

CITY OF MERCED
Planning Commission

Resolution #4139

WHEREAS, the Merced City Planning Commission at its regular meeting of August 21, 2024, held a public hearing and considered **Zoning Ordinance Amendment #24-01**, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Merced Municipal Code Section 20.44.170 (Regulation of Commercial Cannabis Activities – Commercial Cannabis Business Permit Required) clarifying the process to amend or provide supplemental application materials, clarifying the responsibility of the applicant relative to meeting the requirements of the Selection Criteria, clarifying the process to correct potential scoring errors, clarifying the Qualified Commercial Cannabis Business Application List timelines and clarifying the process if there is a failure for a business to meet the clarified timeline and various other amendments; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through D of Staff Report #24-808 (Exhibit A); and,

NOW THEREFORE, after reviewing the City’s Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Categorical Exemption regarding Environmental Review #24-21, and approval of Zoning Ordinance Amendment #24-01, as outlined in Exhibit B and subject to the Findings set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

AYES: Commissioner(s)

NOES: Commissioner(s)

ABSENT: Commissioner(s)

ABSTAIN: Commissioner(s)

PLANNING COMMISSION RESOLUTION #4139

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August 21, 2024

Adopted this 21st day of August 2024

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Exhibits:

Exhibit A –Findings/Considerations

Exhibit B—Draft Ordinance

Findings and Considerations
Planning Commission Resolution #4139
Zoning Ordinance Amendment #24-01

FINDINGS/CONSIDERATIONS:

General Plan Policies Related to This Application

- A) The proposed zoning ordinance amendment would make changes to the City's Merced Municipal Code (MMC) Section 20.44.170 (Commercial Cannabis Businesses), per the directive of the City Council. General Plan Implementing Action L-2.3.d calls for the City to review and update the Zoning Ordinance as needed.

Proposed Changes to Zoning Ordinance

- B) The ordinance changes are contained in the Draft Ordinance at Exhibit B of Planning Commission Resolution #4139 (Attachment A of Planning Commission Staff Report #24-808) and presented in redline form at Attachment B of Planning Commission Staff Report #24-808. In general, the changes can be summarized as follows:
- 1) Section 20.44.170(L)(1)(e) would add new text in the section allowing the applicant, after notification of a discrepancy, to amend or supplement the Merit-Based Selection Criteria information as well as other information currently outlined in the Ordinance within 10 days of notification.
 - 2) Section 20.44.170(L)(1)(f)(vii) would add a section clarifying the applicant's responsibility to include and clearly label the Selection Criteria in the application and any information that addresses the most recently adopted Merit-Based Scoring system Selection Criteria.
 - 3) Section 20.44.170(L)(1)(g)(iv) would add text allowing the Director of Development Services within 10 days of the rankings being released, the option to correct any errors in the calculation of the average score.
 - 4) Section 20.44.170(L)(1)(g)(iv)(a) would add text clarifying that the qualified Commercial Cannabis Business Application List-Dispensaries/Retail established on August 19, 2022, shall be subject

to the timelines established in this code.

- 5) Section 20.44.170(L)(1)(1)(g)(iv)(c) would add text allowing the List mentioned above to be active until the last available Commercial Cannabis Business Retail Permit becomes operational and opens for business.
- 6) Section 20.44.170(L)(1)(1)(g)(iv)(d) would add a section clarifying the process should a Commercial Cannabis Business Retail Permit fail to become operational and open for business.

Time Frames

- C) If recommended for approval by the Planning Commission on August 21, 2024, the Ordinance revisions would be scheduled for a City Council public hearing on September 16, 2024. A second reading and adoption would follow on October 7, 2024, with the Ordinance being effective 30 days later on or about November 6, 2024.

Environmental Clearance

- D) Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a *Categorical Exemption* is being recommended (see Attachment D of Staff Report #24-808).

Excerpts from MMC 20.44.170 (Commercial Cannabis Business Permits) (starting on page 168T)

L. Commercial Cannabis Business Permit Selection Process

1. Selection Process for Dispensaries/Retail Sales (Limited Number of Permits Available)

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

Limited # Available

c. The City of Merced has established a ~~merit-based~~merit-based scoring system to objectively award permits as described in the application documents in Phase 2 to be used in the event that there are more applications than there are Commercial Cannabis Business Permits for a specific license type, such as for retail dispensaries.

