



# THE WEEKLY COUNCIL INFORMATION REPORT

November 5, 2021



## Gang Investigator of the Year

This past October, Officer Christian Lupian earned the honor of Merced County 2021 Gang Investigator of the Year.

Officer Lupian was with the Merced Police Department's Gang Violence Suppression Unit (GVSU) for more than one year before his promotion to the Department's Investigation Unit in August 2021. During his tenure with the GVSU, Lupian excelled in his proactive gang enforcement. Lupian had 47 arrests. Many were validated gang members.

Additionally, Lupian seized 31 firearms out of the hands of gang members and potentially saved an unquantifiable number of lives. Finally, Lupian was a gang expert on several important gang cases and diligently prepared for each of these cases. Gang expert testimony is the bread and butter of eradicating the operations of local gangs, and Lupian excels in this area. Congratulations, Officer Lupian.

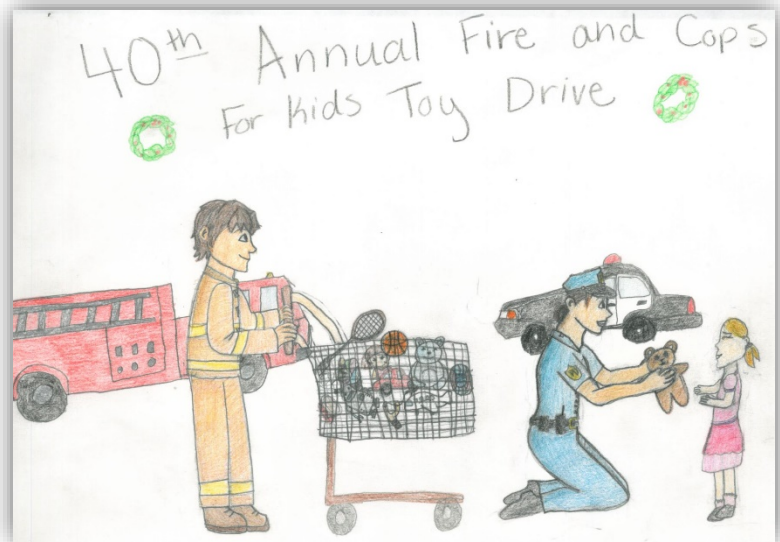
## 1<sup>st</sup> Annual Cops for Critters

This year's first-ever Cops for Critters event successfully raised more than \$950 for the critters at Applegate Zoo.

The Merced Police Department sponsored the event. It included more than twenty-five car collectors and enthusiasts who proudly displayed their custom vehicles with colorfully decorated trunks for families who participated in the event's Trunk or Treat activity.

Attendance was strong. A few hundred people walked through while enjoying music and delicious food from Rico's Taco Truck and Steven's BBQ.





40<sup>th</sup> Annual Poster Contest Winner

## Fire & Cops for Kids Toy Drive


Every Christmas, the Merced Police and Fire Departments collect and distribute toys to children in our community. The Toy Drive is available to qualifying families with children ages 12 and under.

Each November, City Police and Fire Departments gather new, unwrapped toys to distribute a week before Christmas. Police and Fire teams work with community members and local merchants to collect items. This year, the program will benefit approximately 350 of our community's children.

Families interested in participating in the program can fill out an application in person beginning Monday, November 8th at the South Police Station, located at 470 W. 11th Street, or Merced Fire Station 51, located at 99 E. 16th Street. Applications will be available from 8:30 am to 4 pm., Monday through Friday. Applicants must bring an ID, proof of city residency, and the child's ID.

The online application process will also open on Monday, November 8th. Applications are available on a first-come-first-serve basis. For more information, please call Officer Krista Stokes at (209) 769-0730 or via email at [stokesk@cityofmerced.org](mailto:stokesk@cityofmerced.org), or visit [www.cityofmerced.org/departments/fire-and-cops-for-kids-4739](http://www.cityofmerced.org/departments/fire-and-cops-for-kids-4739).

**Redistricting Meeting Dates**



- **November 6, 2021 (Saturday) 10AM to 12PM - Workshop**
- December 1, 2021 6PM - Public Hearing (Pre-Draft)
- January 12, 2022 6PM to 8PM - Workshop
- January 22, 2022 (Saturday) 10AM - Public Hearing (Narrowing draft map submissions)
- February 7, 2022 7PM - Public Hearing (Review Draft Map submissions)
- March 7, 2022 7PM - Public Hearing (Consider Final Map submissions)

All meetings are located at 678 W. 18th St, Merced, Council Chamber, second floor

For more information visit  
[www.cityofmerced.org/redistricting](http://www.cityofmerced.org/redistricting)

**Pawg Kws Tawm  
Tswv Yim Hauv Nroog  
Txog Kev Rov Faib  
Chaw Rooj Sib Tham**




- **8 Hlis 12, 2021 Thaum 5:30PM – Kev cob qhia**
- 9 Hlis 15, 2021 Thaum 6PM - Lub Rooj Sib Hais Pej Xeem (Pre-Draft)
- 12 Hlis 1, 2021 Thaum 6PM - Lub Rooj Sib Hais Pej Xeem (Pre-Draft)
- 1 Hlis 22, 2022 (Saturday) Thaum 10AM - Lub Rooj Sib Hais Pej Xeem (Kho daim ntawv qhia kev faib chaw)

Txhua lub rooj sib tham nuaj nyob ntawm 678 W. 18th St, Merced, Council Chamber, theem thib ob

Xav paub ntau mus saib rau ntawm  
[www.cityofmerced.org/redistricting](http://www.cityofmerced.org/redistricting)

**Juntas del Comité Consultivo para la Redistribución de Distritos**



- **Agosto 12, 2021 a las 5:30PM - Entrenamiento**
- Septiembre 15, 2021 a las 6PM - Audiencia Pública
- Diciembre 1, 2021 a las 6PM - Audiencia Pública (Pre-borrador)
- Enero 22, 2022 (Sábado) 10AM - Audiencia Pública (Reducir los borradores de los mapas sometidos)

Todas las citas son en el 678 W. 18th St., Merced, Cámara del Consejo, Segundo piso

Para más información visite  
[www.cityofmerced.org/redistricting](http://www.cityofmerced.org/redistricting)

## What is Redistricting

Every ten years, local governments use new census data to redraw their district lines to reflect how local populations have changed. Assembly Bill 849 (2019) requires cities and counties to engage communities in the redistricting process by holding public hearings and/or workshops and doing public outreach, including to non-English-speaking communities.

Districts must be redrawn so that each district is substantially equal in population. This process, called redistricting, is important in ensuring that each city councilmember represents about the same number of constituents. In Merced, the City Council is responsible for adopting council districts.

You have an opportunity to share how you think district boundaries should be drawn to best represent your community.

We will be holding a Redistricting Workshop tomorrow, Saturday, November 6<sup>th</sup> from 10am to 12 pm in the Council Chamber, at the Civic Center located at 678 W. 18<sup>th</sup> Street

- Join the conversation
- Take part and learn the mapping tools
- Have a voice in the process

Join in Council Chamber at 678 W. 18th Street at City Hall. Watch live on Facebook @cityofmerced



### Thank You Costco Merced

The Merced Fire Department appreciates the continued support of Costco Warehouse in Merced. Costco provides bottled water to firefighters for hydration at emergency incidents. Thank you, Costco, for your commitment to the community and for supporting the Merced Fire Department.

### Spring Forward, Fall Back, Change Your Smoke Detector this Sunday, Nov. 7th

Spring forward - fall back! The term is meant to trigger your memory to set your clocks **forward** 1 hour in the spring at the start of DST, and 1 hour **back** in the fall when DST ends.

Daylight Savings Time ends this Sunday, November 7th at 2 a.m.

When resetting clocks around your house, replace batteries in your smoke detectors.

Working smoke detectors are life savers!

CHANGE YOUR CLOCKS

CHANGE YOUR BATTERIES

One week and counting for firefighter candidates attending Academy No. 21-02. Final testing and graduation day is just a short time away.



Pictured above: Dustin King



Pictured above: Steven Silveira



Pictured above: Rhett Avant



Pictured above: Silveria and King observing Welsh and Avant as they finish drills in the Department's training tower.



Pictured above: Adam Welsh

### Planning for the Future



A representative from Pierce Manufacturing, provider of the Merced Fire Department's fire engines and trucks, visited with Chief Derek Parker and the department's apparatus committee, where they were able to review the latest equipment technologies and improvements.

### Merced Sunrise Rotary 2021 Field of Honor

The City of Merced Fire Department is privileged to participate in Merced Sunrise Rotary's 2021 Field of Honor by proudly displaying the American Flag honoring our Veterans. The Fire Department's Flag will fly at the opening ceremonies at Merced College on November 7 from 2 to 4 p.m.



## Inspection Services

**Nine New Single Family Dwelling Permits were issued from October 18th, 2021, through October 31st, 2021.**

- The running total of New Single-Family Dwellings in Plan Review is **86**.

### Multi-Family Permits in review:

- Gateway Terrace Apartments located at 405 W 12th St; one office/lounge and six two-story apartments: two buildings have 16 units, three buildings have 30 units, and one building has four units for a total of 126 units.
- Compass Pointe phase II: 128 units in 16 eight-plex buildings, plus a clubhouse.
- A fire damage repair is also adding an ADU located at 1740 Shirley St.
- Inspection Services received a new submittal for the Gateway Apartments located at 3130 E. Gerard Ave.; one community building, five buildings with 16 units, and five buildings with 24 units for a total of 200 units, plus 31 garage structures.

There were 0 multi-family permits issued.

There were 0 new construction commercial permits issued.

One new tenant improvement permit was issued for a cold storage tenant improvement located at 1987 W. Olive Ave.

One new commercial submittal was issued for an 85,251 Hilton hotel with a conference center located at 1001 S Coffee St.

One new tenant improvement was submitted for a 1,727 SF Chicken Shack located at 805 S Coffee St.

One CofO was issued for a 3,772 SF office tenant improvement for Berkshire Hathaway located at 2985 G St.

There were 30 CofOs for Single Family Dwellings during this period.

**ATTACHMENTS**

1. Planning Commission Action Memo – Pages 9 -18
2. MCAG November Newsletter – Pages – 19 - 21
3. Merced Chevrolet 10<sup>th</sup> Anniversary Celebration – Page 22
4. Merced Co. Rescue Mission Holiday Food Drive – Page 23
5. Merced Garden Club Blue Star Memorial Marker Invite – Page 24
6. Commercial Cannabis Business Zoning Ordinance Memo – Pages 25 - 26
7. Special Land Use Regulations – Pages 27 - 85



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*City of Merced*  
**MEMORANDUM**

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**DATE:** November 4, 2021  
**TO:** City Council  
**FROM:** Kim Espinosa, Planning Manager  
**SUBJECT:** Actions at the Planning Commission Meeting of November 3, 2021

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At their meeting of November 3, 2021, the Planning Commission heard and approved Commercial Cannabis Business Permit #20-01 for the cultivation of cannabis and cannabis-based products at 103 Heron Way.

The Planning Commission cancelled the meetings of November 17 and December 22, 2021, due to the holidays.

If you have any questions about this item, please feel free to contact me.

Attachments

n:shared:Planning:PCMemos

**CITY OF MERCED  
Planning Commission**

**Resolution #4074**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of November 3, 2021, held a public hearing and considered **Commercial Cannabis Business Permit #20-01** initiated by Custom Cultivators, LLC., on property owned by James and Lynda Moulton. These applications are requests to permit the Cultivation of cannabis on a parcel totaling approximately 1.25 acres at 103 Heron Way within a Light Industrial (I-L) zone; also known as Assessor's Parcel Number (APN) 059-430-032; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through K (Exhibit B) of Staff Report #21-737; 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 adopt a Categorical Exemption regarding Environmental Review #20-41, and approve Commercial Cannabis Business Permit #20-01, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

**AYES:** Commissioners Camper, Delgadillo, Dylina, Greggains, and Chairperson Harris

**NOES:** None

**ABSENT:** Commissioner White

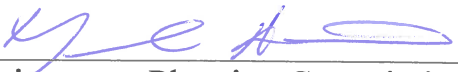
**ABSTAIN:** None

PLANNING COMMISSION RESOLUTION #4074

Page 2

November 3, 2021

Adopted this 3<sup>rd</sup> day of November 2021

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

ATTEST:

  
\_\_\_\_\_  
Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B – Findings and Considerations

**Conditions of Approval**  
**Planning Commission Resolution #4074**  
**Commercial Cannabis Business Permit #20-01**

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Attachment C of Staff Report #21-737, and all other application materials submitted by the applicant, including business plans, security plans, etc., except as modified by the conditions.
2. All conditions and requirements contained in Merced Municipal Code Section 20.44.170, "Regulation of Commercial Cannabis Activities—Commercial Cannabis Business Permit required" shall apply.
3. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, suits, or proceeding. Developer/applicant shall be responsible to immediately prefund the litigation cost of the City including, but not limited to, City's attorney's fees and costs. If any claim, action, suits, or proceeding is filed challenging this approval, the developer/applicant shall be required to execute a separate and formal defense, indemnification, and deposit agreement that meets the approval of the City Attorney and to provide all required deposits to fully fund the City's defense immediately but in no event later than five (5) days from that date of a demand to do so from City. In addition, the developer/applicant shall be required to satisfy any monetary obligations

imposed on City by any order or judgment. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.

4. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
5. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control. State Law shall prevail in regards to cannabis activities as permitted by State Law.
6. The proposed project shall comply with all applicable regulations of the State of California including, but not limited to, those found in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), as it may be amended or updated from time to time. The project shall obtain all necessary State licenses prior to issuance of a Certificate of Occupancy.
7. The proposed project shall provide that all cultivation activities occur indoors within a fully enclosed and secure structure, and ensure that the property on which the structure sits is secure and appropriately screened. The details of the property's fencing, security, and screening are to meet the approval of the Director of Development Services and Chief of Police prior to the issuance of a Certificate of Occupancy.
8. The applicant shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment H of Staff Report #21-737) at the time of submittal for building permits for tenant improvement.
9. The applicants shall keep on the premises of the proposed project site a physical copy of the approved plans, to be annotated and updated accordingly with any notes, changes, or requirements determined to be necessary by representatives of the City of Merced or any contractors that the City of Merced may employ for the purpose of site inspections.

EXHIBIT A  
OF PLANNING COMMISSION RESOLUTION #4074

These plans shall be made available to the City's representatives, employees, agents, inspectors, or contractors upon request.

10. The facility operated by the applicants shall be secured from intentional or accidental access by any person not employed, contracted, or otherwise authorized on the premises, including any tenants of other buildings on the same property.
11. Fire sprinklers shall be modified to accommodate the building configuration and process configuration prior to occupancy.
12. Regulatory Fees, as per Resolution #2021-43, are to be paid prior to the issuance of a Certificate of Occupancy and annually thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. The amount of the fees shall be adjusted annually to account for inflation by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.
13. Prior to issuance of a Certificate of Occupancy, applicant shall acquire a City of Merced Business License.
14. A Commercial Cannabis Business Permit is valid for one year or until December 31 of each year, unless sooner revoked. Applications for the renewal of a permit shall be filed with the Director of Development Services, in accordance with MMC 20.44.170(L)(5), "Commercial Cannabis Business Permit Renewal (All Types)", at least sixty (60) calendar days before the expiration of the current permit. If the permittee allows their permit to lapse, they shall be required to submit a new application, pay corresponding fees and be subject to all aspects of the selection process.
15. Future modifications to the scale, scope, activities, implementation, processes, materials, design, layout, or other factors pertaining to the operation of the project that are consistent with permits to perform activities related to the cultivation, manufacturing, and distribution of cannabis and cannabis-based products may be authorized with the approval of the Director of Development Services by submitting a request for Minor Modification, in accordance with MMC 20.44.170(L)(7), "Modifications to Commercial Cannabis Business Permit (All Types)".

