



# THE WEEKLY COUNCIL INFORMATION REPORT

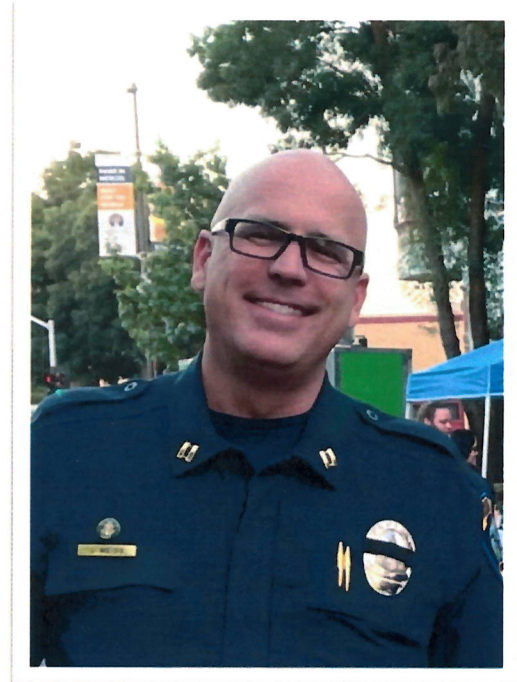
September 10, 2021

## REMEMBERING SEPTEMBER 11, 2001 AND HONORING FIRST RESPONDERS AND VETERANS

We pause to reflect and remember the lives lost and sacrifices made by firefighters, police officers, first responders, and heroic citizens on September 11, 2001. We also pay tribute to our community's first responders, essential workers, and veterans for the contributions they make to our community. Thank you for your service. Thank you for what you do!

### **KYOS Community Conversations**

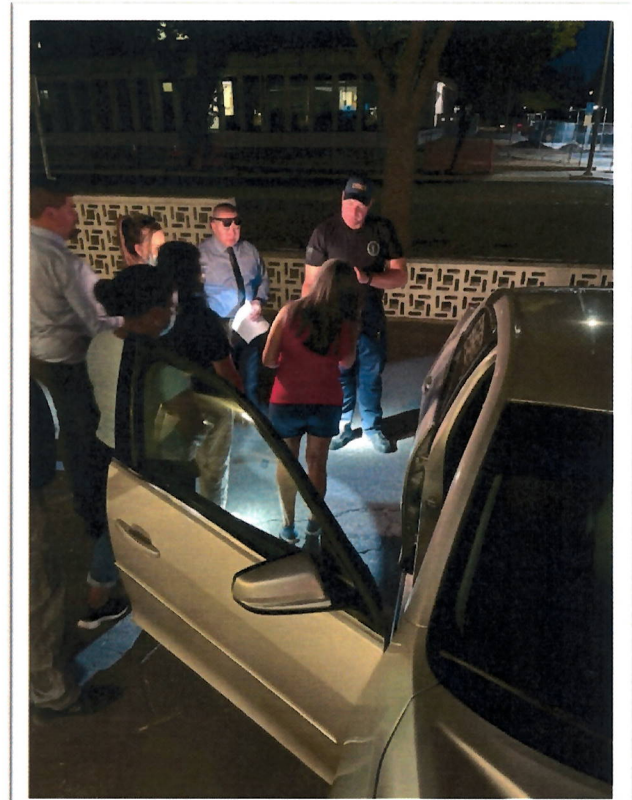
Captain Joe Weiss will be featured on Community Conversations this Saturday, Sept. 11. Captain Weiss will reflect personally and professionally on 9/11 and how it has changed policing. Tune into Community Conversations on KYOS 1480 AM, and 107.3 FM on Saturdays at 7:05 am.



Thank you to the El Capitan Hotel for hosting an event in remembrance of 9/11 and to honor first responders and veterans

## Community Police Academy

Participants of the Community Police Academy recently practiced their crime scene processing skills. The Merced PD's Crime Scene Response Team set up a mock shooting scene and allowed class members to practice fingerprinting techniques, photography, evidence collection, and bullet trajectory. The Community Police Academy is an excellent opportunity for community members to learn about the reality of law enforcement in our community. The program also allows participants to become more informed about police officer training, patrol procedures, use of force, and internal investigations. For more information about the Community Police Academy, visit the Department's website at [www.cityofmerced.org/departments/police](http://www.cityofmerced.org/departments/police).



