

RESOLUTION NO. 18-82

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA, SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018, A PROPOSED ORDINANCE REPEALING CHAPTER 2, ARTICLE X OF THE GROVER BEACH MUNICIPAL CODE AND ADOPTING A NEW CHAPTER 2, ARTICLE X RELATING TO BUSINESS TAX CERTIFICATE TO RESTRUCTURE THE BUSINESS TAX CERTIFICATE RATE FOR THE PURPOSE OF RAISING REVENUE TO FUND GENERAL MUNICIPAL SERVICES

WHEREAS, Chapter 2 of Article X, "Business Certificate Tax" regulations have not been completely reviewed and updated since 1992; and

WHEREAS, the name of the Chapter is being revised to "Business Tax Certificate" in accordance with the customary use of the term; and

WHEREAS, a substantial number of provisions of these regulations are out of date with current standards and protocol; and

WHEREAS, these regulations represent a structural change in the manner in which the tax for Business Tax Certificates are issued; and

WHEREAS, the subject tax will be charged on a flat tiered rate as measured by building square footage for businesses located within the city; and

WHEREAS, home-occupancy businesses and businesses located outside the city and doing work within the city will be charged a flat rate equal to the minimum tier; and; and

WHEREAS, licensed commercial cannabis delivery businesses with a physical premise outside the city would pay the 5% cannabis retailer tax rate on the level of gross receipts occurring in the city; and

WHEREAS, every person engaged in business activity in the City of Grover Beach, with limited exceptions, are required to obtain a business tax certificate and to pay the City's business tax; and

WHEREAS, the City of Grover Beach seeks adequate funding to provide essential public services and all revenues received from the tax will be deposited in the General Fund of the City to be expended for general purposes.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Grover Beach that:

Section 1. Recitals and Findings. All of the recitals set forth above are true and correct to the best of its knowledge and are hereby adopted as findings of the City Council.

Section 2. Call for Consolidated Election. As set forth in Resolution No. 18-45 adopted on June 4, 2018, the City Council of the City of Grover Beach has ordered an election to be called and consolidated with any and all elections also called to be held on November 6, 2018, insofar as said elections are to be held in the same territory or in territory that is in part the same as the territory of the City of Grover Beach, and has requested that the Board of Supervisors of the County of San Luis Obispo order such consolidation under Elections Code Sections 10401 and 10403.

Section 3. Placement of Measure on Ballot. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question concerning an increase in the City's transient occupancy tax rate:

CITY OF GROVER BEACH	
MEASURE M-18	Yes
To provide funding for maintaining fire and police services, repairing streets, maintaining parks, and other general city services; shall the City of Grover Beach adopt an ordinance amending the annual Business Tax Certificate rate from \$55 to a range of \$60 to \$950 based on building square footage and a separate flat rate of \$60 for businesses located outside Grover Beach, providing \$90,000 annually in unrestricted funding with all funds staying in Grover Beach?	No

Section 4. Proposed Ordinance. The ordinance increasing the City's Business Tax Certificate rate to be approved by the voters is as set forth in "Exhibit A" hereto. The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the City at the November 6, 2018 General Municipal Election, as required by Cal. Const., Art. XIIC, Section 2, subject to the approval of the majority of the votes cast (50%+1) on the measure at a combined General and Municipal election. The entire text of the ordinance attached hereto as Exhibit A shall be printed in the voter information portion of the sample ballot.

Section 5. CEQA. The City Council finds that based on all available information as of July 9, 2018, that under California Environmental Quality Act ("CEQA") Guidelines Section 15060(c)(2), subdivisions (2) and (4) of subdivision (b), the involved action does not constitute a project under CEQA and therefore review under CEQA is not required.

Section 6. That in all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 7. Publication of Measure. In accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code, the City Clerk is hereby authorized and directed to cause notice of the measure to be published once in a weekly newspaper of general circulation in the City of Grover Beach.

Section 8. Effective Date. This Resolution shall become effective immediately upon its passage and forthwith entered into the book of original Resolutions kept and maintained by the City Clerk of the City of Grover Beach.


Section 9. Certification. The City Clerk is hereby authorized and directed to certify to the due adoption of this Resolution and to transmit a copy hereof so certified to the Board of Supervisors and the Registrar of Voters of San Luis Obispo County.

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

AYES: Council Members Nicolls, Peterson, Shah, and Mayor Shoals.
NOES: Mayor Pro Tem Lee.
ABSENT: Council Members – None.
ABSTAIN: Council Members – None.


the foregoing Resolution was **PASSED, APPROVED, and ADOPTED** at a Special Meeting of the City Council of the City of Grover Beach, California this 23rd day of July, 2018.