EXHIBIT A  
OF PLANNING COMMISSION RESOLUTION #4074

16. If access to the parcel is proposed to be limited via a gate, prior to issuance of a Certificate of Occupancy, applicant shall provide or cause to be provided a Knox override switch at the main entry gate, a Knox padlock at any secondary access gate, and suitable Knox boxes for the building as determined necessary by the Chief of Police and Fire Chief. Access to this equipment shall be provided to the City of Merced Police, Fire, and Refuse Departments.
17. Prior to commencement of cannabis growing activities, applicant shall provide an estimated volume of City water to be used annually to the City Water Department, and shall have floor plans, equipment, material sheets, and such other materials/plans/permits as deemed necessary approved by the Chief Building Official and Fire Chief.
18. In accordance with Table 11B-208.2, "Parking Spaces" of the California Building Code, Title 24, Part 2, the applicant shall provide or cause to be provided a minimum of 1 Accessible Parking Space.
19. In accordance with Table 20.38-4, "Required Bicycle Parking Spaces" of the City of Merced Zoning Ordinance, the applicant shall provide or cause to be provided a minimum of 2 short-term and 2 long-term bicycle parking spaces.
20. Signage shall be limited to no more than fifty square feet and must comply with MMC 20.44.170(I)(2) that no exterior evidence of cannabis cultivation shall be visible from the public right-of-way. The display of the name of the facility shall not be construed on its own to provide such evidence. Details to be worked out with Planning staff.

**Findings and Considerations**  
**Planning Commission Resolution #4074**  
**Commercial Cannabis Business Permit #20-01**

**FINDINGS/CONSIDERATIONS:**

**General Plan Compliance and Policies Related to This Application**

- A) The proposed project complies with the General Plan designation of Manufacturing Industrial (IND) and the zoning classification of Light Industrial (I-L) with approval of a Commercial Cannabis Business Permit.

**Land Use Issues**

- B) The subject site is more than 600 feet from any schools, day care centers, youth centers, libraries, or public parks that are currently in existence, as is required by Section 11362.768 of the Health and Safety Code and Section 20.44.170(E)(3)(f) of the Merced Municipal Code (MMC).

**Proposed Operations**

- C) The operations plan provided by the applicant can be found as part of Attachment E of Staff Report #21-737. An excerpt from the applicant's description of some of their processes and operations is below.

"We will use CMH lamps with blue-white ("cool white") light, as in springtime when plants naturally grow for our plants that are clones or in the negative phase, the daylight is shifted more towards the blue end of the spectrum. In late summer and autumn, daylight shifts more towards the red end of the spectrum, which is why lights intended for the flowering period are more yellowish-red and vegetative lights are bluer. For clones, stimulating vegetative growth is obviously of the utmost importance.

Airflow in and out of our rooms will be adequate which allows to effectively control overall temperature and humidity within rooms and prevent airborne pathogens such as mold and fungus spores from infesting the tender young cuttings. We intend to filter an inflow of air through HEPA filters, to further minimize the chances of introducing pathogens from the outside world into the rooms.

While our clones should remain sealed in their trays for the majority of the time we will open the lids several times throughout the course of each day, to ensure that the air within the trays is replaced and that humidity does not become excessive. During these occasions, we plan to check the clones for signs of disease, as well as to assess the general rate of rooting.

Company will use rolling benches/growing tables which are highly recommended for any commercial cannabis grow operation. They provide up to 50% more plant space by eliminating the need for a dedicated aisle. With a crop as valuable as [cannabis], this directly equates to much higher profits and maximum space efficiency."



The maximum area of cannabis canopy is 10,000 square feet, with additional areas for packaging, clones, and other supportive areas.

**Traffic/Circulation**

- D) As the project is proposed in an existing building with existing access to the City's roadway infrastructure, and due to conformity with the zoning and land use for the site, no concerns related to traffic or circulation have been raised as a result of this project.

**Parking**

- E) The site plan proposes 15 parking spaces including 2 Accessible spaces adjacent to the 13,896-square-foot building. Using the regulation for "Warehousing, Wholesaling, and Distribution," the number of required spaces is 1 per 2,000 square feet of floor area, or 7 spaces. The proposed parking meets or exceeds the amount required. Bicycle parking spaces and Accessible spaces shall be provided as required in Conditions #18 and #19.

**Neighborhood Impact/Interface**

- F) The subject site is surrounded by industrial and warehouse uses to the north, south, and east, and agricultural and single-family residences outside of the City limits across Thornton Road to the west.

The single-family homes are separated from this use across Thornton Road, and the driveways for these homes are served off of Bailey Avenue. These facts should limit any impacts for these residents including, but not limited to, traffic and noise from operations. Additionally, 20.44.170(E)(3)(m) of the Merced Municipal Code stipulates that, "All commercial cannabis facilities shall be required to provide an air treatment system that ensures off-site odors shall not result from its operations." The facilities to the east, south, and north of the subject site are similar industrial and warehouse facilities to the one proposed for cannabis use. Staff believes that approval of this request should not have a significant impact on the surrounding area.

A public hearing notice was circulated in the Merced County Times and mailed to property owners within 300 feet of the subject site three weeks prior to this public hearing. As of the date that this report was prepared, staff has not received any comments from the community about this project.

**Signage**

- G) Currently submitted plans do not show any request for signage. Any future signage must comply with Condition #20 and are limited to 50 square feet maximum. Any signs shall not provide evidence of cannabis cultivation activities. The display of the name of the facility shall not be construed on its own to provide such evidence.

**Safety/Security**

- H) The security plan provided by the applicant can be found as part of Attachment E of

EXHIBIT B  
OF PLANNING COMMISSION RESOLUTION #4074

Staff Report #21-737. The plan discusses in detail the use of Crime Prevention Through Environmental Design, Territorial Reinforcement, Target Hardening, Access Control Strategies, the Intrusion Detection System, the Surveillance System, Security Plan Oversight and Training, Robberies, Incident Reporting, Information Records, Internal Theft and Diversion Prevention, Track and Trace, and other topics.

#### **Ownership**

- J) Custom Cultivators, LLC. has three owners with 5% or more interest in the proposed business., Natalie N. Wilkins, Paul E. Whitcomb, and James P. Parker. Each of them has performed a Live Scan check and has successfully passed a background check to the satisfaction of the Chief of Police.

#### **Modification to Operations**

- J) City staff recognizes that the details of operating a business, particularly one in a developing sector such as cannabis and cannabis-based products, requires continual updating of business practices, methodologies, and tools, the modification of which may require alterations to the configuration of the equipment, setup, or layout of the facility. In order to allow for these changes while maintaining the safety of all parties involved, modifications to the permit in the course of cultivation, manufacturing, distribution, and processing of cannabis and cannabis-based products may be requested by the applicants by submitting a request for Minor Modification, in accordance with MMC 20.44.170(L)(7), “Modifications to Commercial Cannabis Business Permit (All Types)” (Condition #15).

#### **Environmental Clearance**

- K) The project proposes to utilize an existing building, on a site totaling approximately 1.25 acres. Planning staff has conducted an environmental review (Environmental Review #20-41) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (no further environmental review is required) is being recommended (Attachment I of Staff Report #21-737).

### THE BUS INTRODUCES EMERGENCY SERVICE REDUCTIONS

The Transit Joint Powers Authority 'The Bus' is implementing an emergency service reduction plan for The Bus. The plan, which went into effect



Monday, October 25, 2021, will bring temporary changes to three fixed routes. These reductions are necessary due to the ongoing nationwide shortage in transit operators as well as supply chain delays impacting the availability of bus parts.

On the west side of Merced County, the LB commuter line, which runs between Los Banos and Merced, will operate on a modified schedule which will see reductions from the current hourly service. On the east side of the county, the Livingston commuter (L) route will absorb the Winton Commuter north (W2) route and will also run on a modified schedule. All bus stops will continue to be served and operation hours for The Bus remain unchanged. New schedules for the affected routes can be found on [www.mercedthebus.com](http://www.mercedthebus.com) or on 'The Bus Live mobile' app that can be downloaded on smart phones for free.

"Unfortunately, we continue to be impacted by the effects of the pandemic," said Christine Chavez, Transit Manager. "However, as we implement these emergency service reductions we continue to strive toward providing quality, reliable services with the least impact to our passengers."

Masks are still required to ride The Bus. Passengers are also encouraged to wash their hands often, cover all coughs and sneezes, stay home when sick, and avoid direct contact with sick individuals. For more information about COVID-19 vaccinations, please visit the Merced County website: [www.vaccinatemercedcounty.com](http://www.vaccinatemercedcounty.com).

### RWA NOW ACCEPTING CLOTHES DONATIONS

Regional Waste Authority (RWA), in partnership with Eco World, is now accepting clothes donations from Merced County residents at the Highway 59 landfill in Merced. The donation bins (pictured below) can be found at the entrance of the Highway 59 landfill at 7040 N Highway 59, Merced. Residents can drop off donations during regular operating hours Monday-Friday, 7:00 am - 3:30pm at no cost. Donations of new or used items include any clothing, shoes, purses, backpacks, and linens. All items should be clean and dry.

ECO World works with local nonprofits and the community to help others and our environment. The goal is to reuse all gently used clothing and shoes in the local community. Clothing items that cannot be worn are recycled into carpet padding and kept out of local landfills.

For more information about this program please visit: [www.ecoworldtrading.com/home](http://www.ecoworldtrading.com/home).



## NOVEMBER MEETINGS & EVENTS

- 11/05** CAC meeting, CANCELED
- 11/06** Planada Community Cleanup
- 11/10** Technical Review Board meeting, 8:30 am
- 11/11** All MCAG offices closed
- 11/18** Governing Board meeting, 3:00 pm
- 11/25—11/26** All MCAG Offices closed

Please note: Some MCAG meetings have resumed in person meetings while others will be held via Zoom. The meeting location or Zoom information is listed on the cover of each agenda. To access all meeting agendas, please visit:

[www.mcagov.org/agendacenter](http://www.mcagov.org/agendacenter)

For more information about these meetings, please contact Eva Garibay at: [eva.garibay@mcagov.org](mailto:eva.garibay@mcagov.org).

## MCAG NOW ACCEPTING APPLICATIONS FOR THE 2022 AMF SCHOLARSHIP

MCAG is now accepting applications for the 2022 Anna Maria Fuentes (AMF) Scholarship. The MCAG Governing Board and staff established the Scholarship program in memory and tribute to Anna Maria Fuentes, Grants Program Manager, colleague and friend.



The annual scholarship is awarded by the MCAG Governing Board in the amount of \$1,000 to a graduating high school senior in Merced County. Recipients may receive additional annual awards of up to \$1,000 for three years, or until their degree is achieved, whichever is less. The cumulative maximum is \$4,000. Submission of annual scholastic documentation may be required by MCAG.

Interested applicants can access the scholarship application and instructions at:

[www.mcagov.org/Scholarship](http://www.mcagov.org/Scholarship).

The selected scholarship recipient will be notified by May 1, 2022. General inquiries may be directed to Eva Garibay via email at [eva.garibay@mcagov.org](mailto:eva.garibay@mcagov.org) or phone at 209-723-3153 x 108.



### HIGHWAY 59 LANDFILL

### BILLY WRIGHT LANDFILL

7040 N. Highway 59  
Merced, CA 95348  
Phone: 209-723-4481

17173 S Billy Wright Road  
Los Banos, CA 95348  
Phone: 209-826-1163

**Monday - Saturday**  
**7:00 am - 3:30 pm**

**Monday - Saturday:**  
**7:00 am - 3:30 pm**

For more information about Regional Waste Authority please visit: [www.mcrwma.org](http://www.mcrwma.org) or download the 'Merced Recycles' app on the [App store](#) and [Google](#)



To receive text and/or email notifications from MCAG related to public meetings, traffic alerts, RFP releases, job opportunities, and more, visit [www.mcagov.org](http://www.mcagov.org) and click on the "Notify Me" icon. You can also follow us on Twitter, Facebook, Instagram, LinkedIn and YouTube!



# MeasureV

[www.mcagov.org/MeasureV](http://www.mcagov.org/MeasureV)

**NOVEMBER 2021 - UPDATE**

## Monthly Spotlight: Delhi

Over the past year, local jurisdictions have made progress on several road and alternative modes projects around the county. These projects include safe alternatives to automobile travel, increase the use of active transportation, and improve air quality. Merced County Public Works Department has been hard at work completing several projects throughout the county to enhance the walkability and ADA accessibility in many rural communities.

The latest County combo project included improvements to Stephens street from El Capitan Way south to Johnson Street in the community of Delhi. The project improvements consisted of reconstruction of existing curb ramps to be ADA compliant, installation of new curb ramps, new streetlights, installation of a rapid rectangular flashing beacon system, new traffic signing, striping to include new bike lanes, and resurfacing the existing asphalt to extend the life of the roadway. The \$921,979 project was funded by \$386,700 of Alternative Mode Measure V Funds, and \$535,279 from other funding sources.

Measure V, Merced County's ½ cent transportation sales tax, was passed by Merced County voters with 71% approval in November 2016. The 30-year Measure, which commenced in April of 2017, allocates 50% of all its revenue to the cities of Merced, Los Banos, Gustine, Atwater, Livingston and Dos Palos, along with the County of Merced, to pay for local transportation projects including roads, bike paths, and sidewalks; 20 percent of these funds must be used on projects that promote alternative modes of transportation. Regional transportation projects located on both the east and west sides of the county receive 44% of the funding with five percent reserved for public transit purposes. MCAG receives one percent of the monies to administer all fiduciary and reporting requirements.



**HAVE YOU SPOTTED  
MEASURE V AT WORK IN MERCED  
COUNTY?**

Snap a picture and send it to [measurev@mcagov.org](mailto:measurev@mcagov.org) or tag us on Facebook, Instagram and Twitter @mcag\_merced or use the hashtag #MeasureV\_mcag

### **CONTACT:**

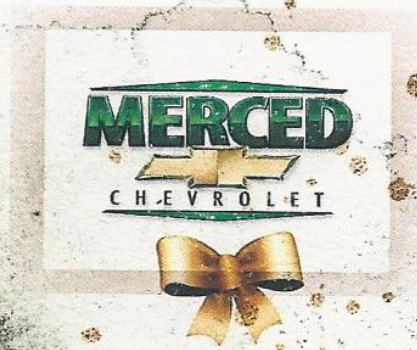
Mary-Michal Rawling, MPA, Public Affairs Manager  
(209) 723-3153 x 119 or [mary-michal.rawling@mcagov.org](mailto:mary-michal.rawling@mcagov.org)



*Merced Chevrolet's*  
*10th Anniversary*  
*Celebration*

Saturday December 4th

Mainzer Theater  
655 West Main Street Merced  
6pm-11pm  
Buffet Dinner  
DJ Music & Dancing



# HOLIDAY BANQUETS - HOW YOU CAN HELP



The Merced County Rescue Mission is once again coordinating banquets to serve people who are experiencing homelessness on both Thanksgiving Day and Christmas Eve. Both of these events will be held outside in the Behavioral Health Department parking lot between New Directions and the D Street Shelter (200 E. 15th Street). The Rescue Mission is coordinating its efforts with New Direction, the D Street Shelter, area churches and other organizations. Serving these special meals is a beautiful example of our whole community coming together to care for people. Some clothing and other items will also be available at these events.

Thanksgiving Day, November 25th, 11:00 a.m. - 1:00 p.m. - 200 E. 15th Street

Christmas Eve, December 24th, 11:00 a.m. - 1:00 p.m. - 200 E. 15th Street

Come to the events and help in person - To serve meals, to visit with people, to help us set up and/or clean up.

## HOLIDAY FOOD DRIVE

Please bring food donations to 644 W. 20th Street, Merced  
Monday-Friday, 10:00 a.m. - 4:00 p.m.

### Meals throughout the year

Any non-perishable food is appreciated!

### For Thanksgiving

Pre-cooked, boneless turkey breast, #10 cans of corn and green beans, russet potatoes, turkey gravy mix, chicken broth, dinner rolls, pies.

