

ORDINANCE NO. 21-003

AN ORDINANCE OF THE CITY OF PACIFIC GROVE AMENDING MUNICIPAL CODE CHAPTER 11.100, "CANNABIS", TO REPEAL THE CANNABIS RETAIL LICENSE PROCESS

Findings

1. Proposition 64, approved by California voters in November 2016, legalized adult recreational use of Cannabis.
2. Pacific Grove Municipal Code (PGMC or Code) Chapter 11.100, as enacted in 2017, regulated Cannabis activities in accord with state law.
3. PGMC Chapter 11.100 addresses the topic of Cannabis sales and cultivation. When enacted in 2017, this Chapter prohibited commercial Cannabis activities, cooperatives, collectives, dispensaries, operators, establishments, providers, and cultivation within City of Pacific Grove (City) limits. Medicinal Cannabis dispensaries, operators, establishments and providers were prohibited.
4. On September 16, 2020, the City Council enacted Ordinance 20-022 to amend PGMC Chapter 11.100 and allow sale of commercial Cannabis. The Ordinance created a licensing process to allow Cannabis retail sales through a single licensed and regulated commercial Cannabis establishment.
5. A Citizen Referendum Petition against Ordinance 20-022 was lodged with the City on October 29, 2020. Monterey County Elections Department tallied the number of valid signatures on the Petition in accord with Elections Code section 9215 and determined the number of valid signatures was insufficient. Accordingly, Ordinance 20-022 has taken full effect to amend PGMC Chapter 11.100.
6. This Ordinance, upon its effective date, is intended to repeal provisions of Ordinance 20-022 and restore prohibitions on Cannabis sales and other activities previously enacted in this City.
7. This Ordinance is exempt from the CEQA, Public Resources Code Section 21000 et seq., because it can be seen with certainty that there is no possibility that the enactment of this Ordinance would have a significant effect on the environment (Pub. Resources Code § 21065; CEQA Guidelines §§ 15378, 15061).

NOW, THEREFORE, THE COUNCIL OF THE CITY OF PACIFIC GROVE DOES ORDAIN AS FOLLOWS:

Section 1. Findings.

The Findings set forth above are an integral part of this Ordinance and are adopted as if set forth in their entirety.

Section 2. Chapter 11.100

Chapter 11.100 “CANNABIS” of the Pacific Grove Municipal Code shall be amended by deletions (shown in ~~cross-out text~~) and by additions (shown in ***bold italics text***) as follows:

Section 3. Section 11.100.01

Section 11.100.010 “Statement of Purpose” shall be amended by deletions (shown in ~~cross-out text~~) and by additions (shown in ***bold italics text***) as follows:

The purpose of this Chapter is to ***prohibit regulate*** commercial cannabis activities, cooperatives, collectives, dispensaries, operators, establishments, providers and cultivation within the city limits. ~~*Fees enabled by this Chapter are licensing charges paid for the exclusive and limited privilege of engaging in retail Cannabis activity in the City.*~~

Section 4. Section 11.100.020

Section 11.100.020 “Definitions” shall be amended by deletions (shown in ~~strike-out text~~) as follows:

For the purposes of this section, the following words and phrases shall have the following meanings:

“Adult use” shall refer to any medicinal or non-medicinal use of cannabis by persons 21 years of age or older in conformance with the Medical and Adult-Use Cannabis Regulation and Safety Act and the provisions of state law regarding cannabis use and sale.

“Cannabis” shall be defined pursuant to Business and Professions Code Section 26001(f), Health and Safety Code Section 11018.5, and by other state law. ”Cannabis” or “marijuana” means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, or any other strain or varietal of the genus Cannabis that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds of such plants. “Cannabis” does not mean “industrial hemp” as defined by Health and Safety Code Section 11018.5.

“Cannabis accessory” is any device intended to aid in the use of cannabis or cannabis products that does not itself consist of all or part of cannabis products.

“Cannabis product” means any product containing cannabis or its derivatives, including, but not limited to, flowers, buds, oils, tinctures, concentrates, extractions, edibles, sweetened cannabis beverage, cannabis accessory or products described in Health and Safety Code Section 11018.1.

