

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #17-14 Addendum

AGENDA ITEM: 4.3

**FROM &
PREPARED BY:** Kim Espinosa,
Planning Manager

**PLANNING COMMISSION
MEETING DATE:** Nov. 8, 2017

**CITY COUNCIL
MEETING DATE:** Nov. 20, 2017
(Tentative)

SUBJECT: **Zoning Ordinance Amendment #17-01**, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would replace Merced Municipal Code Section 20.44.170 (“Medical Marijuana and Cultivation”) with a new Section 20.44.170 (“Regulation of Commercial Cannabis Activities – Commercial Cannabis Business Permit Required”); amend Section 20.10.020 and Table 20.10-1 (“Commercial Zoning Districts”); amend Section 20.12.020 and Table 20.12-1 (“Industrial Zoning Districts”); and add Land Use Table 20.44-1 to regulate all commercial cannabis activities and cultivation for personal use in the City of Merced. In general, the regulations would allow Commercial Cannabis Businesses, including cultivation, distribution, manufacturing, deliveries, and dispensaries/retail sales, in certain zones with a Commercial Cannabis Business Permit. *PUBLIC HEARING*

ACTION: PLANNING COMMISSION:

Recommendation to City Council

- 1) Environmental Review #17-10 (Categorical Exemption)
- 2) Zoning Ordinance Amendment #17-01

CITY COUNCIL:

Approve/Disapprove/Modify

- 1) Environmental Review #17-10 (Categorical Exemption)
- 2) Zoning Ordinance Amendment #17-01

SUMMARY

Due to an issue with the appointment of one of the Planning Commissioners, this item that was originally heard by the Planning Commission on October 18, 2017, will need to be reconsidered. Changes made since the previous staff report are presented in underlined or strikeout text.

After extensive public discussion over the last few years regarding the regulation of commercial cannabis (or marijuana) in the City of Merced, the City is proposing to adopt an Ordinance that would allow commercial cannabis businesses, including dispensaries/retail sales for both medical and adult/recreational use, personal and commercial cultivation, manufacturing, testing, distribution, and deliveries, in certain zones with a Commercial Cannabis Business Permit. SCI Consulting and City staff have prepared a Draft Ordinance for consideration by the Planning Commission and City Council and is recommending approval.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval to the City Council of a Categorical Exemption (Environmental Review #17-10—Attachment K) and Zoning Ordinance Amendment #17-01 (including the adoption of the Resolution at Attachment M) as described in Attachment A.

PROJECT DESCRIPTION

The City of Merced is proposing to adopt an Ordinance (Attachment A) to amend the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) by replacing Section 20.44.170 (“Medical Marijuana and Cultivation”) with a new Section 20.44.170 (“Regulation of Commercial Cannabis Activities – Commercial Cannabis Business Permit Required”); amending Section 20.10.020 and Table 20.10-1 (“Commercial Zoning Districts”); amending Section 20.12.020 and Table 20.12-1 (“Industrial Zoning Districts”); and adding Land Use Table 20.44-1 to regulate all commercial cannabis activities and cultivation for personal use in the City of Merced.

BACKGROUND

State of California

In 1996, California voters adopted Proposition 215, the Compassionate Use Act (“CUA”) as a ballot initiative, codified at Health and Safety Code Section 11362.5. The CUA allows a patient, with a doctor’s recommendation, to use cannabis for medical purposes without the fear of prosecution or arrest. In 2003, the Legislature adopted the Medical Marijuana Program Act (“MMP”), codified at Health and Safety Code Sections 11362.5 to 11362.83. The MMP allowed the establishment of medical cannabis dispensaries and allows cities to adopt and enforce local ordinances regarding the location, operation, or establishment of medical marijuana businesses.

In 2013, the California Supreme Court confirmed a city’s ability to prohibit medical marijuana dispensaries within its boundaries. The court found that the CUA and MMP do not preempt a city’s local regulatory authority. Two more decisions, *Maral v. City of Live Oak*, 221 Cal.App.4th 975 (2013) by the Court of Appeal and the 5th Appellate District’s 2015 decision in *Kirby v. County of Fresno*, further upheld local government’s authority to regulate land use.

In 2015, Governor Jerry Brown signed into law three bills (AB 266, AB 243, and SB 643) that together are entitled the Medical Marijuana Regulation & Safety Act (“MMRSA”). The three bills established a comprehensive regulatory structure around the state’s multi-billion dollar medical marijuana industry. In 2016, this law was subsequently amended and became known as the Medical Cannabis Regulation and Safety Act (“MCRSA”).

In November 2016, the voters of the State of California approved and passed Proposition 64, also known as the “Adult Use of Marijuana Act” (“AUMA”).

In June 2017, the Governor signed into law Senate Bill 94, also known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). MAUCRSA establishes a comprehensive regulatory structure for the State’s medical and adult use cannabis industries. The State is in the process of establishing detailed licensing and other regulations for such businesses in anticipation of issuing State licenses starting on January 1, 2018.

City of Merced

After several public meetings/hearings and extensive public discussion from January to July 2016, on August 1, 2016, the Merced City Council introduced Ordinance No. 2464 (which passed by a 4-3 vote) and was subsequently adopted on August 15, 2016, and was effective 30 days later on September 15, 2016.

Ordinance No. 2464 has the following provisions:

- 1) Allows medical marijuana dispensaries with a Conditional Use Permit in the C-O (Professional/Commercial Office) District and Planned Developments (P-D) with Commercial Office General Plan designations, but also places restrictions on medical marijuana dispensaries as follows:
 - a) The proposed dispensary cannot be located within 600 feet of the property line of any kindergarten, elementary school, middle school, or high school (consistent with State law);
 - b) The proposed dispensary cannot be located within 500 feet of the property line of any public park that includes playgrounds, active play areas, and/or sports fields (not including bike paths);
 - c) The proposed dispensary cannot be located within 500 feet of the property line of any youth center, City-owned and operated recreational center, or public library;
 - d) No more than four dispensaries shall be authorized to operate in the City at any given time; and,
 - e) Dispensaries must also obtain a license from the State of California to operate a dispensary prior to opening for business at a specific location in the City.
- 2) Allows deliveries of medical marijuana from licensed dispensaries during the hours of 8:00 a.m. and 7:00 p.m.; and,
- 3) Allows the indoor growth of up to six marijuana plants for personal use by qualified patients and caregivers.

The Ordinance also included language stating that the applications for medical marijuana dispensaries would not be accepted until specific regulations regarding the dispensaries had been adopted by the City Council. These include specific regulations regarding the operations of the dispensaries and objective standards for the issuance of the regulatory permit that a proposed operator must obtain prior to applying for a conditional use permit for a dispensary.

Because the City has not yet adopted specific regulations regarding the operations of dispensaries and objective standards for the issuance of regulatory permits for dispensaries, the City is currently not authorized to accept applications for regulatory permits for dispensaries or applications for a conditional use permit for dispensaries.

On February 21, 2017, the City Council approved a contract with SCI Consulting to prepare operating regulations for medical marijuana dispensaries, a dispensary selection process, a full cost recovery plan, and implementation of the dispensary selection process once adopted. Additional services included making sure that such procedures could be applied to recreational cannabis businesses based on Proposition 64 in the future, recommendations regarding testing, distribution, and manufacturing, and development of a regulatory fee for full cost recovery of the ongoing implementation of dispensary regulations.

Several Planning Commission/City Council study sessions, stakeholder meetings, and public workshops were held from April to September 2017 (see Finding B below), resulting in the Draft Ordinance at Attachment A.

FINDINGS/CONSIDERATIONS:

General Plan Policies Related to This Application

- A) The proposed zoning ordinance amendment would make changes in response to City Council direction. General Plan Implementing Action L-2.3.d calls for the City to review and update the Zoning Ordinance as needed.

Public Participation Process

- B) After the approval of the contract with SCI Consulting in February 2017, the public has had several opportunities to be involved in the process of developing the proposed ordinance. On April 17, 2017, SCI had a study session with the City Council to brief the Council and the public on the passage of Proposition 64. On May 9, 2017, stakeholder interviews and a public workshop were held to seek input on the process for developing operating regulations for medical cannabis dispensaries and public comment was received. On July 5, 2017, a Planning Commission/City Council study session was held to receive further direction on how to proceed on the ordinance along with additional public comment. On July 12, 2017, a public workshop was held to brief the public on the direction received on July 5. After several additional changes in State law occurred in late summer 2017, another Planning Commission/City Council study session was held on September 12, 2017. On September 12, the City Council and Planning Commission gave SCI and City staff direction to proceed with a Draft Ordinance that would expand the types of commercial cannabis businesses to be allowed in the City. SCI Consulting and City staff subsequently prepared a Draft Ordinance.
- C) During this process, City staff has maintained a list of interested individuals who have asked to be kept informed of the City's progress on the Draft Ordinance. Email notifications were sent to all those individuals on the mailing list of the above meetings (and tonight's public hearing) as they were scheduled. To date, this mailing list has over 85 75 names on it.

At the October 18, 2017, Planning Commission meeting, six individuals spoke in favor of the proposed ordinance. Some individuals asked the Commission to consider allowing adult use dispensaries in the C-O zone, allowing the operating hours in the C-O zone to be the same as the other zones, allowing outdoor cultivation, and to include a local preference in the Merit-Based Selection Criteria. After the meeting, staff received one letter from a member of the public asking for dispensaries to be allowed in Neighborhood Commercial (C-N) zones as well (Attachment L).

Planning Commission Meetings (October 11 and 18, 2017)

D1) On October 11, 2017, the Planning Commission held a study session on the Draft Ordinance and received a detailed overview of the Ordinance provisions. The Planning Commission had several suggestions for changes or clarifications to the Draft Ordinance. Those suggestions, which have been incorporated into the Draft Ordinance at Attachment A, which has been updated since the October 11 study session, include:

- 1) Clarifying the property owner's right to restrict cultivation for personal use on their property and requiring specific written permission to cultivate cannabis in Section 20.44.170(B);
- 2) Modifying Section 20.44.170(E)(1) dealing with criminal convictions that would preclude someone obtaining a Commercial Cannabis Business Permit;
- 3) Adding to Section 20.44.170(E)(3) to set a minimum age of 21 for owners and employees of cannabis businesses;
- 4) Allowing the minimum number of operating hours in dispensaries to be set by the Business Permit, clarifying the requirements for locked storage, requiring signs in dispensaries to spell out prohibited conduct involving cannabis, and prohibiting the use of vending machines in Section 20.44.170(F);
- 5) Clarifying whether deadlines were based on calendar days or business days and making sure that if City Hall was closed on a deadline day, that the next business day would be the deadline throughout Section 20.44.170(L); and,
- 6) Setting criteria for the denial of the Annual Renewal of the Commercial Cannabis Business Permit in Section 20.44.170(L)(4).

D2) On October 18, 2017, the Planning Commission gave direction on several items which resulted in further changes to the Draft Ordinance at Attachment A. The changes to the Draft Ordinance made since October 18 are presented in ~~strikethrough~~ and underlined text in Attachment A. Those changes include:

- 1) Further modifications to Section 20.44.170(E)(1) dealing with criminal convictions that would preclude someone obtaining a Commercial Cannabis Business Permit, which better aligns with Health and Safety Code Section 11590, but also provides clarification regarding other disqualifying convictions. Provisions have been added to allow for City discretion if a conviction is over 10 years old and the individual has no other criminal violations during that time; and,
- 2) Clarifying the requirement in Section 20.44.170(F)(25) for signs to be posted and flyers given to delivery customers [added to Section 20.44.170(G)] that outlined the prohibited conduct involving cannabis, such as consuming it in public, near a school, while driving, etc. and indicating that the City would develop a standard format and content for the sign/flyer.
- 3) Requiring a 1,000-foot distance from schools for dispensaries/retail sales. The Planning Commission had given direction for 1,000 feet from schools from all cannabis uses, but City staff is recommending that the 1,000-foot buffer only apply to dispensaries/retail sales since other commercial cannabis businesses, such as

manufacturing and cultivation, will not be open to the public and are unlikely to create a nuisance for the schools, so the 600-foot buffer should be sufficient. City staff also had some concerns that the 1,000-foot buffer would cut down the number of sites available for many uses. A preliminary estimate by City staff showed that by increasing the buffer to 1,000 feet for all uses, the number of available parcels for cannabis businesses would be reduced by up to 10 percent in the industrial zones and from 35 to 50 percent in the commercial zones. Those reductions in available sites would still apply to dispensaries/retail sales, which may still be a concern.

D3) In order to make sure that the City’s Draft Ordinance was consistent with State law in regards to the required distances from sensitive uses, City staff added three definitions to the Draft Ordinance in Section 20.44.170(C) for “school,” “day care center,” and “youth center” that match the State’s definitions. In doing that research, City staff became aware that the State requirement for a 600-foot buffer only applied to those three uses. The City’s Draft Ordinance also includes “parks,” “libraries,” and “recreational centers,” which would NOT be a State requirement, but a local one. In reviewing the State definitions, City staff determined that “recreational centers” was not needed since it falls under the “youth center” definition. City staff is still recommending “parks” and “libraries” be included in the distance requirements as outlined in the Draft Ordinance, but wanted to clarify that State law does not require specific distances from those uses.

The Draft Ordinance also includes some modifications to Section 20.44.170(L)(1)(g) regarding the “Waitlist for Dispensaries/Retail Sales” to provide greater flexibility in moving applications off the Waitlist and a prohibition against drive-through facilities for cannabis sales in Section 20.44.170(F).

E) Due to legislation (AB 133) that was just recently adopted by the State, SCI and City staff also modified the Draft Ordinance to address the fact that the State will now allow medical and adult use dispensaries to be located on the same premises. Previously the Draft Ordinance allowed for a maximum of 4 dispensaries (1 medical and 3 adult use dispensaries); and if the State law changed, it stated that the City would consider a combined use. SCI and City Staff were concerned that the medical only dispensary might be at a disadvantage with the adult use dispensaries also being allowed to have medicinal cannabis products. Therefore, the Ordinance was modified to state that the City would allow 4 dispensaries of any type, but at least one (1) of them would be required to dispense medicinal cannabis goods [see Footnote #1 of the Land Use Table in Section 20.44.170(A)]. There was also a change to the age of customers allowed on the premises due to the combined use in Section 20.44.170(F).

General Overview of Proposed Changes to the Zoning Ordinance

F) The City of Merced is proposing to adopt an Ordinance (Attachment A) to amend the Zoning Code to provide regulations for Commercial Cannabis businesses in the City. Major provisions include:

- 1) Land Use Table showing which Cannabis Businesses are allowed in each Zoning District (C-C, C-O, C-G, I-L, and I-H).
- 2) Regulations for Cultivation of Cannabis for Personal Use in Residential Zones

- 3) General Regulations & Operating Standards for All Commercial Cannabis Businesses
- 4) Additional Operating Standards for Dispensaries/Retail Sales, Delivery Services, Manufacturing, Commercial Cultivation, Testing Labs, & Distribution Businesses
- 5) Commercial Cannabis Business Permit Selection Process for:
 - a) Dispensaries/Retail Sales (Limited Number of Permits Available)
 - b) All Other Cannabis Businesses (No Limit on Number of Permits Available)
- 6) Fees and Taxes

The Findings that follow discuss the proposed Ordinance Sections in detail.

Section 20.44.170 (A)-- Zoning Compliance and Commercial Cannabis Permit Requirements

G) This Section contains Land Use Table 20.44-1, excerpted below, which spells out which zoning districts would allow the various commercial cannabis businesses with a Commercial Cannabis Business Permit. The footnotes also provide important information about the number of dispensaries, location restrictions in the City Center Area of the Regional/Central Commercial (C-C), and the distance requirements from sensitive uses, such as schools and parks. A “P” indicates where uses are Permitted and an “X” depicts where uses are Prohibited.