**For Christmas Eve** - Hams, #10 cans of corn and green beans, russet potatoes, dinner rolls, desserts.



It takes a Village of Hope. Thank you for your contributions!



**Merced Garden Club  
Invitation**

Dedication of a Blue Star Memorial Marker

Nov. 11, 2021, 10 am.

American Legion Post 83,  
939 W. Main St.

Blue Star Memorial markers  
honor those in Military service  
and their families.

Gold Star Memorial Markers honor the fallen Veterans.  
Your attendance would be greatly appreciated.

Joleen Mills  
Merced Garden Club President



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*City of Merced*

**MEMORANDUM**

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**DATE:** November 4, 2021  
**TO:** City Council, Planning Commission, City Manager, City Department Heads, City Clerk, Planning Staff, and Others  
**FROM:** Kim Espinosa, Planning Manager  
**SUBJECT:** Revised Chapter of Merced Zoning Ordinance to Reflect Ordinance #2532 regarding Commercial Cannabis Businesses

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On November 4, 2021, Ordinance No. 2532 becomes effective. Ordinance No. 2532 made several revisions to Chapter 20.44.170 (“Special Land Use Regulations—Commercial Cannabis Businesses”) of the City’s Zoning Ordinance, including allowing cannabis businesses in the Business Park and Thoroughfare Commercial zones, adding provisions regarding Labor Peace Agreements, revising retail dispensary hours of operation, updating the process for submitting applications for retail dispensaries in preparation for the 5<sup>th</sup> permit being available, and allowing enforcement of Merit Based Points for Community Benefits (for a detailed list, see attached). Enclosed with this memo is a digital copy of the revised Chapter.

Please print copies (double-sided, in color) of the enclosed chapter to insert in your Zoning Ordinance binder (if you have one). The revised Chapter has been posted to the City’s webpage at the link below along with a revised edition of the entire Zoning Ordinance, including the revised chapter.

[https://www.cityofmerced.org/depts/cd/planning/merced\\_zoning\\_ordinance.asp](https://www.cityofmerced.org/depts/cd/planning/merced_zoning_ordinance.asp)

If you have any questions, please feel free to give me a call at 209-385-4722 or email me at [espinosak@cityofmerced.org](mailto:espinosak@cityofmerced.org) Thanks!

<b>Chapter No.</b>	<b>Title</b>	<b>Revised Pages</b>
20.44.170	Special Land Use Regulations— Commercial Cannabis Businesses	Pages 165 to 168LL

Enclosures—Adobe pdf file of the above Chapter

UPDATES TO CANNABIS ORDINANCE OCTOBER 2021

(MMC SECTION 20.44.170)

Evidence of a Labor Peace Agreement for CCBPs with 5 or more employees
Requires a Notarized Statement stating intent
New Applicants on or after November 3, 2021
Applicants with 4 or less shall provide a notarized statement stating intent once a 5 <sup>th</sup> employee is hired
Applicants prior to November 3, 2021-encouraged to provide
Updates to Process
Qualified Applicant (waiting) List Maintained for one (1) year
Fees for Background Checks shall apply for all Owners Beyond the First (to be determined by Police Dept.)
Updates to Zoning
Business Park (B-P) zone will allow all CCBP Use Types
Thoroughfare Commercial (C-T) zone will allow CCBP Retail businesses only
Updates to CCBP Retail Use Types & Merit-Based Point System
Cannabis Retail Businesses Permitted to be Open until 10 pm (changed from 9 pm)
City Shall Apply Enforcement on CCBPs Awarded Merit-Based Points for Community Benefits
Merit-Based points awarded for local ownership shall not be modified to be for less than what was awarded
One point for applications more than 3 blocks existing CCBP Retail (or 1,000 feet from parcel line to parcel line)
Two points for applications with greater than 30% local ownership
Two points for applications with greater than 50% local ownership (cumulative with the above)
One point for at least one owner is a veteran with honorable discharge
One point if business qualifies as a disadvantaged business enterprise as defined by U.S. Dept. of Transportation
One point for business that promotes local hiring
Established the Total of Merit-Based Points at 100 Total
Removal of Merit-Based Criteria
‘business is open more than 5 days a week at least 6 hours per day’
‘proposal shows that product met testing requirements by State standards’
‘proposal shows participation in web-based public safety application’

## Chapter 20.44 - SPECIAL LAND USE REGULATIONS

### Sections:

20.44.010	Alcoholic Beverage Sales for Off-Premises Consumption
20.44.020	Food Trucks in Fixed Locations
20.44.030	Bed and Breakfast
20.44.040	Check Cashing/Payday Loan Establishments
20.44.050	Community Gardens
20.44.060	Fraternities/Sororities
20.44.070	Gas and Service Stations
20.44.080	Live/Work
20.44.090	Recycling Facilities
20.44.100	Outdoor Displays of Merchandise
20.44.110	Photovoltaic Energy Systems and Public Utility Distribution Lines
20.44.120	Single Room Occupancy
20.44.130	Underground Storage Tanks
20.44.140	Wrecking and Salvage Establishments
20.44.150	Emergency Shelters
20.44.160	Tobacco Sales Prohibited Near Schools
20.44.170	Commercial Cannabis Businesses

### 20.44.010 Alcoholic Beverage Sales for Off-Premises Consumption

**A. Permit Required.** A Conditional Use Permit is required for any use with alcoholic beverage sales for off-premises consumption with a building size less than 20,000 square feet.



**B. Findings.** To approve a Conditional Use Permit for a use with alcoholic beverage sales for off-premises consumption, the City shall make all of the following findings in addition to the findings in Section 20.68.020 (Conditional Use and Minor Use Permits):

1. The proposed use will not result in an "undue concentration" of establishments dispensing alcoholic beverages as defined in Sections 23958 and 23958.4 of the

California Business and Professions Code and giving consideration to the California Department of Alcoholic Beverage Control's guidelines related to the number and proximity of such establishments within a one thousand (1,000) foot radius of the site.

2. The proposed use shall not adversely affect the economic and societal welfare of the pertinent community or residentially zoned community in the area of the City involved, after giving consideration to the distance of the proposed use from residential zoning districts, churches, schools, hospitals, playgrounds, public parks, or any other similar uses as determined by the Director of Development Services.
3. The proposed use shall not significantly adversely affect the crime rate in the area of the proposed site. Particular attention shall be given to those crimes involving public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct.

#### 20.44.020 Food Trucks in Fixed Locations

- A. **Location.** Food trucks (or “mobile food vendors”) that park in fixed locations, instead of being “street and sidewalk vendors” as defined in Chapter 5.54 (Street and Sidewalk Vendors), are only permitted in zoning districts as shown in the land use regulation tables in Part 2 (Zoning Districts) and Planned Developments with those same designations. A “fixed location” is considered to be parked on any one parcel for more than 1 hour a day.
- B. **Permits Required.** A Site Plan Review Permit or Conditional Use Permit is required for all food trucks that park in a fixed location as shown in the land use regulation tables in Part 2 (Zoning Districts) or in Planned Developments with a Conditional Use Permit. Such permits are required for each location if there are multiple locations.
- C. **Operational Standards.**
  1. **Number per Parcel.** Only one food truck shall be allowed per developed site and shall not be allowed on vacant parcels without another permitted use operating on the site, unless otherwise approved by Conditional Use Permit as part of a food truck parking area as defined in Subsection 7 below.
  2. **Hours of Operation.** Food trucks shall be operated only between 7:00 a.m. and 9:00 p.m. daily, unless otherwise approved by Site Plan or Conditional Use Permit.



3. **Parking and Access.** Food trucks shall only be allowed in parking lots which are paved and striped to City Standards. Each food truck shall provide parking as required in Chapter 20.38 (Parking and Loading) and shall not utilize parking spaces required for another permitted use on the site. Food trucks shall not block driveways or parking aisles.
4. **Maintenance.** The site shall be maintained free of trash and debris at all times and provision shall be made for refuse collection containers for patrons.
5. **Advertising.** All signage shall be contained on the catering vehicle. No A-frame signs, banners, flags, or moving or portable signs shall be permitted for the use anywhere on or off the site.
6. **Licenses.** Food trucks shall comply with all City business license requirements as well as all requirements of the Merced County Health Department, including provisions for food safety, approved commissary, and employee restrooms (no portable toilets allowed).
7. **Establishment of Multiple Food Truck Parking Areas.** With a Conditional Use Permit in any zoning district which permits food trucks, parking areas for multiple food trucks may be established. The City may require permanent seating, shelters, refuse containers, and other amenities with the Conditional Use Permit.

#### 20.44.030 Bed and Breakfast

- A. **Permits Required.** A Conditional Use Permit is required to establish a bed and breakfast in any zoning district as provided in Part 2 (Zoning Districts).
- B. **Owner Occupancy.** The owner shall reside on the premises of a bed and breakfast, and separate owner's quarters shall be maintained.
- C. **Maximum Accommodation.** The maximum number of rooms to accommodate overnight guests shall not exceed twelve.



**D. Meals.** Meals may be provided to overnight guests only.

**E. Parking.** Off-street parking to be provided in accordance with Chapter 20.38 (Parking and Loading).

### 20.44.040 Check Cashing/Payday Loan Establishments

#### A. Location.

1. Check cashing/payday loan establishments are only permitted in zoning districts as shown in the land use regulation tables in Part 2 (Zoning Districts).
2. Check cashing/payday loan establishments shall not be permitted within 1,000 feet of another check cashing/payday loan establishment.



#### B. Operational Standards.

1. **Hours of Operation.** Check cashing/payday loan establishments shall be operated only between 7:00 a.m. and 9:00 p.m. daily. No loitering shall be permitted during, before, and after hours of operation.
2. **Transparency.** No windows or doors fronting public streets shall be obscured in any way, and adequate interior lighting shall be provided to be visible from the businesses across the street.
3. **Security Plan.** A security plan, reviewed and approved by Merced Police Department, shall be submitted with other submittal materials for City permits.
4. **Lighting Plan.** On-site lighting plan shall be required upon submittal for City permits. On-site lighting plan shall ensure safety and security of the property, including parking and access areas.



### 20.44.050 Community Gardens

- #### A. Location.
- Community gardens are only permitted in zoning districts as shown in the land use regulation tables in Part 2 (Zoning Districts).



- #### B. Required Permits.
- A Site Plan Review or Conditional Use Permit per the land use regulation tables in Part 2 (Zoning Districts) shall be required before applying for a building permit for construction of a community garden.

**C. Applicant.** An applicant shall be a public entity, civic organization, or community-based organization, which would manage and maintain community gardens.

**D. Operational Standards.**

1. **Owner's Agreement.** The applicant shall be required to bring a signed affidavit from the property owner, if applicant is not the owner.



2. **Hours of Operation.** The community gardens shall only be operated between 8:00 a.m. and 8:00 p.m. daily.

3. **Animals Prohibited.** No animals, including bees and fish, shall be allowed to be housed in community gardens. Only produce, plants, or flowers shall be allowed to grow in community gardens. Marijuana plants are prohibited.



4. **Commercial Activities.** On-site sale of community garden products shall be prohibited, unless located in a commercial zone or as otherwise authorized by a Site Plan or Conditional Use Permit.

5. **Lighting Plan.** On-site lighting plan shall be required upon submittal for a City Permit. On-site lighting plan shall ensure safety and security of the property, including parking and access areas.

6. **Maintenance.** Community gardens shall be maintained free of weeds, trash, and debris.

**20.44.060 Fraternities/Sororities**

**A. Permit Required.** A Conditional Use Permit is required to establish and operate fraternity and sorority houses.

**B. Application Materials.** In addition to materials required by Chapter 20.68 (Permit Requirements), an application for a fraternity or sorority house shall include the following materials:



1. Annual report of the names, addresses, and telephone numbers of all fraternity and sorority officers residing at the fraternity or sorority house and two community sponsors. Such a report shall be submitted to the City in October of each year.
2. Written authorization from the property owner granting the applicant permission to operate a fraternity or sorority house on the property.
3. A copy of the adopted by-laws and regulations and registration showing proof of being a campus organization for the fraternity or sorority.
4. The application shall be signed by an officer of the fraternity or sorority and shall contain an acknowledgment that all State and local laws and ordinances must be complied with, including but not limited to, the Merced Municipal Code regarding trash and recyclables collection area, signs, parking and noise.

**C. Performance Standards.**

1. **Noise.** Any fraternity or sorority houses shall comply with the Noise Element of Merced General Plan.
2. **Public Nuisance.** Any fraternity or sorority houses shall maintain the premises and operate in compliance with Chapter 8.40 (Nuisance), Chapter 9.64 (Disruptive Parties and Gatherings on Private Property), and Chapter 9.65 (Hosting Parties Where Alcohol is Consumed by Persons Under the Age of 21 on Private Property) of the Merced Municipal Code.
3. **Occupancy.** The maximum number of residents permitted shall be based on Building Code requirements.
4. **Revocation.** The City Council may revoke the Conditional Use Permit if found that such establishment degrades the health and safety of the public or creates a nuisance per the provisions of Chapter 8.40 (Nuisance).

**20.44.070 Gas and Service Stations**

**A. Minor Repair Permitted.**



1. Minor automobile repairs are permitted on the premises of a gas and service station. Examples of minor automobile repairs include detailing services, quick lube services, and tire and battery sales and installation. Major automobile repairs, including body repair and painting, are prohibited, unless otherwise permitted in that zoning district (Part 2). See Chapter 20.90 for definitions of minor and major repair.



2. Incidental sales of products, accessories, and services directly related to minor automobile repair services are permitted as are general convenience goods.
3. All automobile services and repairs shall be done in a completely enclosed building.

**B. Sale of Alcoholic Beverages.**

1. **Conditional Use Permit Required.** A Conditional Use Permit is required for the sale of alcoholic beverages, including beer and wine, if the retail outlet is less than 20,000 square feet in building size.
2. **Standards.** Uses engaged in the concurrent sale of alcoholic beverages and gasoline or diesel fuel shall comply with the following performance standards:
  - a. No alcohol shall be displayed within five feet of the cash register or the front door.
  - b. No advertisement of alcoholic beverages shall be displayed on motor fuel islands, in landscaped areas, or outside the building.
  - c. No self-illuminated advertising for alcoholic beverages shall be located on buildings or windows.
  - d. No sale of alcoholic beverages shall be made from a drive-up window.
  - e. No display or sale of beer or wine shall be made from an ice tub.
  - f. Employees shall be at least 21 years old to sell alcohol.

**20.44.080 Live/Work**

**A. Limitations on Use.**

1. Non-residential uses of a live/work unit shall be only those uses that are allowed within the applicable zoning district.
2. A live/work structure shall be occupied only by the business operator and family or employees and family. Live/work structures shall serve primarily as a business with accommodations for living space.
3. Exclusive residential use is not allowed in a live/work unit.

**B. Prohibited Uses.** The following uses are not permitted as part of a live/work unit:

1. Adult entertainment businesses.
2. Vehicle sales, service, maintenance, or repair.
3. Welding, machining, or open-flame work, unless approved with a Minor Use Permit.

4. Manufacturing or processing activities, unless approved with a Minor Use Permit.
5. Any use that might affect the health or safety of nearby residents or associated with hazardous materials and other uses determined incompatible by the Director of Development Services because of their potential to create dust noise, vibration, noxious gases, odors, smoke, or any other negative impacts are not permitted in live/work units.

### C. Design Standards.

1. **Floor Area Requirements.** The minimum floor area of the live/work unit shall be 1,000 square feet. A maximum of 50 percent of this space shall be reserved for work space; the rest reserved for occupancy.
2. **Access.** Each unit shall be clearly separate from other units and any different uses which may be in the structure should be accessed from common public access areas, corridors, halls, and/or public sidewalks.
3. **Commercial or Industrial Use.** The design of live/work units shall be similar to structures occupied by commercial or industrial uses commonly found in the vicinity of the live/work units.