~~*“Cannabis Retail Establishment” means a retail store in which Cannabis or Cannabis products are sold for Adult Use or Medicinal Use (including both retail and wholesale sales), including Cannabis , Cannabis products, or any Cannabis accessories, whether or not carried on for gain or profit.*~~

“Child resistant” shall be defined pursuant to Business and Professions Code Section 26001(j).

“Collective or cooperative cultivation” means the association within California of qualified patients, persons with valid identification cards, and designated primary caregivers to cultivate Cannabis for medical purposes as defined in strict accordance with California Health and Safety Code Section 11362.5

“Commercial cannabis activity” shall be defined pursuant to Business and Professions Code Section 26001(k), and includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products.

~~“Community Benefits Agreement” shall be defined as an enforceable contract between a License holder and the City and/or other community groups that requires specific amenities and/or mitigations paid by the Licensee to the City, local community or affected neighborhoods. This Agreement shall determine the licensing charge imposed for the exclusive and limited privilege of engaging in commercial Cannabis activity in the City.~~

“Cultivate or cultivation” shall be defined pursuant to Business and Professions Code Section 26001(l) and shall include planting, growing, processing, storage, harvesting, drying, curing, grading or trimming of one or more cannabis plants or any part thereof in any location.

“Delivery” shall be defined pursuant to Business and Professions Code Section 26001(p).

“Edible cannabis product” shall be defined pursuant to Business and Professions Code Section 26001(t).

“Family Day Care” shall be defined as one meeting the criteria of Child Care Facility Licensing Regulations, “Large Family Care Home” under Health & Safety Code Section 102416 *et seq.*

“Fully enclosed and secure structure” means a space within a building, greenhouse or other structure which has a roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors. The fully enclosed and secure structure must have valid electrical, plumbing, and building permits, if required by other provisions of this code.

~~“Gross Receipts,” as that term may be used in any Community Benefit Agreement shall mean, whether designated as a sales price, royalty, rent, membership fee, ATM service fee, delivery fee, slotting fee, any other fee, service charge, commission, dividend, or other designation, the total amount (including all receipts, cash, credits, services and property of any kind or nature) received or payable for sales of goods, wares or merchandise, or for the performance of any act or service of any nature for which a charge is made or credit allowed (whether such service, act or employment is done as part of or in connection with the sale of goods, wares, merchandise or not), without any deduction therefrom on account~~

~~of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expense whatsoever.~~

“Medicinal cannabis” or “medicinal cannabis product” shall be defined pursuant to Business and Professions Code Section 26001(ai) and California Health and Safety Code Sections 11362.5 (Compassionate Use Act of 1996) and 11362.7 (Medical Marijuana Program Act).

“Medicinal cannabis cooperatives, collectives, dispensaries, operators, establishments or providers” shall be defined as any facility or location where medicinal cannabis is grown, made available to or distributed by or to any “primary caregiver,” “a qualified patient,” a person with an identification card or a person over the age of 21.

“Outdoors” means any location that is not within a fully enclosed and secure structure.

“Primary caregiver” shall be defined pursuant to Health and Safety Code Sections 11362.5(e) and 11362.7(d).

“Private residence” means a house, an apartment unit, a mobile home, or other similar dwelling that is lawfully permitted to be used as a residence.

“Processing” is defined as any method used to prepare cannabis or its byproducts for commercial sale, including but not limited to drying, cleaning, curing, packaging, and extraction of active ingredients to create cannabis products.

“Qualified patient” shall be defined pursuant to Health and Safety Code Section 11362.7(f).

“Retailer” shall be defined pursuant to Business and Professions Code Section 26070(a)(1).

Section 5. Section 11.100.030

Section 11.100.030 “Prohibition on commercial Cannabis activities” shall be amended by deletions (shown in ~~strike-out text~~) as follows:

(a) Commercial Cannabis activities are prohibited in all areas of the city ~~except as otherwise permitted by a valid Cannabis Retail License issued in accord with Section 11.100.080~~. No person or entity may establish or engage in storefront commercial Cannabis activities within city limits ~~without a valid Cannabis Retail License~~. A property owner may not allow its property to be used by any person or entity for **unlicensed** commercial Cannabis activities.

(b) The delivery of Cannabis within city limits ~~without a valid Cannabis Retail License~~ by any means is prohibited.