Commercial Cannabis Business Activities Use Type	City of Merced Municipal Code Table 20.44-1					Additional Specific Use Standards	
	Land Use Classification [4] [5]	C-C Zone	C-O Zone	C-G Zone	I-L Zone		I-H Zone
Cultivator	Greenhouse, Type A (0-5000 sf)	X	X	X	P	P	Sec. 20.44.170(I)
Cultivator	Greenhouse, Type B (5001-10000 sf)	X	X	X	P	P	Sec. 20.44.170(I)
Cultivator	Greenhouse, Type C (10,001-22,000 sf)	X	X	X	P	P	Sec. 20.44.170(I)
Nursery	Greenhouse, Type D (Over 22,000 sf)	X	X	X	P	P	Sec. 20.44.170(I)
Manufacturing	Manufacturing, non-volatile	X	X	X	P	P	Sec. 20.44.170(H)
Manufacturing	Manufacturing, volatile	X	X	X	X	P	Sec. 20.44.170(H)
Dispensary [1][2]	Pharmaceutical, medical	P	P	P	X	X	Sec. 20.44.170(F)
Dispensary [1][2]	Retail, non-medical/combined	P	X	P	X	X	Sec. 20.44.170(F)
Testing Laboratory	No Retail	P	P	P	P	P	Sec. 20.44.170(J)
Distribution [3]	Freight/Transport	X	X	P	P	P	Sec. 20.44.170(K)

Footnotes

1 - Only four (4) 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 in the C-C and C-G zones only, but in no case shall more than four (4) 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 meet 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 Commercial Cannabis Business Permit is issued, as required by Section 11362.768 of the Health and Safety Code and 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 Commercial Cannabis Business Permit is issued, as required by Section 11362.768 of the Health and Safety Code and as required in Merced Municipal Code Section 20.44.170 (E)(3)(f). ~~No Commercial Cannabis Businesses may be located within a 600-foot radius from a school, day care center, recreational center, youth center, library or public park as required in Merced Municipal Code Section 20.44.170 (E)(3)(f).~~

Maps

H) City staff prepared maps (Attachments B₁ through G₁) that show where the Regional/Central Commercial (C-C), Professional/Commercial Office (C-O), General Commercial (C-G), Light Industrial (I-L), and Heavy Industrial (I-H) zoning districts are currently located in the City along with the corresponding General Plan designations, so the Planning Commission can see both existing and future areas which may have those zoning designations. (It should be noted that since many commercial areas are actually zoned Planned Development, one must look at the General Plan designation in order to see which zoning district it is equivalent to.) For example, one map shows where all the existing C-O zones are in the City along with the location of Professional/Commercial Office (CO) General Plan designations and any Planned Development zones with a CO General Plan designation. All the maps also include the buffer areas (600 feet) from sensitive land uses, such as schools and parks. There is also a map included at Attachment C that shows the “City Center” Area within the Regional/Central Commercial (C-C) Zone.

Because the Planning Commission gave direction to look at a 1,000-foot buffer from schools only, additional maps have been included in Attachments B₂, D₂, E₂, F₂, and G₂ that show the 1,000-foot buffer from schools for comparison purposes. As noted in Finding D₂ above, City staff is recommending that the 1,000-foot buffer from schools only apply to dispensaries/retail sales and that the buffer for other commercial cannabis businesses remain at 600 feet, but that would not change the maps. If the Ordinance is adopted as recommended, the maps at Attachments B₂, D₂, E₂, F₂, and G₂ would apply to Dispensaries/Retail Sales businesses, and the maps at Attachments B₁, D₁, E₁, F₁, and G₁ would apply to all other commercial cannabis businesses.

Please note that the maps are included for illustrative purposes only and contain information that is current only up to the date of this staff report. As general plan amendments, zone changes or annexations occur, these maps are subject to change. City staff has recently added data to the maps regarding locations of day care centers and youth centers based on the State’s definition of such uses and those have also been incorporated into the maps. In preparing the revised maps above, City staff also noted a few errors in the location and identification of some schools and other sensitive uses in the older maps,

so those errors have been corrected in the revised maps. Confirmation of the distance that any proposed cannabis business is located away from schools, parks, and other uses will need to be confirmed at the time of application for a Commercial Cannabis Business Permit.

20.44.170 (B)--Cultivation of Cannabis for Personal Use in Residential Zones

- I) This Section contains provisions for personal cannabis cultivation, including:
- No more than six (6) cannabis plants, mature or immature, are permitted per residence for indoor cultivation for personal use.
 - Outdoor cultivation of cannabis is prohibited in all zones of the City.
 - Cultivation area cannot exceed 50 square feet or 10 feet in height (or be within 12 inches of the ceiling).
 - Can be in any residential structure on the property, including the main house, greenhouses, or detached accessory structures, as long as the cultivation area is fully enclosed, secure, not visible from the public right-of-way, and meets all building code requirements.
 - If the resident is not the property owner, they must have the owner's written permission specifically for cannabis cultivation and the property owner has the right to refuse or withdraw permission at any time.
 - The resident must reside full-time on the property and the premises cannot be used exclusively for cultivation.
 - Cannabis in excess of 28.5 grams must be kept in a locked space.

20.44.170 (E)--General Provisions for All Commercial Cannabis Businesses

- J) This Section spells out general provisions that are applicable to all commercial cannabis businesses in Merced. These provisions include:
- 1) Commercial Cannabis Business Permit (CCBP) Required**
 - Each business must have a Commercial Cannabis Business Permit in order to operate in the City of one of five types (Cultivation, Distribution, Manufacturing, Retail Sales/Dispensary, and Testing) and display it at all times:
 - A CCBP is valid for one year or until December 31 of each year.
 - A CCBP shall not be issued to anyone who has certain criminal convictions.
 - The CCBP is issued to a specific person or persons on the application, is non-transferable except with authorization by the City, and does not run with the land or the business.
 - 2) Maintenance of Records and Reporting**
 - All records must be retained for at least 7 years and be available with 24 hours of a request by a City official.
 - All businesses must obtain a seller's permit from the State Board of Equalization.

- Records include financial, personnel, training, contracts, permits/licenses, security, proof of insurance, and proof of building ownership or landlord/property owner written permission acknowledging the cannabis use.

3) **Operational Standards For All Commercial Cannabis Business Activities**

- Interior and exterior of the business property must be monitored by closed circuit cameras at all times, with specific requirements for those cameras and access for the Police Department via the internet.
- All controlled access areas, security rooms, all points of ingress/egress, and all point of sale (POS) areas shall have fixed camera coverage with specific requirements.
- Must have an active account with the State's "track and trace" system.
- No commercial cannabis business may be located within 600 feet of a school, day care center, ~~recreational center~~ or youth center as required by State law as well as a library, or public park (not including bike paths). Dispensaries/Retail Sales, however, will need to be 1,000 feet from a school and 600 feet from the other uses.
- Adequate parking and lighting shall be provided.
- All signage, packaging, and facilities shall be "unattractive to minors" as required by State law.
- Air treatment system required to ensure off-site odors shall not result with certain requirements, including mold control.
- Once a CCBP is issued by the City, the business has 180 calendar days to begin initial operations, unless otherwise approved by the City. If inoperative for more than 60 calendar days after initial operations, it shall be deemed abandoned and forfeited. Temporary suspensions of operations for a reasonable time can be approved.
- Testing, storage, and labeling of cannabis products shall meet State/City regulations.
- Disposal of all cannabis materials, including unsold products, shall conform with State and local regulations.
- Various requirements related to weighing devices, water usage, electrical, and plumbing
- Comprehensive general liability insurance of \$2 million minimum.
- No free samples of any cannabis or cannabis products can be given out at any time.
- Employees must wear ID badges, with specific requirements.
- Centrally-monitored fire & burglar alarm system required and monitored by a licensed alarm company licensed by the City.
- Meet all State deadlines and obtain State licenses within 6 months of the State beginning to issue licenses (may be waived if State takes longer).
- Notify the City within 10 days of applying for a State license.
- Documentation of employee safety practices:

20.44.170 (F)—Additional Regulations for Cannabis Dispensaries/Retail Sales

K) This Section spells out additional regulations for cannabis dispensaries as follows:

- Only four (4) 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 in the C-C and C-G zones only, but in no case shall more than four (4) dispensaries of any kind be allowed within the City of Merced.
- No check-cashing activities allowed.
- Only one (1) dispensary permit per person.
- Restrooms to be locked during business hours and shall not be open to the public.
- Display of cannabis products shall be limited to the amount necessary to provide visual sample for customers.
- At all times when open, at least one security guard (registered) shall be on duty and shall monitor the site/immediate vicinity to ensure patrons do not consume cannabis on the premises or nearby. The guard is permitted to carry firearms, but it is not mandated.
- All cannabis products available for sale shall be securely locked and stored.
- Medical dispensaries shall maintain patient records (name, address, phone) and a copy of the physician recommendation or State-issued card.
- Video surveillance of all point-of-sale areas and areas where goods are displayed.
- Shall be open to the public at least 40 hours per week.
- Hours in the C-O Zone are limited to no earlier than 8 a.m. and no later than 7 p.m.
- Hours in all other zones are limited to no earlier than 8 a.m. and no later than 9 p.m.
- Exterior signage is limited to one (1) wall sign of no more than 20 square feet. Interior signs may not be visible from the exterior. No temporary signs (banners, A-frames, etc.) or window signs are allowed.
- On-site consumption of cannabis or cannabis products is specifically prohibited. Signs must be posted stating such.
- Age limits for patrons as required by State law (generally over 21 for adult use and over 18 for medical patients under certain conditions).
- Adequate signage that the City has not tested or inspected any cannabis products sold.
- No recommendations from a doctor for medical cannabis to be issued on-site.
- Shipments of cannabis goods limited to regular business hours.
- No on-site sale of alcohol or tobacco products.
- No on-site consumption of food, alcohol, or tobacco by patrons.
- Inventory shall be secured in a vault or similar item during non-business hours.
- No cannabis products shall be visible from the exterior.
- All required labeling as required by the State on all products.
- No drive-through facilities are allowed and no cannabis shall be sold through a drive-through facility.

20.44.170 (G)—Additional Regulations for Commercial Cannabis Delivery Businesses

- L) This Section spells out requirements on cannabis delivery businesses, including:
- Commercial cannabis deliveries may be made only from a dispensary permitted by the City and in compliance with all State regulations.
 - All employees shall have valid ID and a copy of the CCBP at all times.
 - Proof of Insurance for at least \$1 million required for all vehicles.
 - Deliveries may only take place during the hours of 8 a.m. and 7 p.m. daily.
 - Customers must retain copies of delivery receipts if required by State law.
 - May only deliver to a physical address in California, cannot leave the State.
 - Maintenance of delivery records as required by State law.
 - Compliance with State delivery limits regarding the amounts to be delivered.
 - A manifest of all required information to accompany any delivery person.
 - Delivery vehicles shall have a dedicated GPS device to locate the vehicle as required by State law.
 - Maximum limit of cannabis products carried by the vehicle is \$3,000 at any time.
 - Specific requirements for the delivery receipt.
 - The delivery service must provide a flyer regarding prohibited conduct per Health & Safety Code Section 11362.3 to all customers.

20.44.170 (H)—Additional Requirement for Manufactured Cannabis Businesses

- M) Additional requirements for manufacturing include:
- Manufacturing activities must meet all State regulations for extractions (volatile and non-volatile), repackaging and relabeling, and infusions.
 - Any manufacturing activity to be conducted must be included in the CCBP application and no other activities can be conducted without written permission from the City.
 - Inspections by the Fire Chief may be conducted anytime during business hours.
 - No exhibition, product sales area, or retail distribution.
 - All activities must occur entirely indoors within a fully enclosed and secured building.
 - An 8-foot high min. security fence with lockable gate required around the premises
 - Outdoor manufacturing is prohibited.

20.44.170 (I)—Additional Requirements for Commercial Cannabis Cultivation Businesses

- N) Additional regulations for commercial cannabis cultivation include:
- Registration with State Department of Pesticide Regulation if pesticides are used.
 - From the public right-of-way, there shall be no public evidence of cannabis cultivation.
 - Compliance with California Building and Fire Codes and the State Water Code.
 - All outdoor lighting for security shall be shielded and directed downward.
 - The use of generators for cultivation is prohibited.
 - Cannabis plants shall NOT be visible from the public right-of-way.
 - All cannabis cultivation must occur inside a fully enclosed and secured structure and within an 8-ft high security fence around the premises.
 - Outdoor Cannabis Cultivation is expressly prohibited.

20.44.170 (J)—Additional Requirements for Cannabis Testing Laboratories

- O) Cannabis testing laboratories must do the following:
- Must follow all State Regulations and maintain all certifications for a testing facility.
 - A licensed testing facility business, its owners, and employees may NOT hold an interest in any other cannabis business except for another testing business.
 - Inspections by the Fire Chief may be conducted at any time during regular business hours.

20.44.170 (K)—Additional Requirements for Cannabis Distribution Businesses

- P) Additional regulations for cannabis distribution businesses include:
- Must comply with all State Regulations.
 - Proof of bond for at least \$5,000 to cover cost of cannabis destruction.
 - Inspections by Police Chief may be conducted during business hours.
 - All cannabis goods batches must be stored separately and distinctly from other batches on the premises.
 - Specific labeling requirements on all shipments.
 - Harvest batches and edible products to be stored at 35 to 45 degrees Fahrenheit.
 - Harvest batches must be stored in dark area with no more than 60% humidity.
 - Temperature/humidity controls required. No outdoor storage allowed.
 - Employee break areas must be separated from cannabis storage areas.
 - Must take place in fully-enclosed and secured structure.
 - If in a C-G Zone, must be on a parcel no less than 20,000 square feet and all loading and unloading must take place within the fence.

20.44.170 (L)--Commercial Cannabis Business Permit (CCBP) Selection Process

- Q) This Section deals with the process for issuing Commercial Cannabis Business Permits in six specific areas:
1. Selection Process for Dispensaries/Retail Sales (Limited Number of Permits Available) (Conducted in 2 Phases)
 2. Selection Process for All Other Commercial Cannabis Businesses (No Limits on the Number of Permits Available) (Conducted in 2 Phases)
 3. Appeal of Denial of Commercial Cannabis Business Permit (All Types)
 4. Commercial Cannabis Business Permit Annual Renewal (All Types)
 5. Appeal of Denial of Commercial Cannabis Business Permit Renewal (All Types)
 6. Revocation of Commercial Cannabis Business Permit (All Types)
- R) **Selection Process for Dispensaries/Retail Sales (Limited Number of Permits Available)**
- Phase 1—Initial Review**
- Initial Application Period is 21 calendar days and then application period is closed.
 - Director of Development Services reviews all applications for completeness.

- Each application that is deemed complete and in compliance with minimum eligibility requirements is placed on the “Qualified CCBP Application List—Dispensaries/Retail Sales” and notified in writing. All qualified applicants enter Phase 2.
- Any deficient applications shall be notified in writing within 21 calendar days and are given 10 calendar days to correct any deficiencies. If the deficiency is not corrected, the Director may deny the permit and notify the applicant within 10 calendar days.
- All applications received after the Initial Application Period will be placed on the “Waitlist for Dispensaries/Retail Sales.”
- Applications on the Waitlist will be moved to the “Qualified List” ~~on a 1 to 1 basis~~ only if the application passes Phase 1 and the number of qualified applicants falls below 5 if a CCBP becomes available, whether by creation of a new license or the forfeiture of an existing one.
- Same provisions apply to deficient applications as above.

Phase 2—Final Review and Scoring

- A Selection Panel, composed of the City Manager, Police Chief, and Director of Development Services or their Designees, is convened to make the final decision, based on the Merit-Based Scoring System, to determine which are the top 4 applications to recommend to the Planning Commission for the CCBP—Dispensaries/Retail Sales.
- Phase 2 requirements include additional background checks of all owners:
- Planning Commission will conduct public hearings and determine if the CCBP—Dispensaries/Retail Sales should be issued.

S) **Selection Process for All Other Commercial Cannabis Business Permits (No Limits on the Number of Permits Available)**

- Commercial Cannabis Business Permit (CCBP)—All Other Cannabis Businesses Process is the same as the CCBP Selection Process for Dispensaries/Retail Sales (2 Phases) except:
 - The Waitlist process can be suspended by the Director of Development Services if deemed not necessary based on the number of applications.
 - No Selection Panel is convened for Phase 2; the Director of Development Services makes the recommendation to the Planning Commission.
- The Planning Commission makes the decision on whether the CCBP should be granted.

T) The rest of this Section spells out procedures for appeals of a denial of a CCBP, annual renewals for a CCBP, appeals of a denial of an annual renewal, and revocation/suspension of a CCBP. In general, actions taken by the Director of Development Services can be appealed to the Planning Commission and Planning Commission actions can be appealed to the City Council, whose decision is final.

CCBP Flow Chart, Merit-Based Scoring System, and Sample Application

U) A Flow Chart that describes the process for issuing a Commercial Cannabis Business Permit (CCBP) is included at Attachment H (Revised since October 18). A Draft of the

Merit-Based Scoring System used to score the applications for the four dispensary permits is included at Attachment I (Revised). A Draft sample of one of the application forms for a Commercial Cannabis Business Permit is also included at Attachment J (Revised). The Merit-Based Scoring System and application forms are still being refined and have been substantially modified since the October 18 meeting, but SCI and City Staff wanted to show the Planning Commission the Drafts in case the Commission has any suggestions or changes to offer. Regarding the Merit-Based Scoring System, more clarification about how the points will be awarded for each criteria, such as what experience or program will lead to a higher number of points being awarded, will be has been provided in the revised Attachment I, but City staff anticipates that the Merit-Based Criteria will continue to be refined in the future.