### D. Operating Standards.

1. **Occupancy.** Living space and working space shall not be separately rented or sold separately as a residential space for persons not working on the premises or as a place of business for persons not living on the premises, but both uses shall be occupied by the same persons, the business operator and family or employee and family.
2. **Business License.** The operator and resident of a live/work space shall maintain at all times a valid City of Merced Business License.

### 20.44.090 Recycling Facilities

**A. Permits Required.** Permits required for recycling facilities are shown in the land use regulation tables in Part 2 (Zoning Districts). In considering a permit for a recycling facility, the City shall make the following findings:

1. The recycling facility will not have a detrimental effect on the public health, safety, and general welfare.
2. Conditions with respect to location, construction, maintenance, operation, color, signs, and site planning for the protection of adjacent properties and public interest have been imposed.



**B. Reverse Vending Machines.**

1. **Accessory Use Only.** Reverse vending machines are allowed only as an accessory use to a commercial, industrial, or public use permitted in the applicable zone.
2. **Maximum Allowed.** Maximum of 3 machines allowed per site.
3. **Location.** If located outside of a structure, reverse vending machines shall be located within 100 feet of the entrance to the primary structure on the parcel and shall not obstruct pedestrian or vehicular circulation or occupy required on-site parking spaces.
4. **Size.** Reverse vending machines shall occupy no more than 100 square feet of floor space per unit, including any protective enclosure, and shall be no more than 8 feet in height.
5. **Signs.** The maximum sign area shall be 1 square foot per unit, exclusive of operating instructions, and shall be located on the unit.

**C. Small Collection Facilities.**



1. **Location.**
  - a. Small collection facilities shall not be located within 200 feet of a residential zoning district.
  - b. Small collection facilities shall be set back at least 10 feet from any public right-of-way and shall not interrupt pedestrian or vehicular traffic.
2. **Size.** A small collection facility shall occupy no more than 500 square feet of area.

3. **Screening.** All outdoor storage and centralized refuse storage and collection areas shall be enclosed with a solid six-foot-high fence; the latter shall be covered.
4. **Operating Standards.** Small collection facilities shall not use power-driven processing equipment and shall only accept glass, metal, plastic containers, paper, and reusable items. Sites shall be maintained free of trash, loose debris, and graffiti at all times.
5. **Noise.** Noise level shall not exceed 60 dBA when measured at the closest residential property; otherwise, noise level shall not exceed 70 dBA.
6. **Hours of Operation.** Small collection facilities shall be attended and operate only between 9:00 a.m. and 7:00 p.m. daily.

#### D. Large Collection Facilities.

1. **Location.** A large collection facility shall be located at least 500 feet from a residential zone.
2. **Size.** A large collection facility is defined as occupying 500 square feet of area or more.
3. **Screening.** Large collection facilities shall be enclosed in a structure or screened from view by an opaque fence or wall at least 6 feet in height.
4. **Operating Standards.** Power-driven processing shall not produce dust, fumes, odor, smoke, or vibration in excess of ambient levels. Sites shall be maintained free of trash, loose debris, and graffiti at all times.
5. **Hours of Operation.** Large collection facilities shall be attended and operate only between 9:00 a.m. and 7:00 p.m. daily.



#### E. Recycling Processing Facilities.

1. **Location.** Parcels occupied by a recycling processing facility shall not abut or be located across the street from a residential zone and shall be limited to the C-G, I-L, and I-H zoning districts only.
2. **Allowed Activities.** Baling, compacting, crushing, grinding, shredding, sorting, and repairing are allowed. Only beverage and food containers and paper/cardboard may be baled, compacted, or shred.

3. **Exterior Storage.** Exterior storage of material shall also be located in sturdy storage containers or be enclosed.
4. **Screening.** Processing facilities shall be enclosed in a structure or screened from view by an opaque fence or wall at least 8 feet in height.
5. **Operating Standards.** Dust, fumes, odor, smoke, or vibration shall not exceed ambient levels. Sites shall be maintained free of trash, loose debris, and graffiti at all times.

### 20.44.100 Outdoor Displays of Merchandise

**A. Minor Use Permit Required.** A Minor Use Permit is required for any permanent outdoor display of merchandise, including propane exchange displays and automated retail, water, or movie rental vending machines.

**B. Standards.** Outdoor displays of merchandise shall comply with the following standards:

1. Displayed items shall not exceed 8 feet in height.
2. Movable sale items (not vending machines) shall be displayed only during operating hours of the primary commercial use. Items shall be removed from display and moved into a permanently enclosed structure upon close of business, unless otherwise stated on the approved Minor Use Permit.
3. Items shall be located on the same parcel as the associated primary use and shall not be placed within any permanent landscaped area, required parking space, or loading area.
4. No items shall be displayed within the public right-of-way.
5. Display areas shall not be placed in a location that would cause a safety hazard, obstruct the entrance to a building, encroach upon driveways, or otherwise create hazards for pedestrian or vehicle traffic.
6. Display areas shall have at least 4 feet of clear space and comply with any other Americans with Disabilities Act (ADA) requirements at all times.
7. Automated retail, water, or movie rental vending machines shall occupy no more than 25 square feet of floor space per machine or display.



**20.44.110 Photovoltaic Energy Systems and Public Utility Distribution Lines**

- A. Applicability.** Regulations and standards in this section only apply to Photovoltaic Energy Systems for onsite use only.
- B. Permitted in all Zoning Districts.** Photovoltaic energy systems are permitted in all zoning districts as an accessory structure.



**C. Standards.** Photovoltaic energy systems shall comply with the following standards:

1. Ground-mounted photovoltaic solar panels shall meet the height and setback requirements of the applicable zoning district.
  2. Ground-mounted photovoltaic solar panels should be screened from public view.
  3. Roof-mounted photovoltaic solar panels shall meet the height requirement of the designated zoning district, but may be allowed to extend higher in accordance with the California Building Code.
  4. Whenever feasible, photovoltaic solar panels should be integrated into the structure design as one of its architectural elements.
  5. Photovoltaic solar panels shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronic Engineers, and the Public Utilities Commission regarding safety and reliability as well as all applicable Building Code requirements.
  6. If determined to increase efficiency or performance of photovoltaic solar panels and not adversely impact public health and safety, the Director of Development Services may modify standards in this section through a Minor Use Permit.
  7. Solar carports can be approved by a Minor Use Permit, which could allow modifications to the above standards.
- D. Public Utility Distribution Lines.** Public utility distribution and transmission lines, if underground, shall be permitted in all zoning districts without a zoning permit as are small public utility structures, such as transformers. However, overhead lines shall require a Conditional Use Permit in all zoning districts.

### 20.44.120 Single Room Occupancy

**A. Location.** A single-room occupancy (SRO) use, including college dormitories, shall not be located within 300 feet of any other SRO use or emergency shelter, unless such use is located within the same building, on the same lot, or on the same college campus.

**B. Development Standards.**

1. SRO units shall have a minimum size of 150 square feet and a maximum of 1200 square feet.
2. Each unit shall accommodate a maximum of two persons.
3. SRO uses shall provide adequate exterior security lighting.
4. Laundry facilities must be provided in a separate room at the ratio of one washer and one dryer for every twenty units or fractional number thereof, with at least one washer and dryer per floor.
5. An SRO unit is not required to, but may contain, partial or full bathroom facilities.
  - a. A partial bathroom facility shall have at least a toilet and sink; a full facility shall have a toilet, sink and bathtub, shower, or bathtub/shower combination.
  - b. If a full bathroom facility is not provided, common bathroom facilities shall be provided in accordance with the currently adopted Building Code for congregate residences with at least one full bathroom per 10 units or one per floor, whichever is greater.



6. A partial or full kitchen facility may be provided in each unit, but is not required.
  - a. A full kitchen includes a sink, a refrigerator and stove, range top, or oven. A partial kitchen is missing at least one of these appliances.
  - b. If a full kitchen is not provided, common kitchen facilities shall be provided with at least one full kitchen per floor. If meals are provided, one large cafeteria or dining facility may substitute for the individual kitchens.
7. Each SRO unit shall have a separate closet.
8. Each SRO unit shall comply with all requirements of the currently adopted Building Code, and all units and common areas shall meet applicable accessibility and reasonable accommodation requirements.

**C. Management Standards.**

1. An SRO facility with 10 or more units shall provide on-site management.
2. An SRO facility with less than 10 units may provide a management office off-site.

**D. Tenancy.** Tenancy of SRO units shall not be for less than 30 days.**E. Existing Structure.** An existing structure may be converted to an SRO facility, consistent with the provisions of this section. Any such conversion must bring the entire structure up to current building code standards, including accessibility and adaptability standards, unless otherwise exempted by the City Building Official.**20.44.130 Underground Storage Tanks****A. Location Requirement.** All underground storage tanks (except for those that store only water) shall be located a minimum of 450 feet away from any parcel containing a City water well.**B. Exemption.** Underground storage tanks existing prior to the adoption of Ordinance No. 2220 (effective date of January 6, 2006) shall be exempted from the above requirements.**C. Removal or Relocation.** When leakage is discovered from tanks located within 450 feet of any parcel with a City water well, then the leaking tank shall be removed immediately and relocated away from any City water well site in accordance with this section.**20.44.140 Wrecking and Salvage Establishments****A. General Requirements.** All wrecking and salvage establishments shall be in compliance with Chapter 5.32 (Wrecking Establishments) of the Merced Municipal Code.**B. Permits.** A Conditional Use Permit is required to establish or operate any wrecking and salvage establishments.**C. Location Standards.**

1. Wrecking and salvage establishments shall be only located in C-G, C-T, I-L, and I-H zoning districts.
2. Wrecking and salvage establishments shall not be located within 500 feet of a residential zoning district, churches, schools, hospitals, playgrounds, public parks, and any other similar uses as determined by the Director of Development Services.



3. No wrecking and salvage establishments shall be located within 100 feet from any highway right-of-way unless the area is zoned industrial or used for industrial uses.

**D. Performance Standards.** Wrecking and salvage establishments shall comply with the following performance standards:

1. **Noise.** Operation shall be in compliance with standards in the Noise Element of the Merced General Plan.
2. **Vibration.** No vibration of the ground shall be permitted beyond the property line.
3. **Screening.**
  - a. Wrecking and salvage establishments shall be conducted entirely behind a solid wall or board fence not less than 8 feet high, but may be higher per the requirements of Chapter 20.30 (Walls and Fences). Materials shall not be stored above the height of the wall or fence.
  - b. The Planning Commission may require, among other special considerations, a planted barrier of evergreen trees.
4. **Hours of Operation.** Hours of operation shall be limited to between 7:00 a.m. and 8:00 p.m.
5. **Cleanup.** In case of a revoked or denied permit, applicant shall clean up the site properly within six months of the decision date.

#### 20.44.150 Emergency Shelters

- A. Permits.** Emergency shelters are principally-permitted uses in the C-G zone. Permits required in other zones are shown in the land use regulation tables in Part 2 (Zoning Districts).



**B. Development Standards.**

1. **Beds.** The maximum number of beds on a property is 200.
2. **Parking.** Off-street parking is required as shown in Section 20.38 (Parking and Loading).
3. **Lighting.** Adequate lighting shall be provided in all parking, pedestrian paths, and entry areas and shall be shielded and reflected away from adjacent uses.
4. **Management/Security.** Adequate management, support staff, and security must be present during the hours of operation, with a minimum of 1 supervisory staff member, and 1 employee of the same gender as clients.

5. **Length of Stay.** The maximum length of stay shall be no longer than that established by the California Health and Safety Code for emergency shelters.
6. **Outdoor Activity.** Outdoor Activity shall be allowed only during the hours of 8:00 a.m. to 10:00 p.m.
7. **Pets.** If pets are allowed, all pets shall be housed within the emergency shelter or within cages in a protected area.
8. **Services.** Supportive services may include counseling, medical services, showers, and laundry facilities within the facility.



#### 20.44.160 Tobacco Sales Prohibited Near Schools

- A. Prohibited within 1,000 Feet of Schools and 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 by the following:



1. Any public or private elementary, middle, junior high, or high school;
2. Playgrounds, parks, youth centers, City-owned and operated recreational facilities, and libraries.



**B. Measurement and Exceptions.**

1. **Measurement.** 1,000 feet shall be measured in a straight line from the nearest point on the property boundary to the nearest point of the other property boundary.
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.



**20.44.170 Commercial Cannabis Businesses**

**A. Zoning Compliance and Commercial Cannabis Business Permit Requirements**

Specific commercial cannabis businesses are allowed as a special use in the C-C, C-O, C-G, C-N, C-T, B-P, I-L, and I-H Zoning Districts and Planned Developments which have the equivalent General Plan land use designations of those zones. Commercial cannabis activities are expressly prohibited in all other zones in the City of Merced. Commercial cannabis businesses shall apply for and conduct business only in the appropriate zones as described in Table 20.44-1 and the City of Merced's zoning ordinance as a requisite for obtaining a Commercial Cannabis Business Permit (CCBP). No commercial cannabis business may operate in the City of Merced without a Commercial Cannabis Business Permit.



This Land Use Table 20.44-1 shall be used to determine whether a cannabis business is not permitted - 'X', or permitted - 'P'. Any Commercial Cannabis business in the City of Merced shall also operate in compliance with the City's zoning ordinance. If a Zoning District is not listed in the Land Use Table in this section, then the use is expressly not permitted.

**TABLE 20.44-1—COMMERCIAL CANNABIS BUSINESSES**

Commercial Cannabis Business Activities Use Type	City of Merced Municipal Code Table 20.44-1									
	Land Use Classification [4] [5]	C-C Zone	C-O Zone	C-G Zone	C-N Zone	C-T Zone	B-P Zone	I-L Zone	I-H Zone	Additional Specific Use Standards
Cultivator	Greenhouse, Type A	X	X	X	X	X	P	P	P	Sec. 20.44.170(I)
Cultivator	Greenhouse, Type B	X	X	X	X	X	P	P	P	Sec. 20.44.170(I)
Cultivator	Greenhouse, Type C	X	X	X	X	X	P	P	P	Sec. 20.44.170(I)
Nursery	Greenhouse, Type D	X	X	X	X	X	P	P	P	Sec. 20.44.170(I)
Manufacturing	Manufacturing, non-volatile	X	X	X	X	X	P	P	P	Sec. 20.44.170(H)
Manufacturing	Manufacturing, volatile	X	X	X	X	X	P	P	P	Sec. 20.44.170(H)
Dispensary [1][2]	Pharmaceutical, medical	P	P	P	P	P	P	P	X	Sec. 20.44.170(F)
Dispensary [1][2]	Retail, non-medical/combined	P	P	P	P	P	P	P	X	Sec. 20.44.170(F)
Testing Laboratory	No Retail	P	P	P	X	X	P	P	P	Sec. 20.44.170(J)
Distribution [3]	Freight/Transport	X	X	P	X	X	P	P	P	Sec. 20.44.170(K)

**Footnotes**

1. Only five (5) dispensaries shall operate within the Merced City Limits. At least one (1) of those dispensaries shall also dispense medicinal cannabis goods. If State law allows medical and adult use dispensaries on the same premises, the City of Merced would allow a combined use, but in no case shall more than five (5) dispensaries of any kind be allowed within the City of Merced at any one time.
2. Dispensaries (medical or adult use) are prohibited in the City Center area between 19th and 16th Streets and O Street and Martin Luther King Jr. Way, including properties fronting on either side of each of the above streets.
3. Only allowed in General Commercial (C-G) zones if it meets the provisions of Section 20.44.170 (K)(10).
4. If listed as 'Permitted' in a specific zone above, then that use is also 'Permitted' in Planned Development (P-D) zones that have the equivalent General Plan land use designation as that zone.
5. No cannabis dispensary may be located within a 1,000-foot radius from a school or within a 600-foot radius from a day care center, youth center, library or public park that is in existence at the time the Application for a Commercial Cannabis Business Permit is submitted to the City, as required in Merced Municipal Code Section 20.44.170(E)(3)(f). No cultivation facility, manufacturing facility, testing facility or any other commercial cannabis business facility may be located within a 600-foot radius from a school, day care center, youth center, library, or public park that is in existence at the time the Application for a Commercial Cannabis Business Permit is submitted to the City, as required in Merced Municipal Code Section 20.44.170(E)(3)(f).

