSITION OF FEES
§5707: LIMITATION ON LOCATION OF DISPENSARIES
§5708: OPERATING REQUIREMENTS
§5709: APPLICATION PREPARATION AND FILING
§5710: CRITERIA FOR REVIEW
§5711: INVESTIGATION AND ACTION ON APPLICATION
§5712: APPEAL FROM PLANNING COMMISSION DETERMINATION
§5713: REVOCATION
§5714: EFFECT OF REVOCATION
§5715: TRANSFER OF PERMITS
§5716: TIME LIMIT FOR FILING APPLICATIONS UPON ANNEXATION
§5717: MARIJUANA DELIVERY
§5718: VIOLATIONS
§5719: REMEDIES
§5720: SEPARATE OFFENSE FOR EACH DAY
§5721: HOLD HARMLESS
§5722: PENALTIES
§5723: JUDICIAL REVIEW

§5700 FINDINGS AND PURPOSE

The City Council adopts the ordinance codified in this chapter based upon the following findings:

A. In 1970, Congress enacted the Controlled Substances Act ("CSA") which, among other things, makes it illegal to import, manufacture, distribute, possess or use marijuana in the United States.

B. In 1996, the voters of the State of California approved Proposition 215, or the Compassionate Use Act of 1996, codified at Health and Safety Code section 11362.5 et seq. (the "Act").

C. The Act creates a limited exception from criminal liability for seriously ill persons who are in need of medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited, specified circumstances.

through 11362.83 and known as the "Medical Marijuana Program" ("MMP") was enacted by the State Legislature to clarify the scope of the act and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420.

E. After the enactment of the MMP and in response to the MMP’s explicit reservation of local authority to regulate medical marijuana cultivation and distribution, the City Council took legislative notice of the fact that California cities and counties that had permitted the establishment of medical marijuana dispensaries had experienced serious adverse impacts associated with and resulting from such dispensaries, including an increase in crime, including burglaries, robberies, violence, illegal sales of marijuana, use of marijuana by minors and other persons without medical need in the areas immediately surrounding such medical marijuana dispensaries; and malodorous smells, indoor fire hazards, mold, fungus, and pests caused by indoor cultivation at dispensaries.

F. To address these potential adverse impacts, in 2007, the City Council enacted Ordinance 1095, §1 ("Medical Marijuana Dispensaries Ordinance"), which prohibited and declared a public nuisance medical marijuana dispensaries in the City of Ukiah.

G. The 2007 Medical Marijuana Dispensaries Ordinance also states that the City Council’s intention is to prohibit the operation and location of dispensaries in the City "until such time as their legality is clearly established and a proposal can be developed that would satisfy the city council that the facility could operate without causing [serious adverse impacts]."

H. On October 9, 2015, the Governor signed into law AB 266, AB 243, and SB 643, which together comprise the Medical Marijuana Regulation & Safety Act ("MMRSA"). The MMRSA, which went into effect on January 1, 2016, created a Statewide regulatory structure for the medical marijuana industry that also allows local governments to regulate the operation of marijuana businesses within their jurisdiction, pursuant to local ordinances. Specifically, the MMRSA allows the City of Ukiah to issue permits or licenses to operate marijuana businesses or prohibit their operation, to regulate or expressly prohibit the delivery of medical marijuana within its boundaries, and to regulate or expressly prohibit the cultivation of marijuana within its boundaries. Pursuant to the MMRSA, if the City opts not to expressly prohibit or regulate the cultivation, processing, delivery, and/or dispensing of medical marijuana, the State will be the sole licensing authority for these activities in the City.

I. To protect the public health, safety, and welfare, it is the desire of the City Council to modify the City Code consistent with the MMP and the MMRSA, regarding the location and operation of medical marijuana dispensaries, delivery of medical marijuana within the boundaries of the City, and cultivation of medical marijuana within the boundaries of the City.

J. There have been a number of marijuana dispensing-related incidents in California, some including acts of violence committed by persons without a legitimate medical need to use marijuana.

K. The City Council finds that medical marijuana dispensing which exceeds the limitations set forth in these regulations will likely result in an unreasonable risk of crime and other adverse impacts and will likely create offensive odors to persons living nearby.
L. It is the City Council's intention that nothing in this chapter shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the use of marijuana for non-medical purposes; or (3) allow any activity relating to the distribution or consumption of marijuana that is otherwise illegal.

M. Pursuant to California Health and Safety Code section 11362.71 et seq., the State Department of Health through the State's counties, is to be responsible for establishing and maintaining a voluntary medical marijuana identification card program for qualified patients and primary caregivers.

N. Health and Safety Code section 11362.71(b) requires every county health department, or its designee, to implement a procedure to accept and process applications from those seeking to join the identification program in the manner set forth in Health and Safety Code section 11362.71 et seq.

O. This chapter is compatible with the general objectives of the General Plan, in that a medical marijuana dispensary use will be conditionally permitted in commercial and industrial districts, being similar to other permitted and conditionally permitted uses, such as pharmacies and medical clinics, and in that the use will be subject to strict review and conditions.

P. This chapter will not be detrimental to the public health, safety and general welfare or adversely affect the orderly development of property, because the uses permitted under this chapter will be subject to careful review, limited in scope and location, and subject to strict operating requirements, avoiding or limiting potential negative effects.

Q. It is the purpose and intent of this chapter to regulate medical marijuana dispensaries in order to promote the health, safety, morals, and general welfare of residents and businesses within the City. (Ord. 1095, §1, adopted 2007; Ord. 1176, §1, adopted 2017)

§5701 INTERPRETATION AND APPLICABILITY

A. This chapter is not intended to create a positive conflict with the CSA, but rather to implement the MMRSA and related State laws.

B. Nothing in this chapter is intended, nor shall it be construed, to exempt any marijuana-related activity from any and all applicable local and State construction, electrical, plumbing, land use, or any other building, fire, or land use standards or permitting requirements.

C. Nothing in this chapter is intended, nor shall it be construed, to make legal any cultivation, transportation, sale, or other use of marijuana that is otherwise prohibited under California law.

D. All processing and distribution of medical marijuana within City limits shall be subject to the provisions of this chapter, even if the processing, distribution, or cultivation existed or occurred prior to adoption of this chapter.

E. Nothing in this chapter is intended, nor shall it be construed, to allow or permit any "commercial cannabis activity," as defined in Business and Professions Code section 26001(k), or any commercial or noncommercial activity involving marijuana use for recreational or other nonmedical purposes that is not
§5702 DEFINITIONS

For the purposes of this chapter, the following words and phrases shall have the following meaning:

A. "Accessory building" shall have the same meaning as set forth in section 9278 of this code.

B. "Applicant" means a person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a dispensary.

C. "City" means the City of Ukiah.

D. "Delivery" shall have the same definition as set forth in California Business and Professions Code section 26001, and as it may be amended.

E. "Dispensary use permit" means a permit required to operate a medical marijuana dispensary within the City and that is issued pursuant to this chapter.

F. "Drug paraphernalia" or "paraphernalia" shall have the same definition as set forth in section 6071 of this code.

G. "Identification card" shall have the same definition as in California Health and Safety Code section 11362.7, and as it may be amended.

H. "Medical marijuana dispensary" or "dispensary" means a "dispensary" as defined in California Business and Professions Code section 26001, as it now reads or may be amended in the future.

I. "On site" means an activity or accessory use that is related to the primary use – i.e., lawful, retail distribution of medical marijuana – and is located on the same legal parcel as the primary use.