## Hwy 59 and Santa Fe Clean Up

The Merced Police Department's Disruptive Area Response Team (DART) and the City's Public Works Department recently cleaned up a total of 9500 pounds of garbage on Hwy 59 and Santa Fe. In preparation for the project, DART canvassed the area and conducted outreach to inform people about cleanup dates and to connect people to housing and other community assistance services.

### Before



### After



## Continued Mutual Aid

Multiple Merced City fire personnel continue to provide mutual aid at the Dixie and Caldor fires. City fire crews have also assisted at the Monument, River Complex, and Lava fires.



Fire Battalion Chief Mickey Brunelli speaks to reporters at KSEE 24/CBS 47

## At the Ready

After 14 days, the firefighting crew on OES 393 safely returned from the Dixie Fire. Fellow fire crews cleaned the Engine for the next deployment.



## Unexpected Discovery

Firefighters discovered a litter of three little kittens living in Station 51's ventilation training prop. Personnel bathed and fed the kittens and devised a rehoming plan to reduce the number of feral felines living at the fire station. Unfortunately, the Mama Cat thwarted these efforts and rehomed the last two on her own.



### Public Works In Action

More photos of the clean up project on Hwy 59 and Santa Fe. Public Works removed approximately 9500 pounds of garbage.

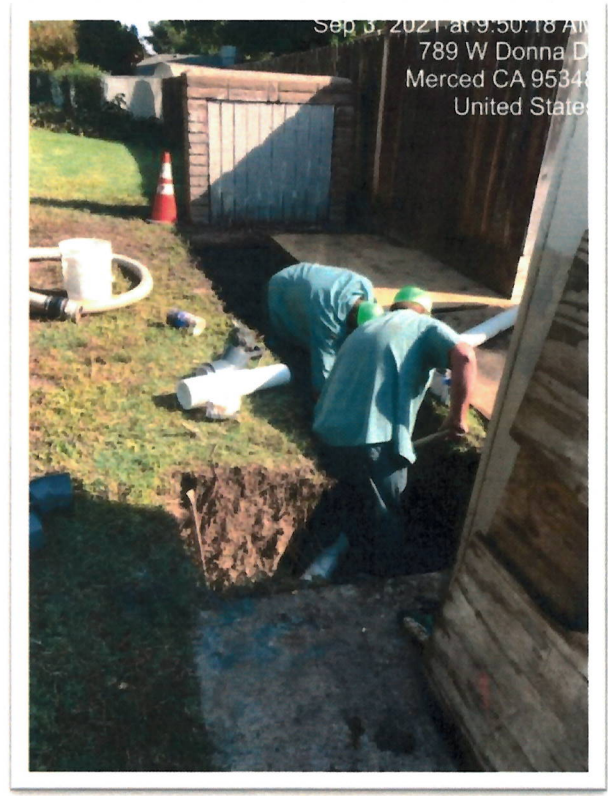
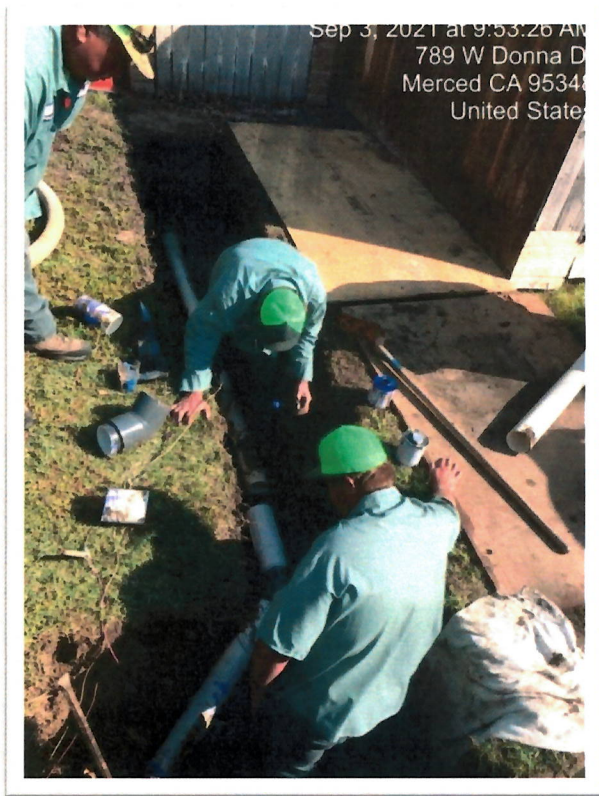