**Land Use Classifications:**

- Greenhouse, Commercial A = Permitted cultivation area: 0 to 5,000 square feet  
Greenhouse, Commercial B = Permitted cultivation area: 5,001 to 10,000 square feet  
Greenhouse, Commercial C = Permitted cultivation area: 10,000 to 22,000 square feet  
Greenhouse, Commercial D = Permitted cultivation area: 22,000 square feet

**B. Cultivation of Cannabis for Personal Use in Residential Zones**

1. **Indoor Cultivation Allowed.** When authorized by State regulations, an authorized resident shall be allowed to cultivate cannabis only in a private residence in a residential zone, only indoors, and only for personal use, subject to the following regulations:
  - a. The cannabis cultivation area shall be located indoors within a residential structure and shall not exceed fifty square feet and not exceed ten feet in height, nor shall it come within twelve (12) inches of the ceiling or any cultivation lighting, nor shall it exceed the limits set forth in Section 20.44.170(B)(1)(i) below. Cultivation in a greenhouse or other legal accessory structure on the property of the residence, but not physically part of the home, is permitted as long as it is fully enclosed, secure, not visible from a public right-of-way, and meeting all requirements in this Chapter. Additionally, all structures must meet setback, height limitations, and be constructed in accordance with all local requirements as well as all applicable Building Codes.
  - b. If the resident is not the property owner, they must have the property owner's express written authorization to conduct cannabis cultivation. Nothing contained herein shall limit the property owner's right to deny or revoke permission to allow cannabis cultivation as set forth by State law.
  - c. The use of gas products such as, but not limited to, CO<sub>2</sub>, butane, methane, or any other flammable or non-flammable gas for marijuana or cannabis cultivation or processing is prohibited.
  - d. There shall be no exterior visibility or evidence of cannabis cultivation outside the private residence from the public right-of-way including, but not limited to, any marijuana or cannabis plants, equipment used in the growing and Cultivation operation, and any light emanating from cultivation lighting.
  - e. The authorized resident shall reside full-time on the property where the cannabis cultivation occurs.
  - f. The residence shall include fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident authorized grower, and the premises shall not be used primarily or exclusively for cannabis cultivation.
  - g. The cannabis cultivation area shall be in compliance with the current adopted edition of the California Building Code including § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or equivalent), as amended from time to time.



- h. The Building Official may require additional specific standards to meet the California Building Code and Fire Code including, but not limited to, installation of fire suppression sprinklers.
  - i. The cannabis cultivation area shall not result in a nuisance or adversely affect the health, welfare, or safety of the resident or nearby residents by creating dust, glare, heat, noise, noxious gasses, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
  - j. No more than six (6) cannabis plants, mature or immature, for personal use, are permitted per residence for indoor personal cultivation under this Chapter, unless permitted under State regulations.
  - k. Cannabis in excess of twenty-eight and one-half (28.5) grams produced by plants kept for indoor personal cultivation under this Chapter must be kept in a locked space on the grounds of the private residence not visible from the public right-of-way.
  - l. The authorized grower shall not provide any cannabis in any form to animals or any minors that are not authorized users under Medical Marijuana Regulation and Safety Act or the Adult Use of Marijuana Act. Anyone found in violation shall be prosecuted pursuant to State regulations.
2. **Outdoor Cultivation Prohibited.** Outdoor cultivation of cannabis is expressly prohibited in all zones and districts of the City of Merced.

### C. Definitions

The definitions are incorporated herein as fully set forth and are applicable to this ordinance. All definitions are intended to comply with those set forth by the State of California for all commercial cannabis activities.

- 1. **"Applicant"** means a person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a dispensary.
- 2. **"Cannabis"** means all parts of the Cannabis sativa Linnaeus, Cannabis Indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also



means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

3. **"Cannabis waste"** means waste that is not hazardous waste, as defined in Public Resources Code section 40191, that contains cannabis and that has been made unusable and unrecognizable in the manner prescribed by the State.
4. **"Canopy"** means all of the following:
  - a. The designated area(s) at a licensed premises that will contain mature plants at any point in time;
  - b. Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries;
  - c. Canopy may be noncontiguous but each unique area included in the total canopy calculation shall be separated by an identifiable boundary such as an interior wall or by at least 10 feet of open space; and,
  - d. If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.
5. **"City"** means the City of Merced.
6. **"Commercial Cannabis Business Permit {CCBP}"** means a permit issued by the City pursuant to this chapter to a commercial cannabis business.
7. **"Commercial cannabis activity"** includes the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, distribution, delivery, or sale of cannabis or a cannabis product, except as set forth in Section 19319 of the Business and Professions Code, related to qualifying patients and primary caregivers.
8. **"Commercial vehicle"** means a vehicle as defined in Vehicle Code section 260.



9. **"Concentrated cannabis product"** means a consolidation of cannabinoids made by dissolving cannabis in its plant form into a solvent.
10. **"Cultivation"** means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
11. **"Customer"** means a natural person 21 years of age or over or a natural person 18 years of age or older who possesses a physician's recommendation.
12. **"Day Care Center"** means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers as defined in Health and Safety Code Sections 1596.76, 1596.7915, 1576.750, and 1596.78.
13. **"Delivery"** means the commercial transfer of cannabis or cannabis products to a customer. 'Delivery' also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products.



14. **"Delivery employee"** means an individual employed by a licensed dispensary who delivers cannabis goods from the permitted dispensary premises to a medical cannabis patient or primary caregiver or qualified purchaser at a physical address.
15. **"Dispensary"** means a premises where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination for retail sale, including an establishment that delivers cannabis or cannabis products as part of a retail sale.
16. **"Display"** means cannabis goods that are stored in the licensed dispensary's retail area during the hours of operation.
17. **"Display case"** means container in the licensed dispensary retail area where cannabis goods are stored and visible to customers.
18. **"Distribution"** means the procurement, sale, and transport of cannabis or cannabis products between entities licensed pursuant to the Medical and Adult Use of Cannabis Regulation and Safety Act and any subsequent State of California legislation regarding the same.
19. **"Edible cannabis product"** means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.



20. **"Fully Enclosed and Secure Structure"** means a fully-enclosed space within a building that complies with the California Building Code ("CBSC"), as adopted in the City of Merced, or if exempt from the permit requirements of the CBSC, that has a complete roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, is accessible only through one or more lockable doors, and is not visible from a public right-of-way. Walls and roofs must be constructed of solid materials that cannot be easily broken through such as two inch by four inch nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement. If indoor lighting or air filtration systems are used, they must comply with the California building, electrical, and fire codes as adopted in the City of Merced.
21. **"Free sample"** means any amount of cannabis goods provided to any person without cost or payment or exchange of any other thing of value.
22. **"Greenhouse"** means a facility in which plants are grown and is inclusive of facilities using solely artificial light and facilities using mixed-light. In order to be lawful and permitted in the City of Merced, a greenhouse must be a 'Fully Enclosed and Secure Structure' as defined above in 20.44.170(C), Subsection 20.
23. **"Indoors"** means within a fully enclosed and secure structure as that structure is defined above in 20.44.170(C), Subsection 20.
24. **"Labor Peace Agreement"** means an agreement between a licensee and any bona fide labor organization that, at a minimum, protects the City's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.
25. **"License"** means a state license issued under this division, and includes both an A-license and an M-license, as well as a testing laboratory license.
26. **"Limited-access area"** means an area in which cannabis goods are stored or held and which is only accessible to a licensee and the licensee's employees and contractors.

27. **"Medical"** or **"Medicinal"** have the same meaning under the terms of this ordinance.
28. **"Medical cannabis goods"** means cannabis, including dried flower, and manufactured cannabis products.
29. **"Medical cannabis patient"** is a person whose physician has recommended the use of cannabis to treat a serious illness, including cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief.
30. **"Manufacturer"** means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.
31. **"Manufacturing"** or **"Manufacturing Operation"** means all aspects of the extraction and/or infusion processes, including processing, preparing, holding, storing, packaging, or labeling of cannabis products. Manufacturing also includes any processing, preparing, holding, or storing of components and ingredients.
32. **"Nonvolatile solvent"** means any solvent used in the extraction process that is not a volatile solvent. For purposes of this chapter, a nonvolatile solvent includes carbon dioxide used for extraction, or as it may be defined and amended by the State.
33. **"Operating hours"** means the hours within a day during which a permitted retail sales outlet may allow qualified cannabis purchasers and primary caregivers to enter the dispensary premises and purchase cannabis goods.
34. **"Owner"** or **"Ownership interest"** means an interest held by a person or entity who is an owner as defined by State of California commercial cannabis regulations or who has a financial interest in the commercial cannabis business of 5% or more. In the event an entity holds a financial interest in the commercial cannabis business of 5% or more, any person who holds a financial interest in said entity of 5% or more is also considered an 'owner' of the commercial cannabis business.
35. **"Package"** and **"Packaging"** means any container or wrapper that may be used for enclosing or containing any cannabis goods for final retail sale. "Package" and "packaging" does not include a shipping container or outer wrapping used solely for the transport of cannabis goods in bulk quantity to a licensee.



36. **"Patient or qualified patient"** shall have the meaning given that term by California Health and Safety Code and possesses a valid physician's recommendation.
37. **"Person"** includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
38. **"Pest"** means undesired insect, rodent, nematode, fungus, bird, vertebrate, invertebrate, weed, virus, bacteria, or other microorganism that is injurious to human health.
39. **"Physician's recommendation"** means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.
40. **"Premises"** means the designated structure(s) and land specified in the application that are in possession of and used by the applicant or licensee to conduct the commercial cannabis activity.
41. **"Pre-roll"** means dried cannabis flower rolled in paper prior to retail sale.
42. **"Primary Caregiver"** has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.
43. **"Private security officer"** has the same meaning as that term as defined in the State of California Business and Professions Code section 7574.01.
44. **"Publicly owned land"** means any building or real property that is owned by a city, county, state, federal, or other government entity.
45. **"Purchase"** means obtaining cannabis goods in exchange for consideration.
46. **"Purchaser"** means a person who is engaged in a transaction with a licensee for purposes of obtaining cannabis goods.
47. **"Quarantine"** means the storage or identification of cannabis goods, to prevent distribution or transfer of the cannabis goods, in a physically separate area clearly identified for such use.
48. **"Retail area"** means a building, room, or other area upon the licensed dispensary premises in which cannabis or other goods are sold or displayed.
49. **"School"** means those sites upon which full-time instruction in any of grades K through 12 is provided where the primary purpose is education, as determined in the sole discretion of the City Council, and which are identified as a school on the City's official 'List of Schools' as provided in Section 20.44.170(E)(3)(f)(i).



'School' does not include any private site upon which education is primarily conducted in private homes.

50. **"Security monitoring"** means the continuous and uninterrupted attention to potential alarm signals that can be transmitted from a security alarm system for the purpose of summoning law enforcement.
51. **"Selection Panel"** means the group consisting of the City Manager, Chief of Police, and Director of Development Services, or their designees, convened for the purpose of evaluating applicants based on the merit-based scoring system, and making recommendations to the Planning Commission with respect to issuance of Commercial Cannabis Business Permits.
52. **"Sell," "sale," and "to sell"** include any transaction whereby, for any consideration, title to cannabis is transferred from one person to another, and includes the delivery of cannabis goods pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis goods by a licensee to the licensee from whom such cannabis goods were purchased.
53. **"Sublet"** means to lease or rent all or part of a leased or rented property.
54. **"State"** means the State of California.
55. **"Testing Laboratory"** means a facility, entity, or site that offers or performs tests of cannabis or cannabis products, and that is accredited as operating to ISO standard 17025 by an accrediting body, and registered with the State Department of Public Health.
56. **"Vehicle alarm system"** is a device or series of devices installed to discourage theft of the commercial vehicle or its contents and is intended to summon general attention or to summon law enforcement as a result of an indication of an attempted breach of the commercial vehicle.
57. **"Volatile solvent"** means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, propane, and ethanol, or as it may be defined and amended by the State.
58. **"Wholesale"** means the sale of cannabis goods to a distributor for resale to one or more dispensaries.
59. **"Youth Center"** means any public or private facility that is primarily used to host recreational or social activities for minors including, but not limited to, private youth membership organizations or clubs, social service teenage club activities, video arcades with over 10 or more video games on the premises, or similar amusement park facilities, or as otherwise described in Health and Safety Code Section 11353.1(e)(2).



**D. Compliance with State and Local Licensing Requirements**

Any dispensary, cultivation facility, manufacturing facility, testing facility or any other commercial cannabis activity as defined by the State of California or the City of Merced shall operate in conformance with all regulations and standards set forth in this Section of the Municipal Code to assure that the operations of the dispensary, cultivation facility, manufacturing facility, distribution facility, testing facility or any other commercial cannabis activity as defined by the State of California or allowed by the City of Merced are in compliance with local and State law and are established to mitigate any adverse secondary effects from its operations.

Cannabis operators shall be required to obtain a State license once they become available, and shall comply with any applicable State licensing requirements, such as operational standards and locational criteria.

Multiple cannabis uses and licenses proposed on any one site shall occur only if authorized by the State and the City of Merced and only if all uses proposed are allowed pursuant to the City's Zoning Code.

**E. General Provisions for Commercial Cannabis Activities in the City of Merced****1. Commercial Cannabis Business Permit Required**

- a. Each business shall have a Commercial Cannabis Business Permit specific to the business activity defined by the State pertaining to that activity and whether the activity is medical or non-medical or any other commercial cannabis activity the State may define and as they may be amended. Following is a list of current license types:

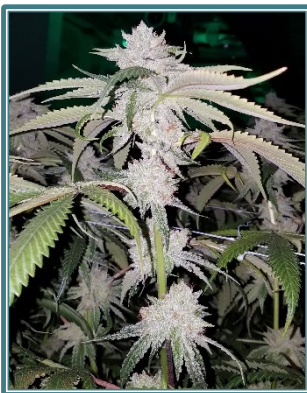
- i. Cultivation
- ii. Distribution
- iii. Manufacturing
- iv. Retail sales (Dispensary)
- v. Testing



- b. It shall be unlawful for any person, association, partnership, corporation, or other entity to engage in, conduct or carry on, in or upon any premises within the City of Merced any commercial cannabis business without a Commercial Cannabis Business Permit. A cannabis business shall register and obtain a Commercial Cannabis Business Permit from the City of Merced prior to operation. The Commercial Cannabis Business Permit applicant shall pay an annual non-refundable regulatory fee in an amount and at a frequency established by the City Council by resolution.
- c. A copy of the Commercial Cannabis Business Permit shall be displayed at all times in a place visible to the public.

- d. A Commercial Cannabis Business Permit shall be valid for one (1) year or until December 31 each year, unless sooner revoked. In the event a Commercial Cannabis Business Permit is issued on or after October 1, said permit shall be valid until December 31 of the following calendar year. No permit granted herein shall confer any vested right to any person or business for more than the above-referenced period.
- e. A Commercial Cannabis Business Permit shall not be issued to an individual or a business entity owned or managed in whole or in part by an individual or a business entity employing an individual who has a previous conviction for or has entered a plea of nolo contendere/no contest to any of the following:
  - i. A felony offense listed in California Health and Safety Code Section 11590.
  - ii. A felony offense listed in California Penal Code Section 667.S(c).
  - iii. A felony offense listed in California Penal Code Sections 1197.2(c) or Section 1192.8.
  - iv. A felony or misdemeanor offense that substantially relates to the qualifications, functions, or duties of the business or profession.
  - v. A felony conviction involving fraud, deceit, or embezzlement.
  - vi. A felony or misdemeanor offense involving the sale or giving to a minor of controlled substances, cannabis, alcohol, or tobacco.