J. "Permittee" means the person to whom a dispensary use permit is issued.

K. "Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character.

L. "Person with an identification card" shall have the same definition as set forth in California Health and Safety Code section 11362.7, and as it may be amended.

M. "Physician" means a licensed medical doctor (M.D.) or a doctor of osteopathic medicine (D.O.).

N. "Primary caregiver" shall have the same definition as set forth in California Health and Safety Code section 11362.7, and as it may be amended.

O. "Qualified patient" shall have the same definition as set forth in California Health and Safety Code section 11362.7, and as it may be amended.

P. "School" means an institution of learning for minors, whether public or private, offering a regular course otherwise authorized in the Ukiah City Code. (Ord. 1176, §1, adopted 2017; Ord. 1182, §1, adopted 2017)
of instruction required by the California Education Code. This definition includes an elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including any other college or university.

Q. "Use permit" shall have the same definition as set forth in section 9261 of this code and as it may be amended.

R. "Youth-oriented facility" means a public park, church, museum, library, or licensed daycare facility.

S. "Zoning administrator" means the Zoning Administrator of the City of Ukiah or the authorized representative thereof. (Ord. 1095, §1, adopted 2007; Ord. 1176, §1, adopted 2017; Ord. 1182, §1, adopted 2017. Formerly 5701)

§5703 DISPENSARY USE PERMIT REQUIRED TO OPERATE

A. It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City the operation of a medical marijuana dispensary unless the person first obtains and continues to maintain in full force and effect a dispensary use permit from the City as required in this chapter.

B. After January 1, 2018, or such time when State implementing regulations are in effect for the MMRSA, whichever is earlier, it shall be unlawful to operate any business or conduct any activity in the City for which a State license is required under the MMRSA without also having a valid State license pursuant to the MMRSA. Prior to implementation of the State license program pursuant to MMRSA, any operation of a dispensary, cultivation of medical marijuana, or delivery of medical marijuana permitted by the City shall be conducted in accordance with this chapter, the City’s zoning and land use ordinances, and all laws pertaining to the equivalent license classification under the MMRSA.

C. The grant of a dispensary use permit by the City shall not create an entitlement or vested right in the permittee to any permit or license to operate any commercial, nonmedical marijuana businesses or conduct any commercial, nonmedical marijuana activities within the City. (Ord. 1176, §1, adopted 2017)

§5704 TERM OF PERMITS AND RENEWALS REQUIRED

A. Dispensary use permits issued under this chapter shall expire one year following the date of their issuance which date shall appear on the face of the permit.

B. Dispensary use permits may be renewed by the Zoning Administrator for additional one-year periods upon application by the permittee, unless the permit is suspended or revoked in accordance with the provisions of this chapter.

C. Applications for renewal shall be made at least forty-five (45) days before the expiration date of the permit and shall be accompanied by the nonrefundable application fee referenced in section 5706 of this code and all information necessary for the Zoning Administrator to evaluate the renewal request in light of the criteria listed in subsection F of this section. In acting on an application for renewal, the Zoning Administrator shall follow the procedures set forth in section 5711B and C, except that all references therein to the Planning Commission shall be deemed to refer to the Zoning Administrator. Upon timely application to
renew a permit, the permit being renewed shall remain in effect until final action is taken to grant or deny the renewal application.

D. Applications for renewal made less than forty-five (45) days before the expiration date shall be processed in the same manner as a timely renewal application but shall not stay the expiration date of the permit.

E. Renewal applications shall be subject to duly noticed public hearings in accordance to the procedures set forth for minor use permit applications in section 9262 of this code.

F. In determining whether to renew a dispensary use permit, the Zoning Administrator will consider the following nonexclusive criteria, in addition to those criteria set forth in this chapter at section 5710 of this code:

1. Whether the dispensary operated by the permittee has generated an excessive number of calls for police service compared to similarly situated businesses of the same size as the dispensary.

2. Whether there have been excessive secondary criminal or public nuisance impacts in the surrounding area or neighborhood, including, but not limited to, disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passersby, littering, loitering, illegal parking, loud noises, or lewd conduct.

3. Whether the dispensary operated by the permittee has a history of inadequate safeguards or procedures that show it is likely that it will not comply with the operating requirements and standards in this chapter.

4. Whether the dispensary has failed to pay fees, penalties, or taxes required by this code or has failed to comply with the production of records or other reporting requirements of this chapter.

5. Whether it appears that the permittee has, in its renewal application, provided a false statement of material fact or has knowingly omitted a material fact.

6. Whether the renewal applicant or one or more of its officers, employees, partners, managers or members with management responsibilities ("Managers") has been convicted of a felony, or has engaged in misconduct that is substantially related to the qualifications, functions or duties of a dispensary operator. A "conviction" within the meaning of this chapter means a plea or verdict of guilty, or a conviction following a plea of nolo contendere. Notwithstanding the above, an application shall not be denied solely on the basis that the applicant or any Manager has been convicted of a felony, if the person convicted has obtained a certificate of rehabilitation (expungement of felony record) under California law or under a similar Federal statute or State law where the expungement was granted.

7. Whether the renewal applicant or dispensary has previously or is currently engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

G. The Zoning Administrator shall make findings of fact and either grant, grant conditionally, or deny the application for renewal of a dispensary use permit. An applicant aggrieved by the Zoning Administrator's
decision to issue or to deny a dispensary use permit renewal may appeal such decision to the Planning Commission by filing an appeal. All determinations of the Zoning Administrator regarding dispensary use permit renewals shall be final unless a written appeal, stating the reasons for the appeal, and the appeal fee, if any, as established by resolution of the City Council from time to time, are filed with the Planning Department within ten (10) days of the date the decision was made. The appeal fee will be in addition to the nonrefundable renewal application fee. Appeals may be filed by an applicant.

The Planning Commission shall conduct a duly noticed public hearing on the appeal in accordance to the applicable procedures as set forth in section 9266 of this code, except that all references therein to the City Council shall be deemed to refer to the Planning Commission. At the close of the public hearing, the Planning Commission may affirm, reverse, or modify the appealed decision of the Zoning Administrator. All Planning Commission decisions on appeals of the Zoning Administrator’s decision with regard to an application for a dispensary use permit renewal are final for the City. (Ord. 1176, §1, adopted 2017)

§5705 GENERAL TAX LIABILITY

As a prerequisite to obtaining a permit pursuant to the terms hereof, an operator of a dispensary shall also be required to apply for and obtain a business license or exemption from the City of Ukiah and obtain a seller’s permit or exemption from the State Board of Equalization pursuant to Division 2, Part 2, Chapter 2, Article 2 of the Cal. Revenue and Taxation Code, commencing with section 6066e. Dispensary sales shall be subject to sales tax consistent with State law. (Ord. 1176, §1, adopted 2017)

§5706 IMPOSITION OF FEES

Every application for a dispensary use permit or renewal shall be accompanied by an application fee, as established by resolution of the City Council from time to time. This application or renewal fee shall not include fingerprinting, photographing, and background check costs and shall be in addition to any other business license fee or permit fee imposed by this code or other governmental agencies. Fingerprinting, photographing, and background check fees will be as established by resolution adopted by the City Council from time to time. (Ord. 1176, §1, adopted 2017)

§5707 LIMITATION ON LOCATION OF DISPENSARIES

A. A dispensary may only be located within the C1, C2, CN, M, and PD (Commercial) zoning districts and in the GU, UC, and DC downtown zoning districts as designated in the General Plan, Zoning Map.