(c) It is unlawful for any person to conduct, operate, own, or control any premises to sell Cannabis or Cannabis products within city limits ~~unless such person holds a valid current Cannabis Retail License, except as outlined below in Section 11.100.070~~.

Section 6. Section 11.100.040

Section 11.100.040 “Prohibition on medicinal cannabis cooperatives, collectives, dispensaries, operators, establishments or providers” shall be amended by deletions (shown in ~~strike-out text~~) and by additions (shown in ***bold italics text***) as follows:

Medicinal Cannabis cooperatives, collectives, dispensaries, operators, establishments or providers are prohibited in all areas of the city ~~except as otherwise permitted by a valid Cannabis Retail License issued in accord with Section 11.100.080~~. No person or entity may own, establish, open, operate, conduct, manage, or establish medicinal Cannabis cooperatives, collectives, dispensaries, operators, establishments or providers ~~without a valid Cannabis Retail License~~. A property owner may not allow its property to be used by any person or entity for ~~unlicensed~~ medicinal Cannabis cooperatives, collectives, dispensaries, operators, establishments or providers.

Section 7. Section 11.100.050

Section 11.100.050 “Residential cannabis cultivation” shall not be amended by this ordinance but the provisions of this section are set forth below to aid in construction of this Chapter as follows:

(a) All cannabis cultivation within city limits is prohibited except that a person, 21 years of age or older, may cultivate no more than six living cannabis plants inside a private residence, regardless of the number of persons that reside in the private residence, or inside a fully enclosed and secure accessory structure to a private residence located upon the grounds of that private residence. Such cultivation shall only occur in residences and accessory structures that are fully enclosed and secured against unauthorized entry.

(b) The primary use of the property must be for a private residence, and cultivation must not prevent the property owner’s primary use as a residential use. The property shall remain at all times a private residence with a legal and functioning kitchen, bathroom(s) and bedroom(s) for their intended use and such cultivation shall not prevent the property’s primary use as a residential use. The cultivation activities shall be conducted in a manner that is child resistant.

(c) If a private residence is not occupied or inhabited by the owner of the private residence, then no persons living in the residence may cultivate cannabis without written consent signed by the owner expressly allowing cannabis cultivation to occur at the private residence.

(d) Persons cultivating cannabis in a residence shall comply with all applicable building code requirements set forth in the Pacific Grove Municipal Code.

(e) There shall be no use of gas products (CO₂, butane, propane, natural gas, etc.) on the property for purposes of Cannabis cultivation.

(f) All private cannabis cultivation under this section shall comply with Health and Safety Code Section 11362.2.

(g) The cannabis cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration or other impacts and shall not be hazardous due to the use or storage of materials, processes, products or wastes, or from other actions related to cultivation.

(h) The outdoor cultivation of cannabis is prohibited within city limits.

Section 8. Section 11.100.060

Section 11.100.060 “Consumption of cannabis” shall not be amended by this ordinance but the provisions of this section are set forth below to aid in construction of this Chapter as follows:

Smoking and vaporizing of cannabis and cannabis products are prohibited in all public places and any place that is open to the public; reference Chapter 11.24 PGMC. Additionally, consumption and the use of any and all forms of Cannabis, including edible Cannabis product, shall be prohibited in all public places.

Section 9. Section 11.100.070

Section 11.100.070 “Exceptions” shall be amended by deletions (shown in ~~strike-out text~~) and by additions (shown in ***bold italics text***) as follows:

(a) To the extent that the following activities are permitted by state law, nothing in this chapter shall prohibit a person 21 years of age or older from:

(1) Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older without compensation whatsoever not more than 28.5 grams of cannabis not in the form of concentrated cannabis; or

(2) Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older without compensation whatsoever up to eight grams of cannabis in the form of concentrated cannabis; or

(3) Possessing, smoking or ingesting cannabis or cannabis products in a manner consistent with California Health and Safety Code Section 11362.3.

(b) This chapter shall not prohibit any person from transporting cannabis through the jurisdictional limits of the city for delivery or distribution to a person located outside of the city, where such transport does not involve delivery or distribution within the jurisdictional limits of the city.