A Commercial Cannabis Business Permit may be issued, at the discretion of the City, to an individual with a conviction listed above provided a period of ten (10) years has elapsed in which the individual has remained free of criminal convictions or violations of parole or probation, and the individual has either obtained a certificate of rehabilitation pursuant to Penal Code Section 4852.01 or received expungement pursuant to California Penal Code Section 1203.4.



f. The Commercial Cannabis Business Permit shall be issued to the specific person/persons/entity listed on the Cannabis Permit Application.

g. A Commercial Cannabis Business Permit is not transferable except under the terms of Merced Municipal Code Section 20.44.170(L)(7), and does not run with the land or with the business.

## 2. Maintenance of Records and Reporting

All records for the commercial cannabis business of the following activities shall be maintained and available to the City of Merced for at least 7 years. Records shall be produced within 24 hours of a request by an authorized City of Merced representative:



- a. The business shall obtain and maintain a valid Seller's Permit from the State Board of Equalization.
- b. Financial records include, but are not limited to: bank statements, sales invoices, receipts, tax records, and all records required by the California State Board of Equalization under Title 18 California Code of Regulations Section 1968.
- c. Personnel records, including each employee's full name, address, phone number, social security, or individual tax payer identification number, date of beginning employment, and date of termination of employment if applicable.
- d. Training records including, but not limited to, the content of the training provided and the names of the employees that received the training.
- e. Contracts with other licensees regarding commercial cannabis activity.
- f. Permits, licenses, and other local authorizations to conduct the licensee's commercial cannabis activity, including BOE sellers permit.
- g. Security records.
- h. Records shall be kept in a manner that allows the records to be produced for the City in either hard copy or electronic form, whichever the City requests.
- i. Proof of building ownership or landlord letter acknowledging business type.
- j. Proof of insurance.

## 3. Operational Standards for All Commercial Cannabis Business Activities

- a. Interior and exterior locations of the business property shall be monitored at all times by closed circuit cameras for security purposes. The cameras and recording system shall be of adequate quality, color rendition and resolution to allow the sufficient identification of any individual committing a crime on the location premises. Cameras shall record 24 hours a day at a minimum of 20 frames per second.

- b. The applicant shall conduct and pay for any required CEQA reviews and analyses, and pay for all costs, including those of the City, associated with project review under CEQA.



- c. The surveillance system storage device or cameras shall be transmission control protocol/TCP capable of being accessed through the internet by the Merced Police Department or their designee on request.
- d. All controlled access areas, security rooms and all points of ingress/egress to limited access areas and all point of sale (POS) areas shall have fixed camera coverage capable of identifying activity occurring within a minimum of twenty (20) feet. Camera video recordings shall be maintained unaltered in a secure location for a period of not less than thirty (30) calendar days, and be available for inspection at any time. The City of Merced or law enforcement may request the recordings in connection with an investigation. If the recordings are not voluntarily provided, the City or law enforcement may seek a warrant or court order for the recordings.
- e. All commercial cannabis businesses shall create and maintain an active account within the State's track and trace system prior to commencing any commercial cannabis activity. In the event of system failure, the business shall keep a hard copy record and transfer the information to the track and trace system within 24 hours of the system being available.
- f. No cannabis dispensary may be located within a 1,000-foot radius from a school or within a 600-foot radius from a day care center, youth center, library or public park that is in existence at the time the Application for a Commercial Cannabis Business Permit is submitted to the City. No cultivation facility, manufacturing facility, testing facility or any other commercial cannabis business facility may be located within a 600-foot radius from a school, day care center, youth center, library, or public park that is in existence at the time the Application for Commercial Cannabis Business Permit is submitted to the City. 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. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the sensitive use noted above to the closest property line of the lot on which the commercial cannabis business shall be located without regard to intervening structures.





- (i) 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 31<sup>st</sup> of each year, and/or whenever a commercial cannabis business permit for a dispensary becomes available. If amendments are needed, the amendments shall be considered by the City Council at a public hearing.
- g. No physical modification of the permitted premises is allowed without written prior permission by the City of Merced and payment of any additional fees required by the City.
- h. All commercial cannabis activities shall provide adequate off-street parking and comply with the City of Merced Municipal Code requirements in Chapter 20.38 Parking and Loading, to service customers without causing negative impact.
- i. The commercial cannabis business shall provide adequate handicapped parking per the requirements in the California Building Code.
- j. The commercial cannabis business shall provide adequate interior and exterior lighting for safety and security as determined by the Police Chief or designee.
- k. The commercial cannabis business shall minimize nuisances such as trash, litter, and graffiti.
- l. Any and all signage, packaging, and facilities shall not be 'attractive', as it is defined by the State, to minors.
- m. All commercial cannabis facilities shall be required to provide an air treatment system that ensures off-site odors shall not result from its operations. This requirement at a minimum means that the facility shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the facility if the use occupies only a portion of a building. The air treatment system must also prevent the build-up of mold within the facility.
- n. A permitted commercial cannabis business entity shall have 180 days after permit issuance by the City of Merced to begin initial operations, unless otherwise approved by the Development Services Director or designee. A permitted commercial cannabis business entity that remains inoperative for more than 60 calendar days after initial operations begin shall be deemed



"abandoned" and the permit shall be forfeited. A business may temporarily suspend operations for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the Development Services Director or designee.

- o. The cannabis business shall comply with all State and City of Merced regulations regarding testing, labeling and storage of all cannabis products.
- p. The cannabis business shall meet all State and local regulations for the disposal of all cannabis materials and materials used in conjunction with processing, distributing and cultivating of cannabis as well as any unsold cannabis or cannabis products.
- q. The cannabis business shall conform to all State regulations regarding the use of appropriate weighing devices.
- r. The cannabis business shall conform to all State and local regulations regarding water usage. No liquids of any kind shall be discharged into a public or private sewage or drainage system, watercourse, body of water or into the ground, except in compliance with applicable regulations of the California Regional Water Quality Control Board (California Administrative Code, Title 23, Chapter 3).
- s. The cannabis businesses' electrical and plumbing shall comply with State and local regulations.
- t. The cannabis business shall maintain a comprehensive general liability combined single occurrence insurance policy issued by an "A" rated insurance carrier in an amount no less than two million dollars and naming the City of Merced as additional insured.
- u. No free samples of any cannabis or cannabis product may be distributed at any time.
- v. All agents, private security officers or other persons acting for or employed by a licensee shall display a laminated identification badge at least 2" X 2" in size, issued by the licensee. The badge, at a minimum, shall include the licensee's "doing business as" name and license number, the employees first and last name, and a color photo of the employee that shows the full front of the employee's face.
- w. The commercial cannabis business shall have a centrally-monitored fire and burglar alarm system which shall include all perimeter entry points and perimeter windows.



- x. A licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs, maintains, monitors and responds to the alarm system. The alarm company shall obtain a City of Merced business license.
- y. Meet all State deadlines for applying for a State license and receive a State license within six (6) months after the date the State begins issuing licenses. This may be waived if the State has longer delays in issuing licenses of the type the commercial cannabis business seeks. The permittee must inform the City in writing within 10 days of receipt of a State license. Said notification shall be addressed to the Director of Development Services or his designee at 678 W. 18th St., Merced, CA 95340.
- z. All persons hiring employees to engage in commercial cannabis activities shall document compliance with the following employee safety practices:
  - i. Emergency action response planning as necessary
  - ii. Employee accident reporting and investigation policies
  - iii. Fire prevention
  - iv. Hazard communication policies, including maintenance of material safety data sheets.
  - v. Materials storage and handling policies
  - vi. Personal protective equipment policies
  - vii. Operation manager contacts
  - viii. Emergency responder contacts
  - ix. Poison control contacts
- aa. All persons with ownership interest; and all employees agents, officers or other persons acting for or employed by a permittee must be at least 21 (twenty-one) years of age.

**F. Additional Regulations for Dispensary and Retail Sales of Cannabis**

- 1. Only five (5) dispensaries shall operate within the Merced City Limits, regardless of the location's compliance with any other Section specified in this ordinance. At least one (1) of those dispensaries shall also dispense medicinal cannabis goods. If State law allows medical and adult use dispensaries on the same premises, the City of Merced would allow a combined use, but in no case shall more than five (5) dispensaries of any kind be allowed within the City of Merced.
- 2. No retail cannabis facility may engage in check cashing activities at any time.



3. Only one dispensary permit per person with ownership interest is allowed in the City of Merced. Any person with community property rights of an ownership interest is considered a person with ownership interest in this section.
4. Restrooms shall remain locked during business hours and not open to the public.
5. The total number of dispensaries in operation shall be determined based on the number of locations which have been issued a Commercial Cannabis Business Permit for a dispensary by the City.
6. Display of cannabis products shall be limited to only an amount necessary to provide a visual sample for customers.
7. At all times, when the cannabis dispensary is open to the public, the dispensary shall provide at least one security guard who is registered with Bureau of Security and Investigative Services, and possesses a valid and current security guard registration card on their person while on-duty.
8. Security guards are permitted, but not mandated, to carry firearms.
9. All cannabis products available for sale shall be securely locked and stored.



10. The security guard and cannabis dispensary personnel shall monitor the site and the immediate vicinity of the site to ensure that patrons immediately leave the site and do not consume cannabis in the vicinity of the dispensary or on the property or in the parking lot.
11. Medical Cannabis Dispensaries shall maintain the full name, address, and telephone number(s) of all patient members to whom the business provides medical cannabis, and a copy of a physician-issued recommendation card or State-issued card for all patient members.
12. Dispensaries shall also record on the video surveillance system point-of-sale areas and areas where cannabis goods are displayed for sale.
13. Any commercial cannabis retail or medical retail sales facility shall be open to the public a minimum of 40 hours per week, unless otherwise specified in the Commercial Cannabis Business Permit.
14. Hours of operation in Commercial Office (C-O) zones shall be limited to no earlier than 8 a.m. Pacific Time and no later than 7 p.m. Pacific Time. Hours of operation in all other zones shall be limited to no earlier than 8 a.m. Pacific Time and no later than 10 p.m. Pacific Time, unless zoning regulations specify more restrictive hours.

15. Exterior signage shall be limited to one wall sign not to exceed twenty (20) square feet in area. Interior signage or advertising may not be visible from the exterior. No temporary signs (banners, A-frames, etc.) or window signs are allowed.
16. On-site consumption of cannabis or cannabis products is specifically prohibited on the premises at all times. The following information shall be provided on a sign posted in a conspicuous location inside the cannabis dispensary: "Smoking, ingesting or consuming cannabis on this property or within 100 feet of the business is prohibited."
17. An adult use license shall not sell cannabis products to persons under 21 years of age or allow any person under 21 years of age on its premises, unless such licensee also holds a medicinal license and the licensee holds a CCBP for both adult use and medicinal cannabis. A medicinal licensee may sell cannabis products to and allow on the premises, any person 18 years of age or older who possesses a valid government issued identification card, and either a valid county-issued identification card under Section 11362.712 of the Health and Safety Code or a valid physician's recommendation for himself or herself or for a person for whom he or she is a primary caregiver.
18. Adequate signage shall clearly state that the City of Merced has not tested or inspected any cannabis product for pesticides, or other regulated contaminants, distributed at this location.
19. No recommendations from a doctor for medical cannabis shall be issued on-site.
20. Shipments of cannabis goods may only be accepted during regular business hours.
21. There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of food, alcohol, or tobacco by patrons.
22. Inventory shall be secured and locked in a room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss during non-business hours.
23. No cannabis product shall be visible from the exterior of the business.
24. All required labelling shall be maintained on all product, as required by State regulations, at all times.
25. The business shall post signs that spell out the "Prohibited Conduct Involving Marijuana and Marijuana Products" contained in Health and Safety Code Section



11362.3 in a conspicuous manner on the business premises for the education of patrons. The City shall develop a standard format and content for such signs.

26. The use of vending machines (i.e. a machine that dispenses articles when a coin, bill, or token is inserted) to dispense cannabis is strictly prohibited.
27. No drive-through facilities shall be allowed and no cannabis shall be sold through a drive-through facility.

#### **G. Additional Regulations for Commercial Cannabis Delivery Services**

1. Commercial cannabis deliveries may be made only from a commercial cannabis dispensary permitted by the City in compliance with this ordinance, and in compliance with all State regulations.
2. All employees who deliver cannabis shall have valid identification and a copy of the dispensary's Commercial Cannabis Business Permit at all times while making deliveries.
3. All commercial cannabis businesses shall provide proof of insurance in a minimum amount of \$1,000,000 for any and all vehicles being used to transport cannabis goods.
4. Deliveries may only take place during the hours of 8:00 a.m. and 7:00 p.m. daily.
5. A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers, only as required by State regulations.
6. The following applies to all deliveries of cannabis products:
  - a. May only be made to a physical address in California; and,
  - b. A licensed delivery employee shall not leave the State of California while possessing cannabis products.
7. A dispensary shall maintain a list of all deliveries, including the address delivered to, the amount and type of product delivered, and any other information and for the duration of time required by State regulations.
8. A cannabis business shall only deliver cannabis in aggregate amounts as ordered by the customer. A cannabis business shall ensure compliance with State delivery limits as they regard the amount of cannabis and cannabis products.



9. A manifest with all information required in this section shall accompany any delivery person at all times during the delivery process and delivery hours.
10. Any delivery method shall be made in compliance with State regulations and as it may be amended, including use of a vehicle that has a dedicated GPS device for identifying the location of the vehicle (cell phones and tablets are not sufficient).
11. The maximum limit of any cannabis goods carried by the delivery vehicle may not exceed \$3,000 at any time.
12. Each delivery request shall have a receipt prepared by the dispensary with the following information:
  - a. Name and address of the licensed dispensary;
  - b. The name of the employee who delivered the order;
  - c. The date and time the delivery request was made;
  - d. The complete delivery address;
  - e. A detailed description of the cannabis goods requested for delivery including the weight or volume, or any accurate measure of the amount of cannabis goods requested;
  - f. The total amount paid for the delivery including any fees or taxes; and,
  - g. At the time of the delivery, the date and time delivery was made, and the signature of the person who received the delivery.
13. The delivery business shall provide a flyer that spells out the "Prohibited Conduct Involving Marijuana and Marijuana Products" contained in Health and Safety Code Section 11362.3 to all delivery customers. The City shall develop a standard format and content for such flyers.

#### **H. Additional Requirements for Manufactured Cannabis Businesses**

1. A licensed cannabis manufacturing facility may conduct all activities permitted by the State. This includes, but is not limited to, volatile and non-volatile extractions, repackaging and relabeling, and infusions.
2. Any manufacturing activity that will be conducted by the licensee shall be included on the application. No additional manufacturing activity can be conducted without applying for and receiving written permission from the City of Merced for that additional activity.



3. At all times, the cannabis manufacturing facility will be compliant with all State regulations for cannabis manufacturing including Health and Safety Code 11362.775 and as it may be amended.
4. Inspections by the City Fire Chief or designee may be conducting anytime during the business's regular business hours.
5. Cannabis manufacturing facilities shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.
6. All cannabis manufacturing activities shall occur indoors within a fully enclosed and secured structure and also within a secure fence at least eight (8) feet in height that fully encloses the premises. The fence must include a lockable gate(s) that is locked at all times, except for during times of active ingress/egress. Said fence shall not violate any other ordinance, code section, or provision of law regarding the height, location, materials, or other fencing restrictions and shall not be constructed or covered with plastic or cloth. All screening shall conform to the requirements of applicable area, community, specific and design plans. Notwithstanding the foregoing fencing requirements, the Director of Development Services shall have the discretion to grant an exception in the event fencing which fully encloses the premises is impossible or impractical, and there are other appropriate security measures in place on the premises. Outdoor manufacturing of cannabis is expressly prohibited.