B. A dispensary shall be in a visible location that provides good views of the dispensary entrance, windows and premises from a public street.

C. A dispensary shall not be allowed in the following areas at the time of its permitted establishment:

   1. Within six hundred feet (600’) of a school, with that distance measured as the horizontal distance in a straight line from the property line of the school to the closest property line of the lot on which the dispensary is to be located without regard to intervening structures, pursuant to California Health and Safety Code section 11362.768; or

   2. Within two hundred fifty feet (250’) of a youth-oriented facility other than a school, or another
dispensary, with that distance measured by street frontage from the property line of the youth-oriented facility to the closest property line of the lot on which the dispensary is to be located, and not radial distance; or

3. Abutting, on any side of the parcel upon which the dispensary is located, a parcel occupied by a youth-oriented facility, a school, or another dispensary; or

4. Within any residential zoned parcel or primary land use, or any property with an underlying residential or mobile homes general plan land use designation.

5. On a parcel having a residential unit, or on a parcel directly abutting a residentially zoned property, unless there are intervening nonresidential uses between the dispensary and the residential unit or the residentially zoned property that the Planning Commission or, on appeal, the City Council determines sufficient to provide an appropriate separation.

D. A waiver of the provisions in subsections C2 through 5 of this section may be granted if the applicant demonstrates on plans and materials presented for review and the Planning Commission determines that a physical barrier or other condition exists which achieves the same purpose and intent as the distance separation requirements established herein, and that, as a result, the Planning Commission makes a finding of no adverse impact resulting from the proposed location of the dispensary. (Ord. 1176, §1, adopted 2017)

§5708 OPERATING REQUIREMENTS

Dispensary operations shall be established and managed only in compliance with the following standards:

A. Criminal History: Any applicant, his or her agent or employees, volunteer workers, or any person exercising managerial authority of a dispensary on behalf of the applicant shall not have been convicted of any of the felony offenses enumerated in Business and Professions Code section 26057(b)(4), or of a felony or misdemeanor involving moral turpitude, or on probation for a drug offense, or engaged in misconduct related to the qualifications, functions or duties of a permittee. Notwithstanding the above, an application shall not be denied solely on the basis that the applicant or any manager has been convicted of a felony, if the person convicted has obtained a certificate of rehabilitation (expungement of felony record) under California law or under a similar Federal statute or State law where the expungement was granted. In addition, notwithstanding the above, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of cannabis or cannabinoid preparations, is not considered related to the qualifications, functions, or duties of a permittee, and shall not be the sole ground for denial of an application.

B. Minors:

1. It is unlawful for any permittee, operator, or other person in charge of any dispensary to employ any person who is not at least twenty-one (21) years of age.

2. Persons under the age of eighteen (18) shall not be allowed on the premises of a dispensary unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or
3. The entrance to a dispensary shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen (18) are precluded from entering the premises unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or guardian.

4. The burden of proof is on the dispensary personnel to establish compliance with this subsection B by clear and convincing evidence.

C. Dispensary Access:

1. The entrance into the dispensary building shall be locked at all times with entry strictly controlled; e.g., a buzz-in electronic/mechanical entry system with a vestibule is highly encouraged. A viewer shall be installed in the door that allows maximum angle of view of the exterior entrance.

2. Dispensary personnel shall monitor site activity, control loitering and site access.

3. Only dispensary staff, primary caregivers, qualified patients and persons with bona fide purposes for visiting the site shall be allowed on the premises at a dispensary.

4. Potential patients or caregivers shall not visit a dispensary without first having obtained a valid written recommendation from their physician recommending use of medical marijuana.

5. Only a primary caregiver and qualified patient shall be in the designated dispensing area with dispensary personnel. All other authorized visitors shall remain in the designated waiting area in the front entrance/lobby.

6. Restrooms shall remain locked and under the control of management.

D. Dispensing Operations:

1. The dispensary may possess no more dried marijuana or plants per qualified patient or caregiver than permitted in strict accordance with California Health and Safety Code section 11362.77 and any other applicable State law, and as amended.

2. A dispensary shall only dispense to qualified patients or caregivers with:

   a. A currently valid physician’s approval or recommendation in compliance with the criteria in California Health and Safety Code Division 10, Chapter 6, Article 2.5 and as it may be amended, and valid official identification, such as a Department of Motor Vehicles driver’s license or State identification card; or

   b. A currently valid California Medical Marijuana Identification Card or a Patient ID Center Identification Card.

3. For qualified patients or caregivers without a California Medical Marijuana Identification Card or a Patient ID Center Identification Card, prior to dispensing medical marijuana, the dispensary shall obtain verbal, online, or signed verification from the recommending physician’s office personnel that the
individual requesting medical marijuana is a qualified patient.

4. A dispensary shall not have a physician on site to evaluate patients and provide a recommendation for medical marijuana.

5. Patient records shall be maintained and verified as needed, and at least annually verified with the qualifying patient's medical doctor or doctor of osteopathy unless the patient has provided a California Medical Marijuana Identification Card or a Patient ID Center Identification Card.

6. Information on prior year’s operations shall be provided annually, as required in this chapter. The operator shall adjust the operations as necessary to address issues.

E. Hours of Operation: Hours of operation are limited to nine o’clock (9:00) A.M. to nine o’clock (9:00) P.M., seven (7) days a week.

F. Consumption Restrictions:

1. Marijuana shall not be consumed on the premises of the dispensary. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other surroundings within two hundred feet (200') of the dispensary’s entrance.

2. Dispensary operations shall not result in illegal redistribution of medical marijuana obtained from the dispensary, or use in any manner that violates local, State or City codes.

3. No person may consume marijuana, by smoking or vaporization, in any public places. Public places shall include, but are not limited to, City owned parks and/or City sponsored events where designated as nonsmoking areas by resolution of the City Council, streets, sidewalks, alleys, highways, public parking lots as defined in section 6000 of this code and as amended, enclosed places and places of employment as defined in sections 4503 and 4505 of this code and as amended, and any other property owned or leased by the City, or in which the City holds a right-of-way easement, and which is open to members of the general public, except while actively passing through on the way to another destination. Nothing in this section is intended, nor shall it be construed, to be inconsistent with the California Indoor Clean Air Act of 1976, Health and Safety Code section 118875 et seq. and as amended.

G. Retail Sales and Cultivation:

1. No cannabis shall be cultivated on the premises of the dispensary, except in compliance with this chapter and with sections 6093 and 9254 of this code and applicable State laws and regulations.

   a. Except for immature nursery stock marijuana plants, marijuana plants grown by the dispensary shall only be utilized for production of processed marijuana to dispense to patients.

   b. A security plan for the growing area shall be submitted to the Ukiah Police Chief for review and approval. Such plan shall include: security alarms and surveillance systems; physical measures to prevent access to the area by anyone other than dispensary staff; and physical measures to prevent vehicle penetration of the growing area.
c. The cultivation area shall include a one-hour firewall assembly and shall not create excessive humidity or mold conditions. The cultivation area shall have an air treatment system that prevents odors generated from the cultivation of marijuana on the dispensary property from being detected by any reasonable person of normal sensitivity outside the dispensary property, as set forth in subsection H4 of this section. The medical marijuana cultivation area shall be in compliance with the current, adopted edition of the California Building Code as regards natural ventilation or mechanical ventilation.

d. Cultivation facilities are strongly encouraged to utilize the most water-efficient and environmentally responsible cultivation practices available. The City reserves the right to require annual reports on cultivation facility practices, including but not limited to cultivation mediums and water use methods.

e. The cultivation use shall comply with applicable stormwater, wastewater, and building code requirements and any applicable State or Federal law, including the Clean Water Act, 33 USC section 1251 et seq.

