

**ORDINANCE NO. 1046**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEASIDE  
AMENDING TITLE 17 OF THE SEASIDE MUNICIPAL CODE ALLOWING  
CANNABIS ACTIVITIES AS A USE ALLOWED SUBJECT TO A  
CONDITIONAL USE PERMIT IN THE CRG, MX, CH, AND CMX ZONES, AND  
ESTABLISHING CONDITIONS AND A DEVELOPMENT AGREEMENT TO  
PROTECT THE PUBLIC HEALTH, SAFETY & WELFARE.**

**WHEREAS**, in 1996, California voters approved Proposition 215 (codified at Health and Safety Code section 11362.5 and titled the "Compassionate Use Act of 1996"), which provides criminal immunity for patients and primary caregivers for the cultivation and possession of cannabis if a doctor has recommended the cannabis for Medical purposes; and

**WHEREAS**, in 2004, Senate Bill 420 was enacted (codified at Health and Safety Code section 11362.7 *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996. The Medical Marijuana Program Act allows cities and other governing bodies to adopt and enforce laws consistent with its provisions; and

**WHEREAS**, neither the Compassionate Use Act of 1996 nor the Medical Marijuana Program Act provided an effective statewide regulatory system for the Medical cannabis industry, and this lack of uniform regulation created uncertainty about the legality of Medical cannabis activities and endangered the safety of end users who have not had the benefit of a monitored supply chain for Medical cannabis, quality control, testing or labeling requirements; and

**WHEREAS**, the purpose of citywide regulation of Medical cannabis dispensaries is to regulate the cultivation, manufacturing, research, testing, and sale and distribution of cannabis in the interest of patients who qualify to obtain, possess and use cannabis for Medical purposes under state law, and to provide safe Medical cannabis product and inventory; and

**WHEREAS**, in 2011, Assembly Bill 2650 was enacted (codified at Health and Safety Code section 11362.768 affirming that cities can adopt ordinances that restrict the location and establishment of Medical marijuana collectives, cooperatives, and dispensaries; and

**WHEREAS**, in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court concluded that nothing in the Compassionate Use Act or the Medical Marijuana Program Act precludes a local jurisdiction from regulating or prohibiting facilities that distribute Medical marijuana; and

**WHEREAS**, in 2015, Assembly Bills 243 and 266 and Senate Bill 643 were enacted (codified at Business and Professions Code section 19300 *et seq.* and titled the "Medical Marijuana Regulation and Safety Act"). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of Medical marijuana; and

**WHEREAS**, the Medical Marijuana Regulation and Safety Act establishes a comprehensive regulatory framework for Medical cannabis in California (including production, transportation and sale of Medical cannabis), requires establishment of uniform state minimum health and safety standards, testing standards, mandatory product testing, and security requirements at dispensaries and during transport of the product, and provides criminal immunity for licensees; and

**WHEREAS**, the Medical Marijuana Regulation and Safety Act preserves local control in a number of ways: (1) by requiring Medical cannabis businesses to obtain both a state license and a local license or permit to operate legally in California, (2) by terminating the ability of a Medical cannabis business to operate if its local license or permit is terminated, (3) by authorizing local governments to enforce state law in addition to local ordinances, if they request that authority and it is granted by the relevant state agency, (4) by providing for civil penalties for unlicensed activities, and continuing to apply applicable criminal penalties under existing law, and (5) by expressly protecting local licensing practices, zoning ordinances, and local actions taken under local constitutional police power; and

**WHEREAS**, Proposition 64, The Adult Use of Marijuana Act, was passed by the voters November 8, 2016; and

**WHEREAS**, the Adult Use of Marijuana act provides local agencies authority to reasonably regulate the cultivation, testing, sale and research and development of cannabis for Adult recreational use; and

**WHEREAS**, the City of Seaside wishes to amend the Seaside Municipal Code to regulate cannabis activities in a manner that protects the public health, safety and general welfare of the community, and in ensures that the interest of patients who qualify to obtain, possess and use marijuana for Medical purposes, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, Medical Marijuana Regulation and Safety Act and Proposition 64; and

**WHEREAS**, the City of Seaside has a compelling interest in protecting public health, safety, and welfare of its citizens, residents, visitors and businesses by developing and implementing performance and operating standards for cannabis businesses; and

**WHEREAS**, nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 841 or to license any activity that is prohibited under said Act except as mandated by State law; and

**WHEREAS**, nothing in this Ordinance shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance; or (2) allow any activity relating to the sale, distribution, possession or use of cannabis that is illegal under state law; and compliance with the requirements of this Ordinance shall not provide a defense to criminal prosecution under any applicable law;

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF SEASIDE DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Amending Zoning Ordinance Permitting Cannabis Dispensaries in certain zones:

A. Section 17.14.030, Table 2-4 is amended as follows:

The term “Medical marijuana dispensaries” is revised to read “Medical cannabis and Adult cannabis dispensaries”, and the categories of CMX, MX, CC and CRG are designated with the letters “up” to designate that a CUP is required for such uses in these zones. The terms “Cannabis research and development, cannabis manufacturing, and cannabis related processing” are added, and the categories of CH, CC, CMX and MX are designated with the letters “MUP” to designate that a Minor Use Permit is required for such uses in these zones. The term “Cannabis cultivation” is added, and the category MX is designated with the letters “MUP” and an asterisks that reads “Only facing the alleyway between Broadway Ave. and Olympia St. and Olympia St.” The term “Cannabis Testing” is added, and the categories of CH, CMX, MX, CC, CA and CH are designated with the letter “P” to designate that this use is permitted by right in these zones.

B. Section 17.20.30 B., West Broadway Urban Village Specific Plan Area, is amended by adding the following sentence: “Cannabis Medical and Adult usage dispensaries shall be permitted land uses in this Specific Plan Area subject to obtaining a Conditional Use Permit in accordance with Chapter 17.56.”

C. Section 17.52.150 is deleted in its entirety.

D. Section 17.62.070 H is amended by adding the following sentence: “Any Use Permit granted for any Medical or Adult Cannabis Dispensary shall include as a condition the

obtaining of a Development/Operating Agreement with the City which shall require periodic review of performance and compliance as deemed appropriate by the City.”

**SECTION 2.** Effective date. This Ordinance shall take effect thirty (3) days after its final passage and adoption by the Council.

**INTRODUCED AND PASSED TO PRINT** at a regular meeting of the City Council of the City of Seaside held on February 1, 2018.

**ADOPTED** as an Ordinance of the City Council of the City of Seaside at a regular meeting of the City Council held on February 15, 2018, by the following vote:

Ayes:	5	Council members: Alexander, Campbell, Jones, Pacheco, Rubio
Noes:	0	Council members: None
Absent:	0	Council members: None
Abstain:	0	Council members: None

  
\_\_\_\_\_  
Ralph Rubio, Mayor

Attest:

  
\_\_\_\_\_  
Lesley Milton-Rerig, City Clerk