DONNA L. McMAHON, CITY CLERK


JOHN P. SHOALS, MAYOR

APPROVED AS TO FORM:


DAVID P. HALE, CITY ATTORNEY

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA, REPEALING CHAPTER 2, ARTICLE X OF THE GROVER BEACH MUNICIPAL CODE AND ADOPTING A NEW CHAPTER 2, ARTICLE X RELATING TO BUSINESS TAX CERTIFICATE

WHEREAS, Chapter 2 of Article X, "Business Certificate Tax" regulations have not been completely reviewed and updated since 1992; and

WHEREAS, the name of the Chapter is being revised to "Business Tax Certificate" in accordance with the customary use of the term; and

WHEREAS, a substantial number of provisions of these regulations are out of date with current standards and protocol; and

WHEREAS, these regulations represent a structural change in the manner in which the tax for Business Tax Certificates are issued; and

WHEREAS, the subject Square Footage Tax will be charged on a flat tiered rate as measured against the square footage of a facility occupied by a business located within the City; and

WHEREAS, for any business located outside of the City, a Business License Tax at an annual flat tax rate of \$60.00 will be levied; and

WHEREAS, Commercial Cannabis Businesses located within or outside of the City will be exempt from this chapter and not subject to obtaining a Business Tax Certificate although they will be subject to the City's Commercial Cannabis Tax; and

WHEREAS, every person engaged in business activity in the City of Grover Beach, with limited exceptions, are required to obtain a Business Tax Certificate and to pay the City's Business Square Footage Tax or Business License Tax, as applicable; and

WHEREAS, the City Council placed Measure M-18 on the ballot at the November 6, 2018 General Municipal Election that proposed the City enact a new tax structure for Business Tax Certificates on many businesses established in Grover Beach.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GROVER BEACH does hereby ordain; and **BE IT ORDAINED BY THE VOTERS OF GROVER BEACH** as follows:

PART 1. Chapter 2 of Article X of the City of Grover Beach Municipal Code is hereby repealed on the effective date of this ordinance.

PART 2. Chapter 2 of Article X of the City of Grover Beach Municipal Code is hereby adopted to read as follows:

CHAPTER 2 – BUSINESS TAX CERTIFICATE

Section 10200 Definitions.

The following definitions shall apply throughout this Chapter:

(A) "Business" shall mean and include professions, trades, vocations, rentals, leases, enterprises, establishments, and occupations and all and every kind of calling, any of which is conducted for the purpose of earning in whole, or in part, a profit or livelihood, whether or not a profit or a livelihood actually is earned thereby, whether paid in money, goods, labor, or otherwise.

(B) "Business Floor Space" means rentable square feet of an office, place of business or lodging within the City of Grover Beach and includes the proportionate share of the building service areas such as lobbies, corridors and other common areas in a building. The rental square footage shall be computed by measuring to the inside finish of permanent outer building walls and shall include space used by columns and projections necessary to the building. Business floor space does not include vertical penetrations through the building such as stairs, elevators, or heating ventilation, air conditioning, utility, or telephone systems. If the Business Floor Space is owned by the taxpayer, the Business Floor Space will be calculated in the same manner as above and as if the area was rented. Business Floor Space for purposes of defining rentable square feet of an auto dealerships or any business which the principal income is derived from selling vehicles shall include the building and facilities along with the area of the dealer lot that contains the inventory of vehicles or where vehicles are parked. The dealer lot may consist of parking areas on the same or separate lot from the dealer's facilities or buildings. For purposes of defining business floor space of any business operated out of a personal residence the Square Footage Tax shall be based on the amount of square foot used for business as designated in the Home Occupation Permit application. Business floor space for purposes of calculating Square Footage Taxes shall be based upon the square footage of each vending machine operated within the city and the applicant shall submit a separate business tax certificate application for each vending machine(s) location.

(C) "Business License Tax" means a tax payable when the City issues a Business Tax Certificate by every person conducting, carrying on, or managing any business within the City of Grover Beach but does not lease, own, occupy or otherwise maintain an office or place of business within the jurisdictional boundaries of the City.

(D) "Business Square Footage Tax" is defined within Section 10217.

(E) "Business Tax" shall include both Business License Taxes and Business Square Footage Taxes.

Section 10201. Nature of Certificate.

