



## CITY COUNCIL STAFF REPORT

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**TO:** Honorable Mayor and City Council **DATE:** May 1, 2017

**FROM:** Matthew Bronson, City Manager

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

**SUBJECT:** Introduction and First Reading of Ordinances to Amend Articles III and IX of the Grover Beach Municipal Code and Approval of a Local Coastal Program Amendment to Allow the Establishment, Operation, and Regulation of Commercial Medical Cannabis Uses (Development Application 16-35)

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### **RECOMMENDATION**

Staff recommends that the City Council take the following actions:

- 1) Adopt the Resolution adopting the Negative Declaration;
  - 2) Conduct first reading, by title only, and introduce the Ordinance amending Article III and the Ordinance amending Article IX of the Grover Beach Municipal Code to allow the establishment, operation and regulation of commercial medical cannabis uses;
  - 3) Adopt the Resolution approving a Local Coastal Program Amendment; and
  - 4) Schedule second reading and adoption of the Ordinances at the next regularly scheduled City Council meeting.
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### **BACKGROUND**

The Grover Beach Municipal Code currently prohibits all commercial cannabis activities in the city. In July 2016, the City Council directed staff to start working on a draft ordinance that would regulate commercial medical cannabis uses consistent with the Council's FY 17 Goals and Work Program. Subsequently, the Council held meetings in August and September to provide staff direction on the framework for a draft ordinance that would allow and regulate commercial medical cannabis uses.

On February 6, 2017, the City Council conducted a first reading and introduction of a land use ordinance to allow for commercial medical cannabis businesses in an Overlay Zone that consisted of the industrial area south of Farroll Road. However, on February 21, 2017, the Council voted not to adopt the land use ordinance and instead directed staff to increase the area for commercial medical cannabis uses to include all three of the city's industrial zones in place of the Overlay Zone south of Farroll Road. Although the Council discussed the possibility of including commercial medical cannabis uses on West Grand Avenue, the Council was clear that it would not be considered as part of the current land use ordinance and could be revisited in the future.

The Council has also reviewed and provided comments to staff on a draft regulatory ordinance for the operation and regulation of commercial medical cannabis businesses on February 6, February 21 and March 6, 2017. Staff has incorporated comments and direction from the Council into a revised regulatory ordinance.

In addition, on February 21, 2017, the Council adopted a tax on gross receipts for medical and non-medical commercial cannabis uses and a square footage tax on cultivation consistent with Measure L-16 approved by voters in November 2016. This tax structure will be implemented in conjunction with the establishment of commercial cannabis businesses.

### Project Description

Based on the direction from the Council at its February 21, 2017 meeting, staff has prepared a revised land use ordinance and Local Coastal Program Amendment which would allow commercial medical cannabis uses in the Industrial (I) Zone, Coastal Industrial (CI) Zone, and Coastal Industrial Commercial (CIC) zone as shown on the map labeled Attachment 5 to this staff report. The proposed ordinance would allow the following commercial medical cannabis uses: cultivation, nurseries, manufacturing, testing laboratories, transportation, delivery, distribution (includes storage), and dispensaries (retail sales).

This proposed land use ordinance requires an amendment to the Development Code (Article IX of the Grover Beach Municipal Code). In addition, the regulatory ordinance would amend Article III of the Municipal Code establishing regulations on commercial medical cannabis operations. The draft ordinances are limited to commercial medical cannabis uses only and specifically prohibits recreational (i.e., non-medical) marijuana uses which will not be licensed by the State until 2018, except for personal possession and cultivation preempted by statewide passage of Proposition 64 in November 2016.

### Local and State Licensing

In order to operate, commercial medical cannabis uses would require approval of a two-step process at the local level in addition to State licensing. First, an applicant would be required to receive approval of a Use Permit by the City Council that would establish the location, size and types of uses allowed. Second, the applicant would be required to receive approval of a Commercial Cannabis Permit by the City to assure that all regulatory requirements are met before the applicant could begin operating a commercial medical cannabis business. This application process will be presented to the Council on May 15, 2017 and incorporated into a resolution to begin this process upon adoption of the resolution.