20.44.170 (O)--Fees and Taxes

V) Applicable Fees and Taxes for Commercial Cannabis Businesses include:

- Initial Application Fees for Initial Review (Phase 1) and Final Review (Phase 2) (Due at Initial Application for CCBP and to be adopted by the City Council by Resolution).
- Application Renewal Fees (due annually and to be adopted by the City Council by Resolution).
- Commercial Cannabis Regulatory Fee to cover the costs of enforcement and monitoring (due annually and to be adopted by the City Council by Resolution).
- All required taxes, including sales and use Taxes, business, payroll, etc.
- Additional cannabis-specific gross receipts, excise, cultivation, or other tax approved by the voters of Merced.

Although not included in the Draft Ordinance, by signing the application forms (sample at Attachment J), applicants will need to agree to participate in paying their pro-rata share of the cost of a ballot measure to create a specific tax for commercial cannabis businesses.

The draft application fees and annual regulatory fees are still being reviewed by City staff and will likely be presented to the City Council for adoption in late 2017. The fees will be based on the amount of staff time and expenses relating to processing the applications or conducting inspections of operating facilities.

Timetable/Next Steps

W) This proposed Ordinance will be considered by the Planning Commission at a public hearing on ~~October 18~~ November 8, 2017. The City Council public hearing is tentatively scheduled for November 20, 2017, with a second reading on December 4, 2017. The ordinance, if approved, would become effective 30 days after that or on January 4, 2018. The City Council will need to adopt application fees for Commercial Cannabis Business Permits as well as the annual Commercial Cannabis Regulatory Fee by Resolution. Deadlines for the initial applications for Commercial Cannabis Business Permits will need to be established (will likely be after the effective date of the Ordinance). Work will need to begin on a tax measure for the November 2018 ballot if that is desired.

Environmental Clearance

- X) The Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (i.e., no further environmental review is required) is being recommended (see Attachment K).

Attachments:

- A) Proposed Ordinance (Revised)
- B) Map of Regional/Central Commercial Areas with Buffers from Sensitive Uses
 - 1) 600 feet from All Sensitive Uses (Revised)
 - 2) 1,000 feet from Schools and 600 feet from All Other Sensitive Uses (New)
- C) Map of “City Center” Area of the Central Commercial Zone
- D) Map of Commercial Office Areas with Buffers from Sensitive Uses
 - 1) 600 feet from All Sensitive Uses (Revised)
 - 2) 1,000 feet from Schools and 600 feet from All Other Sensitive Uses (New)
- E) Map of General Commercial Areas with Buffers from Sensitive Uses
 - 1) 600 feet from All Sensitive Uses (Revised)
 - 2) 1,000 feet from Schools and 600 feet from All Other Sensitive Uses (New)
- F) Map of Light Industrial Areas with Buffers from Sensitive Uses
 - 1) 600 feet from All Sensitive Uses (Revised)
 - 2) 1,000 feet from Schools and 600 feet from All Other Sensitive Uses (New)
- G) Map of Heavy Industrial Areas with Buffers from Sensitive Uses
 - 1) 600 feet from All Sensitive Uses (Revised)
 - 2) 1,000 feet from Schools and 600 feet from All Other Sensitive Uses (New)
- H) Flow Chart of Commercial Cannabis Business Permit Process (Revised)
- I) Draft Merit-Based Selection Criteria (Revised)
- J) Sample of a Commercial Cannabis Business Permit Application (Revised)
- K) Notice of Exemption (Environmental Review #17-10)
- L) Letter from Mark Yandow (10/26/17)
- M) Draft Planning Commission Resolution (Revised)

ORDINANCE NO. **XXXXX**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED,
CALIFORNIA, REPLACING 20.44.170 (“MEDICAL MARIJUANA AND
CULTIVATION”); AMENDING SECTION 20.10.020 AND TABLE 20.10-1
 (“COMMERCIAL ZONING DISTRICTS”), AND AMENDING SECTION 20.12.020
 AND TABLE 20.12-1 (“INDUSTRIAL ZONING DISTRICTS”) OF THE MERCED
 MUNICIPAL CODE; AND ADDING LAND USE TABLE 20.44-1 TO REGULATE ALL
 COMMERCIAL CANNABIS ACTIVITIES AND CULTIVATION FOR PERSONAL USE
 IN THE CITY OF MERCED**

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

SECTION 1: Findings. The City Council finds and declares as follows:

- A. In 1996, the California electorate approved Proposition 215, the Compassionate Use Act which allows a patient, with a doctor’s recommendation, to use cannabis for medical purposes without the fear of prosecution or arrest; and
- B. In 2003, the California legislature passed Senate Bill 420 (Medical Marijuana Program Act) which amended the Health and Safety Code to permit the establishment of medical cannabis dispensaries for the distribution of cannabis for medical purposes; and
- C. In 2005, the California Board of Equalization began issuing seller’s permits for sales consisting of medical cannabis; and
- D. In 2008, the California Attorney General issued guidelines for the security and non-diversion of cannabis grown for medical use; and
- E. In 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Marijuana Regulation and Safety Act (“MMRSA”) further amended in 2016 as the Medical Cannabis Regulation and Safety Act (“MCRSA”), which established regulations and a state licensing system for medical cannabis cultivation, manufacturing, delivery, and dispensing; and
- F. In 2016, the voters of the State of California approved and passed Proposition 64 also known as the Adult Use of Marijuana Act (“AUMA”); and
- G. In 2017, the Governor signed into law Senate Bill 94 also known as Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA); and
- H. Health & Safety Code Section 11362.83 provides that cities are free to adopt and enforce local ordinances that regulate the location, operation, or establishment of medical cannabis; and
- I. After studying various alternatives for the regulation of commercial cannabis considering input from stakeholders and a public hearing, and reviewing the legal status of cannabis under applicable law, the City Council finds that the regulation of commercial cannabis activities is necessary to protect the public health, safety, and welfare by mitigating the adverse secondary effects from the operations of these uses; and

- J. The City of Merced has a compelling interest in ensuring that cannabis is not distributed in an illicit manner, in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which these uses may operate, and in providing access of cannabis to residents; and
- K. The proposed Ordinance has been reviewed by City staff in accordance with the Environmental Checklist Form (Appendix G of the CEQA Guidelines) to determine if there would be any possibility that the proposed ordinance would create any significant environmental impacts, and City staff has determined that the establishment of regulations for commercial cannabis businesses do not meet any of the thresholds contained in the Checklist that would trigger a significant environmental impact, and thus according to the “general rule exemption” (Section 15061(b)(3) of the CEQA Guidelines, projects which have no potential for causing a significant effect on the environment are not subject to CEQA, no further environmental analysis is required.

SECTION 2: Authority

This Ordinance is adopted pursuant to the authority granted by the California Constitution and State law, including by not limited to, Article IX, Section 7 of the California Constitution, the Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5), the Medical Marijuana Program (California Health and Safety Code Section 11362.7 et seq.), the Medical Marijuana Regulation and Safety Act (AB 266, AB 243, and SB 643; hereafter “MMRSA”), the Adult Use of Marijuana Act (Proposition 64), and the Medical and Adult Use Cannabis Regulation and Safety Act (SB 94; hereafter “MAUCRSA”).

SECTION 3: Purpose and Intent

The purpose and intent of this section is to regulate commercial cannabis business activities in order to ensure the health, safety and welfare of the residents of the City of Merced by establishing regulations necessary for a commercial cannabis business to obtain and maintain a Commercial Cannabis Business Permit (CCBP). Any commercial cannabis businesses operating in the City of Merced shall at all times be in compliance with current State Law and this ordinance. All commercial cannabis facilities shall operate in accordance with the regulations in this ordinance and with the conditions of approval associated with the applicable zone for the parcel of real property upon which the commercial cannabis activities are conducted. Any commercial cannabis business shall qualify for and receive a Commercial Cannabis Business Permit from the City of Merced as provided by this ordinance and operate only in a zone in compliance with Title 20 of the Merced Municipal Code before commencing with any commercial cannabis activity. Any commercial cannabis business without a Commercial Cannabis Business Permit is in violation of this ordinance. The regulations in this article, in compliance with the Compassionate Use Act, the Medical Marijuana Program Act, SB 94, Proposition 64, and the California Health and Safety Code (collectively referred to as “State Law”) do not interfere with the right to use cannabis or medical cannabis as authorized under State Law, nor do they criminalize the possession or commercial activities of cannabis or medical cannabis as authorized under State Law. This ordinance also provides regulations for the cultivation of cannabis for personal use within the City of Merced to ensure the health, safety, and welfare of the residents of the City of Merced.

SECTION 4. Amendments of Chapters 20.10 and 20.12.

Table 20.10-1 “Permitted Land Uses in the Commercial Zoning Districts” in Section 20.10.020 of the Merced Municipal Code and Table 20.12-1 “Permitted Land Uses in the Industrial Zoning Districts” in Section 20.12.020 of the Merced Municipal Code under “Medical Marijuana Dispensaries” shall be amended to read as follows: “Refer to Table 20.44-1 in Section 20.44.170 for Permitted Land Uses for All Commercial Cannabis Business Activities.”

SECTION 5. Amendment of Chapter 20.44.170

The City of Merced hereby repeals Section 20.44.170 (“Medical Marijuana and Cultivation”) of the Merced Municipal Code in its entirety, and replaces it with the amended Section 20.44.170 as set forth below.

20.44.170 – REGULATION OF COMMERCIAL CANNABIS ACTIVITIES – COMMERCIAL CANNABIS BUSINESS PERMIT REQUIRED

20.44.170(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, 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.

DRAFT FOR PLANNING COMMISSION CONSIDERATION—11/8/17

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

Footnotes

- 1 - Only four (4) 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 in the C-C and C-G zones only, but in no case shall more than four (4) 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 meet 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 Commercial Cannabis Business Permit is issued, as required by Section 11362.768 of the Health and Safety Code and 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 Commercial Cannabis Business Permit is issued, as required by Section 11362.768 of the Health and Safety Code and ~~No Commercial Cannabis Businesses may be located within a 600 foot radius from a school, day care center, recreational center, youth center, library or public park~~ 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

20.44.170(B): Cultivation of Cannabis for Personal Use in Residential Zones

1. 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 CO₂, 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 of cannabis is expressly prohibited in all zones and districts of the City of Merced.

20.44.170(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.

~~12.~~13. **“Delivery”** means the commercial transfer of marijuana or marijuana 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 marijuana or marijuana products.

~~13.~~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.

~~14.15.~~ **“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.

~~15.16.~~ **“Display”** means cannabis goods that are stored in the licensed dispensary's retail area during the hours of operation.

~~16.17.~~ **“Display case”** means container in the licensed dispensary retail area where cannabis goods are stored and visible to customers.

~~17.18.~~ **“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.

~~18.19.~~ **“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.

~~19.20.~~ **“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.

~~20.21.~~ **“Free sample”** means any amount of cannabis goods provided to any person without cost or payment or exchange of any other thing of value.

~~21.22.~~ **“Indoors”** means within a fully enclosed and secure structure as that structure is defined above in 20.44.170(C), Subsection 19.

~~22.23.~~ **“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.

~~23.24.~~ **“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.

~~24.25.~~ **“Medical”** or **“Medicinal”** have the same meaning under the terms of this ordinance.

- ~~25-26.~~ **“Medical cannabis goods”** means cannabis, including dried flower, and manufactured cannabis products.
- ~~26-27.~~ **“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.
- ~~27-28.~~ **“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.
- ~~28-29.~~ **“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.
- ~~29-30.~~ **“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.
- ~~30-31.~~ **“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.
- ~~31-32.~~ **“Owner” or “Ownership interest”** means an interest held by a person 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.
- ~~32-33.~~ **“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.
- ~~33-34.~~ **“Patient or qualified patient”** shall have the meaning given that term by California Health and Safety Code and possesses a valid physician’s recommendation.
- ~~34-35.~~ **“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.
- ~~35-36.~~ **“Pest”** means undesired insect, rodent, nematode, fungus, bird, vertebrate, invertebrate, weed, virus, bacteria, or other microorganism that is injurious to human health.

~~36-37.~~ **“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.

~~37-38.~~ **“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.

~~38-39.~~ **“Pre-roll”** means dried cannabis flower rolled in paper prior to retail sale.

~~39-40.~~ **“Primary Caregiver”** has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.

~~40-41.~~ **“Private security officer”** has the same meaning as that term as defined in the State of California Business and Professions Code section 7574.01.

~~41-42.~~ **“Publicly owned land”** means any building or real property that is owned by a city, county, state, federal, or other government entity.

~~42-43.~~ **“Purchase”** means obtaining cannabis goods in exchange for consideration.

~~43-44.~~ **“Purchaser”** means a person who is engaged in a transaction with a licensee for purposes of obtaining cannabis goods.

~~44-45.~~ **“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.

~~45-46.~~ **“Retail area”** means a building, room, or other area upon the licensed dispensary premises in which cannabis or other goods are sold or displayed.

~~47.~~ **“School”** means any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes or as otherwise provided in Health and Safety Code Section 11362.768(h).

~~46-48.~~ **“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.

~~47-49.~~ **“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.

~~48-50.~~ **“Sublet”** means to lease or rent all or part of a leased or rented property.

~~49-51.~~ **“State”** means the State of California.

~~50-52.~~ **“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

~~54-53.~~ **“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.

~~52-54.~~ **“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.

~~55.~~ **“Wholesale”** means the sale of cannabis goods to a distributor for resale to one or more dispensaries.

~~53-56.~~ **“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).

20.44.170(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.

20.44.170(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 or corporation 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. 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 associated with an individual, with felony convictions, as specified in subdivision (c) of Section 667.5 of the Penal Code and subdivision (c) of Section 1192.7 of the Penal Code; with criminal convictions that substantially relate to the qualifications, functions, or duties of the business or profession, including a felony conviction involving fraud, deceit, or embezzlement, or with a criminal conviction for the sale or provision of illegal controlled substances to a minor.—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 667.5(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 relate 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.](#)

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

f.g. A Commercial Cannabis Business Permit is not transferable except under the terms of Merced Municipal Code Section 20.44.170(L)(4)(c), and does not run with the land or with the business. Any change to the business location, organizational structure, or ownership may require a new application with associated fees at the discretion of the Director of Development Services or designee.

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 Commercial Cannabis Business Permit is issued, as required by Section 11362.768 of the Health and Safety Code. 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, ~~recreational center~~, youth center, library, or public park that is in existence at the time the Commercial Cannabis Business Permit is issued, as required by Section 11362.768 of the Health and Safety Code. 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.
- 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 when the permittee applies for that initial permit or if the permittee applies for any additional State licenses. 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.

20.44.170(F): Additional Regulations for Dispensary and Retail Sales of Cannabis

1. Only four (4) 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 in the C-C and C-G zones only, but in no case shall more than four (4) 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, the cannabis dispensary is open, 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 9 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.

26-27. No drive-through facilities shall be allowed and no cannabis shall be sold through a drive-through facility.

20.44.170(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.
 - 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.
 - 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.

20.44.170(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 his 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. Outdoor manufacturing of cannabis is expressly prohibited.

20.44.170(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. Outdoor cultivation of cannabis is expressly prohibited.

20.44.170(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 his designee may be conducting anytime during the business's regular business hours.

20.44.170(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 his designee may be conducting 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.
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,
 - b. All loading and unloading activities shall take place within the secured fenced area required above.