2. With the approval of the Planning Commission, a dispensary may conduct or engage in the commercial sale of specific products, goods or services in addition to the provision of medical marijuana and other items permitted by these regulations on terms and conditions consistent with this chapter and applicable law.

3. Up to one hundred fifty (150) square feet of the total square footage of the dispensary may be utilized for display and sales of devices necessary for administering medical marijuana, including but not limited to rolling papers and related materials and devices, pipes, water pipes, and vaporizers. Such devices may only be provided to qualified patients or primary caregivers and only in accordance with Health and Safety Code section 11364.5 and as amended.

4. Retail sales of medical marijuana that violate California law or this chapter are expressly prohibited.

5. A dispensary shall meet all the operating criteria for the dispensing of medical marijuana as is required pursuant to applicable State laws and regulations.

6. The provision of locally grown and organic marijuana is encouraged.

H. Operating Plans:

1. Floor Plan: A dispensary shall have a lobby waiting area at the entrance to receive clients, and a separate and secure designated area for dispensing medical marijuana to qualified patients or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

2. Storage: A dispensary shall have suitable locked storage on premises, identified and approved as a part of the security plan, for after-hours storage of medical marijuana.
3. Minimum Staffing Levels: The premises shall be staffed with at least one person during hours of operation who shall not be responsible for dispensing medical marijuana.

4. Odors Control: The dispensary shall have an air treatment system that prevents odors generated from the storage and cultivation of marijuana on the dispensary property from being detected by any reasonable person of normal sensitivity outside the dispensary property. To achieve this, both the storage and cultivation areas shall be, at minimum, mechanically ventilated with a carbon filter or superior method.

5. Security Plans: A dispensary shall provide adequate security on the premises, as approved by the Chief of Police and reviewed by the Planning Commission, including lighting and a premises and panic alarm system monitored by a licensed operator, to ensure the safety of persons and to protect the premises from theft.

6. Security Cameras: Security surveillance cameras shall be installed to monitor the main entrance and exterior of the premises to discourage loitering, crime, illegal or nuisance activities.

7. Security Video Retention: Security video shall be maintained for ninety (90) days. In the event of a crime on site or anywhere within range of the dispensary’s security cameras, the dispensary shall provide the Chief of Police with a useable digital copy of the security video upon request or at the earliest convenience.

8. Alarm System: Professionally monitored premises and panic alarm system shall be installed and maintained in good working condition.

9. Emergency Contact: A dispensary shall provide the Chief of Police with the name, e-mail address, phone number and facsimile number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the dispensary. The dispensary shall make every good faith effort to encourage neighborhood residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the City.

I. Signage and Notices:

1. A notice shall be clearly and legibly posted in the dispensary indicating that smoking, ingesting or consuming marijuana on the premises or in the vicinity of the dispensary is prohibited. The notice shall be posted in both English and Spanish.

2. Signs on the premises shall not obstruct the entrance or windows.

3. Address identification shall comply with illuminated address signs requirements.

4. Business identification signage shall be limited to that needed for identification only, consisting of a single window sign or wall sign that shall comply with section 3227 of this code and any other City Code provisions regulating signage.

J. Employee Records: Each owner or operator of a dispensary shall maintain a current register of the names of all volunteers and employees currently working at or employed by the dispensary, and shall
disclose such registration for inspection by any City officer or official for purposes of determining compliance with the requirements of this chapter.

K. Patient Records: Information identifying the names of patients, their medical conditions, or the names of their primary caregivers is confidential and such disclosure is prohibited pursuant to the Federal Health Insurance Portability and Accountability Act of 1996 (42 USC section 1320d et seq.) and the Confidentiality of Medical Information Act (California Civil Code section 56 et seq.). In order to protect patient confidentiality, the dispensary shall maintain records of all qualified patients with a valid identification card and primary caregivers with a valid identification card using only the identification card number issued by the State, or its agent, pursuant to California Health and Safety Code section 11362.7 et seq. Such records may be maintained on or off site, and shall be made available for inspection by any City official authorized to enforce this chapter for purposes of determining compliance with the requirements of this chapter.

L. Staff Training: Dispensary staff shall receive appropriate training for their intended duties to ensure understanding of rules and procedures regarding dispensing in compliance with State and local law, and the dispensary shall employ properly trained or use professionally hired security personnel in accordance with the conditions of its permit.

M. Site Management:

1. The operator of the establishment shall take all reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if directly related to the patrons of the subject dispensary.
   
   a. "Reasonable steps" shall include calling the police in a timely manner; and requesting those engaging in objectionable activities to cease those activities, unless personal safety would be threatened in making the request.
   
   b. "Nuisance" includes, but is not limited to, disturbances of peace, open public consumption of marijuana or alcohol, excessive pedestrian or vehicular traffic, illegal drug activity, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct or excessive police detentions and arrests.

2. The operator shall take all reasonable steps to reduce loitering in public areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours.

3. The operator shall provide dispensary patients with a list of the rules and regulations governing medical marijuana use and consumption within the City and recommendations on sensible marijuana etiquette.

N. Compliance with Other Requirements: The operator shall comply with all applicable provisions of local, State or Federal laws, regulations or orders, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders.

O. Confidentiality: The information provided for purposes of this section shall be maintained by the City as
confidential information, and shall not be disclosed as public records unless pursuant to subpoena issued by a court of competent jurisdiction or otherwise compelled by court order.

P. Display of Permit: Every dispensary shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such dispensary in a conspicuous place so that the same may be readily seen by all persons entering the dispensary.

Q. Reporting and Payment of Fees: Each permittee shall file an annual statement with the Planning Department: (1) indicating the number of patients served by the dispensary within the previous calendar year, (2) the continuing accuracy of the information in the prior year’s dispensary use permit application, (3) documenting any changes or additions to that information as of the date for renewal of the permit, any citizen complaints, City Code violations, and calls for law enforcement during the prior year, the applicant’s compliance with applicable City and State law governing the operation of dispensaries, and (4) including any additional information the Planning Department deems necessary to administer this chapter, and pay all annual permit fees.

R. Alcoholic Beverages: No dispensary shall hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages, or operate a business on the premises that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.

S. Dispensaries shall comply with the parking requirements for medical office uses.

T. Inspections: During normal business hours, dispensaries permitted under this chapter shall provide access for administrative inspections by City officials or officers or consultants hired by the City to verify compliance with this chapter. Any dispensary’s refusal to comply with this section shall be deemed a violation of this chapter. (Ord. 1176, §1, adopted 2017; Ord. 1182, §1, adopted 2017)

§5709 APPLICATION PREPARATION AND FILING

A. Application Filing: A complete dispensary use permit application submittal packet shall be submitted in accordance with section 9262 of this code, including a detailed written statement as to how the proposed dispensary complies with sections 5707 and 5708 of this code, and any other information or submissions required by this chapter. All applications for dispensary use permits shall be filed with the Planning Department, using forms provided by the City, and accompanied by the applicable filing fee and any other applicable fees or charges. It is the responsibility of the applicant to provide information required for approval of the permit. The application shall be made under penalty of perjury.

B. Eligibility for Filing: Applications may only be filed by the owner of the subject property, or person with a lease signed by the owner or duly authorized agent allowing them to occupy the property for the intended use. If the applicant is a lessee, a copy of the duly executed lease currently in effect must accompany the application.