On a statewide level, the State passed five laws (AB 266, AB 243, SB 643, AB 21 and SB 837) that took effect in 2016 collectively known as the Medical Cannabis Regulation and Safety Act (MCRSA). These laws establish the regulatory and licensing structure for the cannabis industry for medical uses. Passage of Proposition 64 legalized use of recreational marijuana in California and established a structure for regulating these uses. The State is scheduled to begin accepting license applications in January 2018 for both recreational and medical marijuana businesses and will also require a local permit be approved, if the local agency adopts an ordinance allowing for commercial uses. However, cities cannot consider approving local licenses until January 2018 for recreational uses. Once both the City's and State's licensing processes are established, any cannabis business operating in the City will also be required to obtain a license from the State within one year. Failure to obtain the State license would be grounds for revoking the City's permit.

As a result of these statewide actions, the cannabis industry will be adjusting to the new regulatory oversight in California by both the State and the local agencies that choose to allow and regulate this industry. Local agencies in California generally have little experience regulating cannabis uses and best practices will evolve over time along with both the State and local regulatory environment. As such a community that is choosing to allow and regulate this industry, the City of Grover Beach will adapt to the impacts and requirements of the ordinance and staff will propose adjustments as needed for consideration by the Council.

It should be noted that this land use ordinance has limited effect on Proposition 64 regulations related to personal cultivation and use as the draft regulatory ordinance requires personal cultivation be contained indoors and with no outdoor cultivation permitted.

#### Planning Commission Recommendation

On April 12, 2017, the Planning Commission reviewed the revised land use ordinance and recommended on a 4-1 vote (Commissioner Alex dissenting) that the Council adopt the Negative Declaration and approve the ordinance and Local Coastal Program Amendment as drafted. The Commission discussed removing the requirement for the Commission to provide a recommendation to the Council on Use Permits for cannabis use, but there was no consensus on such a recommendation to the Council. There were nine members of the public that spoke at the hearing with about half indicating opposition and/or concerns (reference Attachment 6). The Planning Commission did not review the regulatory ordinance because it is not within its purview as it is not land use related.

#### Local Coastal Program Amendment

The revised ordinance includes revisions to the Coastal Industrial and Coastal Industrial Commercial zones which are within the Coastal Zone; therefore, a Local Coastal Program (LCP) Amendment is required (reference Attachment 4). An LCP Amendment requires the Coastal Commission's approval prior to the ordinance taking effect in the Coastal Zone (i.e., the Coastal Industrial and Coastal Industrial Commercial Zones, but not the Industrial Zone). Staff has reviewed the proposed LCP Amendment with the policies in Chapter 3 of the Coastal Act and has determined that the ordinance would have no effect on public access, recreation, environmentally sensitive habitat areas, or other coastal resources. The Coastal Industrial and Coastal Industrial Commercial Zones are isolated from the beach and direct access is impaired by the railroad tracks. The proposed ordinance provides more specificity about the uses that are already allowed in the Coastal Industrial and Coastal Industrial Commercial Zones and would not change the kind, location, intensity, or density of the uses. The ordinance is consistent with the existing policies of the LCP that allows industrial uses in the Coastal Industrial and Coastal Industrial Commercial Zones and is internally consistent with the current Development Code.

Staff has contacted Coastal Commission staff regarding the proposed amendment and in general Coastal staff has no objections to cannabis uses within the Coastal Zone. Upon final adoption of the ordinance by the Council, staff would forward the LCP Amendment to the Coastal Commission for review. Coastal staff estimates it will take approximately three months for formal approval by the Coastal Commission upon final action by the Council. During this time, the City could accept Use Permit applications for the Coastal Industrial and Coastal Industrial Commercial Zones, but the Council could not take action until final approval is granted by the Coastal Commission. Once the Coastal Commission approves the LCP Amendment, the City Council will be authorized to approve all Coastal Development Permits.

#### **Summary of Land Use Ordinance**

The land use ordinance amends Municipal Code Article IX, also known as the Development Code (reference Attachment 2). The discussion below provides an overview, purpose, and alternatives for each section/subsection of the draft land use ordinance.

#### 2.40.020 Purpose of the Industrial Zones

This section establishes the purpose of the three industrial zones. Staff has amended the Industrial (I) and Coastal Industrial (CI), and Coastal Industrial Commercial (CIC) Zones to indicate that commercial medical cannabis uses are appropriate uses.