**I. Additional Requirements for Cannabis Cultivation Businesses**

1. The cannabis business shall register with the Department of Pesticide Regulation if using any pesticides.
2. From a public right-of-way, there shall be no exterior evidence of marijuana cultivation.



3. The Building Official may require additional specific standards to meet the California Building Code and Fire Code including, but not limited to, installation of fire suppression sprinklers.
4. Compliance with Section 13149 of Water Code as enforced by the State Water Resources Control Board.
5. All outdoor lighting used for security purposes shall be shielded and downward facing.
6. The use of generators for cultivation is prohibited, except for temporary use in the event of a power outage or emergency.



7. Cannabis plants shall not be visible from offsite or the public right-of-way. All cannabis cultivation activities shall occur within a fully enclosed and secured structure and within a secure fence at least eight (8) feet in height that fully encloses the premises. The fence must include a lockable gate(s) that is locked at all times, except for during times of active ingress/egress. Said fence shall not violate any other ordinance, code Section, or provision of law regarding the height, location, materials, or other fencing restrictions and shall not be constructed or covered with plastic or cloth. All screening shall conform to the requirements of applicable area, community, specific and design plans. Notwithstanding the foregoing fencing requirements, the Director of Development Services shall have the discretion to grant an exception in the event fencing which fully encloses the premises is impossible or impractical, and there are other appropriate security measures in place on the premises. Outdoor cultivation of cannabis is expressly prohibited.


**J. Additional Requirements for Cannabis Testing Laboratory Businesses**

1. A licensed cannabis testing facility shall comply with all State regulations.
2. Any cannabis testing facility shall maintain all certifications required by the State.
3. A licensed cannabis testing facility business, its owners and employees may not hold an interest in any other cannabis business except another testing business.
4. Inspections by the City Fire Chief or designee may be conducted anytime during the business's regular business hours.



**K. Additional Requirements for Cannabis Distribution Businesses**

1. A licensed cannabis distribution facility shall comply with all State regulations.
2. Any cannabis distribution facility shall provide proof of a bond of at least five thousand dollars to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements.
3. Inspections by the City Police Chief or designee may be conducted anytime during the business's regular business hours.
4. A distributor shall ensure that all cannabis goods batches are stored separately and distinctly from other cannabis goods batches on the distributor's premises.
5. A distributor shall ensure a label with the following information is physically attached to each container of each batch:

- a. The manufacturer or cultivator's name and license number;
  - b. The date of entry into the distributor's storage area;
  - c. The unique identifiers and batch number associated with the batch;
  - d. A description of the cannabis goods with enough detail to easily identify the batch; and,
  - e. The weight of or quantity of units in the batch.
- 
6. A distributor shall store harvest batches and edible cannabis products that require refrigeration at 35 to 42 degrees Fahrenheit. In addition, a distributor shall store harvest batches in a darkened area with no more than 60% humidity.
  7. A distributor shall store medical cannabis goods in a building designed to permit control of temperature and humidity and shall prevent the entry of environmental contaminants such as smoke and dust. The area in which medical cannabis goods are stored shall not be exposed to direct sunlight. A distributor may not store medical cannabis goods outdoors.
  8. Employee breakrooms, eating areas, changing facilities, and bathrooms shall be completely separated from the storage areas.
  9. All cannabis distribution activities shall occur within a fully enclosed and secured structure and within a secure fence at least eight (8) feet in height that fully encloses the distribution area. The fence must include a lockable gate(s) that is locked at all times, except for during times of active ingress/egress. Said fence shall not violate any other ordinance, code Section, or provision of law regarding the height, location, materials, or other fencing restrictions and shall not be constructed or covered with plastic or cloth. All screening shall conform to the requirements of applicable area, community, specific and design plans. Notwithstanding the foregoing fencing requirements, the Director of Development Services shall have the discretion to grant an exception in the event fencing which fully encloses the premises is impossible or impractical, and there are other appropriate security measures in place on the premises.
  10. If located in a General Commercial (C-G) zone,
    - a. The cannabis distribution business shall be located on a parcel no less than 20,000 square feet in size; and,
    - b. All loading and unloading activities shall take place within the secured fenced area required above.

**L. Commercial Cannabis Business Permit Selection Process****1. Selection Process for Dispensaries/Retail Sales (Limited Number of Permits Available)**

- a. The Commercial Cannabis Business Permit selection process will be conducted in two phases, Phase 1 and Phase 2. In Phase 1, each Applicant interested in operating a commercial cannabis business will pay an application fee in an amount established by the City Council by resolution. The application will be reviewed for completeness by the Director of Development Services or designee.
- b. A pre-application conference with the Director of Development Services is strongly encouraged. A pre-application conference can be scheduled by calling 209-385-6858 during regular City of Merced business hours.

Limited #  
Available

- c. The City of Merced has established a merit based scoring system to objectively award permits as described in the application documents in Phase 2 to be used in the event that there are more applications than there are Commercial Cannabis Business Permits for a specific license type, such as for retail dispensaries.
- d. The initial application period shall be 21 calendar days from the date the applications are released. Should the 21st day fall on a day when City Hall is closed, the application period shall be extended to the next open day at 4:00 p.m. Following the application period, the Director of Development Services or designee shall stop accepting applications and review all applications received as described in Phase 1. The Director of Development Services or designee will evaluate the applications received and determine the eligibility of each application. Each application that is complete and in compliance with the application requirements in Phase 1 shall be placed on the 'Qualified Commercial Cannabis Business Application List-Dispensaries/Retail Sales' and shall be notified in writing that they are a 'Qualified Commercial Cannabis Business Applicant- Dispensaries/Retail Sales'. The qualified applicants will be entered into the Phase 2 review process.
- e. If any of the items listed in the application process are not met, the Director of Development Services shall notify the applicant of the deficiency within thirty (30) calendar days, after which the applicant will have 10 calendar days from receipt of notice to correct the deficiency. Should the 10th day fall on a day when City Hall is closed, the correction period shall be extended to the next open day at 4:00 p.m. If the deficiency is not corrected within 10

calendar days, the Director of Development Services may deny the permit and notify the applicant of this determination in writing within 10 calendar days following the Director of Development Services decision.

f. **Commercial Cannabis Business Permit-Dispensaries/Retail Sales Selection - Phase 1 - Initial Review.**

The Director of Development Services or designee(s) shall determine whether each application demonstrates compliance with the minimum requirements and be placed on the 'Qualified Applicant List for Dispensaries/Retail Sales' and entered into the Phase 2 review process. These requirements include but are not limited to:



- i. All Application documents required in the City's Phase 1 application package;
- ii. Application was submitted during the application period;
- iii. Application forms are filled out completely;
- iv. Business Owner(s)/Applicant(s) referenced on the application provide a Live Scan that was conducted within 14 days prior to submitting the application;
- v. Phase 1 application fee is paid; and,
- vi. A signed statement that the proposed location of the commercial cannabis business on the application meets the zoning criteria established in this ordinance including, but not limited to, any and all sensitive use separation criteria required by this ordinance.

g. **Commercial Cannabis Business Permit-Dispensaries/Retail Sales Selection - Phase 2 - Final Review and Scoring.**

Phase 2 requirements include, but are not limited to:

- i. Phase 2 application fee is paid and a comprehensive background check of any person or entity holding an ownership interest of 5% or more, is completed to the satisfaction of the Chief of Police. Upon completion of the comprehensive background check, the Chief of Police shall have the discretion to disqualify an applicant if any of the following are discovered:
  - a) Any civil judgment(s) against any owner for torts involving dishonesty, including, but not limited to, fraud, embezzlement, theft, and breach of fiduciary duties;
  - b) Any outstanding liens and/or judgments against any owner for unpaid state, federal, or local taxes; or

- c) Any material misrepresentation made by the applicant in the application for a Commercial Cannabis Business Permit.

In the event an applicant is disqualified by the Chief of Police as provided herein, the applicant shall be given written notice of the disqualification within (10) ten days of such decision. Thereafter, the application will be removed from the Phase 2 process. The decision of the Chief of Police shall be final and there shall be no further right to appeal said decision.

- ii. The Building Official or designee has inspected all structures in which the use is located to determine that all applicable standards and requirements are met. If a building permit is required for site improvements, Permit issuance will be deferred until a certificate of occupancy or other building permit approval is issued. Additionally, the Building Official has determined that there are no notices of nuisance or other code compliance issues recorded or on the property.
- iii. The Zoning Administrator or designee has issued a Provisional Zoning Clearance documenting compliance with the following:



- a) The use is permitted in the Zoning District;
  - b) The location of the cannabis business meets the distance requirements from sensitive uses;
  - c) All land use permits, if any, have been approved and all conditions of approval have been met or are in good standing;
  - d) No zoning violations exist on the property;
  - e) A planning and/or building permit with a receipt proving payment for processing from the City of Merced Planning Department for the property location the commercial cannabis business will occupy; and,
  - f) The Provisional Zoning Clearance shall be subject to final approval by the Planning Commission.
- iv. The Director of Development Services or designee, after reviewing the applications approved in Phase 1 and the aforementioned information, will convene a Selection Panel composed of the City Manager, Chief of Police, and the Director of Development Services, or their designees. The Selection Panel will review all application documents required in the City's Phase 1 application package plus an additional background check of all owners conducted to the satisfaction of the Chief of Police, and individually score each application in accordance with the merit based scoring

system established by Resolution of the City Council. A complete description of the merit based system and all merit based considerations shall be included with the application forms. An average score for each applicant based upon the merit based scoring of the Selection Panel shall be calculated and the applications shall be ranked from highest to lowest in accordance with the average score. The applications, in order of ranking, shall then be placed on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail Sales in the order of ranking. The Selection Panel will recommend the highest ranked applicant(s) on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail to the Planning Commission for the issuance of a Commercial Cannabis Business Permit – Dispensaries/Retail Sales. The number of applicants recommended to the Planning Commission by the Selection Panel shall be the same number of Commercial Cannabis Business Permits – Dispensaries/Retail Sales then available. Any element of an application that provided a successful applicant with points on the merit-based scoring system is subject to review and inspection by the City, which may include self-certification by the licensed business, on-site inspection, or other methods of enforcement.



- a) The Qualified Commercial Cannabis Business Application List-Dispensaries/Retail established on September 20, 2018, shall have no further force and effect after September 20, 2019 and the City shall have no further obligations to applicants on said list.
- b) Should a Commercial Cannabis Business Permit-Dispensaries/Retail become available after September 20, 2019, whether by creation of a new permit or by vacancy of an existing permit, then a new application period shall be opened as provided in Section 20.44.170(L)(I).
- c) The Qualified Commercial Cannabis Business Application List-Dispensaries/Retail shall be valid for a period not to exceed one year from the date the last available Commercial Cannabis Business Permit-Dispensaries/Retail is issued by the Planning Commission. The City shall have no further obligations to applicants on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail after one year has elapsed since the last available Commercial Cannabis Business Permit was issued.

**h. Commercial Cannabis Business Permit-Dispensaries/Retail Sales Selection - Phase 2 – Planning Commission**

The Planning Commission will review the Commercial Cannabis Business Permit-Dispensaries/Retail Sales application(s) recommended by the Selection Panel as provided herein, and all other relevant



information, and determine if a CCBP should be granted, granted with conditions, denied, or modified. Prior to issuing a Commercial Cannabis Business Permit- Dispensaries/Retail Sales, the Planning Commission will provide all public notices and conduct a public hearing as described in the City of Merced Municipal Code Section 20.70.010 through Sections 20.70.040. No Commercial Cannabis Business Permit- Dispensaries/Retails Sales shall be issued otherwise.

**2. Selection Process for All Other Commercial Cannabis Business Permits (No Limits On the Number of Permits Available)**



- a. The Commercial Cannabis Business Permit-All Other Cannabis Businesses selection process will be conducted in two phases, Phase 1 and Phase 2. In Phase 1, each Applicant interested in operating a commercial cannabis business will pay an application fee in an amount established by the City Council by resolution. The application will be reviewed for completeness by the Director of Development Services or designee.
- b. A pre-application conference with the Director of Development Services is strongly encouraged. A pre-application conference can be scheduled by calling 209-385-6858 during regular City of Merced business hours.
- c. The initial application period shall be 21 calendar days from the date the applications are released. Should the 21st day fall on a day when City Hall is closed, the application period shall be extended to the next open day at 4:00 p.m. Following the application period, the Director of Development Services or designee shall stop accepting applications and review all applications received as described in Phase 1. The Director of Development Services or designee will evaluate the applications received and determine the eligibility of each application. Each application that is complete and in compliance with the application requirements in Phase 1 shall be placed on the

'Qualified Commercial Cannabis Business Application List-All Other Cannabis Businesses' and shall be notified in writing that they are a 'Qualified Commercial Cannabis Business Applicant-All Other Cannabis Businesses'. The qualified applicants will be entered into the Phase 2 review process. The Director of Development Services shall maintain the 'Qualified Application List for All Other Cannabis Businesses'.

- d. If any of the items listed in the application process are not met, the Director of Development Services shall notify the applicant of the deficiency within thirty (30) calendar days, after which the applicant will have 10 calendar



days from receipt of notice to correct the deficiency. Should the 10th day fall on a day when City Hall is closed, the correction period shall be extended to the next open day at 4:00 p.m. If the deficiency is not corrected within 10 calendar days, the Director of Development Services may deny the permit and notify the applicant of this

determination in writing within 10 calendar days following the Director of Development Services decision. A new application, with new fees, would then be required for any subsequent consideration of that same or similar proposal at the same location.

- e. **Commercial Cannabis Business Permit-All Other Cannabis Businesses Selection - Phase 1 - Initial Review**

The Director of Development Services or designee(s) shall determine whether each application demonstrates compliance with the minimum requirements and be placed on the 'Qualified Applicant List for All Other Cannabis Businesses' and entered into the Phase 2 review process. These requirements include, but are not limited to:

- i. All Application documents required in the City's Phase 1 application package;
- ii. Application was submitted during the application period;
- iii. Application forms are filled out completely;
- iv. Business Owner(s) | Applicant(s) referenced on the application provides a Live Scan that was conducted within 14 days prior to submitting the application;
- v. Phase 1 application fee is paid; and,
- vi. A signed statement that the proposed location of the commercial cannabis business on the application meets the zoning criteria established in this ordinance including, but not limited to, any and all sensitive use separation criteria required by this ordinance.



f. **Commercial Cannabis Business Permit-All Other Cannabis Businesses Selection - Phase 2 - Final Review**

Phase 2 requirements include, but are not limited to:

- i. Phase 2 application fee is paid and a comprehensive background check of any person or entity holding an ownership interest of 5% or more, is completed to the satisfaction of the Chief of Police. Upon completion of the comprehensive background check, the Chief of Police shall have the discretion to disqualify an applicant if any of the following are discovered:
  - a) Any civil judgment(s) against any owner for torts involving dishonesty, including, but not limited to, fraud, embezzlement, theft, and breach of fiduciary duties;
  - b) Any outstanding liens and/or judgments against any owner for unpaid state, federal, or local taxes; or
  - c) Any material misrepresentation by the applicant in the application for a Commercial Cannabis Business Permit.



In the event an applicant is disqualified by the Chief of Police as provided herein, the applicant shall be given written notice of the disqualification within ten (10) days of such decision. Thereafter, the application will be removed from the Phase 2 process. The decision of the Chief of Police shall be final and there shall be no further right to appeal said decision.