C. Filing Date: The filing date of any application shall be the date when the City receives the last submission of information or materials required in compliance with the submittal requirements specified herein.
D. Effect of Incomplete Filing: Upon notification that an application submittal is incomplete, the applicant shall submit any additional documents or information required to complete the application within thirty (30) days of the date the applicant is notified in writing by the Planning Department that the application is incomplete. If the applicant fails to complete the application within said thirty (30) days, the application shall be deemed withdrawn and a new application submittal that complies with subsections A and F of this section shall be required in order to proceed with the application.

E. Effect of Other Permits or Licenses: The fact that an applicant possesses other types of State or City permits or licenses does not exempt the applicant from the requirement of obtaining a dispensary use permit.

F. Submittal Requirements: Any application for a dispensary use permit shall include the following information:

1. Applicant(s) Name: The full name (including any current or prior aliases, or other legal names the applicant is or has been known by, including maiden names), present address, and telephone number of the applicant;

2. Applicant(s) Mailing Address: The address to which notice of action on the application is to be mailed;

3. Previous Addresses: Previous addresses for the past five (5) years immediately prior to the present address of the applicant;

4. Verification of Age: Written proof that the applicant is over the age of twenty-one (21) years of age;

5. Physical Description: Applicant's height, weight, color of eyes and hair;

6. Photographs: Passport quality photographs for identification purposes;

7. Employment History: All business, occupation, or employment of the applicant for the five (5) years immediately preceding the date of the application;

8. Tax History: The dispensary business tax history of the applicant, including whether such person, in previously operating in this or another city, county or state under license has had a business license revoked or suspended, the reason therefor, and the business or activity or occupation in which the applicant engaged subsequent to such action of suspension or revocation;

9. Management Information: The name or names and addresses of the person or persons having the management or supervision of applicant's business;

10. Criminal Background: A background investigation verifying whether the person or person having the management or supervision of applicant’s business has been convicted of a crime(s), the nature of such offense(s), and the sentence(s) received therefor;

11. Employee Information: Number of employees, volunteers, and other persons who will work at the dispensary;
12. Plan of Operations: A plan of operations describing how the dispensary will operate consistent with the intent of State law and the provisions of this chapter, including but not limited to:

   a. Ensuring that the dispensary will not engage in retail sales of medical marijuana that violate California law or this chapter.

   b. Controls that will assure medical marijuana will be dispensed to qualifying patients or caregivers only.

   c. Controls that will ensure access to dispensary premises is adequately monitored and restricted to preapproved qualified patients and caregivers.

13. Written Project Description: A written description summarizing the proposed dispensary use size, number of patients, characteristics and intent;

14. Written Response to Dispensary Standards: The applicant shall provide a comprehensive written response identifying how the dispensary plan complies with each of the standards for review in this chapter, specifically the limitation on location and operating requirements in sections 5707 and 5708 of this code;

15. Written Response to Criteria for Review Section: The applicant shall provide a written response indicating the method by which each of the criteria for review enumerated in section 5710 of this code has been satisfied;

16. Security Plan: A detailed security plan outlining the proposed security arrangements for ensuring the safety of persons and to protect the premises from theft. The plan shall include installation of security cameras, a premises and panic alarm system monitored by a licensed operator, and a security assessment of the site conducted by a qualified professional;

17. Floor Plan: A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the dispensary. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6”);

18. Site Plan: A sketch or diagram showing exterior configuration of the premises, including the outline of all structures, parking and landscape areas, and property boundaries. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions to an accuracy of plus or minus six inches (6”);

19. Accessibility Evaluation: A written evaluation of accessibility to and within the building, and identification of any planned accessibility improvements;

20. Neighborhood Context Map: An accurate straight-line drawing depicting the building and the portion thereof to be occupied by the dispensary, and: (a) the property lines of any school within six hundred feet (600’) of the property line of the dispensary for which a permit is requested, (b) the property lines of any dispensary within two hundred fifty feet (250’) of the primary entrance of the dispensary for which a
permit is requested, and (c) the property lines of any youth-oriented facility or residential zone or use within two hundred fifty feet (250’) of the primary entrance of the dispensary;

21. Lighting Plan: A lighting plan showing existing and proposed exterior premises and interior lighting levels that would be the minimum necessary to provide adequate security lighting for the use and comply with all City standards regarding lighting design and installation. All lighting shall be fully hooded and downcast, and shall not shine towards the night sky, adjacent property or any street;

22. City Authorization: Written authorization for the City, its agents and employees to seek verification of the information contained within the application;

23. Statement of Owner’s Consent: A statement in writing by the applicant that he or she certifies under penalty of perjury that the applicant has the consent of the property owner and landlord to operate a dispensary at the location;

24. Applicant’s Certification: 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;

25. Other Information: Such other information as deemed necessary by the Planning Department to demonstrate compliance with this chapter including all City and State codes, including operating requirements established in this chapter.

G. Renewal: Applications for one-year renewal shall be accompanied by the following minimum information:

1. The operator shall report the number of patients served and pay applicable fees, as required by this chapter.

2. The operator shall provide a detailed description of any adjustments and changes proposed or that have occurred in dispensary operations to address issues, or comply with laws.

3. The operator shall identify any problems encountered during operations and how they have been addressed.

4. The operator shall identify how the dispensary has managed its operations to comply with the operating requirements of this chapter and with State law. (Ord. 1176, §1, adopted 2017)

§5710 CRITERIA FOR REVIEW

In addition to the findings required in section 9262 of this code, the Planning Commission shall consider the following criteria in determining whether to grant or deny a dispensary use permit, and the Zoning Administrator shall consider the following criteria in determining whether to grant or deny renewals of a dispensary use permit:

A. That the dispensary use permit is consistent with the intent of the Compassionate Use Act of 1996, the MMRSA, and related State law, the provisions of this chapter and the City Code, including the application submittal and operating requirements herein.
B. That the dispensary location is not identified as having significant crime issues (e.g., based upon crime reporting statistics as maintained by the Police Department).

C. That there have not been significant numbers of calls for police service, crimes or arrests in the area or to an existing dispensary location.

D. That an applicant or employee is not under twenty-one (21) years of age.

E. That all required application materials have been provided and/or the dispensary has operated successfully in a manner that shows it would comply with the operating requirements and standards specified in this chapter.

F. That all required application or annual renewal fees have been paid and reporting requirements have been satisfied in a timely manner.

G. That the location is not prohibited by the provisions of this chapter or any local or State law, statute, rule or regulation and no significant nuisance issues or problems are anticipated or have resulted from dispensary operations.

H. That the site plan, floor plan, and security plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the operating requirements in section 5708 of this code. These features may include, but are not limited to, security on site; procedure for allowing entry; openness to surveillance and control of the premises, the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior.

I. That no dispensary use, owner, permittee, agent, or employee has violated any provision of this chapter including grounds for suspension, modification or revocation of a permit.

J. That all reasonable measures have been incorporated into the plan and/or consistently taken to successfully control the establishment’s patrons’ conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, marijuana use in public, or creation of a public or private nuisance, or interference with the operation of another business.

K. That the dispensary would not adversely affect the health, peace or safety of persons living or working in the surrounding area, overly burden a specific neighborhood with special needs or high impact uses, or contribute to a public nuisance; or that the dispensary has resulted in repeated nuisance activities including disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests.

L. That any provision of the City Code or condition imposed by a City issued permit, or any provision of any other local or State law, regulation, or order, or any condition imposed by permits issued in compliance with those laws has not been violated.