The term Business Tax Certificate as used in this Chapter shall not be construed to mean a permit. The taxes prescribed by this Chapter constitute a tax for revenue purposes, and are not regulatory permit fees. The payment of the Business License Tax or Business Square Footage Tax required by the provisions of this Chapter and its acceptance by the City, and the issuance of such certificate to any person, shall not entitle the holder thereof to carry on any business unless they have complied with all of the requirements of this Chapter and all other applicable provisions of the Grover Beach Municipal Code, or to carry on any business in any building or on any premises

designated in such certificate in the event that such building or premises are situated in a zone or locality in which the conduct of such business is in violation of this Code.

Section 10202. Tax Certificate Procurement and Compliance with Regulations.

Except as otherwise expressly provided in this Chapter, no person, whether as principal or agent, clerk or employee either for himself or for any other person or for anybody corporate, or as an officer of any corporation, or otherwise, shall commence or carry on any trade, calling, profession or occupation in the City, in this Chapter specified, without first having procured a Business Tax Certificate, and without complying with any and all regulations of such trade, calling, profession or occupation contained in this Chapter. Any person procuring a Business Tax Certificate shall pay the tax as defined within this Chapter.

Section 10203. Tax as Debt.

(A) Any person carrying on any trade, calling, profession or occupation without having a Business Tax Certificate to do so shall be liable for the amount of the tax imposed by this Chapter on such trade, calling, profession or occupation. The amount of such tax, including any penalty or interest thereon, shall be a debt owed to the City.

(B) The City Attorney may file suit in the name of the City, in any court of competent jurisdiction, for any unpaid Business License Tax or Business Square Footage Tax imposed by this Chapter, within three (3) years from the delinquency date thereof.

(C) The conviction and punishment of any person for transacting any trade, calling, profession or occupation without a Business Tax Certificate shall not excuse or exempt such person from the payment of any Business License Tax or Business Square Footage Tax due and unpaid at the time of such violation of the provisions of this Chapter.

Section 10204. Issuance of Tax Certificate.

(A) Each applicant for a Business Tax Certificate shall properly fill in an application in such form as the Administrative Services Director, or his/her designee, may prescribe.

(B) A certificate, in such form as the Administrative Services Director, or his/her designee, may prescribe, shall be issued on payment of the Business License Tax or Business Square Footage Tax prescribed in this Chapter and shall be in full force and effect until:

- (1) Certificate holder fails to make payments as required by this Chapter;
- (2) Revoked by the Administrative Services Director, or his/her designee;
- (3) Business changes address;
- (4) Business is discontinued;
- (5) Business ownership changes;
- (6) The Business Tax Certificate expires.

(C) A certificate holder with no permanent business address within the City shall be issued a Business Tax Certificate for each Business Tax Certificate period, with such Business Tax Certificate showing the expiration date and shall pay the amount of Business License Tax, as required in this Chapter.

(D) No Business Tax Certificate granted or issued under any provision of this Chapter shall in any manner be transferred or assigned.

(E) In no case shall any mistake made by the Administrative Services Director, or his/her designee, in stating the amount of the Business License Tax or Business Square Footage Tax rate prevent or prejudice the collection of what shall be actually due from anyone carrying on any trade, calling, profession or occupation subject to a Business Tax Certificate under this Chapter.

(F) No Business Tax Certificate shall be issued to any holder of a delinquent Business License Tax or Business Square Footage Tax until both the Business License Tax or Business Square Footage Tax and penalty or interest shall have been paid.

Section 10205. Payment of Business Square Footage Tax or Gross Receipts Tax.

(A) All Business License Tax or Business Square Footage Taxes, as applicable under this Chapter, shall be paid in advance at the Administrative Services Department. Where a Business Tax Certificate holder conducts several branches or places of business of the same class, a separate Business Tax Certificate shall be secured covering each branch of such business.

(B) The annual Business License Tax or Business Square Footage Tax in this Chapter provided shall be due and payable on the first business day of January of each year based upon the methodology of calculation of the Tax as defined within this Chapter.

(C) No greater or less amount of money shall be charged or received for any Business Tax Certificate than is provided in this Chapter.

(D) The Administrative Services Director, or his/her designee, if he/she deems it necessary in order to ensure payment or facilitate collection of Business License Taxes or Business Square Footage Taxes, may require returns and payment of such taxes for other than the time periods specified in this Chapter.

Section 10206. Posting and Exhibition of Business Tax Certificates.