~~(c) It shall be lawful for any person to conduct, operate, own, or control any premises to sell Cannabis or Cannabis product within City limits pursuant to a valid Cannabis Retail License issued in accord with this Chapter.~~

Section 10. Section 11.100.080

Section 11.100.080 “Cannabis Retail License” shall be deleted in its entirety:

~~(a) License Required. Persons may lawfully conduct, operate, own, or control premises to sell Cannabis or Cannabis product within City limits provided the person holds a valid Cannabis Retail License in accord with this section.~~

~~(1) Single License. A Cannabis Retail License may be issued to a single Applicant as~~

~~business owner(s) or operator(s) for a single location.~~

~~(2) License Does Not Run with the Land. A Retail Cannabis License is unique to the Applicant and shall not run with the property.~~

~~(3) Maximum Number of Licenses. No more than one Cannabis Retail License issued by the City shall have effect at any given time.~~

~~(4) Notice of Availability. In the event a Cannabis Retail License is revoked, the City shall advertise at least once in a local newspaper of general circulation and post on the City's website an announcement that the City will accept applications for a Cannabis Retail License. The notice shall summarize the Cannabis — Retail License Application and submittal requirements, Application deadlines, and contact information for questions.~~

~~(b) Cannabis Retail License Application Requirements~~

~~(1) Each Cannabis Retail License Application shall be submitted on the City Cannabis Retail License Application, which shall be verified by a statement sworn under penalty of perjury as to the truth of all contents, and include all necessary documentation, plans and materials.~~

~~(2) The Applicant shall verify every name under which the business engages in commercial Cannabis activity within California, and name, address, phone number, social security number and date of birth for every person who is an owner, principal or manager of the business; a statement as to the nature or kind of any other business activities these persons have engaged in within California, and any further information that the City Manager may require.~~

~~(3) The Application together with all associated fees shall be submitted to the Police Department.~~

~~(4) The Cannabis Retail License Application fee shall be required in accord with the City's Master Fee Schedule.~~

~~(5) The following materials shall be submitted with the Application:~~

~~(A) A statement as to Applicant's duration and quality of operating experience in commercial, retail and any other Cannabis sales.~~

~~(B) A statement as to the number of calls for police, crimes, or arrests associated with each Applicant related to Cannabis cultivation, Cannabis delivery, use, processing, commercial activity, or sales.~~

~~(C) A statement as to the facts and circumstances related to the denial, suspension or revocation of any type of Cannabis license held by, or to the benefit of each person who is an owner, principal or manager of the business during the period beginning 60 months preceding the date of the License Application.~~

~~(D) A statement as to the number of calls for police, crimes, or arrests associated with each location connected with Applicant's prior operating experience related to Cannabis cultivation, delivery, use, processing, commercial activity, or sales.~~

~~(E) Civil and criminal background verification related to each business owner, principal, operator and employee with reference to any unlawful, fraudulent, unfair, or deceptive business acts or practices.~~

~~(F) A list of each civil lawsuit naming any person who is an owner, principal or manager of the business as a plaintiff, petitioner, defendant or respondent during the period beginning 60 months preceding the date of the License Application.~~

~~(G) A site plan, an operations plan, and a security plan for the location that shall incorporate features necessary to assist in reducing potential crime-related problems. Features shall include, but are not limited to:~~

- ~~i. proposed hours of operation;~~
- ~~ii. security on site;~~
- ~~iii. procedure for allowing entry;~~
- ~~iv. waste management and waste disposal plans;~~
- ~~v. best practices to minimize risk of selling Cannabis and Cannabis products to underage individuals;~~
- ~~vi. surveillance and control of the location premises, the perimeter, and surrounding properties;~~
- ~~vii. map showing locations (and distances) within the City for each:~~
 - ~~• existing or proposed commercial or retail Cannabis location;~~
 - ~~• school, public park, playground, Family Day Care, or recreation center; and~~
 - ~~• drug recovery facility.~~
- ~~viii. reduction of opportunities for congregating and obstructing public ways and neighboring property;~~
- ~~ix. illumination of exterior areas;~~
- ~~x. signage, and~~
- ~~xi. visibility of public entryway of location from the street.~~

~~(H) Applicant's draft Community Benefits Agreement proposed to enhance City quality of life.~~

~~(I) A statement by which Applicant consents to pay to the City for annual Cannabis Retail License during the term of the License based on a specified percentage agreed to by the Applicant and the City of the gross annual receipts that arise from use, operation, or possession of the License.~~