M. That the applicant has not violated any local or State law, statute, rule or regulation respecting the
distribution, possession, or consumption of marijuana.

N. That the applicant has not knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit.

O. That the applicant, his or her agent or employees, or any person who is exercising managerial authority on behalf of the applicant has not been convicted of a felony, or of a misdemeanor involving moral turpitude, or has engaged in misconduct related to the qualifications, functions or duties of a permittee.

P. That the applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

Q. That adequate parking will be provided at a rate of one space for every two hundred (200) gross square feet of retail space, office space, and similar floor areas, pursuant to section 9198(F)(1) of this code. However, if the dispensary to be operated by the applicant does not dispense medical marijuana to patients on site but services qualified patients through deliveries in compliance with section 5717 of this code, then adequate parking will be provided at a rate of one space for every four hundred (400) square feet of gross leasable space, pursuant to section 9198(G)(3) of this code. (Ord. 1176, §1, adopted 2017; Ord. 1182, §1, 2017)

§5711 INVESTIGATION AND ACTION ON APPLICATION

After the making and filing of a complete application for the dispensary use permit and the payment of the fees, the applicant shall complete a fingerprint background check and the Police Department shall conduct an investigation of the application. In processing the application:

A. The Planning Department shall refer the application to any other City departments as necessary to complete the review of the application.

B. Following provision of complete application materials, inter-departmental review, and compliance with the California Environmental Quality Act, the Planning Department shall schedule the dispensary use permit for Planning Commission review. In making a decision to grant or deny the application the Planning Commission shall follow the notice and hearing procedures and make the findings required by sections 9262C through F of this code and shall either grant or deny the application in accordance with the provisions of this chapter.

C. In approving a dispensary use permit, the Planning Commission may impose conditions, restrictions or require revisions to the proposal to comply with the purpose and intent of this chapter.

D. The Planning Department shall cause a written notice of the Planning Commission decision to issue or deny a permit to be mailed to the applicant by U.S. mail. (Ord. 1176, §1, adopted 2017)

§5712 APPEAL FROM PLANNING COMMISSION DETERMINATION

A. An applicant aggrieved by the Planning Commission decision to issue or to deny a dispensary use permit may appeal such decision to the City Council by filing an appeal. All determinations of the Planning Commission regarding dispensary use permits shall be final unless a written appeal, stating the reasons for
the appeal, and the appeal fee, if any, as established by resolution of the City Council from time to time, are filed with the City Council within ten (10) days of the date the decision was made. Appeals may be filed by an applicant or any interested party. An interested party may appeal only if he or she appeared and stated his or her position during the hearing on the decision from which the appeal is taken.

B. The City Council shall conduct a duly noticed public hearing on the appeal in accordance to the procedures applicable to an appeal of a decision to grant or deny a use permit as set forth in Division 9, Chapter 2, Article 20 of this code. At the close of the public hearing, the City Council may affirm, reverse, or modify the appealed decision of the Planning Commission. All City Council decisions on appeals of the Planning Commission’s decision with regard to an application for a dispensary use permit are final for the City. (Ord. 1176, §1, adopted 2017)

§5713 REVOCATION

A. Any dispensary use permit issued under the terms of this chapter may be revoked by the Zoning Administrator, when it shall appear to the Administrator that the use for which the dispensary use permit was granted is not being conducted in compliance with the dispensary use permit as conditioned, the permittee has violated any of the requirements of this chapter, or the dispensary is operated in a manner that violates the provisions of this chapter, including the criteria for review and operating requirements sections, or conflicts with State law.

B. The Zoning Administrator shall conduct revocation proceedings in compliance with section 9262H of this code, except that all references therein to the Planning Commission shall be deemed to refer to the Zoning Administrator. Notice of the hearing required by said section shall be given in compliance with section 9262C of this code. In addition, notice of the revocation hearing, including a description of the facts and violations relied upon in seeking revocation, shall be served on the permit holder by personal service, overnight courier or registered United States mail, return receipt requested, not later than ten (10) days prior to the hearing. Service shall be deemed complete when received by the permit holder or forty-eight (48) hours after deposit in the United States mail, whichever occurs first. Notice shall be sent to the address as shown on the permit application or to an address which the permit holder has requested in writing that the City use for official communications. The address shall not be a post office box, but must be a physical address.

C. If any person holding a permit or acting under the authority of such permit under this chapter is convicted of a public offense in any court for any offense that would constitute a violation of their dispensary use permit or this chapter, the Zoning Administrator may revoke such permit forthwith without any further action thereof, other than giving notice of revocation to the permittee.

D. The final decision of the Zoning Administrator to revoke a dispensary use permit may be appealed to the Planning Commission. The appeal hearing shall be conducted in compliance with section 9266 of this code, except that all references therein to the City Council in an appeal of a Zoning Administrator decision shall be deemed to refer to the Planning Commission. (Ord. 1176, §1, adopted 2017)

§5714 EFFECT OF REVOCATION

When a final decision has been made revoking any dispensary use permit provided for in this chapter, no
new application for a dispensary use permit shall be accepted from the applicant and no such permit shall be issued to such person or to any corporation or other business entity, including, but not limited to, a partnership or limited liability company, in which he or she shall have any direct or indirect beneficial, financial or ownership interest for a period of three (3) years after the action revoking the permit. (Ord. 1176, §1, adopted 2017)

§5715 TRANSFER OF PERMITS

A. A permittee shall not operate a dispensary under the authority of a dispensary use permit at any place other than the address of the dispensary stated in the application for the permit.

B. A permittee shall not transfer ownership or control of a dispensary, including by transferring a controlling interest in the permittee, or transfer a dispensary use permit to another person or entity unless and until the transferee obtains its own dispensary use permit. Any other assignment of a dispensary use permit is prohibited.

C. No dispensary use permit may be transferred when the Zoning Administrator or Planning Commission have notified the permittee that the permit has been or may be revoked.

D. Any attempt to transfer a dispensary use permit either directly or indirectly in violation of this section is declared void, and the permit shall be deemed revoked. (Ord. 1176, §1, adopted 2017)

§5716 TIME LIMIT FOR FILING APPLICATIONS UPON ANNEXATION

Any dispensary that was legally established in Mendocino County ("County") and which is subsequently annexed into the City must apply for and obtain a dispensary use permit in compliance with the provisions of this chapter within ninety (90) days from the date the annexation becomes effective. Continued operation of a dispensary without a permit more than ninety (90) days after annexation shall constitute a violation of this chapter, unless an extension of the ninety (90) day period is approved by the Planning Commission upon the applicant’s demonstration of reasonable grounds to do so. (Ord. 1176, §1, adopted 2017)

§5717 MARIJUANA DELIVERY

A. A permitted dispensary located in the City may deliver marijuana to qualified patients and caregivers at their residence in the City. Such permissible delivery of marijuana to qualified patients shall be limited to delivery by lawfully operated, permitted dispensaries located within the jurisdictional limits of the City. Any individual engaging in the activity of delivering medical marijuana from a permitted dispensary to a qualified patient must have a business license in accordance with Division 2, Chapter 1, Article 3 of this code.

All other marijuana delivery is a prohibited activity in the City, except where the City is preempted by Federal or State law from enacting a prohibition on such activity.

B. In conformity with section 6001 of this code, it shall be unlawful for any qualified individual engaging in the activity of delivering medical marijuana from a permitted dispensary to a qualified patient to be in an intoxicated condition or under the influence of narcotic drugs within the corporate City limits of the City in, on, or about any automobile, motorcycle, motor vehicle, street car, railroad car or other vehicle. (Ord. 1176, §1, adopted 2017)
§5718 VIOLATIONS

A. It is unlawful for any person, individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character to violate any provision or fail to comply with any of the requirements of this chapter.