### Vandalism along Canal Street

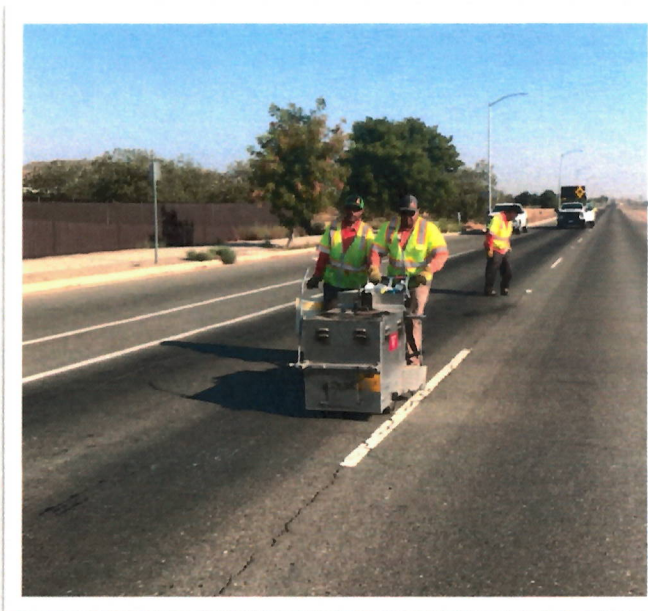
Small trees were destroyed in Downtown Merced along Canal Street. The City is working to replace these young trees.



Park crews repaired a main irrigation line at Santa Fe Strip Park.



Park Street crews installed raised pavement markers on Campus Parkway and other locations throughout the city.



### Applegate Park Playground Repairs

The Applegate Park playground will be closed for repairs until Monday, September 13th.





**ATTACHMENTS**

1. Planning Commission Memo – Pages 10 - 18
2. Merced College Save the Date Annual State of the College – Page 19
3. Girls Basketball – Page 20
4. MCOE Newsletter – National Attendance Awareness Month – Page 21

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*City of Merced*

**MEMORANDUM**

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**DATE:** September 9, 2021  
**TO:** City Council  
**FROM:** Kim Espinosa, Planning Manager *KE*  
**SUBJECT:** Actions at the Planning Commission Meeting of September 8, 2021

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At their meeting of September 8, 2021, the Planning Commission heard and recommended approval to the City Council of Zoning Ordinance Amendment #21-03, to modify the City's regulations regarding tobacco sales near schools and other sensitive uses to more closely match similar requirements regarding Commercial Cannabis Business Permits.

The Planning Commission also cancelled the September 22, 2021, Planning Commission Meeting due to a lack of items.

If you have any questions about these items, please feel free to contact me.

**Attachments**

n:shared:Planning:PCMemos

**CITY OF MERCED  
Planning Commission**

**Resolution #4073**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of September 8, 2021, held a public hearing and considered **Zoning Ordinance Amendment #21-03**, initiated by Ashley Investments. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Merced Municipal Code Section 20.44.160 (Tobacco Sales Prohibited Near Schools). This amendment would modify the City’s regulations regarding tobacco sales near schools and other sensitive uses to more closely match similar requirements regarding Commercial Cannabis Business Permits. This would include prohibiting tobacco sales within 1,000 feet of schools (same as the current requirement), but reducing the required distance from other sensitive uses (day care centers, youth centers, libraries, and public parks) from 1,000 feet to 600 feet and allowing for exceptions with a Conditional Use Permit granted by the Planning Commission for tobacco sales near other sensitive uses (not including schools). The changes would also include using the same list of schools adopted by the City Council for cannabis permits for tobacco sales; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings/Considerations A through F of Staff Report #21-688 (Exhibit A); and,

**NOW THEREFORE**, after reviewing the City’s Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Categorical Exemption regarding Environmental Review #21-24, and approval of Zoning Ordinance Amendment #21-03, as outlined in Exhibit B and subject to the Findings set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner CAMPER, seconded by Commissioner DELGADILLO, and carried by the following vote:

**AYES:** Commissioners Camper, Delgadillo, Dylina, Greggains, White, and Chairperson Harris  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