20.44.170(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.
- 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. The Director of Development Services shall maintain the “Qualified Application List”.
- 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 21 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. All Cannabis applications received after the initial application period will be placed on the “Waitlist for Dispensaries/Retail Sales” in the order it is received. Applicants placed on the “Waitlist” shall be notified in writing of their “Waitlist” status.
- g. Cannabis applications placed on the “Waitlist for Dispensaries/Retail Sales” will be moved to the “Qualified Applicant List for Dispensaries/Retail Sales” only if the application passes the Phase 1 review and when a Commercial Cannabis Business Permit for Dispensaries/Retail Sales becomes available, whether by creation of a new license, or the forfeiture of an existing one. ~~on a one for one basis only if the application passes the Phase 1 review and when the number of applicants on the “Qualified Applicant List for Dispensaries/Retail Sales” falls below five, and will be notified of the change in writing.~~ Applicants moved to the “Qualified Applicant List for Dispensaries/Retail Sales” from the Waitlist will be notified of the change in writing. If the Director of Development Services

or designee determines the application is incomplete, the Director of Development Services shall notify the applicant of the deficiency within 21 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.

h. 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 provides a Live Scan that was conducted within 14 days prior to submitting the application.
- v. Phase 1 application fee is paid.
- 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.

i. Commercial Cannabis Business Permit—Dispensaries/Retail Sales Selection - Phase 2 – Final Review and Scoring

The Director of Development Services or his 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, to make the final decision, based on the merit-based scoring system, of successful applicants to recommend to the Planning Commission for the Commercial Cannabis Business Permit—Dispensaries/Retail Sales. 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 as well as complete description of the merit based system and all merit based considerations shall be included with the application forms. Phase 2 requirements include, but are not limited to:

- i. Phase 2 application fee is paid and a comprehensive background check of anyone holding an ownership interest is completed to the satisfaction of the Chief of Police.
- 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 Zoning Clearance documenting compliance with the following:
 - a. The use is permitted in the Zoning District and meets the distance requirements from sensitive uses; and,
 - b. All land use permits, if any, have been approved and all conditions of approval have been met or are in good standing; and,
 - c. No zoning violations exist on the property; and,
 - d. 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.
 - j. The Planning Commission will review all Commercial Cannabis Business Permit—Dispensaries/Retail Sales applications and all other relevant information and determine if a CCBP should be granted. 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/Retail 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 21 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. All Cannabis applications received after the initial application period will be placed on the “Waitlist for All Other Cannabis Businesses” in the order it is received. Applicants placed on the “Waitlist” shall be notified in writing of their “Waitlist” status.
- f. Cannabis applications placed on the “Waitlist for All Other Cannabis Businesses” will be moved to the “Qualified Applicant List for All Other Cannabis Businesses” on a one for one basis only if the application passes the Phase 1 review and when the number of applicants on the “Qualified Applicant List” falls below five, and will be notified of the change in writing. At any time, the Director of Development Services may suspend the requirement for a “Waitlist for All Other Cannabis Businesses” if the number of applications does not merit the need for the “Waitlist.” If the Director of Development Services or designee determines the application is incomplete, the Director of Development Services shall notify the applicant of the deficiency within 21 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.

g. 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.
- 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.

h. Commercial Cannabis Business Permit—All Other Cannabis Businesses Selection - Phase 2 – Final Review

The Director of Development Services or his designee, after reviewing the applications approved in Phase 1 and reviewing the information below 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.

- i. Phase 2 application fee is paid and a comprehensive background check of anyone holding an ownership interest is completed to the satisfaction of the Chief of Police.
- 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 Zoning Clearance documenting compliance with the following:
 - a. The use is permitted in the Zoning District and meets the distance requirements from sensitive uses; and,
 - b. All land use permits, if any, have been approved and all conditions of approval have been met or are in good standing; and,
 - c. No zoning violations exist on the property; and,
 - d. 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.
- i. The Planning Commission will review all Commercial Cannabis Business applications for All Other Cannabis Businesses and all other relevant information and determine if a CCBP should be granted. 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. Appeal of Denial of Commercial Cannabis Business Permit (All Types)

The Planning Commission will review all Commercial Cannabis Business applications and all other relevant information, and determine if a CCBP should be granted. 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 within thirty (30) calendar days of receiving the appeal.

- 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 of the appeal shall be limited to review of the Planning Commission decision and shall not be a de novo review. At the conclusion of the hearing, the City Council may affirm, reverse or modify the decision appealed. 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.

4. 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. A Commercial Cannabis Business Permit holder may file a request to transfer ownership of the business. The request shall be made to the Director of Development Services. The request must be in writing and must be at least 60 days prior to the transfer. The Director of Development Services shall review the request and may require additional background material on the proposed new owner. The Director of Development Services shall notify the permit holder in writing along with the reason for approval or denial of the transfer. The original term of the Commercial Cannabis Business Permit shall stay in effect including the renewal date.
- d. 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.
- vii. Fails to pay all applicable City, State, or Federal taxes and fees.

5. 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 within thirty (30) calendar days of receiving the appeal.
 - 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 within thirty (30) calendar days of receiving the appeal.
 - 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 of the appeal shall be limited to review of the Planning Commission decision and shall not be a de novo review. At the conclusion of the hearing, the City Council may affirm, reverse or modify the decision appealed. 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.

6. 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 within (thirty) 30 days of receiving the appeal.
 - 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.
 - vii. 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 within thirty (30) calendar days of receiving the appeal.
 - 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 of the appeal shall be limited to review of the Planning Commission decision and shall not be a de novo review. At the conclusion of the hearing, the City Council may affirm, reverse or modify the decision appealed. 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.

20.44.170(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.

20.44.170(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.

20.44.170(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.

SECTION 6 : SEVERABILITY

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

SECTION 7. PUBLICATION.

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

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ____ day of _____, 2017, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2017, by the following called vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

APPROVED:

MAYOR

**ATTEST:
STEVE CARRIGAN, CITY CLERK**

**BY: _____
Assistant City Clerk**

(SEAL)

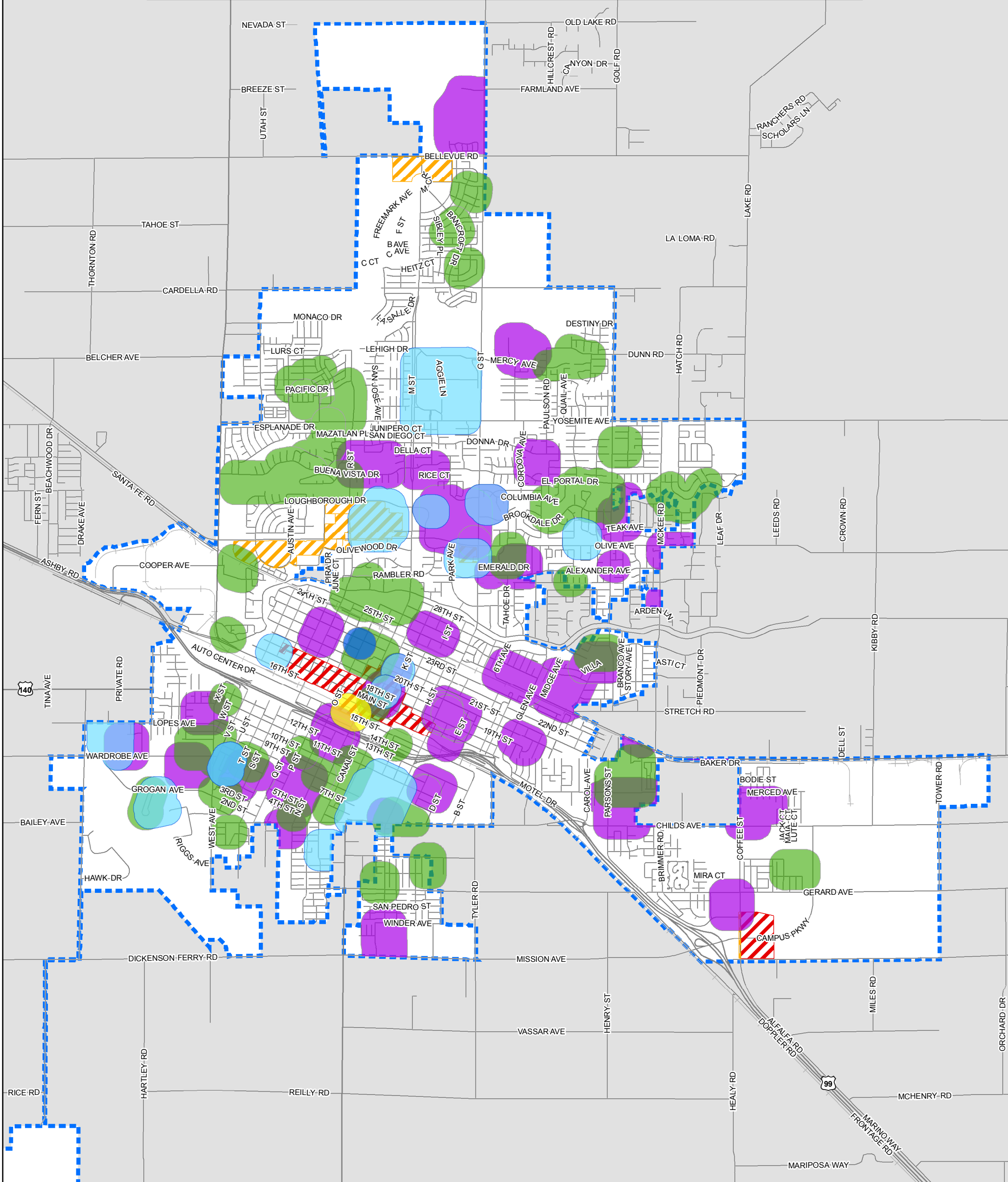
APPROVED AS TO FORM

City Attorney

Date

DRAFT

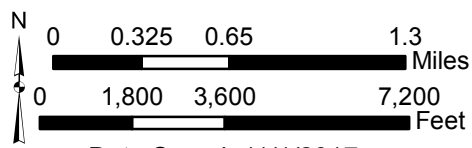
REGIONAL/CENTRAL COMMERCIAL 600 FEET FROM SCHOOLS



Potential Marijuana Dispensaries

Legend

- McCombs Youth Center - 600 FT Buffer
- Youth Center And Day Care Centers - 600 FT Buffer
- Public Libraries - 600 FT Buffer
- Parks - 600 FT Buffer
- Schools - 600FT Buffer
- Planned Development (P-D) With Regional/Community Commercial (RC)
- Central Commercial (C-C) Within Regional/Community Commercial (RC)

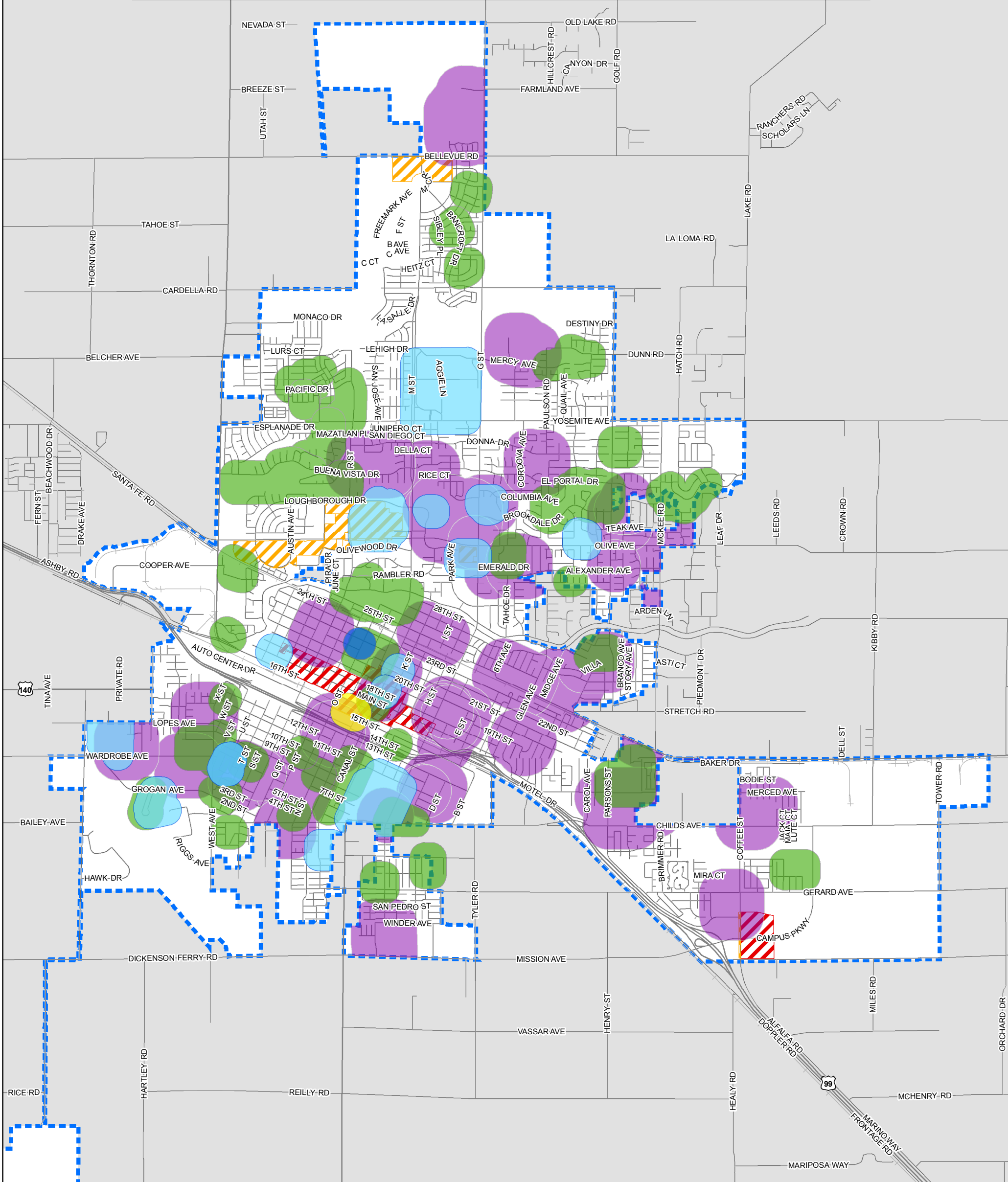


Date Saved: 11/1/2017

Disclaimer: This document was prepared for general inquiries only. The City of Merced is not liable for errors or omissions that might occur. Official information concerning specific parcels should be obtained from recorded or adopted City documents.

ATTACHMENT B1

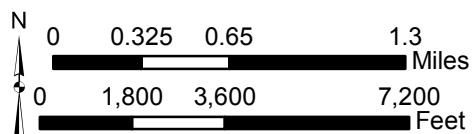
REGIONAL/CENTRAL COMMERCIAL 1,000 FEET FROM SCHOOLS



Potential Marijuana Dispensaries

Legend

- McCombs Youth Center - 600 FT Buffer
- Youth Center And Day Care Centers - 600 FT Buffer
- Public Libraries - 600 FT Buffer
- Parks - 600 FT Buffer
- Schools - 1000FT Buffer
- Planned Development (P-D) With Regional/Community Commercial (RC)
- Central Commercial (C-C) Within Regional/Community Commercial (RC)

