

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, AMENDING SECTIONS 20.74 (APPEALS), 20.44.170 (COMMERCIAL CANNABIS BUSINESSES), 20.64 (ADMINISTRATIVE RESPONSIBILITY), 20.68 (PERMIT REQUIREMENTS), AND 20.70 (PUBLIC NOTICE AND HEARINGS) OF THE MERCED MUNICIPAL CODE REGARDING THE TIMING OF APPEALS AND THE NUMBER OF VOTES REQUIRED TO ADOPT PLANNING COMMISSION ACTIONS**

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

**SECTION 1. AMENDMENT TO CODE.** Section 20.74.030(E)(1) “Filing and Processing of Appeals, Report and Noticed Hearing,” of the Merced Municipal Code is hereby amended to read as follows:

**“E. Report and Noticed Hearing**

1. When an appeal has been filed, the Development Services Department shall prepare a report on the matter, including all of the application materials in question, and schedule the matter for a public hearing by the appropriate review authority. Said public hearing should be heard within 90 calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued by the appropriate review authority pursuant to 20.74.030(F)(3).”

**SECTION 2. AMENDMENT TO CODE.** Section 20.44.170(L)(4)(b) “Appeal of Denial of Commercial Cannabis Business Permit (All Types),” of the Merced Municipal Code is hereby amended to read as follows:

“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).”

**SECTION 3. AMENDMENT TO CODE.** Section 20.44.170(L)(6)(b)(i) “Appeal of Denial of Commercial Cannabis Business Permit Renewal (All Types),” of the Merced Municipal Code is hereby amended to read as follows:

“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).”

**SECTION 4. AMENDMENT TO CODE.** Section 20.44.170(L)(6)(b)(vi)(b) “Appeal of Denial of Commercial Cannabis Business Permit Renewal (All Types),” of the Merced Municipal Code is hereby amended to read as follows:

“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).”

**SECTION 5. AMENDMENT TO CODE.** Section 20.44.170(L)(8)(c)(i) “Revocation of Commercial Cannabis Business Permit (All Types),” of the Merced Municipal Code is hereby amended to read as follows:

“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).”

**SECTION 6. AMENDMENT TO CODE.** Section 20.44.170(L)(8)(c)(vi)(b) “Revocation of Commercial Cannabis Business Permit (All Types),” of the Merced Municipal Code is hereby amended to read as follows:

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).”

**SECTION 7. AMENDMENT TO CODE.** Section 20.64.040 “Administrative Responsibility, Planning Commission,” of the Merced Municipal Code is hereby amended to read as follows:

“The role of the Planning Commission in the administration of the Zoning Ordinance includes:

- A. Serving as the review authority on permit and approval applications as shown in Table 20.64-1;
- B. Reviewing appeals filed from Site Plan Review Committee decisions on Site Plan Review permit applications;
- C. Reviewing appeals filed from Development Services Director decisions on discretionary permit applications;
- D. Providing recommendations to the City Council on legislative actions as shown in Table 20.64-1; and,
- E. All decisions or recommendations of the Planning Commission noted above shall require at least four (4) members of the Planning Commission to vote to approve such an action; otherwise, the action is deemed denied.”

**SECTION 8. AMENDMENT TO CODE.** Section 20.68.020(C)(1) “Permit Requirements, Conditional Use and Minor Use Permits, Review Authority,” of the Merced Municipal Code is hereby amended to read as follows:

“1. **Conditional Use Permits.** The Planning Commission shall take action on all Conditional Use Permit applications. At least four (4) members of the Planning Commission shall be required to vote to approve a Conditional Use Permit; otherwise, the Permit is deemed denied.”

**SECTION 9. AMENDMENT TO CODE.** Section 20.68.030(C)(1) “Design Review Permit, Review Authority” of the Merced Municipal Code is hereby amended to read as follows:

“1. **Planning Commission.** The Planning Commission shall take action on all Design Review Permit applications except as specified in Sections 2 and

3 below. At least four (4) members of the Planning Commission shall be required to vote to approve a Design Review Permit; otherwise, the Permit is deemed denied.”

**SECTION 10. AMENDMENT TO CODE.** Section 20.68.070(C) “Variance,” of the Merced Municipal Code is hereby amended to read as follows:

“C. **Review Authority.** The Planning Commission, acting as the Board of Zoning Adjustment, shall take action on all Variance applications. At least four (4) members of the Planning Commission shall be required to vote to approve a Variance; otherwise, the Variance is deemed denied.”

**SECTION 11. AMENDMENT TO CODE.** Section 20.70.050 “Recommendation by Planning Commission, of the Merced Municipal Code is hereby amended to read as follows:

“20.70.050 Decision or Recommendation by Planning Commission

A. After a public hearing, any decision of the Planning Commission shall require at least four (4) members of the Planning Commission to vote to approve an action; otherwise, the action is deemed denied.

B. After a public hearing resulting in a Planning Commission recommendation to the City Council, the Development Services Department shall forward the recommendation to the City Council. A copy of the recommendation shall be mailed to the applicant at the address shown on the application. If at least four members of the Planning Commission do not vote to recommend approval or denial, then that action shall be deemed a recommendation of denial.”

**SECTION 12. EFFECTIVE DATE.** This Ordinance shall be in full force and effect thirty (30) days after its adoption.

**SECTION 13. 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 14. PUBLICATION.** The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

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

**AYES: Council Members:**

**NOES: Council Members:**

**ABSTAIN: Council Members:**

**ABSENT: Council Members:**

**APPROVED:**

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

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

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

**(SEAL)**

**APPROVED AS TO FORM:**

Prudence A. Nash      4/8/21  
**City Attorney**                      **Date**