Every person having a Business Tax Certificate under the provisions of this Chapter, and carrying on a trade, calling, profession or occupation at a fixed place of business, shall keep such Business Tax Certificate posted and exhibited while in force in some conspicuous place where such business is being conducted. Every person having a Business Tax Certificate, and not having a fixed place of business within the City, shall carry such Business Tax Certificate with him/her at all times while carrying on the trade, calling, profession or occupation for which the same was granted. Every person having a Business Tax Certificate under the provisions of this Chapter shall produce and exhibit the same whenever requested to do so by any police officer, or by any person authorized to issue, or inspect Business Tax Certificates or certificates for the City, or to collect Business License Taxes or Business Square Footage Taxes for the City.

Section 10207. Certificate Inspectors.

A police officer or the code compliance officer may enter free of charge, during regular business hours, any place of business for which a Business Tax Certificate is required by this Chapter and demand the exhibition of any such Business Tax Certificate by any person engaged or employed in the transaction of such business. The police officer or code compliance officer shall further have the authority to inspect and verify the pertinent square footage of the any building or structure subject to this Chapter.

Section 10208. Information in Business Tax Certificate Application.

(A) Every person required to have a Business Tax Certificate pursuant to the provisions of this Chapter shall make a written application to the Administrative Service Director, or his/her designee, and submit the following information:

- (1) The nature or kind of business for which the Business Tax Certificate is requested.
- (2) The place where the business is to be conducted whether within or outside of the City and, if the business is not to be conducted at a permanent location, the residence address, identified as such, of the owners of the business. For purposes of this Chapter, a post office box is not considered a place of business or a permanent location for purposes of imposing any tax in accordance with this Chapter.
- (3) If the application is made for the issuance of Business Tax Certificate to a person to do business under a fictitious name, the names, the last four digits of their social security numbers, and residence addresses of the owners of the business.
- (4) If the application is made for the issuance of a Business Tax Certificate to a corporation or partnership, the names, franchise tax number, and residence addresses of the officers or partners thereof.
- (5) Any further information that the Administrative Service Director, or his/her designee, may require to enable the issuance of the Business Tax Certificate including documentation supporting the applicant's Gross Receipts as define in this Chapter.

The Administrative Service Director, or his/her designee, will not issue the Business Tax Certificate unless the applicant has submitted the information required within this Section and paid the appropriate tax as required under this Chapter as well as any other unpaid Business License Tax or Business Square Footage Tax amount due.

(B) No Business Tax Certificate shall be issued except on the filing of the application herein provided for; and in the event it shall appear that incorrect information is contained in such application and that the Business Tax Certificate collected was not in the correct amount, the City shall be entitled to collect any unpaid balance of such Business Licensed Tax or Business Square Footage Tax or if any Business Tax Certificate holder has overpaid, to refund the excess amount collected.

(C) No statements in the application shall be conclusive upon the City, or upon any officer thereof, as to the matters therein set forth, and the same shall not prejudice the right of the City to examine or audit the books or accounts of any person subject to Business Tax Certificate or to recover any amount that may be ascertained to be due, in case such statement should be found to be

incorrect. If any person hereby required to make any such statement shall fail to do so, such person shall be required to pay the Business License Tax or Business Square Footage Tax at such rate as the Administrative Services Director, or his/her designee, may after investigation, fix as the proper rate to be paid by such person, and shall also be deemed guilty of a violation of this Chapter. The tax shall be at a rate defined within this Chapter, as amended by Sections 10217 or 10218.

Section 10209. Confidential Character of Information Obtained.

(A) The Administrative Services Director, or his/her designee, or any person having an administrative duty under the provisions of this article to the extent permitted by law, will not make known in any manner whatsoever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a Business Tax Certificate, or pay a Business License Tax or Business Square Footage Tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person. Provided that nothing in this subsection shall be construed to prevent:

- (1) The disclosure to, or the examination of records and equipment by another city official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this article; or collecting taxes imposed hereunder;
- (2) The disclosure of information to, or the examination of records by, federal, or state officials, or the tax officials of another city, or county, or city and county, if a reciprocal arrangement exists; or to a grand jury or court of law, upon subpoena;
- (3) The disclosure of information and results of examination of records of particular taxpayers, or relating to particular taxpayers, to a court of law in a proceeding brought to determine the existence or amount of any Business Tax liability of the particular taxpayers to the City;
- (4) The disclosure after the filing of a written request to that effect, to the taxpayer, or to his/her successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to the items included in the measure of any paid tax, any unpaid tax or amounts of tax required to be collected, interest, and penalties; further provided, however, that the City Attorney approves each such disclosure and that the Administrative Services Director, or his/her designee, may refuse to make any disclosure referred to in this paragraph when in his/her opinion the public interest would suffer thereby;
- (5) The disclosure of the names and addresses of persons to whom registration certificates have been issued, the names of officers of corporations and members of partnerships to whom registration certificates have been issued, and the general type or nature of their business;
- (6) The disclosure to the City Council by way of public meeting or otherwise of such information as may be necessary in order to permit it to be fully advised as to the facts when a taxpayer files a claim for refund of Business License Taxes or Business Square Footage Taxes, or submits an offer of compromise with regard to a claim asserted against