~~(J) Proof of insurance as required by the City Manager.~~

~~(e) Cannabis Retail License Application Review Process~~

~~(1) Competitive, Merit Based License Review. Cannabis Retail License Applicants shall be subject to a competitive, merit based review. The City may consider all required elements of the Application and associated submittal materials.~~

~~(2) Location. The proposed location of the Cannabis Retail License establishment shall not be located within:~~

- ~~i. a 600 foot radius of a school providing instruction in kindergarten or any grades 1 through 12;~~
- ~~ii. a 200 foot radius of: (a) the Pacific Grove Community Center, or (b) the~~

~~Pacific Grove Youth Center;~~

- ~~iii. a 100-foot radius of a Family Day Care in existence as of the date of the License application; or~~
- ~~iv. any area identified by the Chief of Police as one of increased or high-crime activity.~~

~~(3) Use Permit. The proposed location of the Cannabis Retail License establishment shall have the requisite Use Permit in accord with PGMC Section 23.31.030.~~

~~(4) Quality. City shall evaluate Applicant's proposed Community Benefits Agreement proposed to enhance City quality of life.~~

~~(5) Civil and Criminal background. City shall verify and evaluate each business owner, principal, manager or operator with preference for applicants that have never engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.~~

~~(6) Selection Process. All complete Applications received prior to the application deadline shall be evaluated by a five-member panel, two of whom shall be individuals selected by the City Council, and three of whom shall be individuals selected by the City Manager. The panel shall review all applications, considering the factors referenced in this Chapter. The Application determined to best meet requirements of this Chapter and community needs shall qualify for selection as a provisional Cannabis Retail License holder.~~

~~(7) Appeal of Selection. Any person who has been denied a license may appeal the result of the Selection Process to the hearing panel under Chapter 1.19 PGMC, pursuant to a request for hearing under PGMC 1.19.090. Notice of the proceeding shall conform to PGMC 1.12.010, and the hearing shall conform to the process set in PGMC 1.19.120 and PGMC 1.19.180. The hearing officer shall have authority to determine all questions raised by such appeal; provided, however, that no such determination shall conflict with any substantive provision of this chapter. The decision of the hearing officer shall be final. Notice of the decision, and the opportunity for judicial review, shall conform to PGMC 1.20.010.~~

~~(8) Issuance of License. Issuance of a final Cannabis Retail License shall be contingent upon the following:~~

~~(A) Applicant shall first be selected as a provisional Cannabis Retail License holder pursuant to this Chapter.~~

~~(B) Applicant shall hold Appropriate State License(s) for retail sales of Cannabis within six months of selection as a provisional Cannabis Retail License holder unless the Applicant can demonstrate to the City Manager that due diligence was taken to timely complete this requirement and the delay was beyond the reasonable control of the Applicant.~~

~~(C) The final Cannabis Retail License shall issue only after receipt of a City Use permit and State License(s).~~

~~(D) Expiration. If the Applicant is unable to meet all requirements of this Chapter within six months from the selection date, the selection shall immediately expire unless the Applicant can demonstrate to the City Manager that due diligence was taken to timely complete those requirements and the delay was beyond the reasonable control of the Applicant.~~

~~(9) Requirements Imposed on Cannabis Retail Licenses and Licensees.~~

~~(A) The Cannabis Retail License and each Cannabis Retail Licensee shall be required to comply with rules, regulations, standards and other legal duties as promulgated by the City Manager, the Chief of Police or their designees. These may include specific operational and safety requirements related to ongoing operation of any Cannabis Retail Establishment, the City's oversight of Cannabis sales activities, or concerning any other subject determined to be related to the purposes of this Chapter.~~

~~i. Rules, regulations or other requirements promulgated pursuant to this Section shall be made available on the City website. A copy shall be provided to each Cannabis Retail Licensee.~~

~~ii. City rules or regulations may include restrictions on advertising, publishing, or general dissemination by other means of communication, that depict information related to pricing of Cannabis, details regarding specific Cannabis products, and Cannabis photography or graphics. As an exception to these limits, the Cannabis Retail Licensee or Cannabis Retail Establishment shall not be restricted as to any on-site communication or by way of a dedicated business Internet website accessible through an age-appropriate limited portal.~~