- ii. The Building Official or designee has inspected all structures in which the use is located to determine that all applicable standards and requirements are met. If a building permit is required for site improvements, Permit issuance will be deferred until a certificate of occupancy or other building permit approval is issued. Additionally, the Building Official has determined that there are no notices of nuisance or other code compliance issues recorded or on the property.
- iii. The Zoning Administrator or designee has issued a Provisional Zoning Clearance documenting compliance with the following:
  - a) The use is permitted in the Zoning District;
  - b) The use meets the distance requirements from sensitive uses;

- c) All land use permits, if any, have been approved and all conditions of approval have been met or are in good standing;
  - d) No zoning violations exist on the property;
  - e) A planning and/or building permit with a receipt proving payment for processing from the City of Merced Planning Department for the property location the commercial cannabis business will occupy; and,
  - f) The Provisional Zoning Clearance shall be subject to final approval by the Planning Commission.
- iv. The Director of Development Services or designee, after reviewing the applications approved in Phase 1 and reviewing the foregoing information will make a recommendation to the Planning Commission to approve or reject the application for the Commercial Cannabis Business Permit for All Other Cannabis Businesses.
- g. **Commercial Cannabis Business Permit-All Other Cannabis Businesses Selection - Phase 2 – Planning Commission**

The Planning Commission will review the Commercial Cannabis Business applications for All Other Cannabis Businesses recommended by the Director of Development Services and all other relevant information and determine if a CCBP should be granted, granted with conditions, denied, or modified. Prior to issuing a Commercial Cannabis Business Permit for All Other Cannabis Businesses, the Planning Commission will provide all public notices and conduct a public hearing as described in the City of Merced Municipal Code Section 20.70.010 through Sections 20.70.040. No Commercial Cannabis Business Permit shall be issued otherwise.



### 3. **Minor Modifications to Pending Application for Commercial Cannabis Business Permit (All Types).**

- a. Applicants may make a written request to the Director of Development Services for a minor modification to a Commercial Cannabis Business Permit application at any point in the application process.
- b. The Director of Development Services shall have the discretion to approve minor modifications to the application. Minor modifications to an application include, but are not limited to, the following:

- i. A change to the name of the proposed business and/or entity;



- ii. A change in the organizational structure of a proposed business;

- iii. A change of owner or ownership interest, provided that any change in ownership affecting a financial interest of 5% or more shall require a new and separate background investigation, payment of fees for the costs for investigation, and must meet the requirements of Section 20.44.170(E)(1)(e);

- iv. A change in building elevations, floor plans, or site plans;

- v. A change in operational procedures or security plans or procedures;

- vi. Modifications to the parcel upon which the proposed Commercial Cannabis Business will be located, provided that the modifications do not otherwise render the parcel nonconforming to the underlying zoning district standards.

- c. The Director of Development Services will review any proposed modifications to the application and shall provide a written determination within thirty (30) days from the day the written request is received by the City. The decision of the Director of Development Services shall be final and there shall be no further right to appeal.

### 4. **Appeal of Denial of Commercial Cannabis Business Permit (All Types)**

The Planning Commission will review the Commercial Cannabis Business applications and all other relevant information, and determine if a CCBP should be granted, as provided in Sections 20.44.170(L)(1)(h) and 20.44.170(L)(2)(g) herein. If the Planning Commission determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant. Any decision of the Planning Commission may be appealed to the City Council.

- a. A written appeal shall be filed within five (5) business days (excluding official city holidays) following a Planning Commission decision.
- b. When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council. The public hearing should be heard within ninety (90) calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(4)(d).
- c. Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.
- d. Any interested person may appear and be heard regarding the appeal.
- e. A matter being heard on appeal may be continued for good cause.
- f. The City Council's review shall be a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant or deny the permit. The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.



#### 5. **Commercial Cannabis Business Permit Annual Renewal (All Types)**

- a. Applications for the renewal of a permit shall be filed with the Director of Development Services at least sixty (60) calendar days before the expiration of the current permit. Any permittee allowing their permit to lapse or which permit expired during a suspension shall be required to submit a new application, pay the corresponding original application fees and be subject to all aspects of the selection process.
- b. Any person desiring to obtain a renewal of their respective permit shall file a written application under penalty of perjury on the required form with the



Director of Development Services who will conduct a review. The application shall be accompanied by a nonrefundable filing fee established by the City Council to defray the cost of the review required by this Section. An applicant shall be required to update the information contained in their original permit application and provide any new and/or additional information as may be reasonably required by the Director of Development Services in order to determine whether said permit should be renewed. The Development Services Director, in consultation with the Selection Panel if

they were involved in the original review, will review all Commercial Cannabis Business renewal applications and all other relevant information, and determine if a renewal CCBP should be granted.

- c. The Director of Development Services or designee may deny the annual renewal of a Commercial Cannabis Business Permit if the permittee or the permittee's agent or employee has committed any one of the following acts:
  - i. Any act which would be considered a ground for denial of the permit in the first instance;
  - ii. Violates any other provision of this section or any City of Merced or State law, statute, rule or regulation relating to the business's permitted activity;
  - iii. Engages in or permits misconduct substantially related to the qualifications, functions, or duties of the permittee;
  - iv. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public;
  - v. Fails to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the operation of another business;
  - vi. Violates or fails to comply with the terms and conditions of the permit; or,
  - vii. Fails to pay all applicable City, State, or Federal taxes and fees.

**6. Appeal of Denial of Commercial Cannabis Business Permit Renewal (All Types)**

- a. The Development Services Director, in consultation with the Selection Panel if they were involved in the original review,



will review all Commercial Cannabis Business renewal applications and all other relevant information, and determine if a renewal CCBP should be granted. If the Development Services Director determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant. The applicant shall have fourteen (14) calendar days from the date of the receipt of the written denial to correct the reasons for denial and request in writing reconsideration of permit issuance. Following review of the amended permit application, the Development Services Director will approve or deny the permit by providing written notice to the applicant.

- b. Any decision of the Development Services Director may be appealed to the Planning Commission. An appeal shall be filed within five (5) business days (excluding official city holidays) following a decision by the Director of Development Services.
  - i. When an appeal has been filed, the matter shall be scheduled for a public hearing before the Planning Commission. The public hearing should be heard within ninety (90) calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(6)(b)(v).
  - ii. Notice of the hearing shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.
  - iii. Any interested person may appear and be heard regarding the appeal.
  - iv. The Planning Commission's review of the appeal shall be limited to review of the Development Services Director decision and shall not be a de nova review.
  - v. A matter being heard on appeal may be continued for good cause.
  - vi. The decision of the Planning Commission may be appealed to the City Council.
    - a) A written appeal shall be filed within five (5) business days (excluding official City holidays) following a Planning Commission decision.
    - b) When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council. The public hearing should be heard within ninety (90) calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(6)(b)(vi)(e).
    - c) Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.
    - d) Any interested person may appear and be heard regarding the appeal.
    - e) A matter being heard on appeal may be continued for good cause.
    - f) The City Council's review shall be a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant or deny the permit. The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.



## 7. Modifications to Commercial Cannabis Business Permit (All Types)

- a. A Commercial Cannabis Permit holder may make a written request to the Director of Development Services for modification of an existing permit at any time.
- b. The Director of Development Services shall have the discretion to approve minor modifications to the permit. Minor modifications to an application include, but are not limited to, the following:



- i. A change to the name of the proposed business and/or entity;
  - ii. A change in the organizational structure of a proposed business;
  - iii. A change of owner or ownership interest, provided that any change in ownership affecting a financial interest of 5% or more shall require a new and separate background investigation, payment of fees for the costs for investigation in accordance with 20.44.170(O)(7), and must meet the requirements of Section 20.44.170(E)(1)(e). Any business that is awarded points on the merit-based selection criteria for local ownership shall not be approved for any request for minor modification that proposes to reduce local ownership below the minimum threshold for which points were awarded in the first place;
  - iv. A change in building elevations, floor plans, or site plans;
  - v. A change in operational procedures or security plans or procedures;
  - vi. Modifications to the parcel upon which the proposed Commercial Cannabis Business will be located, provided that the modifications do not otherwise render the parcel nonconforming to the underlying zoning district standards.
- c. Any change to the location of a Commercial Cannabis Business after issuance of a Commercial Cannabis Business Permit may require a new application with payment of associated fees, at the discretion of the Director of Development Services. Any change to the location of a Commercial Cannabis Business shall be subject to approval by the Planning Commission. Prior to approval of a change in location of a Commercial Cannabis Business, the Planning Commission will provide all public notices and conduct a public hearing as described in the City of Merced Municipal Code Section 20.70.010 through 20.70.040.
  - d. The Director of Development Services will review any requests for modifications to the permit and shall provide a written determination within

thirty (30) days from the day the written request is received by the City. The decision of the Director of Development Services shall be final and there shall be no further right to appeal.

#### 8. Revocation of Commercial Cannabis Business Permit (All Types)

- a. The Director of Development Services or designee may suspend or revoke a Commercial Cannabis Business Permit when the permittee or the permittee's agent or employee has committed any one or more of the following acts:
  - i. Any act which would be considered a ground for denial of the permit in the first instance.
  - ii. Violates any other provision of this section or any City of Merced or State law, statute, rule or regulation relating to the business's permitted activity.
  - iii. Engages in or permits misconduct substantially related to the qualifications, functions or duties of the permittee.
  - iv. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public.
  - v. Fails to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the operation of another business.
  - vi. Violates or fails to comply with the terms and conditions of the permit.
  - vii. Fails to pay all applicable City, State, or Federal taxes and fees.
- b. Prior to suspension or revocation of the applicable permit, the Director of Development Services shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least ten (10) calendar days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery or by certified U.S. mail, postage prepaid.
- c. Any decision of the Development Services Director may be appealed to the Planning Commission. An appeal shall be filed within five (5) business days (excluding official city holidays) following a decision by the Director of Development Services.
  - i. When an appeal has been filed, the matter shall be scheduled for a public hearing before the Planning Commission. The public hearing





should be heard within ninety (90) days of receiving the appeal unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(8)(c)(v).

- ii. Notice of the hearing shall be provided to the applicant at least (ten) 10 calendar days prior to the public hearing.
- iii. Any interested person may appear and be heard regarding the appeal.
- iv. The Planning Commission's review of the appeal shall be limited to review of the Development Services Director decision and shall not be a de novo review.
- v. A matter being heard on appeal may be continued for good cause.
- vi. The decision of the Planning Commission may be appealed to the City Council.
  - a) A written appeal shall be filed within five (5) business days (excluding official city holidays) following a Planning Commission decision.
  - b) When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council. The public hearing should be heard within ninety (90) calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(8)(c)(vi)(e).
  - c) Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.
  - d) Any interested person may appear and be heard regarding the appeal.
  - e) A matter being heard on appeal may be continued for good cause.
  - f) The City Council's review shall be a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant or deny the permit. The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.



#### **M. Limitations on the City's Liability**

To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving any Commercial Cannabis Business Permit pursuant to this ordinance or the operation of any cannabis facility approved pursuant to this chapter. As a condition of approval of a Commercial Cannabis Business Permit as provided in this chapter, the applicant or its legal representative shall:

1. Execute an agreement indemnifying the City from any claims, damages, injuries or liabilities of any kind associated with the registration or operation of the commercial cannabis facility or the prosecution of the applicant or permittee or its members for violation of federal or State laws;
2. Maintain insurance in the amounts and types that are acceptable to the City Attorney or designee;
3. Name the City as an additionally insured on all City required insurance policies;
4. Agree to defend, at its sole expense, any action against the City, its agents, officers, and employees related to the approval of a Commercial Cannabis Business permit; and,
5. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to the City's approval of a Commercial Cannabis Business Permit. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

#### **N. Enforcement**

1. A violation of the regulations in this ordinance by an act, omission, or failure of an agent, owner, officer or other person acting in concert with or employed by a permittee within the scope of their employment or office, shall be deemed the act, omission, or failure of the permittee.
2. A permitted Commercial Cannabis Business shall notify the Police Chief or designee of the City of Merced upon discovery of any of the following situations:
  - a. A discrepancy of more than \$1,000 in inventory over a period of 24 hours or \$3,000 over period of 7 days.
  - b. A reason to suspect diversion, loss, theft or any other criminal activity pertaining to the operation of the commercial cannabis business.
  - c. The loss or alteration of records related to cannabis goods, registered medical cannabis patients, caregivers or dispensary employees or agents.
  - d. Any other reason to suspect any other breach of security.
3. Each and every violation of this Section shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Municipal Code. Additionally, as a nuisance per se, any violation of this article shall be subject to injunctive relief, revocation of the business's Commercial Cannabis Business Permit, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and state laws for any violations committed by the cannabis business and/or any

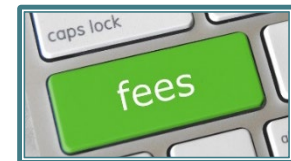


owner, agent, officer, or any other person acting in concert with or employed by the cannabis business.

4. City Officials or their designees may enter and inspect the location of any commercial cannabis business during normal business hours to ensure compliance with this Section. In addition, law enforcement may enter and inspect the location of any cannabis business and the recordings and records maintained as required by this Section, except that the inspection and copying of private medical records shall be made available to law enforcement only pursuant to a properly executed search warrant, subpoena, or court order. A person engaging in commercial cannabis business without a permit and associated unique identifiers required by this chapter shall be subject to civil penalties of up to twice the amount of the permit fee for each violation, and the department, state or local authority, or court may order the destruction of cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of cannabis associated with the violation, in addition to any amount covered by a bond required as a condition of licensure. Each day of operation shall constitute a separate violation of this section.

#### **O. Fees and Taxes**

All Cannabis Operations shall pay applicable fees and taxes, which may include one or more of the following:



1. Initial Application Fees. The Business Applicant shall submit a non-refundable fee to cover the cost of processing an initial application for the commercial cannabis business. These fees may be divided into two fees according to Initial Review (Phase 1) and Final Review (Phase 2).
2. Application Renewal Fees. The Business Owner shall submit a non-refundable fee to cover the cost of processing an application renewal annually.
3. Business License Fee. The Business Owner shall at all times maintain a current and valid business license and pay all business taxes required by the Merced Municipal Code.
4. Commercial Cannabis Regulatory Fee. The Business Owner shall pay an annual regulatory fee ("Regulatory Fee") to cover the costs of anticipated enforcement relating to the Cannabis Operation. The amount of the fee shall be set by Resolution of the City Council and be supported by the estimated additional costs of enforcement and monitoring associated with the Cannabis Operation. The Regulatory Fee shall be due and payable prior to opening for business and thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs.
5. All required taxes including sales and use taxes, business, payroll etc.

6. Additional cannabis-specific gross receipts, excise, cultivation or any other tax approved by the voters of the City of Merced.
7. Fees for background checks for businesses with more than one owner of 5% or more interest in a Commercial Cannabis Business. The application fees approved by City Council in Resolution 2021-43 account for a single owner's background check. Fees for additional owners shall be determined by the Chief of Police, approved by the Finance Officer, and updated each fiscal year. Requests for minor modifications to permits in accordance with 20.44.170(L)(7)(b)(iii) that propose changes to ownership and require background checks for new owners with 5% or more interest in a Commercial Cannabis Business will be subject to the same fees.

**P. Labor Peace Agreements**

1. All Commercial Cannabis Businesses with five (5) or more employees applying for a Commercial Cannabis Business Permit on or after November 3, 2021, shall provide the City with a notarized statement that the business will enter into, or demonstrate to the City that it has already entered into, and abide by the terms of a labor peace agreement. Such statement or demonstration shall be provided to the City as part of the application for a Commercial Cannabis Business Permit.
2. All Commercial Cannabis Business with five (5) or more employees that received a Commercial Cannabis Business Permit prior to November 3, 2021, are encouraged to provide to the City a statement or demonstration consistent with 20.44.170(P)(1) above.
3. All Commercial Cannabis Businesses with four (4) or fewer employees that apply for a Commercial Cannabis Business Permit on or after November 3, 2021, shall provide a notarized statement indicating that the applicant will enter into and abide by the terms of a labor peace agreement within 60 days of employing its 5th employee. Such statement shall be provided to the City as part of the application for a Commercial Cannabis Business Permit.
4. All Commercial Cannabis Businesses with four (4) or fewer employees that received a Commercial Cannabis Business Permit prior to November 3, 2021, are encouraged to provide to the City with a statement consistent with 20.44.170(P)(3) above