#### 2.40.030 Industrial Zones Allowable Land Uses & Permit Requirements

This Table establishes the type of land use permit required for commercial cannabis uses. The Council identified that all commercial cannabis uses should require a Use Permit to operate. A

Use Permit is a discretionary permit and can only be approved if specific findings are made in the affirmative. A new category “Commercial Cannabis Activity & Uses” has been added to the Table indicating that uses could be allowed in the Industrial (I), Coastal Industrial (CI), and Coastal Industrial Commercial (CIC) Zones subject to approval of a Use Permit. The three industrial areas total 86 acres as shown below:

Zone	Area (acres)
Industrial (I)	64
Coastal Industrial (CI)	15
Coastal Industrial Commercial (CIC)	7
Total Acres	86

The three industrial zones are comprised primarily of small to medium size businesses in buildings less than 20,000 square feet in size. There are several areas where portions of the three industrial zones either abut or are across the street from existing residential zones. The Industrial Use Table would also be amended under the “Specific Use Regulations” column to reference Section 4.10.045 Commercial Cannabis Activity and Uses which provides the specific operational requirements and development standards.

#### 4.10.045. Commercial Cannabis Activity and Uses

This section is added to the Development Code and provides the specific operational requirements and development standards as further discussed below.

##### 4.10.045.A Purpose

This section states the purpose of the Commercial Cannabis Activity and Uses and specifically allows commercial medical cannabis uses and prohibits commercial recreational cannabis uses allowed by Proposition 64.

##### 4.10.045.B Review Authority

This section establishes which body is responsible for reviewing and making decisions on a Use Permit application. The Council identified that the City Council should be the Review Authority for commercial cannabis uses, with the Planning Commission providing a recommendation. Currently, the Council only reviews development applications if the proposed project requires a legislative action (e.g., General Plan or Development Code Amendment) or a tentative map consisting of five or more lots.

An alternative is for the Planning Commission to be the Review Authority. This would still allow Planning Commission decisions to be appealed to the City Council. Another alternative would be to have the Council as the Review Authority, but eliminate the requirement for the Commission to make a recommendation to the Council and the need for a Planning Commission public hearing. Either alternative would expedite the review process by requiring only one public hearing, unless an appeal was filed of a Planning Commission decision.

##### 4.10.045.C Permit Requirements

This section establishes what type of land use permit is required for commercial cannabis uses. The Council identified that a Use Permit application is the appropriate type of permit. A Use Permit requires a public hearing and all property owners within 300 feet of the proposed project site are mailed notices. This advises surrounding property owners and allows them to access information on the proposed project and provide written and/or oral comments to the Review Authority.

#### 4.10.045.D Limitation on the Number of Uses

This section establishes whether a limitation shall be placed on the number, size and/or type of commercial cannabis uses. The Council identified that dispensaries shall be limited to no more than four businesses within the city. The Council did not identify limitations on the number or size of other cannabis uses (e.g., cultivation, manufacturing, etc.) although the City's Commercial Cannabis Permit will be issued with the same limitations on use as required under current State law.

Alternatives for the limitation on uses could include establishing a maximum size (i.e., square footage) and/or number of businesses. Based on inquiries received by staff, the majority are related to the operation of dispensaries, which the draft ordinance would limit to four. Another alternative is to establish a minimum distance between uses to avoid a concentration of like businesses in close proximity. However, this may not be as critical for the majority of commercial cannabis uses since they are not open to the public, and would not operate any differently than other types of industrial businesses (i.e., employees and deliveries arrive and depart the business location). However, establishing a minimum distance between uses could be more appropriate for dispensaries.

Lastly, cultivation/nursery uses could potentially use more water than the city's current average industrial uses (more information on water use is included in the Water Recycling Management Plan section). An alternative would be to initially limit the maximum square footage for cultivation providing a cap on water consumption which could be reevaluated in the future if demand for cultivation exceeded the maximum area.

#### 4.10.045.E Limitation on Manufacturing Uses

This section establishes that both Level 1 and Level 2 manufacturing uses could be allowed, subject to the requirements of the regulatory ordinance which is incorporated into the land use ordinance amending Grover Beach Municipal Code Article IX. Level 1 consists of manufacturing without the use of volatile fluids or solvents, which greatly reduces the risk of fire by not using and storing hazardous and flammable materials. Level 2 manufacturing allows the use of volatile solvents and fluids and the Council has directed staff to limit Level 2 manufacturing to using ethanol only.