him/her by the City for Business License Taxes or Business Square Footage Taxes, or when acting upon any other matter;

(7) The disclosure of general statistics regarding taxes collected or business done in the City when reported in the aggregate.

Section 10210. Penalties and Interest.

(A) Penalties on Deficiency Determinations Made Because of Underpayment.

(1) The Administrative Services Director, or his/her designee, shall add the penalty designated in the Master Fee Schedule, computed as a percentage of the amount of the additional assessment, to any additional assessment imposed as a result of a deficiency determination made because of underpayment if any part of the deficiency is due to negligent or intentional disregard of any provision of this Chapter.

(2) The Administrative Services Director shall add the penalty designated in the Master Fee Schedule, computed as a percentage of the amount of the additional assessment, to any additional assessment imposed as a result of a deficiency determination made because of underpayment if any part of the deficiency is due to fraud.

(B) Penalties on Deficiency Determinations Made Because of Failure to File.

(1) The Administrative Services Director, or his/her designee, shall add the penalty designated in the Master Fee Schedule, computed as a percentage of the amount of the unpaid Business Tax, to a deficiency determination made because of failure to file a return if such failure to file is due to negligent disregard of any provision of this Chapter.

(2) The Administrative Services Director, or his/her designee, shall add the penalty designated in the Master Fee Schedule, computed as a percentage of the amount of the unpaid Business Tax, to a deficiency determination made because of failure to file a return if the person against whom the deficiency determination is made has previously held a Business Tax Certificate in the City of Grover Beach, or if such failure is due to intentional disregard of any provision of this Chapter.

(3) The Administrative Services Director, or his/her designee, shall add the penalty designated in the Master Fee Schedule, computed as a percentage of the amount of the unpaid Business Tax, to a deficiency determination made because of failure to file a return if such failure is due to fraud.

(C) Penalties for Delinquent Payment of Business Tax and Deficiency Determinations.

(1) The Administrative Services Director, or his/her designee, shall, immediately after one (1) calendar month from the date that Business Tax, including deficiency determinations are payable, add to all Business Taxes remaining unpaid the delinquency penalty designated in the Master Fee Schedule, computed as a percentage of the amount of such delinquent Business Tax, excluding penalties and interest.

(2) The Administrative Services Director, or his/her designee, shall immediately after two (2) calendar months from the date that Business Taxes, including deficiency determinations, are payable, add to all taxes still remaining unpaid the additional

delinquency penalty designated in the Master Fee Schedule, computed as a percentage of the amount of such delinquent taxes, excluding penalties and interest.

(D) Interest on Deficiency Determinations. In addition to the penalty or penalties imposed, interest at the rate of three-quarters of one per cent per month, or fraction thereof, shall be paid on the amount of the Business Tax, exclusive of penalties, from the last day of the first month of the Business Tax Certificate period or periods for which a deficiency determination is imposed until the date of payment.

(E) Extensions of Time to Make Payment. Prior to the due date, the Administrative Services Director, or his/her designee, may extend, for good cause, for a period not to exceed one (1) calendar month, the time to make any return or payment of taxes. No further extension shall be granted. Any person to whom an extension is granted who makes a return and pays the taxes within the period of extension shall not pay any penalty or interest on the amount of the taxes.

(F) Holidays. In the event the last day of the calendar month falls on a Saturday, Sunday or legal holiday, Business Taxes may be paid without penalty on the first succeeding business day. Thereafter, the penalty, penalties or interest provided in this section shall be added.

Section 10211. Deficiency Determinations.

(A) If the Administrative Services Director, or his/her designee, is not satisfied with the return or returns of Business Taxes, or the amount of the Taxes paid to the City by any person, he/she may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within his/her possession or that may come into his/her possession. One or more deficiency determinations may be made of the amount due for one or more than one annual period. The amount of each deficiency determination is immediately due and payable. Each determination shall become final and delinquent one (1) calendar month after notice thereof as herein provided.