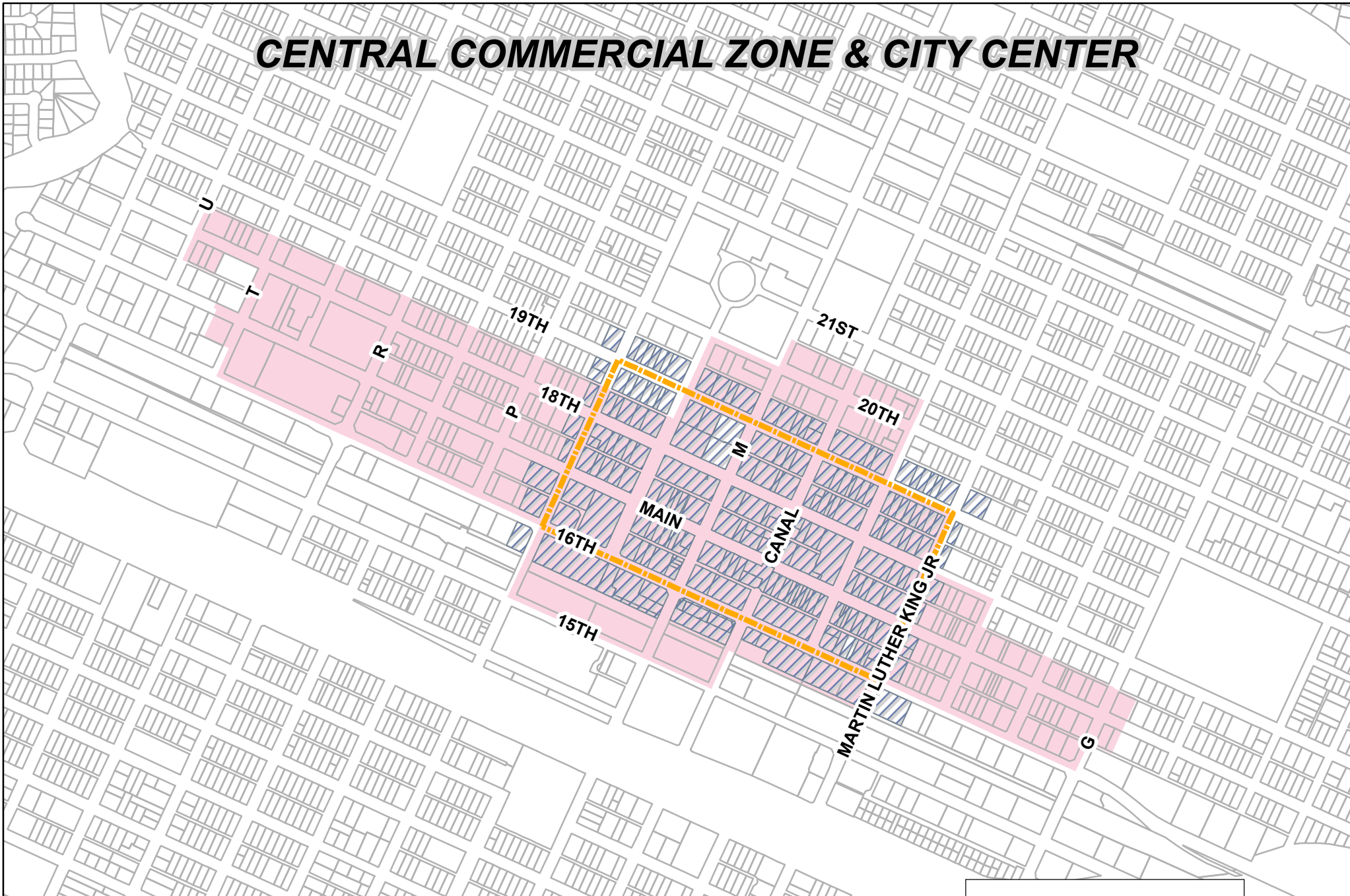


Date Saved: 11/1/2017




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ATTACHMENT B2

CENTRAL COMMERCIAL ZONE & CITY CENTER



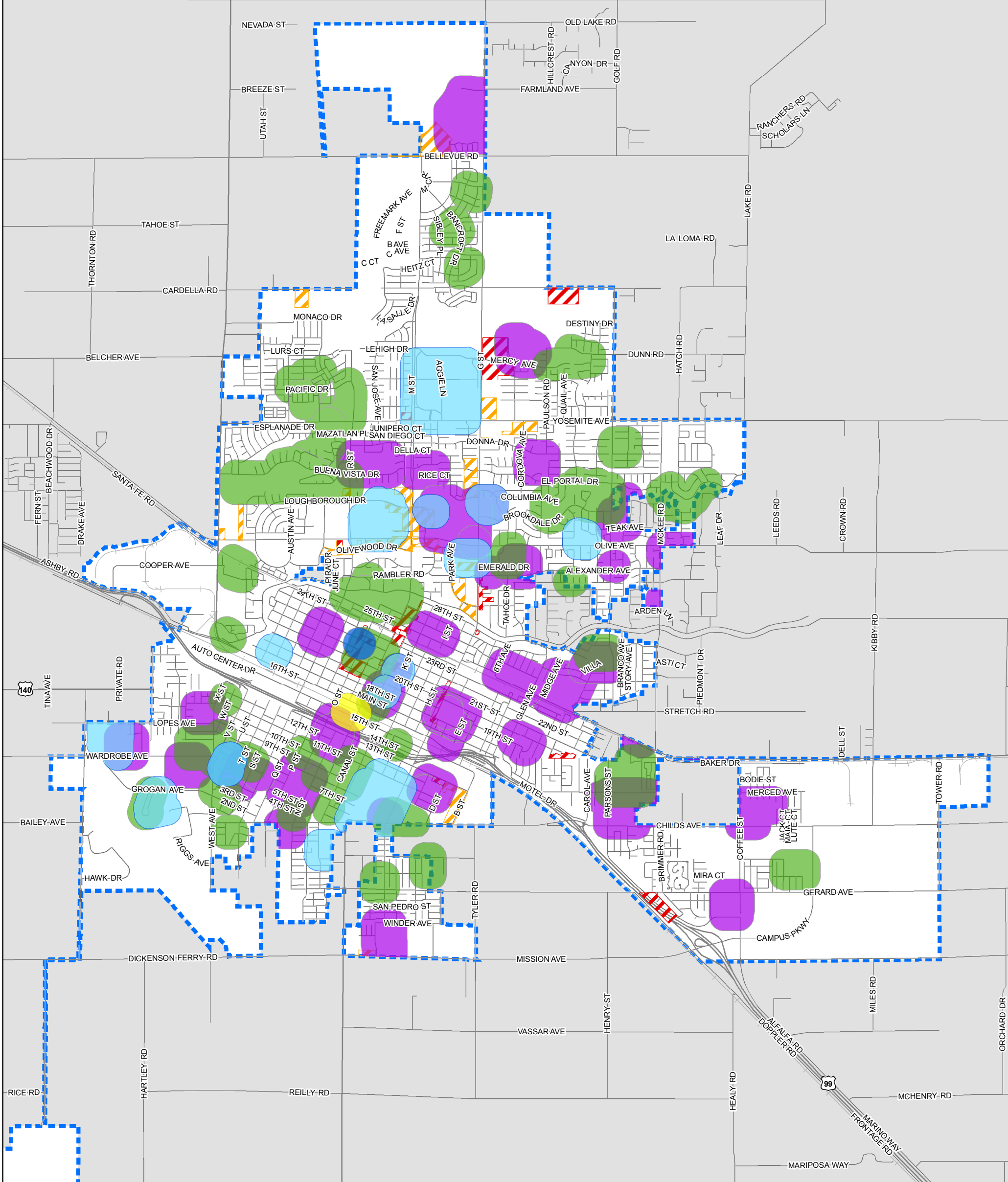
CITY CENTER: The area between 19th and 16th Streets and O Street and Martin Luther King, Jr. Way, including properties fronting on either side of each of these streets.

-  Parcels in City Center
-  City Center Boundary
-  C-C Zone



ATTACHMENT C

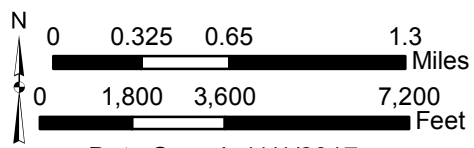
COMMERCIAL OFFICE 600 FEET FROM SCHOOLS



Potential Marijuana Dispensaries

Legend

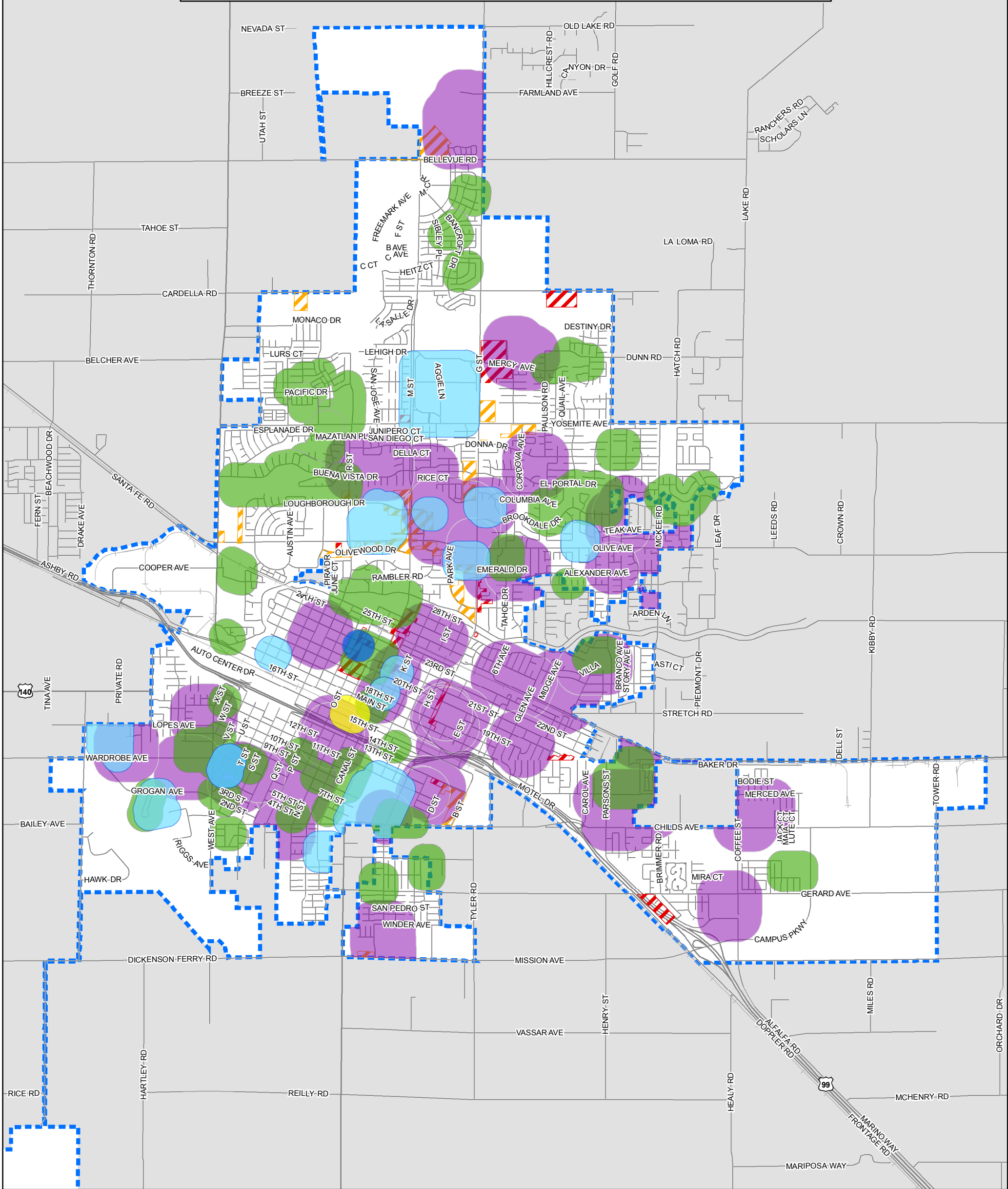
- McCombs Youth Center - 600 FT Buffer
- Youth Center And Day Care Centers - 600 FT Buffer
- Public Libraries - 600 FT Buffer
- Parks - 600 FT Buffer
- Schools - 600FT Buffer
- Planned Development (P-D) With General Plan designations of Commercial Office (CO)
- Commercial Office (C-O) With General Plan designations of Commercial Office (CO)



Date Saved: 11/1/2017

Disclaimer: This document was prepared for general inquiries only. The City of Merced is not liable for errors or omissions that might occur. Official information concerning specific parcels should be obtained from recorded or adopted City documents.

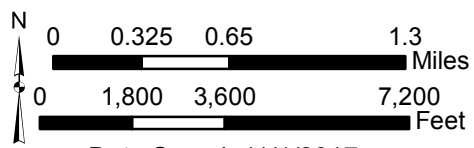
COMMERCIAL OFFICE 1,000 FEET FROM SCHOOLS



Potential Marijuana Dispensaries

Legend

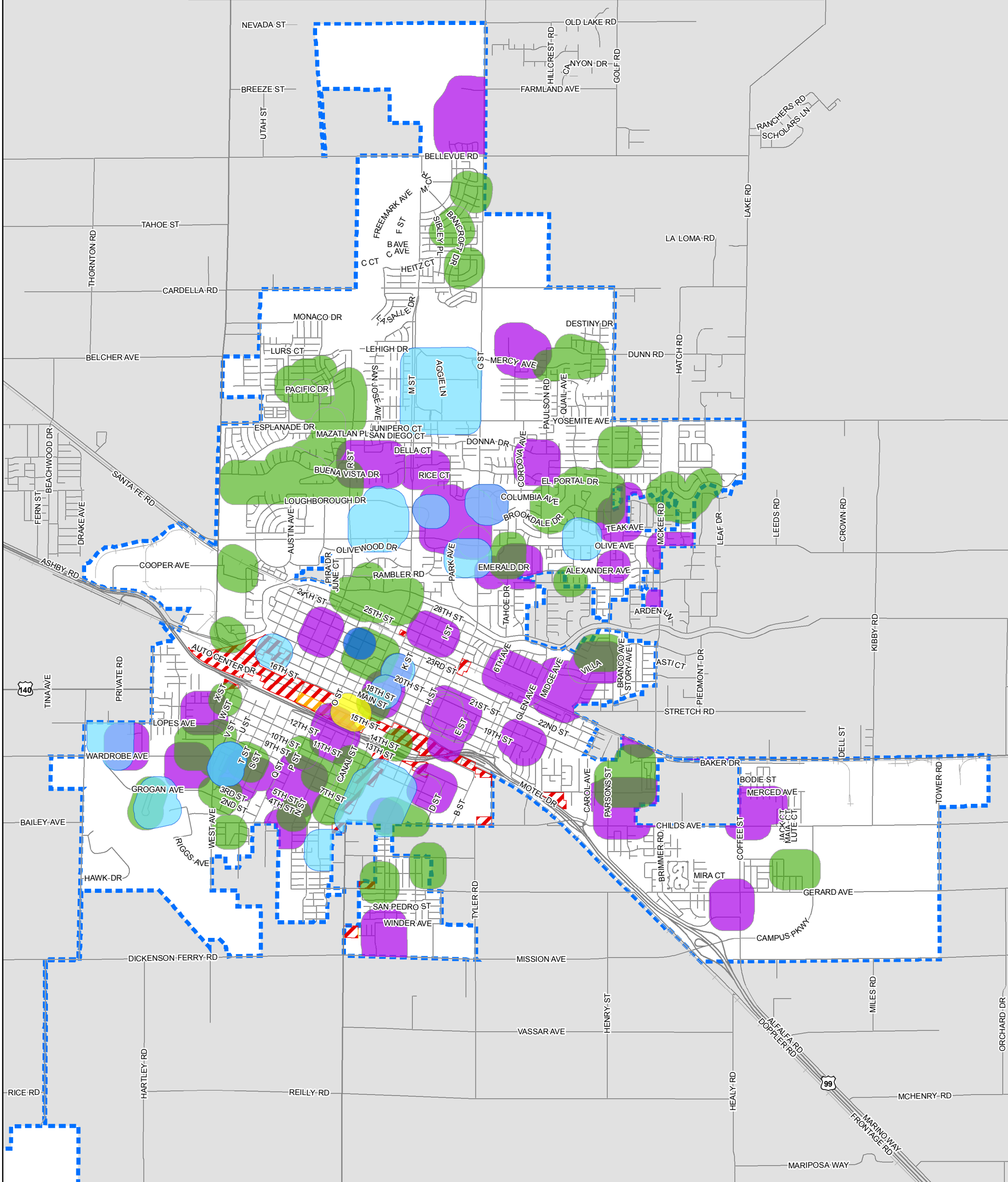
- McCombs Youth Center - 600 FT Buffer
- Youth Center And Day Care Centers - 600 FT Buffer
- Public Libraries - 600 FT Buffer
- Parks - 600 FT Buffer
- Schools - 1000FT Buffer
- Planned Development (P-D) With General Plan designations of Commercial Office (CO)
- Commercial Office (C-O) With General Plan designations of Commercial Office (CO)



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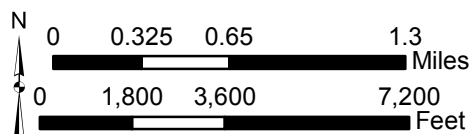
GENERAL COMMERCIAL 600 FEET FROM SCHOOLS



Potential Marijuana Dispensaries

Legend

- McCombs Youth Center - 600 FT Buffer
- Youth Center And Day Care Centers - 600 FT Buffer
- Public Libraries - 600 FT Buffer
- Parks - 600 FT Buffer
- Schools - 600FT Buffer
- Planned Developments (P-D) With General Plan designations of General Commercial (CG)
- General Commercial (C-G) With General Plan designations of General Commercial (CG)