State law regulates the storage and use of volatile compounds, which are overseen by the County Environmental Health Services Division. However, safety of the use of these compounds is dependent on the care, proper storage, vessel size and vessel orientation to the manufacturing facility as well as adjacent existing structures. The regulatory ordinance will allow Council by resolution to establish requirements for manufacturing and laboratory design to mitigate any health and safety threat. Manufacturing processes will require extraction/processing equipment that is certified and of closed loop design, which aid in safety, but are expensive to construct. However, even with these precautions and closed loop systems, the use of volatile compounds in the industrial zone and proximity to existing residential neighborhoods poses a risk to employees, the public and first responders. To address concerns with the use of volatile compounds in Level 2 manufacturing, staff is preparing guidelines that the Council would adopt by resolution that provides the requirements for the design and operation of the extracting process. Such a resolution will be brought to the Council on May 15, 2017 along with other recommended implementation actions.

#### 4.10.045.F Setbacks

This section establishes whether a setback (minimum distance) shall be established from residential zones for commercial medical cannabis uses. The Council identified that dispensaries shall be setback 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. The Council indicated that Farroll Road and the

required minimum setbacks could provide an adequate buffer. However, based on the Council's direction, staff did not eliminate the minimum 100 foot setback in other locations where there is a street that separates a residential zone from an industrial zone. Attachments 7-9 indicate the proposed 100 foot dispensary setback for all residential zones adjacent to the three industrial zones with the exception of Farroll Road. The Council did not identify minimum setbacks for other types of commercial cannabis uses adjacent to residential zones or from other types of uses.

State law requires dispensaries and cultivation that contain storefronts be located a minimum of 600 feet from schools (kindergarten and grades 1-12 public and private). Local agencies can be more restrictive and include other sensitive uses such as parks, preschool/daycare centers, and churches. Attachment 10 provides the location of all schools, parks, and commercial daycare centers in the City. The closest public school to any of three industrial zones is approximately 1,600 feet. The closest private school is the Dandy Lion Montessori School which is approximately 300 feet north of Farroll Road and offers programs for kindergarten age students (located at Baden Avenue and South 11<sup>th</sup> Street). Staff is uncertain if under State law the Montessori kindergarten class would be defined as a private kindergarten school which would require the 600 foot setback, or whether it would be defined as a program, which would not require the setback. Therefore, if the Council wants to ensure that the 600 foot setback would apply to the Montessori School, a definition of school should be added to Development Code Chapter 9 that would include programs as follows:

*School – Any public or private school providing instruction in grades 1-12, inclusive, and kindergarten classes or programs.*

It should also be noted that all industrial zones may allow youth-oriented activities such as dance studios of which two currently operate on Huston Street. Staff did not identify any existing churches within 600 feet of the industrial zones, but churches may also operate in residential and industrial zones. Attachment 11 is the Industrial Zones Allowable Land Use Table that indicates all allowed uses. Definitions of all the land uses can be found in Development Code Chapter 9 which is available for viewing at the customer service counter at City Hall or online at <http://www.grover.org/DocumentCenter/Home/View/2763>.

Although not related to this ordinance, it should be noted that the Use Permit for Grover Business Park on Huston Street has a condition that all buildings be set back a minimum of 70 feet from the residential zone to the east (i.e., residences on the west side of Messina Court). The Use Permit also requires a minimum of 10 feet of landscaping and a six foot block wall be constructed adjacent to the property line. Attachment 12 illustrates the 70 foot setback required for Lots A(1) and A(2).

Alternatives for setbacks include increasing/decreasing the 100 foot setback for dispensaries from residential zones. Other options include establishing minimum setbacks for other types of commercial medical cannabis uses to sensitive uses such as parks, preschool/daycare centers, youth-oriented activities, and churches, or increasing the State's minimum 600 foot setback from schools.

#### 4.10.045.G Development Standards

Consistent with many types of land uses, the Development Code provides specific development standards to assure that business operations do not adversely impact surrounding residences and businesses. This can be achieved by requiring design standards, limitations on the size and type of uses, limiting hours of operations, or other methods as discussed below.

#### 4.10.045.G.1 Dispensary Hours of Operations

The Council has indicated that the hours of operations for dispensaries be limited between the hours of 9:00 a.m. to 9:00 p.m. Dispensaries would also be able to make deliveries during operating hours. These operational hours during the daytime and early evening are intended to ensure sufficient access while allowing for better security of the facilities and surrounding neighborhoods. All other non-dispensary uses would not have a limit on the hours of operation but would only be allowed to have deliveries between 7:00 a.m. and 9:00 p.m. Alternatives include reducing or expanding the hours of operations and/or delivery times.