- d. The initial application period shall be 21 calendar days from the date the applications are released. Should the 21st day fall on a day when City Hall is closed, the application period shall be extended to the next open day at 4:00 p.m. Following the application period, the Director of Development Services or designee shall stop accepting applications and review all applications received as described in Phase 1. The Director of Development Services or designee will evaluate the applications received and determine the eligibility of each application. Each application that is complete and in compliance with the application requirements in Phase 1 shall be placed on the 'Qualified Commercial Cannabis Business Application List-Dispensaries/Retail Sales' and shall be notified in writing that they are a 'Qualified Commercial Cannabis Business Applicant- Dispensaries/Retail Sales'. The qualified applicants will be entered into the Phase 2 review process.
- e. If any of the items listed in the application process are not met, the Director of Development Services shall notify the applicant of the deficiency within thirty (30) calendar days, after which the applicant will have 10 calendar

days from receipt of notice to correct the deficiency or to amend or supplement the information that addresses the Merit-Based Selection Criteria (to be done solely at the applicant's discretion as City staff will not be responsible for pointing out any deficiencies in the materials that address the Merit-Based Selection Criteria). Should the 10th day fall on a day when City Hall is closed, the correction period shall be extended to the next open day at 4:00 p.m. If the deficiency is not corrected within 10 calendar days, the Director of Development Services may deny the permit and notify the applicant of this determination in writing within 10 calendar days following the Director of Development Services decision.

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

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



- i. All Application documents required in the City's Phase 1 application package;
- ii. Application was submitted during the application period;
- iii. Application forms are filled out completely;
- iv. Business Owner(s)/Applicant(s) referenced on the application provide a Live Scan that was conducted within 14 days prior to submitting the application;
- v. Phase 1 application fee is paid; and,
- vi. A signed statement that the proposed location of the commercial cannabis business on the application meets the zoning criteria established in this ordinance including, but not limited to, any and all sensitive use separation criteria required by this ordinance.
- ~~vi-vii.~~ It is the applicant's responsibility to include and to clearly label (with the specific section number and letter of the selection criteria) in the application any information that addresses the Merit-Based Scoring System Selection Criteria most recently adopted by City Council Resolution. City staff will not evaluate this information or point out any deficiencies in this area of the application in this initial completeness phase.

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

Phase 2 requirements include, but are not limited to:

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

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

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



- a) The use is permitted in the Zoning District;
- b) The location of the cannabis business meets the distance requirements from sensitive uses;
- c) All land use permits, if any, have been approved and all conditions of approval have been met or are in good standing;
- d) No zoning violations exist on the property;
- e) A planning and/or building permit with a receipt proving payment for processing from the City of Merced Planning

Department for the property location the commercial cannabis business will occupy; and,

- f) The Provisional Zoning Clearance shall be subject to final approval by the Planning Commission.

- iv. The Director of Development Services or designee, after reviewing the applications approved in Phase 1 and the aforementioned information, will convene a Selection Panel composed of the City Manager, Chief of Police, and the Director of Development Services, or their designees. The Selection Panel will review all application documents required in the City's Phase 1 application package plus an additional background check of all owners conducted to the satisfaction of the Chief of Police, and individually score each application in accordance with the ~~merit-based~~merit-based scoring system established by Resolution of the City Council. A complete description of the ~~merit-based~~merit-based system and all merit based considerations shall be included with the application forms. An average score for each applicant based upon the ~~merit-based~~merit-based scoring of the Selection Panel shall be calculated and the applications shall be ranked from highest to lowest in accordance with the average score. The Director of Development Services may correct any errors in the calculation of the average score and the rankings within 10 days of the rankings being released. The applications, in order of ranking, shall then be placed on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail Sales in the order of ranking. The Selection Panel will recommend the highest ranked applicant(s) on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail to the Planning Commission for the issuance of a Commercial Cannabis Business Permit – Dispensaries/Retail Sales. The number of applicants recommended to the Planning Commission by the Selection Panel shall be the same number of Commercial Cannabis Business Permits – Dispensaries/Retail Sales then available. Any element of an application that provided a successful applicant with points on the merit-based scoring system is subject to review and inspection by the City, which may include self-certification by the licensed business, on-site inspection, or other methods of enforcement.



a) The Qualified Commercial Cannabis Business Application List-Dispensaries/Retail established on September 20, 2018, shall have no further force and effect after September 20, ~~2019~~2019, and the City shall have no further obligations to applicants on said list. The Qualified Commercial Cannabis Business Application List-Dispensaries/Retail established on August 19, 2022, shall be subject to the timelines established in MMC 20.44 170 (L)(1)(g)(iv)(c).

b) Should a Commercial Cannabis Business Permit-Dispensaries/Retail become available after September 20, 2019, whether by creation of a new permit or by vacancy of an existing permit, then a new application period shall be opened as provided in Section 20.44.170(L)(I).