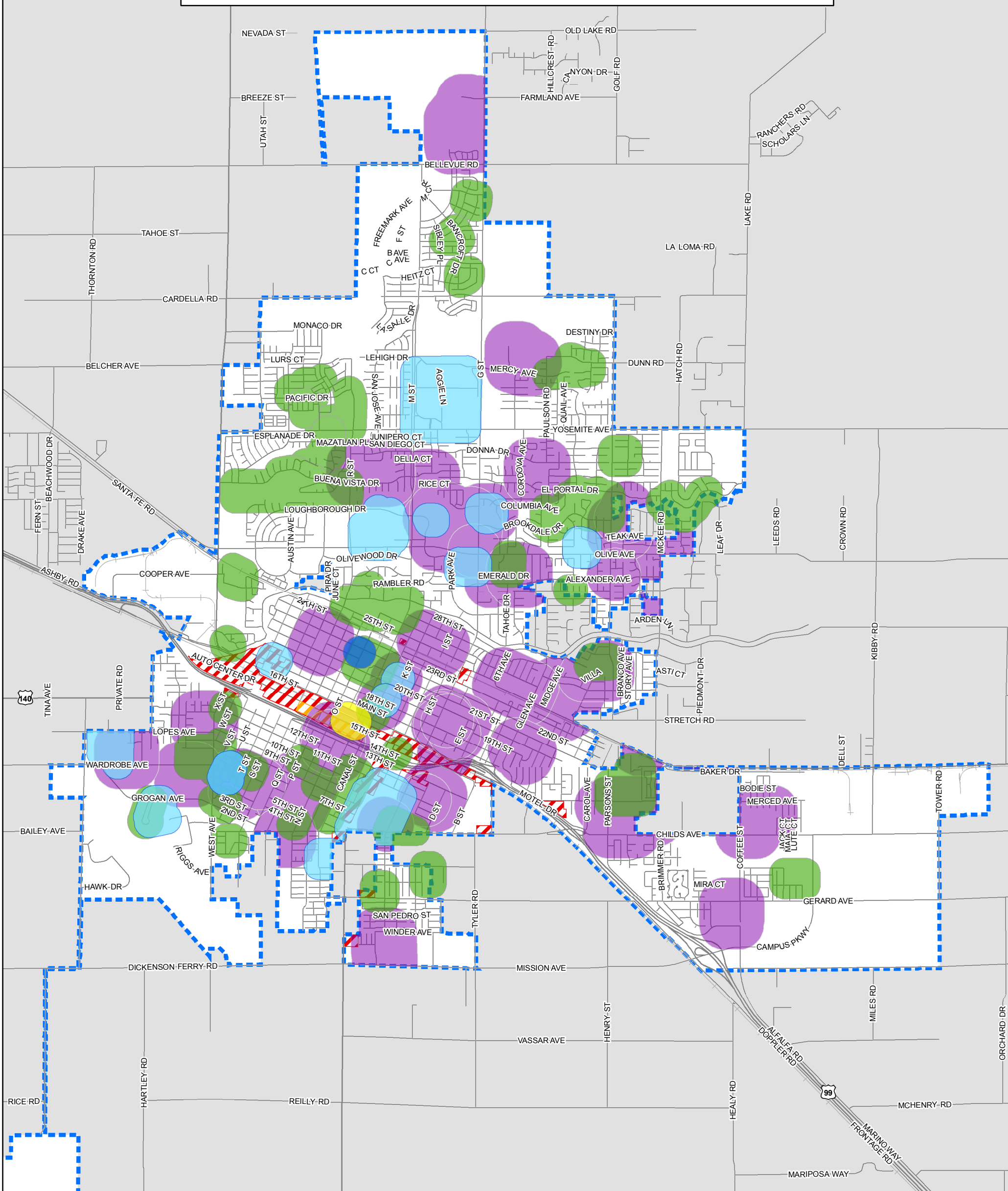


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ATTACHMENT E1

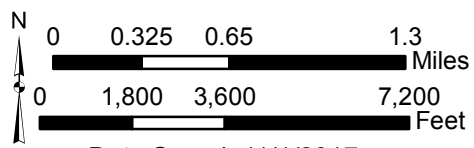
GENERAL COMMERCIAL 1,000 FEET FROM SCHOOLS



Potential Marijuana Dispensaries

Legend

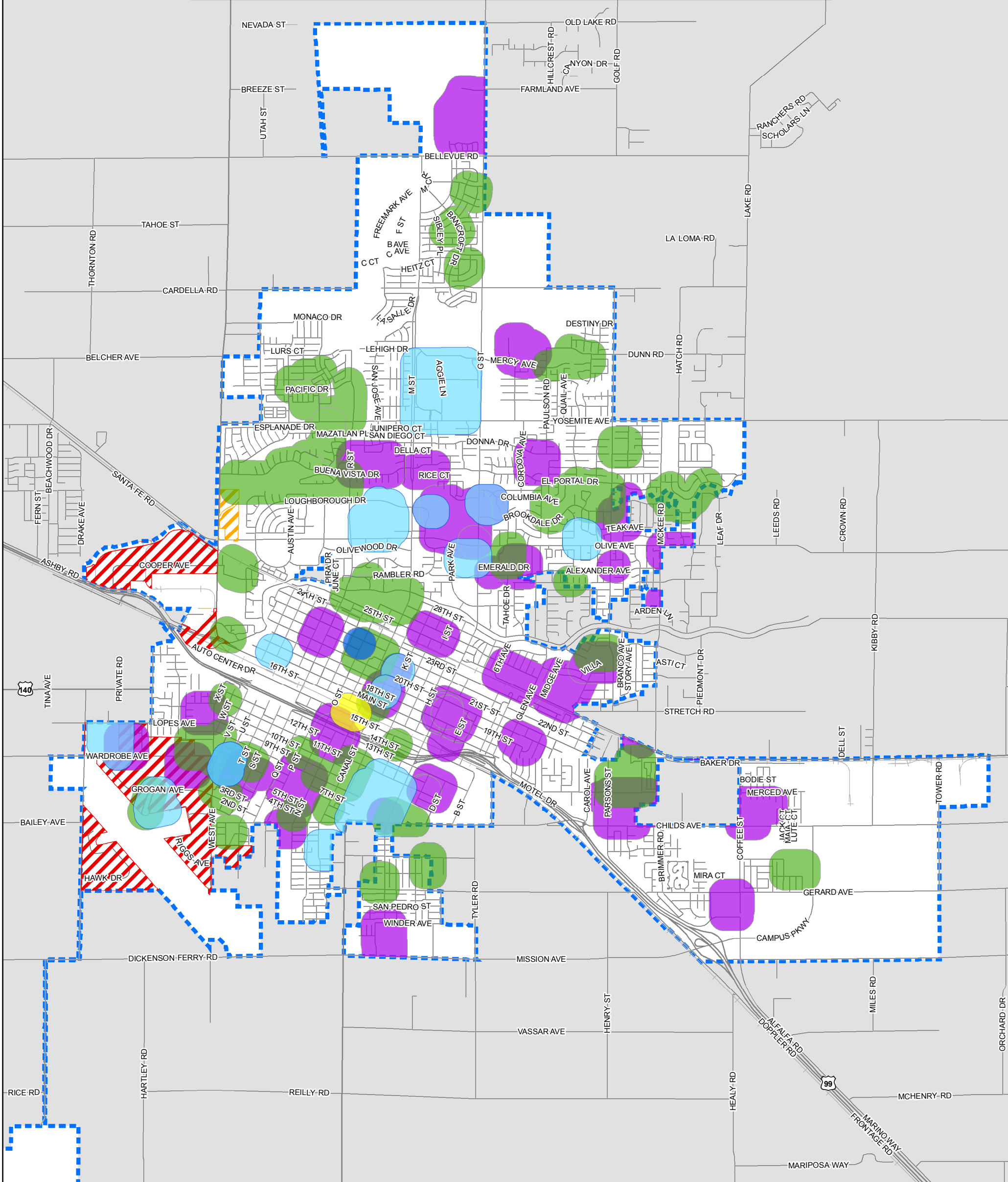
- McCombs Youth Center - 600 FT Buffer
- Youth Center And Day Care Centers - 600 FT Buffer
- Public Libraries - 600 FT Buffer
- Parks - 600 FT Buffer
- Schools - 1000FT Buffer
- Planned Developments (P-D) With General Plan designations of General Commercial (CG)
- General Commercial (C-G) With General Plan designations of General Commercial (CG)



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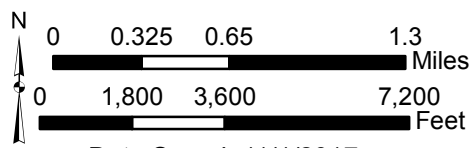
LIGHT INDUSTRIAL 600 FEET FROM SCHOOLS



Potential Marijuana Dispensaries

Legend

- McCombs Youth Center - 600 FT Buffer
- Youth Center And Day Care Centers - 600 FT Buffer
- Public Libraries - 600 FT Buffer
- Parks - 600 FT Buffer
- Schools - 600FT Buffer
- Planned Developments (P-D) With General Plan designations of Industrial (IND)
- Light Industrial (I-L) With General Plan designations of Industrial (IND)

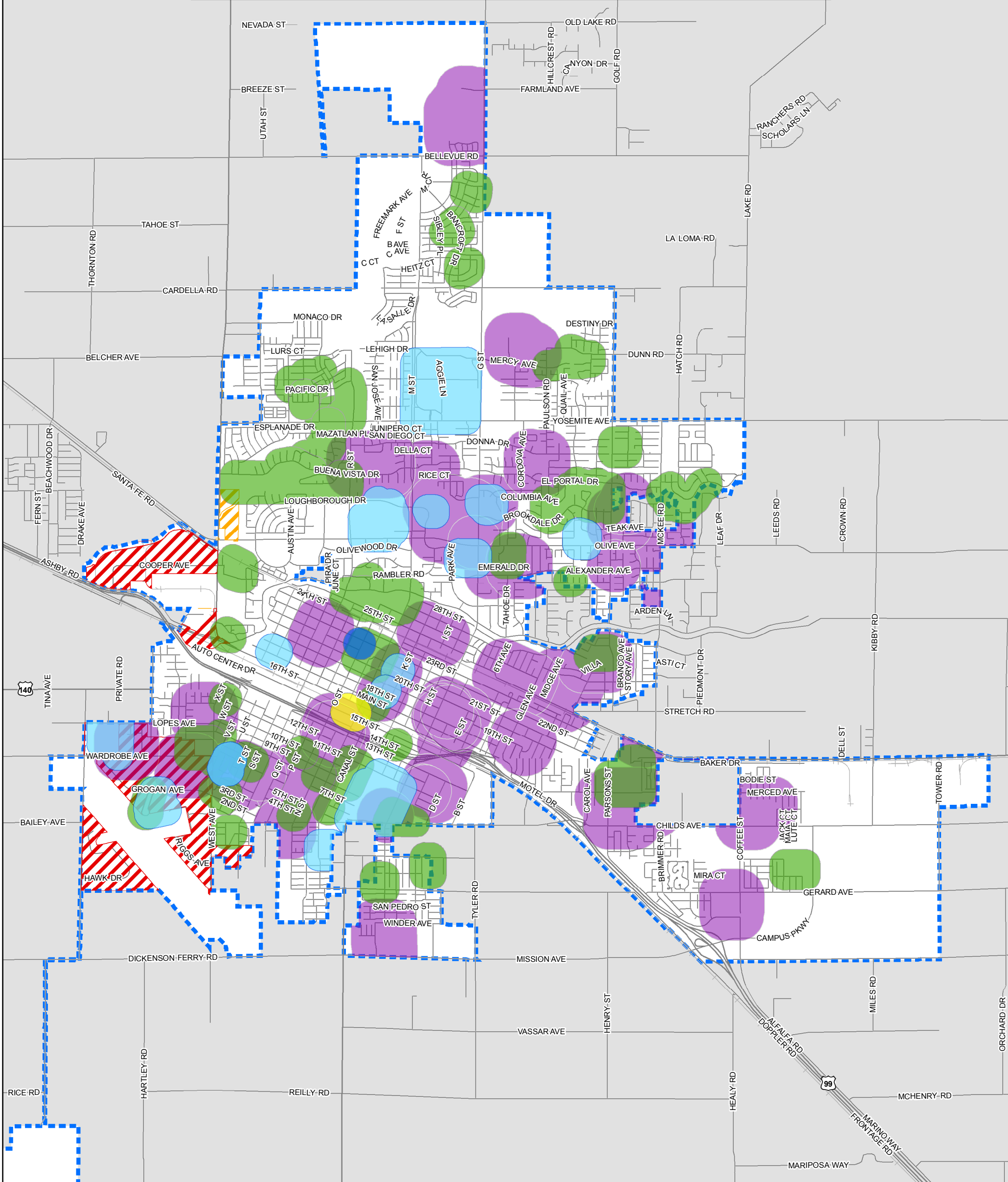


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ATTACHMENT F1

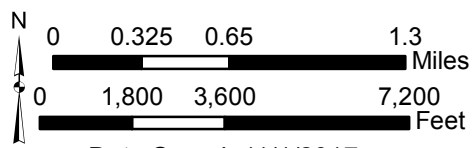
LIGHT INDUSTRIAL 1,000 FEET FROM SCHOOLS



Potential Marijuana Dispensaries

Legend

- McCombs Youth Center - 600 FT Buffer
- Youth Center And Day Care Centers - 600 FT Buffer
- Public Libraries - 600 FT Buffer
- Parks - 600 FT Buffer
- Schools - 1000FT Buffer
- Planned Developments (P-D) With General Plan designations of Industrial (IND)
- Light Industrial (I-L) With General Plan designations of Industrial (IND)

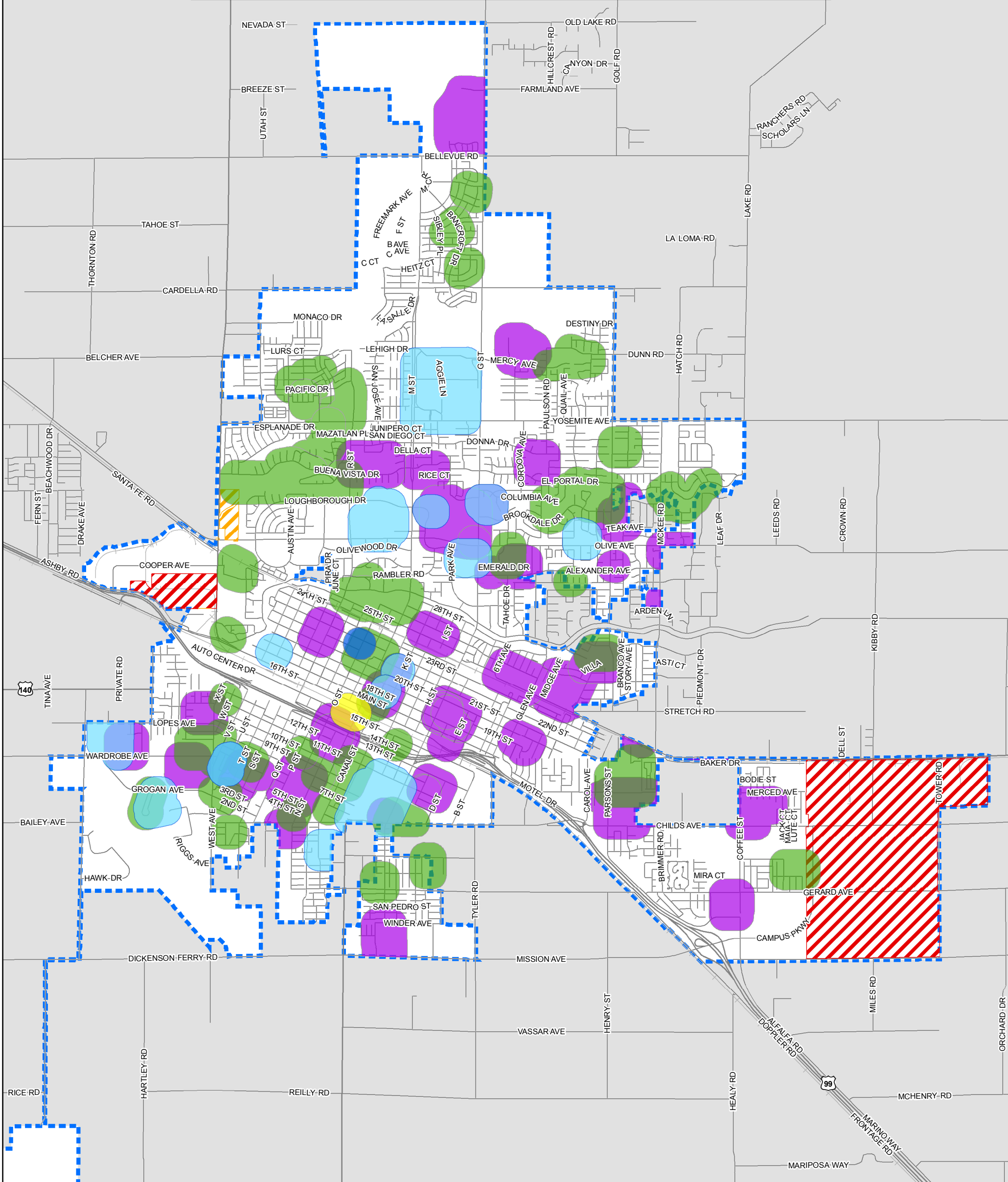


Date Saved: 11/1/2017

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ATTACHMENT F2

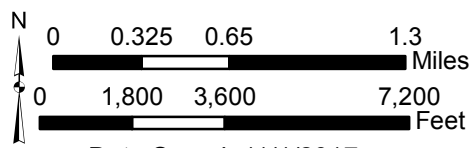
HEAVY INDUSTRIAL 600 FEET FROM SCHOOLS



Potential Marijuana Dispensaries

Legend

- McCombs Youth Center - 600 FT Buffer
- Youth Center And Day Care Centers - 600 FT Buffer
- Public Libraries - 600 FT Buffer
- Parks - 600 FT Buffer
- Schools - 600FT Buffer
- Planned Developments (P-D) With General Plan designations of Industrial (IND)
- Heavy Industrial (I-H) With General Plan designations of Industrial (IND)