#### 4.10.045.G.2 Water Recycling Management Plan

This section establishes a requirement that all cultivation/nursery uses prepare a Water Recycling Management Plan. The Council indicated support for recycling water at a level up to 90% if feasible. After additional research and preparation of the Negative Declaration, it was determined that many cultivators use hydroponic systems that by design typically minimize water usage. Conversely, cultivators using soil consume more water than hydroponic growers. As a result, staff has drafted the ordinance to require that applicants demonstrate that water is recycled to the maximum extent feasible using best management practices. This allows different methods of irrigation, while still assuring that water consumption is limited to the maximum extent feasible.

The Negative Declaration analyzed water consumption for cultivation and concluded that approximately 1.3 acre-feet per year (ac/ft/yr) of water would be required for a 22,000 square foot hydroponic facility and approximately 1.6 ac/ft/yr of water for soil with water conservation requirements. The following table provides some comparisons on water demand based on cultivation area for hydroponic and soil irrigation with the last column assuming a mix of 50% hydroponic and 50% soil irrigation:

#### Water Demand

Cultivation Area in s.f.	No. of Facilities (assuming max. of 22,000 s.f.)	Hydroponic Irrigation	Soil Irrigation	Blended Irrigation 50% Hydroponic & 50% Soil
22,000	1	1.3 ac/ft/yr	1.6 ac/ft/yr	1.45 ac/ft/yr
44,000	2	2.6 ac/ft/yr	3.2 ac/ft/yr	2.90 ac/ft/yr
66,000	3	3.9 ac/ft/yr	4.8 ac/ft/yr	4.35 ac/ft/yr
88,000	4	5.2 ac/ft/yr	6.4 ac/ft/yr	5.80 ac/ft/yr
110,000	5	6.5 ac/ft/yr	8.0 ac/ft/yr	7.25 ac/ft/yr
132,000	6	7.8 ac/ft/yr	9.6 ac/ft/yr	8.70 ac/ft/yr
220,000	10	13 ac/ft/yr	16 ac/ft/yr	14.5 ac/ft/yr

ac/ft/yr = acre-feet per year

Alternatives to consider include establishing a maximum number of businesses and/or square footage for cultivation/nursery uses.

#### 4.10.045.G.3 Outdoor Cultivation Prohibited

This section would prohibit all greenhouses and outdoor cultivation and nursery uses. The Council indicated that all cultivation and nursery uses should be within an enclosed building.

#### 4.10.045.G.4 Cultivation Mixed-Light Buildings

This section would allow for the use of mixed-light buildings for cultivation/nursery uses if mixed-light buildings are licensed by the State for the subject property. The Council indicated support for mixed-light buildings which allows for a combination of artificial and natural light and have solid walls with roof panels that allow natural light (reference Attachment 13 for an example of a building design). In order to prevent light and glare radiating from the building, this section

requires that mixed-light buildings have no visible light emitting from cultivation areas of the building from dusk to dawn.

#### 4.10.045.G.5 Loading/Unloading Areas

The Council indicated all commercial cannabis uses conduct deliveries and loading/unloading within a secured area. The Police Department has concerns that the loading and unloading of marijuana products and currency in public access areas creates opportunities for crimes such as robbery, theft and assaults. By having the products loaded and unloaded in a secured area, these crime opportunities are greatly diminished.

#### 4.10.045.G.6 Odor Control

This section establishes the requirement that odor control devices be incorporated into all commercial cannabis uses. The Council indicated that controlling odors is important so as not to adversely impact surrounding businesses and residences. This section would require that marijuana odors are not detectable from the property boundary, public right-of-way and within common areas of multi-tenant buildings for all commercial cannabis uses. The draft regulatory ordinance contains more details on the requirements of odor control devices.

#### 4.10.045.G.7 Operations and Security Plan

This section references the regulatory ordinance which contains requirements for security measures for all commercial cannabis uses. The Council indicated support for requiring an Operations and Security Plan for all commercial cannabis uses. The cannabis industry is primarily a cash business as current federal law prohibits the banking industry's involvement which makes the industry more susceptible to crime.