(B) In making a determination, the Administrative Services Director, or his/her designee, shall offset overpayments previously made, if any, together with interest on the overpayments, against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments and overpayments shall be computed in the manner set forth in this Chapter.

(C) The Administrative Services Director, or his/her designee, shall give written notice of a deficiency determination to each person against whom a determination is made. The notice may be served personally or by mail. In case of service by mail of any notice required by this Chapter, the service is complete at the time of deposit in the United States Post Office.

(D) Except in the case of fraud, intent to evade this Chapter or authorized rules and regulations, or failure to make a return, every deficiency determination shall be made and notice thereof mailed within three (3) years after the last day of the month following the close of the Business Tax Certificate period for which the amount is determined or within three (3) years after the return is filed, whichever period expires the later.

(E) If any person fails or refuses to make, within the time provided in this Chapter, any return and payment of said Taxes or any portion thereof required by this Chapter or makes a fraudulent return or otherwise willfully attempts to evade this Chapter, the Administrative Services Director, or his/her designee, shall proceed in such manner as he/she may deem best to obtain facts and

information on which to base his/her estimate of the Taxes due. As soon as the Administrative Services Director, or his/her designee procures facts and information upon which to base the assessment of any tax imposed by this Chapter, he/she shall determine and assess against such person the Taxes, interest and penalties provided for by this Chapter. When such a determination is made, the Administrative Services Director, or his/her designee, shall give written notice of the amount so assessed. Such determination and notice shall be made and mailed within three (3) years after discovery by the Administrative Services Director, or his/her designee, of any fraud, intent to evade or failure to file return. The amount of each deficiency determination is immediately due and payable. Any determination shall become final and delinquent one (1) calendar month after notice thereof as herein provided.

(F) If the Administrative Services Director, or his/her designee, believes that the collection of any Business Tax will be jeopardized by delay, or if any determination will be jeopardized by delay, he/she shall thereupon make a determination of the taxes due. The amount determined is immediately due and payable. If the amount specified in the determination is not paid within ten (10) days after service of notice thereof upon the person against whom the determination is made, the amount becomes final and delinquent, and the delinquency penalty or penalties and the interest provided in Section 10210 shall attach to the amount of the Taxes, unless a petition for redetermination is filed within the ten days.

Section 10212. Redeterminations.

(A) Any person against whom a determination is made under Section 10211 or any person directly interested may petition for a redetermination within one (1) calendar month after service of notice thereof; provided, however, that a petition for redetermination of a determination made under subsection (F) of Section 10211 shall be filed within ten (10) days after service of notice thereof. If a petition for redetermination is not filed within the applicable period, the determination becomes final and delinquent at the expiration of the period.

(B) If a petition for redetermination is filed within the applicable period, the Administrative Services Director shall reconsider the determination, and, if the person has so requested in his/her petition, shall grant the person an oral hearing and shall give him ten (10) days notice of the time and place of the hearing. The Administrative Services Director may continue the hearing from time to time as may be necessary.

(C) The Administrative Services Director, or his/her designee may decrease or increase the amount of the determination before it becomes final but the amount may be increased only if a claim for the increase is asserted by the Administrative Services Director, or his/her designee, at or before the hearing.

(D) The decision of the Administrative Services Director, or his/her designee, upon a petition for redetermination becomes final and delinquent fifteen days after service upon the petitioner of notice thereof.

(E) No petition for redetermination shall be effective for any purpose unless at or before the filing thereof the amount found due in the original determination is paid, or a bond or other security satisfactory to the Administrative Services Director, or his/her designee, is filed with him/her guaranteeing payment of any amount finally determined to be due.

Section 10213. Records for Determination by Department of Administrative Services.

All sellers, consumers and holders of City of Grover Beach Business Tax Certificates shall keep complete records of all business transactions, including sales, receipts, purchases and other expenditures, and shall retain all such records for purposes of examination by the Department of Administrative Services or their agent or contract services of the City of Grover Beach. Such records shall be maintained for a period of at least three (3) years and shall be submitted to the City or their delegated agent or contractor upon request by the City.

Section 10214. Refunds.