PLANNING COMMISSION RESOLUTION #4073

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September 8, 2021

Adopted this 8<sup>th</sup> day of September 2021

  
\_\_\_\_\_  
Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:

  
\_\_\_\_\_  
Secretary

Exhibits:

Exhibit A –Findings/Considerations

Exhibit B—Draft Ordinance

Ref: KIM/PROJECTS/2021/ZOA 21-03-Tobacco Sales/#4073 ZOA#21-03 (Tobacco Sales).docx

**Findings and Considerations**  
**Planning Commission Resolution #4073**  
**Zoning Ordinance Amendment #21-03**

**FINDINGS/CONSIDERATIONS:**

**General Plan Policies Related to This Application**

- A) The proposed zoning ordinance amendment would make changes to the City's regulations regarding tobacco sales near schools and other "youth-oriented" uses. General Plan Implementing Action L-2.3.d calls for the City to review and update the Zoning Ordinance as needed.

**Request from Ashley Investments**

- B) Ashley Investments, represented by Isaac Sargiz, has submitted a request to amend the ordinance (see letter and exhibits at Attachment C of Staff Report #21-688) in order to allow for exceptions in the City Code for uses within 600 feet of parks, day care centers, youth centers, and libraries. This would allow Ashley Investments to develop a 2.8 acre parcel at the southwest corner of R Street and Loughborough Drive (most recently occupied by an In Shape fitness center, previously Circuit City) with a gas station and convenience market, including tobacco sales. This property is 1,158 feet (over 1,000 feet) away from the nearest school, Rivera Elementary and Middle Schools, but is 472 feet (less than 600 feet) away from Fahrens Creek Park. The applicant has indicated that the development is unlikely to move forward without an option to allow tobacco sales.

**Proposed Changes to the Code Regarding Tobacco Sales Near Schools**

- C) The proposed changes would modify the regulations regarding tobacco sales near schools and other sensitive uses to more closely match the City's regulations for Commercial Cannabis Business Permits since the concerns regarding exposure to cannabis sales and tobacco sales to school children are similar. The City also has a web-based tool that allows property owners who are considering cannabis businesses to determine if their parcels are within the prohibited distance from schools and other sensitive uses. It would be helpful if the regulations matched so that the same tool could be used for tobacco businesses as well.

The proposed changes would also allow exceptions to be granted with a conditional use permit for tobacco uses within 600 feet from parks, day care centers, youth centers, and libraries. City staff has received many inquiries from the prospective developers regarding the availability of exceptions from these regulations and there are currently none available except for existing tobacco businesses. The City has a provision prohibiting the sale of alcohol from businesses occupying less than 20,000 square feet, but allows exceptions to be made by the Planning Commission through a conditional use permit process where the merits of each particular business can be considered. With the proposed ordinance change, the same option would be available for tobacco businesses near other sensitive uses (but not schools).

EXHIBIT A  
OF PLANNING COMMISSION RESOLUTION #4073

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D) The following changes to Chapter 20.44.160 (Tobacco Sales Near Schools) are proposed in the Draft Ordinance at Exhibit B of Planning Commission Resolution #4073 (Attachment A of Staff Report #21-688) and presented in the modified Chapter at Attachment B of Staff Report #21-688:

- 1) Section 20.44.160(A) would continue to prohibit tobacco sales within 1,000 feet of schools (same as the current requirement), but would reduce the required distance from other “youth-oriented facilities” from 1,000 feet to 600 feet. The list of “youth-oriented facilities” would be modified to match those in the Commercial Cannabis Business Permits section (MMC 20.44.170) and the tobacco section would use the same list of “schools” adopted by the City Council for cannabis permits.
- 2) Section 20.44.160(B)(1) would be modified to use the same language as for cannabis permits in the measurement of the 1,000 feet and 600 feet.
- 3) Section 20.44.160(B)(2) would also be modified to allow for exceptions with a Conditional Use Permit granted by the Planning Commission for tobacco sales near other sensitive uses (not including schools).

#### **Time Frames**

E) If recommended for approval by the Planning Commission on September 8, 2021, the Ordinance revisions would be scheduled for a City Council public hearing on October 18, 2021. A 2<sup>nd</sup> reading and adoption would follow on November 1, 2021, with the Ordinance being effective 30 days later or on or about December 1, 2021.