~~iii. The rules, regulations and requirements referenced in this Section shall take effect on the date of publication. Cannabis Retail Licensees and Establishments shall be required to comply with all state and local laws and regulations, including but not limited to the rules, regulations or standards set by this Section.~~

~~(B) Each Cannabis Retail Licensee shall be liable to the City for all damages proximately resulting from the failure of the Licensee to well and faithfully observe and perform any provision of the License and any provision of this Chapter.~~

~~(C) Each Cannabis Retail Licensee shall indemnify and hold harmless the City and its officers from all liability for damages proximately resulting from any operation under the License.~~

~~(D) Each Cannabis Retail Licensee shall file with the City Manager, on or before March 31st of each year, a verified statement showing in detail the total Gross Receipts of the Licensee during the preceding calendar year.~~

~~(E) Each Cannabis Retail Licensee shall pay to the City for an annual License as set by the Community Benefits Agreement. If the License charge is set as an amount calculated as a percentage of total Gross Receipts, it shall not exceed seven percent. The License charge shall be intended to (i) recover city costs to implement the License requirements and other provisions of this Chapter for the purposes of regulation, and (ii) in return for the limited and exclusive right to engage in business under the Cannabis Retail License.~~

~~(F) Any required annual License Fee shall be paid to the City fifteen (15) days after the time for filing its statement of Gross Receipts. Failure or refusal by the Licensee to file the verified statement, or to pay the percentage at the times or in the manner~~

~~required shall provide grounds for forfeiture of the License and all rights thereunder.~~

~~(10) License Term. Unless otherwise revoked, the Cannabis Retail License term shall be two years. The License thereafter shall be null and void if the City does not renew the License in writing as allowed by this Chapter. The city's decision to renew the License shall be discretionary.~~

~~(11) Renewal and Review of Cannabis Retail License.~~

~~(A) Two Year Term. The Cannabis Retail License shall have a biennial term ending the second year following issuance. There shall be no automatic renewal of the License.~~

~~(B) Annual Review. Community Development Department staff and the Chief of Police or designee shall conduct annual reviews of the operation of the Licensed Cannabis Retail Establishment to assess full compliance with all requirements of the Cannabis Retail License. Non-compliance shall provide cause for License revocation.~~

~~(C) License Renewal. Upon verification of eligibility to renew the Cannabis Retail License based on a finding of compliance with all License requirements, and upon receipt of an application for renewal together with payment of all Cannabis License fees required by the City's Master Fee Schedule, the City Manager may issue biennial renewal of the License.~~

~~(12) Suspension or Revocation of Cannabis Retail License. The Chief of Police holds delegated authority to suspend a Cannabis Retail License for a minor technical violation of this Chapter, as may be determined in the Chief's discretion, or may revoke a Cannabis Retail License for repeated minor technical violations or a single substantial violation of this Chapter. Any Cannabis Retail License issued under the terms of this Chapter shall be suspended and may be revoked at any time if:~~

~~(A) a material misstatement or error was made in the Cannabis Retail License Application, or with respect to any materials submitted in support of that Application.~~

~~(B) the Cannabis Retail Establishment is operated in a manner not in compliance with requirements of the Cannabis Retail License, the operational plan, the security plan, or state law, City rules, regulations, and requirements promulgated pursuant to this Chapter, or if the Cannabis Establishment becomes a public nuisance.~~

~~Written Notice of Suspension or Notice of Revocation shall be immediately provided to the Licensee, with a copy to the location of the Cannabis Retail Establishment site, by the Chief of Police. The Notice of Revocation or Notice of Suspension shall state specific reasons for the suspension or revocation, and a brief statement of grounds to be relied upon to revoke or suspend the License. Notice may be given either by personal delivery to the Licensee, or by certified U.S. mail in a sealed envelope, addressed to the Owner or Operator of record at the address as it appears in their application for a Cannabis Retail License.~~

~~(13) Review of Cannabis Retail License Suspension or Revocation.~~

~~(A) A hearing to review suspension or revocation of any Cannabis Retail License shall conform to procedure set by PGMC Chapter 1.19, and Section 1.19.020 et seq. The hearing officer shall have authority to determine all questions raised by such appeal; provided, however, that no such determination shall conflict with any substantive provision of this Chapter. No person whose license has been suspended or revoked shall continue to engage in or carry on the activity for which the License was granted, unless and until such license has been reinstated or reissued. The decision of the hearing officer shall be final. Notice of the decision shall conform to PGMC 1.20.010.~~