(A) Whenever a Business License Tax or Business Square Footage Tax has been paid to the City under a mistake of law or a mistake of fact, the tax shall be refunded when a demand for refund has been made on a form prescribed by the Administrative Services Director. No refund shall be approved after three (3) years from the date of receipt by the City of the money to be refunded. For purposes of this Chapter, a mistake of law or fact shall be defined as follows:

(1) Mistake of Law. When the money was either paid by the demandant or received by the City through mistake as to the legal necessity for making the payment, refund thereof may be made upon a demand for refund. The demand shall be promptly transmitted to the head of the department involved for his/her recommendation and his/her statement of the facts upon which the recommendation is based. The demand and recommendation shall be presented to the City Attorney for his/her decision thereon.

(2) Mistake of Fact. When the money was either paid by the demandant or received by the City because of a mistake of fact when such payment or receipt would not have been made if such mistake had not been made, then refund thereof may be made upon a demand for refund, provided that if the mistake was wholly or partly the City's and the mistake was induced by an act or statement of the demandant, or if the mistake was wholly the demandant's and the City has made an investigation, inspection or examination, or done any similar work or rendered services, the head of the department, division or bureau may ascertain the value or cost of such and order it deducted from the amount to be refunded. His/her determination shall be final when approved by the Administrative Services Director, or his/her designee, but there shall be added thereto the amount designated for handling charges in the Master Fee Schedule.

(B) If the Administrative Services Director, or his/her designee, determines that any overpayment has been made intentionally or by reason of carelessness, he/she shall not allow any interest thereon.

Section 10215. Exemptions.

(A) Exempt Business and Entities:

(1) Nothing in this Chapter shall be construed as applying to any person conducting any business or occupation exempt from taxation, Business License Tax or Business Square Footage Tax by virtue of Sec. 14 of Art. XIII of the Constitution of the State of California, or the Constitution of the United States, nor shall it be construed to authorize any act prohibited by any law of California or by the provisions of this Code, or to authorize the conduct of any business for which a permit from the City Council is required, until such permit is obtained.

- (2) The provisions of this Chapter shall not apply to commercial travelers or selling agents selling their goods to dealers for future deliveries.
- (3) The provisions of this Chapter shall not apply to the renting, letting or subletting of property by an individual to himself or to an entity wholly owned by him.
- (4) The provisions of this Chapter shall not be deemed or construed to require the payment of a Business License Tax or Business Square Footage Tax to conduct, manage or carry on any business, occupation or activity, or require the payment of any Business License Tax or Business Square Footage Tax from any institution or organization, which is conducted, managed or carried on wholly for the benefit of charitable, religious, or benevolent purposes.
- (5) The provisions of this Chapter shall not apply to credit union corporations.
- (6) Any grower or producer of any articles of ranch products who grows or produces said products in the City shall be entitled to a Business Tax Certificate without tax unless the grower or producer sells said products from a produce stand on property located within the City. Any grower or producer qualified by the terms of this Chapter to claim a Business Tax Certificate exemption provided herein shall first file with the Administrative Services Director, or his/her designee, an affidavit setting forth his/her name and address, the amount and variety of produce he/she proposes to sell, the place where said produce was grown or produced, and that such produce was grown or produced by him.
- (7) The provisions of this Chapter shall not apply to any Commercial Cannabis Businesses as defined within Grover Beach Municipal Code, Section 4000.20, as amended, that are licensed by the City of Grover Beach as a Commercial Cannabis Businesses and have a state cannabis license.

Section 10216. Establishment of Tax.

Business License Tax and Business Square Footage Tax shall be paid, as applicable, by every person conducting, carrying on or managing any business or profession within the City of Grover Beach not otherwise exempted by Section 10215. This includes businesses located outside of the City of Grover Beach but conducting business within the City and businesses that are owned, leased, occupied or maintained within the City. Employees of a business owner that receive a W-2 Statement are not subject to this Chapter.

Section 10217. Business Square Footage Tax Based Upon Business Floor Space.

(A) A Business Square Footage Tax for the act of privilege of engaging in business activity within the City is hereby levied upon and shall be collected from every person that leases, owns, occupies or otherwise maintains an office or place of business within the City.

The Business Square Footage Tax shall be measured by the number of square feet of business floor space for each office or place of business leased, owned, occupied or otherwise maintained within the City during their reporting period.

(B) Every person conducting, carrying on or managing any business or profession, not otherwise specifically licensed by or exempted by other sections of this Chapter, shall pay an annual Business Square Footage Tax based on the applicable Business Floor Space schedule(s)

consistent with this section, whether retail, wholesale or both. Business Square Footage Taxes shall be based upon the total Business Floor Space as recorded on the records of the business. The following tax amounts in Table 1 below are the amounts imposed by the City for each calendar year after adoption of this ordinance based upon the total applicable Business Floor Space:

Table 1 – Business Square Footage Tax Rates

<u>Business Floor Space</u>	<u>BTC Rate</u>
1 - 1,000	\$60
1,001 – 2,000	\$125
2,001 – 5,000	\$200
5,001 – 10,000	\$350
10,001 – 20,000	\$500
20,001 – 40,000	\$650
40,001 – 60,000	\$800
60,001 and up	\$950

Section 10218. Business License Tax based upon a Flat Rate.