#### **Environmental Clearance**

F) The Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a *Categorical Exemption* is being recommended (see Attachment D of Staff Report #21-688).

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF MERCED, CALIFORNIA,  
AMENDING SECTION 20.44.160 (TOBACCO  
SALES NEAR SCHOOLS) OF THE MERCED  
MUNICIPAL CODE REGARDING TOBACCO  
SALES NEAR SCHOOLS AND OTHER SENSITIVE  
USES**

**THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN  
AS FOLLOWS:**

**SECTION 1. AMENDMENT TO CODE.** Section 20.74.160  
“Tobacco Sales Near Schools,” of the Merced Municipal Code is hereby amended  
to read as follows:

- A. Prohibited within 1,000 Feet of Schools and within 600 Feet of Other Youth-Oriented Facilities.** New tobacco retailers (including the sale of cigarettes, cigars, e-cigarettes, smokeless tobacco, and all other tobacco products or paraphernalia restricted by the State of California for sale to minors) are prohibited within 1,000 feet of any parcel which is ~~presently~~ legally occupied at the time an application for a business license to sell tobacco is submitted to the City by the following a “school” as defined below and within 600 feet of other “youth-oriented facilities” as defined below:
1. ~~Any public or private elementary, middle, junior high, or high school~~ The City shall establish an official “List of Schools” which are located within the City of Merced by resolution of the City Council after a public hearing. Said list shall be reviewed on an annual basis on or before January 31st of each year. If amendments are needed, the amendments shall be considered by the City Council at a public hearing;
  2. ~~Playgrounds, parks, youth centers, City owned and operated recreational facilities, and libraries~~ “Youth-Oriented Facilities” for this subsection only are defined as day care centers, youth centers, libraries, or public parks. For purposes of this subsection only, a public park shall not include any park designated in Merced Municipal Code Section 9.70.030 as a bike path.

**EXHIBIT B  
OF PLANNING COMMISSION RESOLUTION #4073**

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**B. Measurement and Exceptions.**

1. **Measurement.** 1,000 feet and 600 feet shall be the horizontal distance measured in a straight line from the nearest point on the property boundary to the nearest point of the other property boundary without regard to intervening structures.
2. **Exceptions**
  - a. The above prohibition does not apply to any tobacco retailer which is operating legally and continues to operate with a suspension of no more than 90 days at its current location as of the date of this ordinance.
  - b. The above prohibition does not apply to a tobacco retailer which occupies in its entirety a building of more than 20,000 square feet.
  - b.c. After a public hearing, the Planning Commission may grant an exception to a new tobacco retailer within 600 feet of a “youth-oriented facility” only as defined in this subsection through the approval of a Conditional Use Permit following the requirements of MMC 20.68.020. No exceptions may be granted for tobacco retailers within 1,000 feet of a “school.”

**SECTION 2. EFFECTIVE DATE.** This Ordinance shall be in full force and effect thirty (30) days after its adoption.

**SECTION 3. SEVERABILITY.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 4. PUBLICATION.** The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.



The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the \_\_\_ day of \_\_\_\_, 2021, and was passed and adopted at a regular meeting of said City Council held on the \_\_\_ day of \_\_\_\_, 2021, by the following called vote:

**AYES:**                      **Council Members:**

**NOES:**                      **Council Members:**


**ABSENT:**                      **Council Members:**

**ABSTAIN:**                      **Council Members:**

**APPROVED:**

\_\_\_\_\_  
\_\_\_\_\_  
**Mayor**

**ATTEST:**  
**STEPHANIE R. DIETZ, CITY CLERK**

**BY:**   
\_\_\_\_\_  
**Assistant/Deputy City Clerk**

(SEAL)

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**City Attorney**                      **Date**

**EXHIBIT B**  
**OF PLANNING COMMISSION RESOLUTION #4073**

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**EXHIBIT B**  
**OF PLANNING COMMISSION RESOLUTION #4073**  
**Page 4**