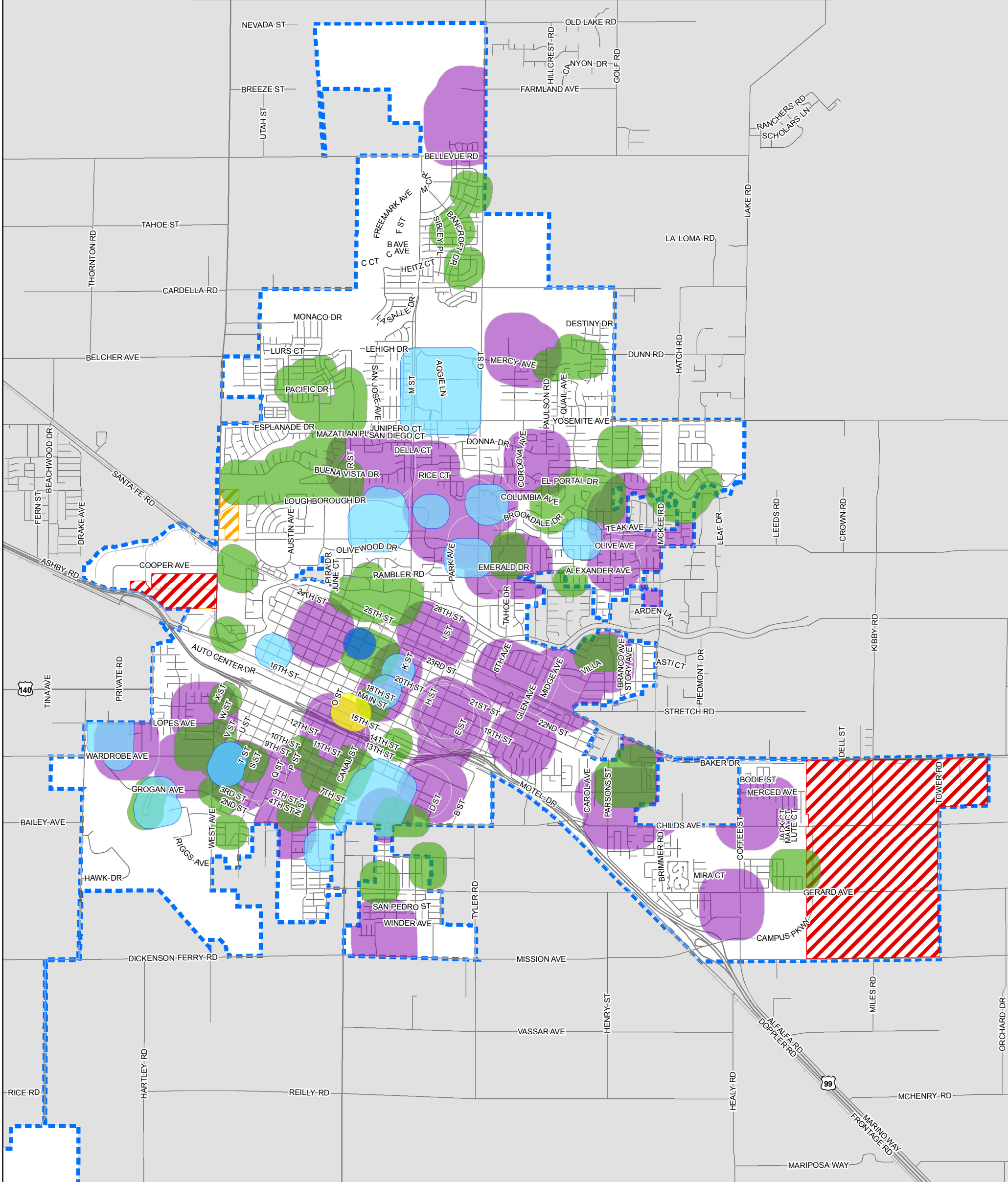


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ATTACHMENT G1

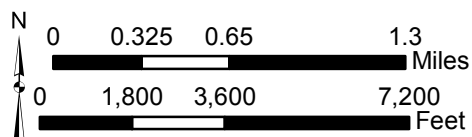
HEAVY INDUSTRIAL 1,000 FEET FROM SCHOOLS



Potential Marijuana Dispensaries

Legend

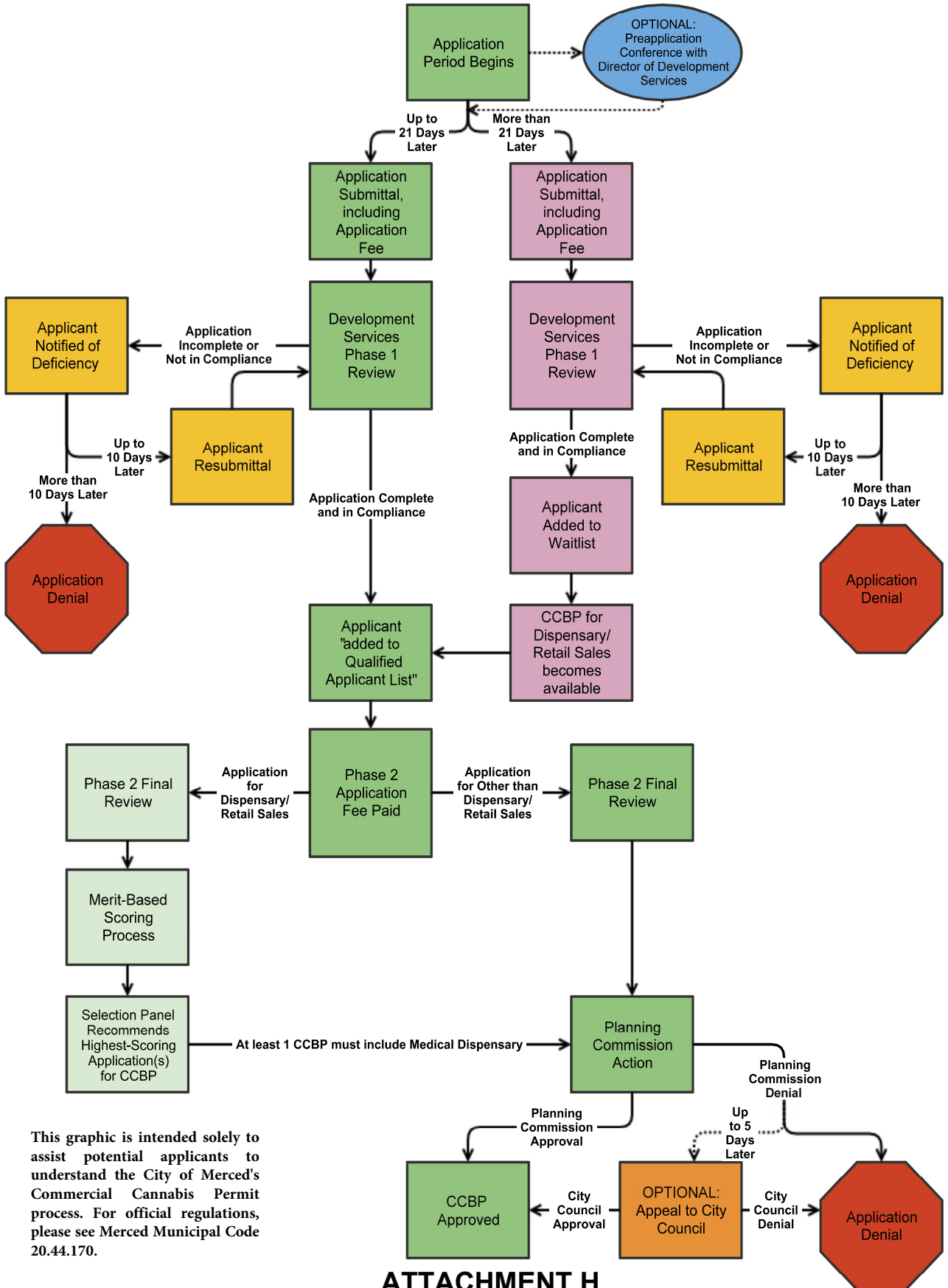
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City of Merced Commercial Cannabis Business Permit (CCBP) Process



This graphic is intended solely to assist potential applicants to understand the City of Merced's Commercial Cannabis Permit process. For official regulations, please see Merced Municipal Code 20.44.170.

DRAFT FOR DISCUSSION ONLY—WILL BE FURTHER REFINED



Merit Based Selection Criteria

<u>Description of Criteria:</u>	<u>Points Awarded</u>	<u>Points Possible</u>
Section 1: Prioritize Medicinal Cannabis Access (choose only one below)		
Proposal for medicinal only dispensary OR		4
Proposal for combined medicinal/adult use dispensary OR		3
Proposal for non-medicinal dispensary		0
Section 1: Sub-Total of Points Possible		4
Section 2: Geographical Preference/Neighborhood Relations		
Proposal for medicinal dispensary in C-O zone		1
Proposed location is an additional 600 to 999 feet away from sensitive uses than the City/State requires OR		1
Proposed location is an additional 1,000 feet or more away from sensitive uses than the City/State requires		2
Proposed locations is within 1,200 feet of local public transportation		1
Proposal includes at least two public outreach meetings per year that meet City approval		2
Business plan includes a schedule for communication and receiving feedback from all entities within 300 feet of the business at least two times a year		2
Proposal includes the appointment of a designated liaison with the neighborhood		1
Section 2: Sub-Total of Points Possible		9
Section 3: Facility Plan		
Proposal includes daily inspection to ensure maintenance of the interior and exterior of the facility (i.e. free of trash, graffiti, etc.)		2
Location exceeds parking requirements by 10% or more		1
Business is open more than five days a week at least 6 hours per day		1
Location exceeds minimum disabled parking requirements by 100% or more		1
Proposal Includes Delivery Services		1
Location is within an existing building or facility with an ability to be open for business within 6 months of approval of the CCBP by the City		1
Section 3: Sub-Total of Points Possible		7

DRAFT FOR DISCUSSION ONLY—WILL BE FURTHER REFINED

DRAFT FOR DISCUSSION ONLY—WILL BE FURTHER REFINED

<u>Description of Criteria:</u>	<u>Points Awarded</u>	<u>Points Possible</u>
Section 4: Standards and Procedures for the Safe Operation of Facilities:		
Proposal includes documented employee safety training program		1
Proposal includes documented employee cannabis educational training program		1
Business plan includes enhanced security including at least two of the following: panic buttons, dye packets, bulletproof window film (with break strength of 400 lbs. per inch or better), a UL approved safe with a fire rating that is 2-hour 1700 degrees F or better; or motion sensing lighting		2
Proposal includes climate controlled environment		1
Proposal includes plan for disposal of all solid waste based on best practices of the State		1
Proposal includes a comprehensive documented process for 24-hour minimum response time to cannabis product recall notifications		2
Proposal includes more than one on-site security guard during business hours		2
Proposal includes a documented relationship with a licensed testing laboratory that samples and analyzes cannabis goods sold or held by the applicant		1
Proposal includes storage of inventory in a safe or vault (i.e. a strong, fireproof cabinet with a complex locking device)		1
Proposal includes a separate lobby area where identification is checked to ensure that only qualified individuals gain access to separate, locked areas where cannabis products are displayed		2
Proposal includes electronic storage of required records of sales, delivery manifests, patient records, inventory, etc., which can be provided to City personnel upon request		2
Proposal includes participation in web-based public safety application that provides law enforcement with confirmation of local and state licenses		1
Proposal includes any proposed “green” business practices relating to energy and climate, water conservation, and materials/waste storage		1
Section 4: Sub-Total of Points Possible		18

DRAFT FOR DISCUSSION ONLY—WILL BE FURTHER REFINED

<u>Description of Criteria:</u>	<u>Points Awarded</u>	<u>Points Possible</u>
Section 5: Prior Experience in Business Ownership and Management		
Proposed owners have a combined up to 1 year prior experience of verified successful management of legal retail cannabis facility OR		1 OR
Proposed owners have a combined more than 1 year and up to 3 years prior experience of verified successful management of legal retail cannabis facility OR		2 OR
Proposed owners have a combined more than 3 years and up to 5 years prior experience of verified successful management of legal retail cannabis facility OR		3 OR
Proposed owners have a combined more than 5 years prior experience of verified successful management of legal retail cannabis facility		5
Proposed owners have combined more than 3 years of prior experience of verified successful management of any non-cannabis legal retail facility		2
Section 5: Sub-Total of Points Possible		7
Section 6: Qualifications of Principals/Business Plan		
At least one owner is a military veteran		1
At least one owner is a full-time resident of the City of Merced		1
Does the business qualify as a Disadvantaged Business Enterprise (DBE) as defined by the U.S. Department of Transportation		1
Does the business have documented proof of access to at least \$150,000 in capital (or enough capital to pay all startup costs plus at least 3 months of operating costs)? OR		3 OR
Does the business have documented proof of access to at least \$300,000 in capital (or enough capital to pay all startup costs plus at least 6 months of operating costs)?		5
Business Plan contain a valid pro forma for at least 3 years of operation		2
Business has documented agreements with cannabis distributors to supply products to their business		2
Section 6: Sub-Total of Points Possible		12
Section 7: Employee Relations/Community Benefits		
The business promotes local hiring or provides incentives for City/County of Merced residents to work with the business		1
The business provides employee health benefits for all employees		1
The business employs more than 5 people full-time, not counting the owners or security personnel		1
Proposal includes benefits to the community such as defined contributions to community organizations or charities		1
Section 7: Sub-Total of Points Possible		4
TOTAL POINTS POSSIBLE		61

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DRAFT FOR DISCUSSION ONLY—WILL BE FURTHER REFINED

Applicant Certification (Required)

Under penalty of perjury, I hereby declare that I have read and understood the criteria above and I have provided information relative to how my cannabis business addresses that criteria in the application or attached to this document. I declare that this information is completely true and accurate. I understand that a misrepresentation of fact is cause for rejection of this application, denial of the license, or revocation of a license issued.

Signed _____ Date _____

City of Merced Commercial Cannabis Business Application Package - Retail Sales

Your initial application packet must include five (5) hardcopies of everything required below plus any attachments required. You must also have all documents in PDF format on a CD-drive or DVD.



Section 1

- A signed copy of the Merit Based Selection Criteria form along with supporting documentation.
- Confirmation of License Type Requested (one per application).

Section 2

- Site Plan, including all requested attachments.

Section 3

- Business Operations and Security Plan, including all requested attachments.

Section 4

- The name of the applicant. If the applicant is an individual, both first and last name of the individual. For applicants that are business entities, the legal business name of the applicant.
- A copy of all documents filed with the California Secretary of State including but not limited to: business formation documents. If applicant is a foreign corporation, a certificate of qualification issued by the California Secretary of State pursuant to Section 2105 of the Corporations Code.
- The mailing address of the applicant.
- The physical address of the premises.
- The phone number of the premises (if available).
- The contact information for the designated primary contact person including the name, title, address, phone number and e-mail address of this individual.
- A list of types and numbers of licenses already received by the applicant from the California Bureau of Cannabis Regulation including the date the license was obtained and the licensing authority that issues the license.

Section 5

- Evidence of Legal Right to Occupy.

Section 6

- Signed Affidavit(s)
- A complete list of every person with over 5% interest in the proposed business including the full name, title within the entity, birthdate and place of birth, social security or tax identification number, phone number, e-mail, the date owner acquired interest in entity, the percentage of ownership interest, and if applicable the number of shares owned, any financial interest in any other cannabis business licensed by the State of California.
- For each owner a completed Live Scan check or receipt from Live Scan check.
- Signed indemnification agreement.

Section 7

- Applicant Certification Letter saying all information contained on all application documents is true and accurate and agreeing to participate in paying a pro-rata share of the cost for a ballot measure to create a specific tax for commercial cannabis businesses (Section 7)

Please attach additional pages as needed to provide the information requested.

All applications must be submitted in person.

NOTE:

INCOMPLETE OR INCORRECT APPLICATIONS WILL BE REJECTED AND REQUIRE RESUBMITTING

It is the responsibility of the applicant to ensure that all pages are included in the application package and that the application is complete when returned to the City of Merced Development Services Department.