#### 4.10.045.G.8 Design Standards

The Council indicated support for design standards, especially for upgrading older industrial buildings. This section requires commercial cannabis uses comply with Development Code Section 2.40.050 (reference Attachment 14) and other adopted design guidelines to be adopted by the Council in the future. The Council has provided direction for staff to prepare design guidelines for all industrial zones.

#### 4.10.045.G.9 Requirements of Municipal Code Article III Chapter 18

This section requires all commercial cannabis uses to comply with the regulatory ordinance (i.e., Municipal Code Article III Chapter 18) which is part of the development standards of each zone. Once a Use Permit is approved for any commercial cannabis use, the regulatory ordinance will require the applicant to obtain a Commercial Cannabis Permit upon demonstrating compliance with all local and state laws prior to opening the business, and on an ongoing basis to ensure the business is operating in compliance with all permits and laws.

#### 6.10.020 Review Authority

As previously discussed, this section would require that the Council be the Review Authority for all commercial cannabis uses with the Planning Commission making a recommendation to the Council.

#### 9.10.020 Definitions

A definition for Commercial Cannabis Activity and Uses was added to this section.

### **Other Ordinance Considerations**

#### Development Standards

Staff is preparing a list of development standards (e.g., parking, fire sprinklers, etc.) for Council discussion at its May 15, 2017 meeting. The purpose of the discussion is to identify the required development standards and allow Council input on whether any further revisions are required for commercial medical cannabis uses.

### Grover Business Park

On February 21, 2017, the Council directed staff to work with the owner of the vacant lots in the Grover Business Park on Huston Street to file an amendment to the Use Permit to allow all uses defined as Commercial Cannabis Activity and Uses, including cultivation/nursery and storage/distribution uses. This item will be brought to the Planning Commission in June 2017 for action.

### Design Guidelines

On February 21, 2017, the Council directed staff to prepare design guidelines for all industrial zones. Staff will provide draft guidelines to the Council this summer.

### Phased Permitting Approach

The Council has not previously discussed phasing or limiting the size and/or number of commercial medical cannabis uses, except for dispensaries which would be limited to four. The Council could consider limiting the number of businesses/licenses issued annually and/or establish a maximum number allowed.

### **Summary of Regulatory Ordinance**

As a companion to the land use ordinance, the regulatory ordinance adds Chapter 18 to Article III of the Grover Beach Municipal Code that defines and identifies the regulations and operational requirements for commercial medical cannabis businesses allowed to establish within the above enumerated land use zones. Below are highlights of provisions of the ordinance and operational requirements of commercial cannabis businesses within the city.

- The purpose and intent of this ordinance is to regulate the cultivation, nurseries, manufacturing, testing, laboratories, transportation, delivery, distribution (including storage) and dispensary operations of Commercial Cannabis Businesses and create a suitable regulatory structure for this emerging industry in a manner that protects the public health and safety.
- The ordinance defines the uses that are allowed within the three industrial zones and precludes all non-medical cannabis activity in all zones of the City. The only exception to that restriction is personal cultivation and processing for private uses within a private residence as authorized by Proposition 64 and this ordinance.
- As indicated earlier, each premise is required to obtain a Use Permit along with a Commercial Cannabis Permit to be able to operate any cannabis business (Section 4000.40). The ordinance also stipulates a registration process to be defined by a Council approved resolution of individuals that intend to cultivate and process marijuana in their personal residences.
- Section 4000.50 requires that all businesses will be required to design and get approval from the City for a security system and implement security measures to assure public health and safety. Section 4000.60 requires implementation of employee background checks by the City to assure individuals working within commercial medical cannabis businesses do not have disqualifying criminal backgrounds.
- The ordinance does not allow for retail or personal alcohol consumption on site consistent with Business and Professions Code section 26200 but does allow for the use of cannabis products if medically required.
- The ordinance establishes an application process for initial applications of Commercial Cannabis Permits along with requirements for renewal of those permits. All Commercial Cannabis Permits will be reviewed and approved by Council if concurrently reviewed and approved with the Use Permit. If the Commercial Cannabis Permit is submitted after approval of a Use Permit, the City Manager shall review and approve them subject to appeal to Council.