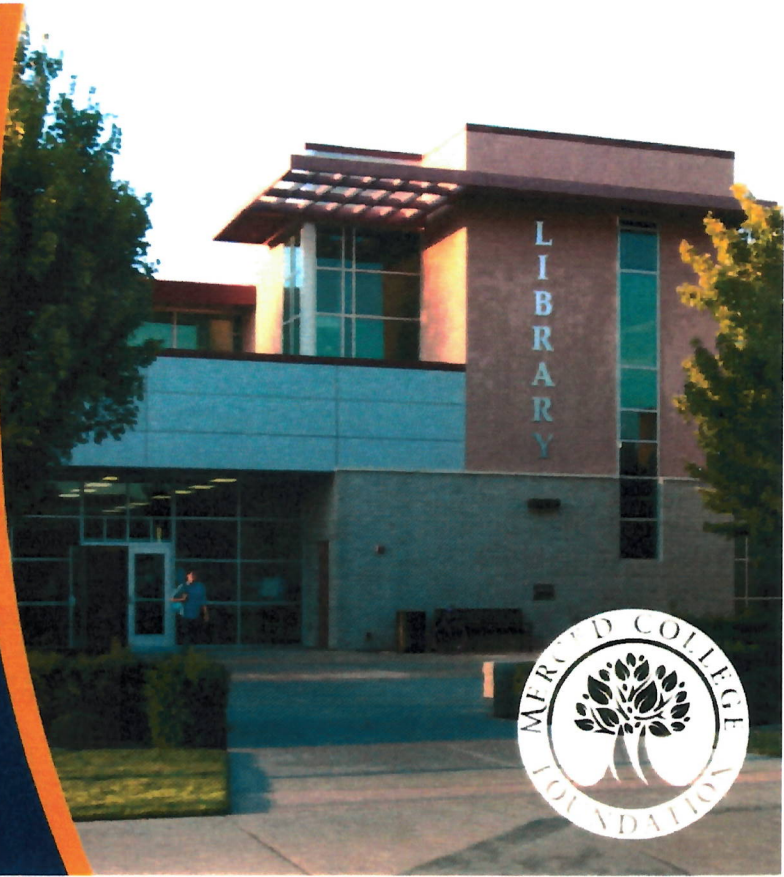
# SAVE *the* DATE

MERCED COLLEGE  
ANNUAL  
STATE *of* THE COLLEGE

OCTOBER 14, 2021  
12 NOON

*Honoring*  
*The Late*  
Colonel Russell  
&  
Susie Downey

Invitations to Follow





CITY OF MERCED PARKS AND RECREATION

# GIRLS BASKETBALL LEAGUE

SEASON RUNS  
JANUARY-MARCH 2022

\$60 PER PLAYER  
MANDATORY FUNDRAISER\*

**REGISTRATION:**  
OCTOBER 18-NOVEMBER 24TH, 2021

GIRLS 5TH-8TH GRADE  
DAYS AND LOCATION: TBD

**HELP IS NEEDED**

VOLUNTEER COACHES  
TEAM/LEAGUE SPONSORS  
REFEREES

CALL OR STOP BY TO SEE HOW YOU CAN HELP

REGISTER AT  
632 W. 18TH ST.  
FOR MORE INFO  
CALL 385-6895 OR  
EMAIL  
REIDM@  
CITYOFMERCED.ORG

# National Attendance Awareness Month

**EVERY DAY MATTERS**



Regular school attendance is a crucial part of academic success. If students miss just two days of school per month, that equals 10% of the school year. When communities collaborate with families and schools, we can overcome barriers to attendance and engagement. Parents have an important role to ensure their children are on time and ready to learn each day.

For more information about school attendance and the safe return to schools, visit [www.mcoe.org/ReadyToReturn](http://www.mcoe.org/ReadyToReturn)

**READY TO**  
**RETURN**  
— TO SCHOOL —



# Mes Nacional de Concientización sobre la Asistencia

## CADA DÍA CUENTA



La asistencia regular a la escuela es una parte crucial del éxito académico. Si los estudiantes faltan solo dos días de clases al mes, eso equivale al 10% del año escolar. Cuando las comunidades colaboran con las familias y las escuelas, podemos superar las barreras para la asistencia y la participación. Los padres tienen un papel importante para garantizar que sus hijos lleguen a tiempo y estén listos para aprender todos los días.

Para obtener más información sobre la asistencia escolar y el regreso seguro a las escuelas, visite [www.mcoe.org/ReadyToReturn](http://www.mcoe.org/ReadyToReturn)

LISTOS PARA  
**REGRESAR**  
— A LA ESCUELA —



— MERCED COUNTY —  
**Office of  
Education**

NURTURE • SERVE • LEAD

Steve M. Tietjen, Ed.D.  
County Superintendent of Schools