(A) A Business License Tax for the act of privilege of engaging in business activity within the City is hereby levied in the amount of \$60.00 per calendar year starting January 1, and shall be collected from every person that conducts a business within the City but does not lease, own, occupy or maintain an office or place of business within the City.

Section 10219. Rooming Houses.

(A) For every person conducting, carrying on or managing the business of a lodging or rooming house consisting of any rooms available for rent, the Business Square Footage Rate shall be determined by the Business Floor Space as defined within this Chapter. Rooming house shall be defined for purposes of this section as any house where lodging is provided for rent.

(B) If any person conducting, carrying on or managing a lodging or rooming house shall use or permit to be used such lodging or rooming house for the purpose of lewdness, assignation or prostitution, and shall be convicted for such offenses or any of them in any court of the State of California, then and in either event the Business Tax Certificate, as provided herein, for such lodging or rooming house shall be revoked and shall not hereafter be renewed for a period of one (1) year from and after the date of the final judgment of such conviction.

Section 10220. Apartments, Flats and Courts.

(A) For every person conducting, carrying on or managing the business of apartments, flats or courts consisting of four or more individual living units available for rent or lease at one (1) location, the Business Square Footage Rate shall be determined by Table 1 schedule designated in this Chapter as amended.

(B) For the purpose of this section, "one location" is defined to mean one (1) or more lots that are contiguous.

Section 10221. Evidence of Doing Business.

When any person shall by use of signs, circulars, cards, Internet websites, or newspapers advertise, hold out, or represent that he/she is in business in the City, or when any person holds an active Business Tax Certificate or permit issued by a governmental agency indicating that he/she is in business in the City, and such person fails to deny by a sworn statement given to the Administrative Services Director, or his/her designee, that he/she is not conducting a business in the City, after being requested to do so by the Administrative Services Director, or his/her designee, then these facts shall be considered prima facie evidence that he/she is conducting a business in the City.

Section 10222. Severability.

Should any provision of this Chapter, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Chapter or the application of this Chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

Section 10223. Violation Deemed Misdemeanor - Penalty.

Any person violating any of the provisions of this Chapter or any regulation or rule passed in accordance herewith, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment for a period of not more than six (6) months, or by both such fine and imprisonment.

Section 10224. Conviction for Chapter Violation - Taxes Not Waived.

The conviction and punishment of any person for failure to pay the required tax in accordance with this Chapter shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this Chapter or of any state law requiring the payment of all taxes.

Section 10225. Remedies Cumulative.

All remedies and penalties prescribed by this Chapter or which are available under any other provision of law or equity, including but not limited to the California False Claims Act (Government Code Section 12650 et seq.) and the California Unfair Practices Act (Business and Professions Code Section 17070 et seq.), are cumulative. The use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter.

Section 10226. Amendment or Repeal.

Chapter 2 of Article X of the City of Grover Beach Municipal Code may be repealed or amended by the City Council without a vote of the people. However, as required by Article XIII C of the California Constitution, voter approval is required for any amendment provision that would increase the rate of any tax levied pursuant to this Chapter or change the methodology of how the tax is levied if such action would increase the amount of the tax approved by the voters. The people of the City of Grover Beach affirm that the following actions shall not constitute an increase of the rate of a tax:

(A) The restoration of the rate of the tax to a rate that is no higher than that set by this Chapter, if the City Council has acted to reduce the rate of the tax;

(B) An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Chapter;

The establishment of a class of person that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this Chapter); or

The collection of the tax imposed by this Chapter, even if the City had, for some period of time, failed to collect the tax.

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 ____, 2018 and **PASSED, APPROVED, and ADOPTED** by the City Council on ____, 2018 on the following roll call vote, to wit:

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

PASSED, APPROVED, and ADOPTED by ____percent of the Voters of the City of Grover Beach on Tuesday, November 6, 2018.

JOHN P. SHOALS, MAYOR

ATTEST:

DONNA L. MCMAHON, CITY CLERK

APPROVED AS TO FORM:

DAVID P. HALE, CITY ATTORNEY