- Commercial cannabis businesses will be subject to keeping and maintaining records of their operations along with reporting requirements. The City will be allowed to audit those records. Commercial Cannabis Permits will not be allowed to be transferred without the consent of the City Manager.
- Section 4000.200 sets forth operating requirements for all commercial cannabis uses. No cannabis products will be visible from the public right of way; each business shall have in place point-of-sale tracking systems to track and report all aspects of sales; each business shall have appropriate signage that indicates that consumption of cannabis products on the premises is prohibited unless medically necessary; that minors are not allowed on the premises; and each business shall have odor control plans.
- The ordinance does allow for Level One and Level Two manufacturing facilities requiring a type 6 and type 7 State License as included in the land use ordinance. The ordinance contemplates the City Council setting up operational requirements by resolution. Within this resolution, the Council will define the operational and design requirements for these manufacturing extraction facilities and can change these requirements in the future if needed also by resolution.

### **Environmental Review**

The City contracted with Rincon Consultants to prepare a draft Initial Study for the proposed ordinances. As a result of the Council's direction to expand the area to all three industrial zones, the Initial Study was revised and updated (reference Attachment 1). The Initial Study concluded that there were no potentially significant environmental impacts and a Negative Declaration could be adopted. The primary topic discussed in the Initial Study was the amount of water required for cultivation/nursery uses. Based on a reasonable assumption regarding the potential total area of cultivation/nursery uses and the requirement to recycle water using best management practices, the Initial Study concluded that the city has adequate water supply for cultivation/nursery uses.

### **FISCAL IMPACT**

Establishment of commercial cannabis businesses paying the commercial cannabis tax approved by voters (Measure L-16) creates a new revenue source to the City. The amount of annual revenue generated over time is estimated to range from \$1,000,000 to \$2,000,000 based on initial estimates. However, the actual revenue generated would depend on the number of business that operate and the gross sales of these businesses, as well as the total square footage of cultivation area along with the timing of when such businesses begin operating. Given the length of time involved with the initial application, permitting process and getting businesses operational, staff has estimated an initial amount of \$150,000 in tax revenue for next fiscal year. This annual revenue amount is projected to increase over time as more businesses start operating. Such future revenue estimates were included in the City's five-year financial forecast presented to the Council on February 27, 2017.

In addition, there would be a regulatory fee assessed to cannabis businesses to offset the City's direct costs of regulating these businesses. These direct costs would include part-time resources in the Community Development and Police Departments in processing the Use Permits and Commercial Cannabis permits, conducting required background checks, and ensuring compliance with City codes. There will also be some operational costs such as supplies and further consulting assistance with HdL Companies to guide the City's work. An initial estimate is that these costs will total approximately \$175,000 annually. Staff is finalizing this cost analysis and the corresponding fee structure which will both be presented to the Council on May 15, 2017 as part of the implementation actions for the commercial medical cannabis ordinances.

The cost of preparing the ordinances to date has been approximately \$45,000 for preparation of the Negative Declaration, consulting services with HdL Companies and City Attorney legal services. These costs have been funded through offsetting savings in the City's operating budget.

### **ALTERNATIVES**

The City Council has the following alternatives to consider:

1. Adopt the Resolution adopting the Negative Declaration;
2. Conduct first reading, by title only, and introduce the Ordinance amending Article III and the Ordinance amending Article IX of the Grover Beach Municipal Code to allow the establishment, operation and regulation of commercial medical cannabis uses;
3. Adopt the Resolution approving a Local Coastal Program Amendment; and
4. Schedule second reading and adoption of the Ordinances at the next regularly scheduled City Council meeting; or
5. Provide alternative direction to staff.

### **PUBLIC NOTIFICATION**

On Friday April 21, 2017, the public hearing notice was published in The Tribune and mailed to all property owners and occupants located within the three industrial zones and within 300 feet. The agenda was posted in accordance with the Brown Act. Correspondence received on the draft ordinances addressed to the Planning Commission and/or City Council is included in Attachment 15.

### **ATTACHMENTS**

1. Draft Negative Declaration Resolution
2. Draft Land Use Ordinance
3. Draft Regulatory Ordinance
4. Draft Local Coastal Program Amendment Resolution
5. Map of Industrial Zones
6. Draft Planning Commission Meeting Minutes
7. 100-foot Setback from Residential Zones South of Farroll Road
8. 100-foot Setback from Residential Zones West of South 4<sup>th</sup> Street
9. 100-foot Setback from Residential Zones for the CIC Zone
10. Potential Sensitive Uses Map
11. Industrial Zones Allowable Land Use Table
12. Grover Business Park Map
13. Example of Mixed-Light Building Design
14. Development Code Section 2.40.050
15. Correspondence Received