Cannabis Business Application

DEVELOPMENT SERVICES DEPARTMENT
678 West 18th Street
Merced, CA 95340
Phone: (209) 385-6858

This form is a part of the application to request authorization of a facility as described in the City of Merced Commercial Cannabis Activity Ordinance XXXXX. The facilities in this questionnaire are for cannabis related facilities only. All requested items and authorizations listed on this form must be completed and submitted or the application will be rejected.

An application is restricted to one facility in one location. The applicant must meet any additional standard criteria and fulfill any additional standard requirements typically associated with obtaining a Permit in the City. Requirements shall conform to the State licensing requirements as set forth by the California Business and Professions Code, Division 8, Chapter 3.5. Permit fees include a non-refundable application fee and an annual regulatory fee.

Section 1- Specific Activity Requested

The facility must be proposed in an allowable zone in order for the application to be filed. It is the applicant's responsibility to confirm that the location selected is in the correct zone. For applicants seeking licensure please select from the choices below:

- Commercial Retail Medical Cannabis Sales with Delivery
- Commercial Retail Medical Cannabis Sales without Delivery
- Commercial Retail Adult Use Cannabis Sales with Delivery
- Commercial Retail Adult Use Cannabis Sales without Delivery
- Commercial Retail Combined Medical/Adult Use Cannabis Sales with Delivery
- Commercial Retail Combined Medical/Adult Use Cannabis Sales without Delivery

Section 2 - Site Plan

- 1) Using a separate sheet of 18" X 24" plain white paper submit a scaled premises diagram showing the boundaries of the property and proposed premises with all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, windows and common or shared entryways. If the proposed premises consists of only a portion of the property, the diagram shall be labeled indicating which part of the property is the proposed premises and what the remaining property is used for.
- 2) The plan shall include the assessor's parcel number and shall be to scale and include all the following:
 - Designated holding area for cannabis designated for destruction
 - Designated processing area(s) if licensee will process on site
 - Designated packaging area(s) if licensee will package on site
 - Designated composting area if licensee will compost plant waste on site
 - Designated refuse areas
 - Designated area(s) for harvested cannabis storage
 - Designated parking spaces, including disabled parking
 - Location/Distance from public transportation stops or facilities
 - Photographs of the exterior of the building including the entrance(s), exit(s), street frontage(s), signage, and parking area.
 - Zoning Verification from the City of Merced Planning Department – either a Zoning Verification Letter (ZVL) or a receipt showing payment for Use Permit.
 - Evidence of appropriate buffer from sensitive uses (per City of Merced Regulatory Ordinance).

Section 3 – Business Operations and Security Plan

General Description

- A description of the operating hours of the facility.

- Estimated number of employees.

Records and Inventory

- A description of how and where inventory will be kept, including the specific manner of securing the inventory, and how records will be maintained.
 - Check if additional documentation is attached

- A description of how any transaction information including patient records, reports, manifests and any other documents will be stored.
 - Check if additional documentation is attached

- A description of the auditing methods for product and financial transactions.
 - Check if additional documentation is attached

- A description of the Track and Trace system the applicant will employ.
 - Check if additional documentation is attached

DRAFT FOR DISCUSSION ONLY—WILL BE FURTHER REFINED

Records and Inventory (Cont.)

- A description of applicant's practices for ensuring all cannabis goods are properly packaged and labeled prior to retail sale.

Check if additional documentation is attached

- A description of applicant's practices for ensuring a licensed testing laboratory samples and analyzes cannabis goods held by the applicant.

Check if additional documentation is attached

- A description of applicant's practices for preventing deterioration of any cannabis goods held by applicant, including any practices for responding to product recalls.

Check if additional documentation is attached

- A description of applicant's practices for transfer/transport of cannabis products to and from premises.

Check if additional documentation is attached

- A description of method(s) that will be used to dispose of unused cannabis.

Check if additional documentation is attached

- A description of any "green" business practices relating to energy and climate, water conservation, and materials/waste storage.

Check if additional documentation is attached

DRAFT FOR DISCUSSION ONLY—WILL BE FURTHER REFINED

Security

- A description of all security practices including but not limited to any panic buttons, dyes, bulletproof windows, or other.
 - Check if additional documentation is attached

- A description of applicant's video surveillance system including camera placement and practices for maintenance of video surveillance equipment.
 - Check if additional documentation is attached

- A description of how applicant will ensure that all access points to the premises will be secured including the use of security personnel if applicable.
 - Check if additional documentation is attached

DRAFT

- A description of applicant's security alarm system.
 - Check if additional documentation is attached

- A description of applicant's practices for allowing individuals access to the licensed premises.
 - Check if additional documentation is attached

DRAFT FOR DISCUSSION ONLY—WILL BE FURTHER REFINED

Security (Cont.)

- A description of how applicant will ensure that all access points to the premises will be secured including the use of security personnel.
 - Check if additional documentation is attached

- A description of all employee training programs, including safety programs.
 - Check if additional documentation is attached

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DRAFT FOR DISCUSSION ONLY—WILL BE FURTHER REFINED

Neighborhood/Community/Employee Relations

- A description of all public relations and neighborhood outreach/feedback programs.
 - Check if additional documentation is attached

- Will a neighborhood liaison be designated within the business?

- A description of any community benefits, such as defined contributions to community organizations or charities?
 - Check if additional documentation is attached

- Does the business propose to provide health benefits to all employees or is there a timetable for providing them in the future? If so, provide details.
 - Check if additional documentation is attached

- A description of hiring practices, including incentives/preferences for City/County of Merced residents to be employed by the business.
 - Check if additional documentation is attached

DRAFT FOR DISCUSSION ONLY—WILL BE FURTHER REFINED

Business Plan/Qualifications of Principals

- A description of the Business Plan, including an operating budget (including startup costs, labor, utility, equipment, construction, operating costs, etc.), documented sources of capital, and a pro forma.
- Check if additional documentation is attached

- A description of any documented agreements with distributors to supply cannabis products to the business.
- Check if additional documentation is attached

- A description of the prior experience that the business owners have in operating a verified legal retail cannabis facility.
- Check if additional documentation is attached

- A description of the prior experience that the business owners have in operating any legal retail facility (non-cannabis related).
- Check if additional documentation is attached

- Are any of the owners...(check if yes):
- A military veteran? If so, what branch and how many years? _____
- A full-time resident of Merced; If so, for how many years _____
- Qualified as a Disadvantaged Business Enterprise (DBE) as defined by the U.S. Department of Transportation?
- Check if additional documentation is attached

DRAFT FOR DISCUSSION ONLY—WILL BE FURTHER REFINED

Additional Questions for Delivery Services

For applicants who choose to conduct retail delivery services, the following application requirements apply:

- The applicant's process to ensure driver and patient safety.
 - Check if additional documentation is attached

- The applicant's process to verify delivery is to a qualified purchaser and to a qualified location.
 - Check if additional documentation is attached

DRAFT

- The applicant's process to track and maintain communication with the delivery person at all times.
 - Check if additional documentation is attached

- The applicant's process to verify deliveries and provide accurate manifests for audit purposes.
 - Check if additional documentation is attached

DRAFT FOR DISCUSSION ONLY—WILL BE FURTHER REFINED

Section 4 – Owner and Contact Information

Proposed Name of Business: _____

1. Applicant Entity Structure: (**attach proof of status** such as articles of incorporation, by-laws, partnership agreements, and other documentation that supports status).

- Corporation
- Unincorporated Association
- Other (describe): _____

Cannabis Facility Address: _____

Assessor's Parcel Number: _____

Business Applicant (Print Name): _____

Business Applicant Address: _____

Telephone: _____

Email: _____

Mobile: _____

Business Applicant:	_____	Date:	_____
	Name (Please Print)	Title:	_____
	Signature		

Primary Contact (Print Name): _____

Primary Contact Address: _____

Telephone: _____

Email: _____

Mobile: _____

Attach photocopy of:

- Copy of Seller's Permit issued by appropriate State of California Agency.
- Proof of address (DMV –issued ID/driver's license, and/or recent utility bill under Primary's name).
- Proof of Bond (\$5,000) for destruction of product.
- Proof of General Liability Policy.
- A list of types and numbers of licenses already received by the applicant from the California Bureau of Cannabis Regulation including the date the license was obtained and the licensing authority that issues the license.
- A copy of all documents filed with the California Secretary of State including but not limited to business formation documents. If applicant is a foreign corporation, a certificate of qualification issued by the California Secretary of State pursuant to Section 2105 of the Corporations Code.

Section 5 – Property Owner Affidavit

I, _____, authorize the Commercial Cannabis activity entitled _____, to use this property as a Commercial Cannabis facility, as those terms are defined in the City of Merced Municipal Code, should this facility obtain the appropriate Permit. I further understand that I am responsible for, and subject to, enforcement actions regarding any violations and/or nuisance activity that may occur at this property.

Legal Property Owner: _____ **Date:** _____

Name (Please print) Title: _____

Signature

Legal Building Owner: _____ **Date:** _____

Name (Please print) Title: _____

Signature

Attach:

┌ Proof of possession of the premises and approval of use (deed, lease, lease assignment)

DRAFT FOR DISCUSSION ONLY—WILL BE FURTHER REFINED

Section 6 – Building Owner Affidavit

Building Owner Affidavit

I, _____, authorize the Commercial Cannabis Facility entitled _____, to use this property as a Commercial Cannabis facility, as those terms are defined in the City of Merced Municipal Code, should this facility obtain a Permit. I further understand that I am responsible for, and subject to, enforcement actions regarding any violations and/or nuisance activity that may occur at this property.

Property Manager Affidavit (if applicable)

I, _____, authorize the Commercial Cannabis Facility entitled _____, to use this property as a Commercial Cannabis facility, as those terms are defined in the City of Merced Municipal Code, should this facility obtain a Permit. I further understand that I am responsible for, and subject to, enforcement actions regarding any violations and/or nuisance activity that may occur at this property.

Please complete the following information:

- A complete list of every person with over 5% interest in the proposed business including the full name, title within the entity, birthdate and place of birth, social security or tax identification number, phone number, e-mail, the date owner acquired interest in entity, the percentage of ownership interest, and if applicable the number of shares owned, and any financial interest in any other cannabis business licensed by the State of California. For each owner a completed Live Scan check or receipt from Live Scan check must be provided.

Name	Title	DOB	SS#/Tax ID#	Contact Phone Number	Date of acquired interest	Percent of ownership	Live Scan Check

DRAFT FOR DISCUSSION ONLY—WILL BE FURTHER REFINED

Section 7 - Applicant Certification

Under penalty of perjury, I hereby declare that the information contained within and attached to this application is complete true, and accurate. I understand that a misrepresentation of fact is cause for rejection of this application, denial of the license or revocation of a license issued. By submitting this application, I certify that I have read and understand the requirements of the application process and that I may be disqualified for failure to meet the requirements of state law or City ordinance, or for incomplete, late or inaccurate applications/attachments, and that all fees paid in connection with this application are non-refundable.

By signing and submitting this application, the Applicant agrees to participate in paying a pro-rata share of the cost for a ballot measure to create a specific tax for commercial cannabis businesses. Please check this box to acknowledge that the Applicant had read and understood this provision.

_____ I acknowledge that I have read and understood the above paragraph.

Signature of Applicant

Date _____

DRAFT

Date and Initials Received by the City of Merced Staff Member _____

Staff use only: Application Complete

Staff use only: Application Incomplete

NOTICE OF EXEMPTION

To: _____ Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

From: (Public Agency)
City of Merced
678 West 18th St.
Merced, CA 95340

X County Clerk
County of Merced
2222 M Street
Merced, CA 95340

Project Title: Zoning Ordinance Amendment #17-01/Environmental Review #17-10

Project Applicant: City of Merced

Project Location (Specific): City of Merced (City wide)

Project Location - City: Merced

Project Location - County: Merced

Description of Nature, Purpose, and Beneficiaries of Project: This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would replace Merced Municipal Code Section 20.44.170 (“Medical Marijuana and Cultivation”) with a new Section 20.44.170 (“Regulation of Commercial Cannabis Activities – Commercial Cannabis Business Permit Required”); amend Section 20.10.020 and Table 20.10-1 (“Commercial Zoning Districts”); amend Section 20.12.020 and Table 20.12-1 (“Industrial Zoning Districts”); and add Land Use Table 20.44-1 to regulate all commercial cannabis activities and cultivation for personal use in the City of Merced.

Name of Public Agency Approving Project: City of Merced

Name of Person or Agency Carrying Out Project: City of Merced

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State Type and Section Number: _____
- Statutory Exemptions. State Code Number: _____.
- General Rule (Sec. 15061 (b)(3))

Reasons why Project is Exempt: The proposed Ordinance has been reviewed by City staff in accordance with the Environmental Checklist Form (Appendix G of the CEQA Guidelines) to determine if there would be any possibility that the proposed ordinance would create any significant environmental impacts, and City staff has determined that the establishment of regulations for commercial cannabis businesses do not meet any of the thresholds contained in the Checklist that would trigger a significant environmental impact, and thus according to the “general rule exemption” (Section 15061(b)(3) of the CEQA Guidelines), projects which have no potential for causing a significant effect on the environment are not subject to CEQA, no further environmental analysis is required.

Lead Agency: City of Merced

Contact Person: Kim Espinosa

Area Code/Telephone: (209) 385-6858

Signature:  **Date:** September 28, 2017 **Title:** Planning Manager

X Signed by Lead Agency

Date Received for Filing at OPR: n/a
(If applicable)

Authority Cited: Sections 21083 and 21110. Public Resources Code

Reference: Sections 21108, 21152, and 21152.1. Public Resources Code

ATTACHMENT K

Kim

To: Merced City Council / Planning Department

From: Mark S. Yandow

Date: 10/26/2017

Re: Merced Proposed Land Use Matrix – Cannabis Dispensary

Merced City Council Members,

Please find my feedback on the proposed land use matrix attached below as related to a cannabis dispensary location. As a real estate professional with 40+ years experience it seems that dispensary zoning(s) should be consistent with other pharmaceutical applications. The following pharmacies are operating on parcels in Merced with C-N Zoning:

- APN 006-121-010 3142 G Street C-N Rite Aid
- APN 035-090-013 1970 Yosemite Parkway C-N CVS - - common property line
- APN 007-040-046 3098 G Street C-N Walgreens

A proposed dispensary site is located at 1850 Yosemite Parkway and is zoned C-N. This property shares a property line with CVS Pharmacy located in the Rancho San Miguel neighborhood market, also zoned C-N. The property use and location of these two parcels are similar and should be entitled for the same use.

I would recommend and request to the City of Merced that zoning of C-N should be included in potential zoning matrix for a dispensary site.

In the end, the Merced process to select the approved Cannabis business licenses is subjective. Step One is to fully complete an objective checklist from the City of Merced. Step Two selection criteria to be used by the City of Merced is subjective. Given this process, the land use matrix should be updated to include C-N into the land the matrix. If the committee does not like the site, reject the package.

Respectfully,

Mark S Yandow

Mark S Yandow, Broker
BRE #00594950
Yandow Realty Group
Self Storage Brokers of California Inc.
Self Storage Management of California
946 East 23rd Street
Merced, CA 95340



CITY OF MERCED
Planning Commission

Resolution #_____

WHEREAS, the Merced City Planning Commission at its regular meeting of November 8, 2017, held a public hearing and considered **Zoning Ordinance Amendment #17-01**, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would replace Merced Municipal Code Section 20.44.170 (“Medical Marijuana and Cultivation”) with a new Section 20.44.170 (“Regulation of Commercial Cannabis Activities – Commercial Cannabis Business Permit Required”); amend Section 20.10.020 and Table 20.10-1 (“Commercial Zoning Districts”); amend Section 20.12.020 and Table 20.12-1 (“Industrial Zoning Districts”); and add Land Use Table 20.44-1 to regulate all commercial cannabis activities and cultivation for personal use in the City of Merced. In general, the regulations would allow Commercial Cannabis Businesses, including cultivation, distribution, manufacturing, deliveries, and dispensaries/retail sales, in certain zones with a Commercial Cannabis Business Permit; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through X of Staff Report #17-14 Addendum; and,

NOW THEREFORE, after reviewing the City’s Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Categorical Exemption regarding Environmental Review #17-10, and approval of Zoning Ordinance Amendment #17-01, as set forth in Attachment A of Staff Report #17-14 Addendum.

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

AYES: Commissioner(s)

NOES: Commissioner(s)

ABSENT: Commissioner(s)

ABSTAIN: Commissioner(s)

November 8, 2017

Adopted this 8th day of November 2017

Chairperson, Planning Commission
of the City of Merced, California

ATTEST:

Secretary