B. A violation of this chapter shall be subject to the enforcement and penalties specified in section 5722 of this code. (Ord. 1176, §1, adopted 2017)

§5719 REMEDIES

This chapter shall be subject to enforcement pursuant to Division 9, Chapter 2, Article 22 of this code. (Ord. 1095, §1, adopted 2007; Ord. 1176, §1, adopted 2017. Formerly 5703)

§5720 SEPARATE OFFENSE FOR EACH DAY

Any person who violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly. (Ord. 1176, §1, adopted 2017)

§5721 HOLD HARMLESS

As a condition of approval of any permit issued pursuant to this chapter for medical marijuana cultivation, processing, or distribution, the permittee shall indemnify, defend and hold harmless the City of Ukiah and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by a permittee’s clients or employees, adjacent or nearby property owners or other third parties due to permitted uses or operations, and for any expense incurred by City as a result of or in defense of any such claim. (Ord. 1176, §1, adopted 2017)

§5722 PENALTIES

A. It shall be unlawful and constitute a misdemeanor for any person to violate the provisions of this chapter, punishable by a fine of not more than one thousand dollars ($1,000.00) or imprisonment in the County jail for a period of not more than six (6) months or both. This penalty shall not apply, if prohibited by State law.

B. The penalty provided herein is in addition to any other penalty or remedy available at law or in equity, whether civil or criminal, for any violation of this chapter or engaging in activity requiring a City license or permit, including, without limitation, a business license or building permit, without first obtaining such permit or license. (Ord. 1176, §1, adopted 2017)

§5723 JUDICIAL REVIEW

Judicial review of a decision made under this chapter may be had by filing a petition for a writ of mandate with the superior court in accordance with the provisions of the California Code of Civil Procedure section 1094.5.

Any such petition shall be filed within ninety (90) days after the day the decision becomes final as provided
in California Code of Civil Procedure section 1994.6 which shall be applicable for such actions. (Ord. 1176, §1, adopted 2017)

The Ukiah City Code is current through 1185, passed December 20, 2017.
Disclaimer: The City Clerk’s Office has the official version of the Ukiah City Code. Users should contact the City Clerk’s Office for ordinances passed subsequent to the ordinance cited above.

City Website: http://www.cityofukiah.com/
ORDINANCE NO. 16-319

AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOLVANG, CALIFORNIA, PROHIBITING MANUFACTURING, PROCESSING, LABORATORY TESTING, LABELING, STORING AND WHOLESALE AND RETAIL DISTRIBUTION OF CANNABIS AND DECLARING SAME TO BE AN URGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

The People of the Chartered City of Solvang, California, do hereby ordain as follows:

SECTION 1. FINDINGS.

The City Council finds and declares as follows:

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code § 11362.5 and entitled “The Compassionate Use Act of 1996” or “CUA”); and

WHEREAS, the intent of Proposition 215 was to enable critically ill Californians who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited circumstances. The proposition further provides that “nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes.” The ballot arguments supporting Proposition 215 expressly acknowledged that “Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere;” and

WHEREAS, in 2004, the Legislature enacted Senate Bill 420 (codified as California Health & Safety Code § 11362.7 et seq. and referred to as the “Medical Marijuana Program” or “MMP”) to clarify the scope of Proposition 215 and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the MMP to expressly recognize the authority of cities to “[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective” and to civilly and criminally enforce such ordinances; and

WHEREAS, in City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc. (2013) 56 Cal.4th 729, the California Supreme Court held that “[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land...;” and

WHEREAS, the Federal Controlled Substances Act, 21 U.S.C. § 801 et seq., classifies marijuana as a Schedule 1 Drug, defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United State, and has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana. The Federal Controlled Substances Act contains no exemption for medical purposes, although there is recent
case law that raises a question as to whether the Federal Government may enforce the Act where medical marijuana is allowed; and

WHEREAS, on October 9, 2015, Governor Jerry Brown signed three bills into law (AB 266, AB 243, and SB 643) which collectively are known as the Medical Marijuana Regulation and Safety Act (hereinafter, the “MMRSA”). The MMRSA established a State licensing scheme for commercial medical marijuana uses while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a State license. The MMRSA allows the City to completely prohibit commercial and private medical marijuana activities; and

WHEREAS, the Control, Regulate, and Tax Adult Use of Marijuana Initiative (Proposition 64) has qualified for the November 8, 2016, California ballot. If passed by a majority of California voters, the measure would legalize marijuana use for those 21 years of age and over, and would establish the Bureau of Marijuana Control within the Department of Consumer Affairs to regulate and license the marijuana industry, in conflict with the authority granted to the Bureau of Medical Marijuana Regulation established by MMRSA. Portions of Proposition 64 could take effect as soon as the day after Election Day; specifically, recreational use by adults and cultivation in private residences; and

WHEREAS, if passed, Proposition 64 as drafted will allow local governments to ban recreational marijuana businesses entirely. With respect to cultivation, Proposition 64 will allow local governments to reasonably regulate cultivation through zoning and other local laws, and to ban outdoor cultivation outright. Proposition 64 will, however, require local governments to allow limited indoor cultivation in private residences; and

WHEREAS, if the City fails to pass ordinances surrounding these issues, the City could face issues of preemption and grandfathering in the days, weeks and months after Proposition 64 passes; and

WHEREAS, the City Council finds there is a current and immediate threat to the health, safety, and welfare of City residents arising from the risks associated with the manufacture, processing, laboratory testing, labeling, storing and wholesale and retail distribution of cannabis, whether medical or recreational. Citywide prohibition of all activities, from cultivation to point of sale, is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells and indoor electrical fire hazards that may result from such activities; and

WHEREAS, as recognized by the Attorney General’s August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, marijuana cultivation or other concentrations of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, several California cities have reported negative impacts of marijuana processing and distribution uses, including offensive odors, illegal sales and distribution of marijuana, trespassing, theft, violent robberies and attempted robbery, and fire hazards; and
WHEREAS, until and unless the Department of Food and Agriculture establishes a track and trace program for reporting the movement of marijuana items through the distribution chain as mandated by Business & Professions Code § 19335, the risk of crime from theft and burglary attendant to manufacturing and distribution facilities is significant. Until traceable, stolen product will have street value for sale to minors; and

WHEREAS, manufacturing of cannabis products can involve use of chemicals and solvents, and as a result, the manufacture of hash oil concentrate, often added to edibles, drinks and liquids, carries a significant risk of explosion due to the distillation process utilized to extract tetrahydrocannabinol. Major burn treatment centers at two hospitals in Northern California reported in 2015 that nearly 10 percent of severe burn cases were attributed to butane hash oil explosions, which was more than burn cases from car accidents and house fires combined; and

WHEREAS, the limited immunity from specified state marijuana laws provided by the Compassionate Use Act, Medical Marijuana Program and Proposition 64 do not confer a land use right or the right to create or maintain a public nuisance; and

WHEREAS, cultivation of cannabis and medical marijuana dispensaries are currently prohibited under the City’s permissive zoning regulations. The City Council desires to enact this interim urgency ordinance to expressly clarify that manufacture, processing, laboratory testing, labeling, storing and wholesale and retail distribution of cannabis, whether medical or recreational, are also prohibited in all zones throughout the City; and

WHEREAS, the immediate ban of all commercial or industrial cannabis activities will maintain the status quo while allowing the City to investigate and research the safety and options of regulation and taxation; and

WHEREAS, the immediate ban of all commercial or industrial cannabis activities will enable the City to develop a comprehensive approach to cannabis, including analysis of the provisions of Proposition 64’s proposed Health & Safety Code § 11362.2, if passed, as well as regulation of presently unregulated delivery services operating within the City’s jurisdiction. At least 2 dispensaries advertise online delivery services to Solvang; and

WHEREAS, this ordinance is not a project subject to the California Environmental Quality Act (CEQA) pursuant to Section 15306 (Information Collection) because it does not have the potential to create a physical environmental effect.