~~(B) Thereafter, a petition to review the administrative decision may be brought to the Superior Court in Monterey County in accord with California Government Code Section 53069.4 as provided by PGMC Section 1.19.140.~~

~~(14) Limit on License Transfer.~~

~~(A) No Cannabis Retail Licensee shall transfer ownership or control of a Cannabis Retail Establishment to another person or entity unless and until the transferee obtains an amendment to the Cannabis Retail License from the Chief of Police stating that the transferee is now the Licensee. The amendment shall be obtained only if the transferee files all required application materials in accord with this Chapter, pays all applicable fees, passes any requested background check, and independently meets all requirements of the Cannabis Retail License as determined by the Chief of Police. The transferee of a Cannabis Retail License shall be subject to all criteria set forth in this Chapter.~~

~~(B) Changes in ownership of a Licensee's business structure or a substantial change in the ownership of a Licensee's business entity (changes that result in a change of more than 51% of the original ownership), shall first be approved by the City Manager or designee through the License transfer process contained in this subsection. Failure to comply with this provision is grounds for License revocation.~~

~~(C) A Licensee may change the form of business entity without applying to the City Manager or designee for a transfer of License if the new business entity is substantially similar to the original Licensed business entity and at least 51% of the membership is identical. Although transfer is not required, the License holder shall notify the Chief of Police in writing of the change within ten (10) days of the change. Failure to comply with this provision is grounds for License revocation.~~

~~(D) No Cannabis Retail License may be transferred when the Chief of Police has notified the Licensee that the License has been or may be suspended or revoked.~~

~~(E) Any attempt to transfer a Cannabis Retail License either directly or indirectly in violation of this Section is hereby declared void, and such a purported transfer shall be deemed a ground for revocation of the License.~~

~~(15) Limit on Transfer of Business Site. A Cannabis Retail License shall not change business locations except upon discretionary approval of Chief of Police,~~

~~approval of which shall require a Use Permit for the new location, approval from the state licensing agency for the new location, and satisfaction that the new location shall meet all requirements set by PGMC Section 11.100.080.~~

Section 11. Section 11.100.080

The former Section 11.100.090 “Enforcement” shall be renumbered as Section 11.100.080 but shall not otherwise be amended by this Ordinance. Provisions of this section are set forth below to aid in construction of this Chapter as follows:

- a) Any use or condition caused, or permitted to exist, in violation of any provision of this section is a public nuisance and may be summarily abated by the city pursuant to Code of Civil Procedure Section 731 or by any other remedy available to the city.
- (b) Any violation of this section shall constitute a misdemeanor and 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 enforced pursuant to PGMC Chapters 1.16 and 1.19 .
- (c) Any violation of this chapter is declared to be a public nuisance per se contrary to the public interest and will, at the discretion of the city, be subject to a cause of action for injunctive relief.

Section 12. Implementation

The City Manager is directed to execute all documents and to perform all other necessary City acts to implement this Ordinance.

Section 13. Severability

If any section, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, or by this City, each remaining section, sentence, clause, phrase, or portion of this Ordinance shall nonetheless remain in full force and effect. The City Council of the City of Pacific Grove hereby declare it would have adopted each section, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, sentences, clauses, phrases, or portions of this Ordinance is declared invalid or unenforceable and, to that end, the provisions of this Ordinance are severable.

Section 14. Effective Date

In accord with Article 15 of the City Charter, this ordinance shall take effect on the thirtieth (30th) day following passage and adoption hereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS 20th day of January, 2021, by the following vote:

AYES: Mayor Peake, Councilmembers Amelio, Coletti, McAdams, Poduri, Smith, and Tomlinson

NOES: None.

ABSENT: None.

APPROVED:

DocuSigned by:
Bill Peake
6C7CB8B632C34D9...
BILL PEAKE, Mayor

ATTEST: 1/21/2021
DATED: _____

DocuSigned by:
Sandra Kandell
4F11A61C850B4E1...
SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DocuSigned by:
David C. Laredo
F06546E32B2846E...
DAVID C. LAREDO, City Attorney