c) The Qualified Commercial Cannabis Business Application List-Dispensaries/Retail shall be valid for a period not to exceed one year from the date the last available Commercial Cannabis Business Permit- Dispensaries/Retail ~~is~~ issued by the Planning Commission or issued by the City Council on appeal becomes operational and opens for business to the public. The City shall have no further obligations to applicants on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail after one year has elapsed since the last available Commercial Cannabis Business Permit became operational~~was issued~~.

e)d) If a business with an approved retail permit fails to become operational within the time required by (MMC 20.44 170 (L)(1)(g)(iv)(c)), and after determination by the Development Services Director, the next business on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail will be considered for the available permit. The considered business must undergo updated Phase 2 screening prior to public hearings.

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

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



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



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

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

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



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

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

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

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

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

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

Phase 2 requirements include, but are not limited to:

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



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

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

- e) A planning and/or building permit with a receipt proving payment for processing from the City of Merced Planning Department for the property location the commercial cannabis business will occupy; and,
 - f) The Provisional Zoning Clearance shall be subject to final approval by the Planning Commission.
- iv. The Director of Development Services or designee, after reviewing the applications approved in Phase 1 and reviewing the foregoing information will make a recommendation to the Planning Commission to approve or reject the application for the Commercial Cannabis Business Permit for All Other Cannabis Businesses.
- g. **Commercial Cannabis Business Permit-All Other Cannabis Businesses Selection - Phase 2 – Planning Commission**

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



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

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

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



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

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

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

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

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

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

4. Appeal of Approval or Denial of Commercial Cannabis Business Permit (All Types)

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

- a. A written appeal shall be filed within five (5) business days (excluding official city holidays) following a Planning Commission decision.
- b. When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council. The public hearing should be heard within ninety (90) calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(4)(d).
- c. Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.
- d. Any interested person may appear and be heard regarding the appeal.
- e. A matter being heard on appeal may be continued for good cause.
- f. The City Council's review shall be a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant deny, modify, or hold in abeyance per MMC 20.44.170(L)(4)(g) the permit. The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.
- g. If the City Council wishes to consider a change in location for a retail cannabis dispensary permit under appeal based on its location only, the City Council may agree to hold the appeal in abeyance while the permit applicant is given an opportunity to submit an application within 120 days to the Director of Development Services at no additional cost for a retail cannabis permit at a new location which meets all the requirements of the City's ordinance, including the distance from sensitive uses, and would be eligible for at least the same amount of Merit-Based non-discretionary points based on location per MMC 20.44.170(L)(1)(g)(4) per the determination of the Director of Development Services. If no application for the change in location is submitted within 120 days, the appeal shall be returned to the City Council for further action within 30 days. If an application for change in location is submitted, the Director of Development Services shall schedule a public hearing before the Planning Commission to be held within 60 days of the application submittal regarding the change in location only for the Planning Commission to make a recommendation to the City Council on whether the change in location should be approved. Within 60 days of the Planning Commission hearing on this matter, the change in location and the appeal that has been held in abeyance shall be scheduled and heard at a



public hearing before the City Council. At the conclusion of the hearing, the City Council shall make its own determination to grant or deny the appeal, and to approve or deny the permit and/or the change in location. The City shall provide all public notices and conduct all public hearings as described in the City of Merced Municipal Code Section 20.70.010 through 20.70.040.

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

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

- b. Any person desiring to obtain a renewal of their respective permit shall file a written application under penalty of perjury on the required form with the



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

Services in order to determine whether said permit should be renewed. The Development Services Director, in consultation with the Selection Panel if they were involved in the original review, will review all Commercial Cannabis Business renewal applications and all other relevant information, and determine if a renewal CCBP should be granted.

- c. The Director of Development Services or designee may deny the annual renewal of a Commercial Cannabis Business Permit if the permittee or the permittee's agent or employee has committed any one of the following acts:
 - i. Any act which would be considered a ground for denial of the permit in the first instance;
 - ii. Violates any other provision of this section or any City of Merced or State law, statute, rule or regulation relating to the business's permitted activity;
 - iii. Engages in or permits misconduct substantially related to the qualifications, functions, or duties of the permittee;
 - iv. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public;

- v. Fails to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the operation of another business;
- vi. Violates or fails to comply with the terms and conditions of the permit;
or,
- vii. Fails to pay all applicable City, State, or Federal taxes and fees.