SECTION 2. REGULATION.

The following regulation is hereby imposed. This regulation shall prevail over any conflicting provisions of the Solvang Municipal Code or the other ordinances, resolutions, policies and regulations of the City of Solvang:

1. Any commercial or industrial use involving cannabis is prohibited in every zoning district in the City, including but not limited to manufacture, processing, laboratory testing, labeling, storing and wholesale and retail distribution.
SECTION 3. INTERIM URGENCY ORDINANCE.

Based upon the findings set forth in Section 1, above, this is an interim urgency ordinance adopted pursuant to Government Code § 65858, and pursuant to the authority granted to the City of Solvang in Article 11, Section 7 of the California Constitution. This ordinance shall therefore take effect immediately upon adoption. This ordinance shall remain in effect for forty-five (45) days from the date of adoption; that is, September 26, 2016. This ordinance will terminate upon a determination by the City Council supported by substantial evidence that the threat to public health, safety and welfare described in Section 1 of this ordinance has been ameliorated, or by the adoption of ordinances or amendments extending or superseding this ordinance.

SECTION 4. SEVERANCE CLAUSE.

The City Council declares that each section, subsection, paragraph, subparagraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, subsection, paragraph, subparagraph, sentence, clause and phrase of this ordinance. If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this ordinance is held invalid, the City Council declares it would have adopted the remaining provisions of this ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated.

ADOPTED at a regular meeting of the City Council held on the 26th day of September, 2016, by the following roll call vote:

AYES: Mayor Richardson, Council Members Duus, Jamieson, Skytt, and Zimmerman
NOES:
ABSENT:
ABSTAINED:

Jim Richardson, Mayor

ATTEST:

Lisa S. Martin, City Clerk
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SOLVANG, RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AN AMENDMENT TO TITLE 11, ZONING REGULATIONS, REGARDING THE REGULATION OF MANUFACTURING, PROCESSING, LABORATORY TESTING, LABELING, STORING AND WHOLESALE AND RETAIL DISTRIBUTION OF CANNABIS; AND TO ACCEPT THE EXEMPTION PURSUANT TO §15061 OF THE GUIDELINES FOR IMPLEMENTATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE PLANNING COMMISSION OF THE CITY OF SOLVANG HEREBY RESOLVES AS FOLLOWS:

WHEREAS, the Planning Commission has reviewed the proposed amendment to the aforementioned Section of the City’s Municipal Code, Title 11, and,

WHEREAS, the Planning Commission has held a duly noticed Public Hearing on the proposed amendment to the Municipal Code, Title 11, on April 2, 2018, at which time all interested persons were given the opportunity to be heard; and

WHEREAS, the Planning Commission has reviewed the amendment in compliance with the California Environmental Quality Act (CEQA) and has determined that the project is Exempt under the General Rule, Section 15061(b)(3) of the Guidelines for the Implementation of California Environmental Quality Act, and directs staff to prepare and file a Notice of Exemption;

WHEREAS, the Planning Commission, after due research and deliberation makes the following findings in regards to the proposed amendment to Title 11:

1. The potential environmental impacts are insignificant;
2. The proposed amendment is in the interest of the general community welfare;
3. The proposed amendment is consistent with the General Plan, the requirements of State Planning & Zoning Laws, and the Solvang Municipal Code; and
4. The proposed amendment is consistent with good zoning and planning practices.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the City of Solvang hereby recommends that the City Council approve the amendment to the aforementioned Section of Title 11 of the Solvang Municipal Code as identified in Exhibit “A” to this resolution, and accept the Exemption from the California Environmental Quality Act (CEQA). On motion by Commissioner _________ and seconded by Commissioner ____________, the foregoing Resolution is hereby adopted by the following vote:

AYES:
NOES:
ABSENT:

DATE: April 2, 2018
PC Resolution 18-05
Title 11 Ordinance Amendment
Adopted: April 2, 2018
Page 2

APPROVED:

______________________________
Robert Clarke
Planning Commission Chair

APPROVED AS TO CONTENT:

__________________________
Holly R. Owen, AICP
Planning & Economic Development Director
Exhibit A

Title 11, Zoning Regulations, the addition of Chapter 19, Regulation of Manufacturing, Processing, Laboratory Testing, Labeling, Storing and Wholesale and Retail Distribution of Cannabis

Section 11.19-01. Purpose.
The purpose of this chapter is to comprehensively regulate cannabis within the City of Solvang.

Section 11-19-02. Definition.
For purposes of this chapter, the following definition shall apply:
(a) “Cannabis” and “Medical Marijuana” mean all parts of the plant 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 Health and Safety Code. “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, manufacture, 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 ordinance, “cannabis” does not mean “industrial hemp” as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.
(b) “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
(c) “Cultivation Site” means any facility or location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.
(d) “Medical marijuana dispensary” means a facility or location, whether fixed or mobile, where medical marijuana is made available for medical purposes in accordance with Health and Safety Code Section 11362.5 et seq

Section 11-19-03. Medical marijuana dispensaries prohibited.
Medical marijuana dispensaries are prohibited in every zone of the City. No person shall operate or permit to be operated a medical marijuana dispensary in or upon any premises in the City.

Section 11-19-04. Cannabis Cultivation prohibited.
The Cultivation of Cannabis, whether for private use or commercial sale or distribution, is prohibited in every zone of the City. No person shall operate a Cultivation Site, or otherwise grow or Cultivate Cannabis in or upon any premises in the City.

Section 11-19-05. Severability.
If any provision of this Chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.
NOTICE OF EXEMPTION

TO: County Clerk
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

FROM: City of Solvang, Holly R. Owen, AICP, Planning Director

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

APN(s): Citywide Case No.: None

Project Title: Municipal Code – Title 11, Chapter 19: Regulation of Cannabis

Project Description: Review and discuss proposed amendment to Title 11, Chapter 19 Regulating the Manufacturing, Processing, Laboratory Testing, Labeling, Storing and Wholesale and Retail Distribution of Cannabis.

Name of Public Agency Approving Project: City of Solvang

Exempt Status: (Check one)
  ___ Ministerial
  ___ Statutory
  ___ Categorical Exemption
  ___ Emergency Project
  X  No Possibility of Significant Effect [§15061(b,3)]

Cite specific CEQA Guideline Section: §15061. This section states that CEQA only applies to “projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA”.

Reasons to support exemption findings: (attach additional material, if necessary) The environmental impacts of the proposed amendment to Title 11, Chapter 19 are insignificant. The proposed amendment is in the interest of the general community welfare and are consistent with the General Plan, the requirements of State Planning & Zoning Laws and Title 11. The proposed amendments to Title 11, Chapter 19 are consistent with good zoning and planning practices.

Lead Agency Contact Person: Holly R. Owen Telephone: 805-688-4414

Signature: __________________________

Date: __________________________

Acceptance Date: ________________