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

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



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

- b. Any decision of the Development Services Director may be appealed to the Planning Commission. An appeal shall be filed within five (5) business days (excluding official city holidays) following a decision by the Director of Development Services.
- i. When an appeal has been filed, the matter shall be scheduled for a public hearing before the Planning Commission. The public hearing should be heard within ninety (90) calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(6)(b)(v).
 - ii. Notice of the hearing shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.
 - iii. Any interested person may appear and be heard regarding the appeal.
 - iv. The Planning Commission's review of the appeal shall be limited to review of the Development Services Director decision and shall not be a de nova review.

- v. A matter being heard on appeal may be continued for good cause.
- vi. The decision of the Planning Commission may be appealed to the City Council.
 - a) A written appeal shall be filed within five (5) business days (excluding official City holidays) following a Planning Commission decision.
 - b) When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council. The public hearing should be heard within ninety (90) calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(6)(b)(vi)(e).
 - c) Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.
 - d) Any interested person may appear and be heard regarding the appeal.
 - e) A matter being heard on appeal may be continued for good cause.
 - f) The City Council's review shall be a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant or deny the permit. The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.



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

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



- i. A change to the name of the proposed business and/or entity;
- ii. A change in the organizational structure of a proposed business;
- iii. A change of owner or ownership interest, provided that any change in ownership affecting a financial interest of 5% or more shall require a new and separate background investigation, payment of fees for the

costs for investigation in accordance with 20.44.170(O)(7), and must meet the requirements of Section 20.44.170(E)(1)(e). Any business approved after November 3, 2021, that is awarded points on the merit-based selection criteria for local ownership shall not be approved for any request for minor modification that proposes to reduce local ownership below the minimum threshold for which points were awarded in the first place; those businesses awarded prior to November 3, 2021 are exempt from these requirements;

- iv. A change in building elevations, floor plans, or site plans;
 - v. A change in operational procedures or security plans or procedures;
 - vi. Modifications to the parcel upon which the proposed Commercial Cannabis Business will be located, provided that the modifications do not otherwise render the parcel nonconforming to the underlying zoning district standards.
- c. Any change to the location of a Commercial Cannabis Business after issuance of a Commercial Cannabis Business Permit may require a new application with payment of associated fees, at the discretion of the Director of Development Services. Any change to the location of a Commercial Cannabis Business shall be subject to approval by the Planning Commission. Prior to approval of a change in location of a Commercial Cannabis Business, the Planning Commission will provide all public notices and conduct a public hearing as described in the City of Merced Municipal Code Section 20.70.010 through 20.70.040.
- d. The Director of Development Services will review any requests for modifications to the permit and shall provide a written determination within thirty (30) days from the day the written request is received by the City. The decision of the Director of Development Services shall be final and there shall be no further right to appeal.

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

- a. The Director of Development Services or designee may suspend or revoke a Commercial Cannabis Business Permit when the permittee or the permittee's agent or employee has committed any one or more of the following acts:
- i. Any act which would be considered a ground for denial of the permit in the first instance.



- ii. Violates any other provision of this section or any City of Merced or State law, statute, rule or regulation relating to the business's permitted activity.
 - iii. Engages in or permits misconduct substantially related to the qualifications, functions or duties of the permittee.
 - iv. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public.
 - v. Fails to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the operation of another business.
 - vi. Violates or fails to comply with the terms and conditions of the permit.
 - vii. Fails to pay all applicable City, State, or Federal taxes and fees.
- b. Prior to suspension or revocation of the applicable permit, the Director of Development Services shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least ten (10) calendar days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery or by certified U.S. mail, postage prepaid.
- c. Any decision of the Development Services Director may be appealed to the Planning Commission. An appeal shall be filed within five (5) business days (excluding official city holidays) following a decision by the Director of Development Services.
- i. When an appeal has been filed, the matter shall be scheduled for a public hearing before the Planning Commission. The public hearing should be heard within ninety (90) days of receiving the appeal unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(8)(c)(v).
 - ii. Notice of the hearing shall be provided to the applicant at least (ten) 10 calendar days prior to the public hearing.
 - iii. Any interested person may appear and be heard regarding the appeal.
 - iv. The Planning Commission's review of the appeal shall be limited to review of the Development Services Director decision and shall not be a de novo review.
 - v. A matter being heard on appeal may be continued for good cause.
 - vi. The decision of the Planning Commission may be appealed to the City Council.



- a) A written appeal shall be filed within five (5) business days (excluding official city holidays) following a Planning Commission decision.
- b) When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council. The public hearing should be heard within ninety (90) calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(8)(c)(vi)(e).
- c) Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.
- d) Any interested person may appear and be heard regarding the appeal.
- e) A matter being heard on appeal may be continued for good cause.
- f) The City Council's review shall be a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant or deny the permit. The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.