

Cannabis Update and Direction

Michael Hren, Principal Planner
3/15/2021 City Council Meeting



Overview

Vacant Dispensary Permit

- Total Permits Remain at 5?
- Distance requirement from existing?
- Selection process

Merit Process

- Points for Local?
- Other Changes?

Taxes

- Medicinal 2% GR?
- Cultivation \$4/sq. ft. or 4% GR?
- Manufacturing \$4/sq. ft. or 4% GR?
- Testing \$0/sq. ft.?

Inspections

- 2 per year for retail?
- 2 per year for all types?

Appeals Language

Community Benefit Review?

C-T for Dispensaries?

B-P for all types?

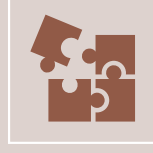
LPA/OSHA

Current Status of Cannabis in Merced

- Since adoption of the Ordinance in 2017, 15 total permits have been approved for cannabis businesses in Merced.
 - 5 Dispensaries
 - 3 operating
 - 1 completing tenant improvements
 - 1 license abandoned
 - 10 other permits among 4 operators approved but not in operation
 - 3 Manufacturing
 - 3 Distribution
 - 2 Cultivation
 - 1 Cultivation and 1 Distribution license also abandoned
- 1 Application for new Cultivation License pending Phase 2 fee and review

Vacant Retail Dispensary License

- Under current code, the available permit would be filled via a new application period.
- The Qualified Commercial Cannabis Business Application List expired on September 20, 2019.
- Currently the Director of Development Services, City Manager, and Police Chief act as a selection panel to rank applications.
- There is no present distance requirement from existing dispensaries.



Does the City Council want the total number of dispensary permits to remain at 5?



Does the Council have any direction on how to proceed with future selection processes?



Should there be a distance requirement for dispensaries from existing dispensaries?

Should points for local business ties or residency be increased?



Should the proposed community benefits elements be reviewed and held to account?



Does the Council wish to see other changes to the merit system?



Local Businesses and Community Benefits

- The current procedure awards points for local ownership. Should points for local business ties or residency be increased?
 - 1 point- Owner(s) with residency in the County of Merced
 - 2 points- Owner(s) with residency within Merced City limits.
 - 1 point- Designating an employee who is a resident of the City of Merced as a designated liaison with the neighborhood.
- Currently the elements that earned retail businesses merit points are not reviewed. If Council would like this element to be reviewed, how should staff enforce accountability if the proposed elements have not been implemented?

Taxes

- Measure Y gave the Council the authority to modify the tax on each type of cannabis business. Each business type has a maximum rate, but no minimum.
 - Merced's Current Rates:
 - Retail Dispensaries
 - Adult Use: 7% of Gross Receipts (GR)
 - Medicinal Use: 4% of GR
 - Cultivation: \$7 per square foot or 4% of GR, whichever is greater
 - Nursery: \$0.50 per square foot
 - Distribution: \$1 per square foot or 2% of GR, whichever is greater
 - Manufacturing: \$7 per square foot or 4% of GR, whichever is greater
 - Testing: \$0.25 per square foot
- Staff, in conjunction with SCI Consulting, analyzed tax rates of other municipalities and created recommendations for reductions in order to attract business and lower the financial burden between permit issuance and beginning of operations.

Tax Rate Comparison

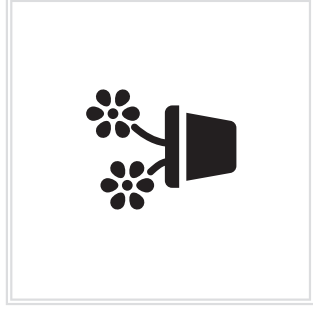
Municipality	Retail		Cultivation			Distribution			Manufacturing			Testing	
	A	M	A	M	M	A	M	M	A	M	A	M	
Atwater	3%	3%	\$0.415/sqft	\$0.415/sqft		1%	1.0%		1%	1.0%	1%	1.0%	
Berkeley	5%	2.5%	5%	2.5%		5%	2.5%		5%	2.5%	5%	2.5%	
Ceres	Development Agreements - up to 15% tax if DA is invalidated												
Coalinga	10%	10.0%	\$7/sqft	\$7/sqft	\$25/sqft	\$25/sqft	\$25/sqft	\$25/sqft	\$25/sqft	\$25/sqft	\$25/sqft	\$25/sqft	
Emeryville	3%	3%	NA	NA	1%	1%	1%	2%	1%	2%	1%	1%	
Fresno	4%	4%	\$6/sqft	\$6/sqft	1%	1%	1%	4%	0%	4%	0%	0%	
Gustine	No Tax - Development Agreements												
Hayward	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%	
Hollister	5%	5%	\$7/sqft	\$7/sqft	5%	5%	5%	5%	5%	5%	5%	5%	
Livingston	No Tax - Development Agreements												
Long Beach	8%	6%	\$12/sqft	\$12/sqft	1%	1%	1%	1%	1%	1%	1%	1%	
Los Angeles	10%	5%	2%	2%	1%	1%	1%	2%	1%	2%	1%	1%	
Modesto	8%	8%	2.5%	2.5%	6%	6%	6%	4%	2.5%	4%	2.5%	2.5%	
Oakdale	15%	15%	15%	15%	15%	15%	15%	15%	15%	15%	15%	15%	
Patterson	Development Agreements - up to 15% tax for businesses outside pilot program												
Riverbank	Development Agreements - up to 15% tax for businesses outside pilot program												
Sacramento	4%	4%	4%	4%	4%	4%	4%	4%	4%	4%	4%	4%	
San Benito County	3%	3%	\$5/sqft	\$5/sqft	4%	4%	4%	4%	4%	4%	1.25%	1.25%	
San Bernardino	4%	4%	\$7/sqft	\$7/sqft	3%	3%	3%	2.5%	1%	2.5%	1%	1%	
San Leandro	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%	
San Jose	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%	
Shasta Lake	6%	6%	\$3/sqft	\$3/sqft	0%	0%	0%	\$2/sqft	0%	\$2/sqft	0%	0%	
Turlock	No Tax - Development Agreements												
Union City	4%	4%	\$8/sqft	\$8/sqft	2%	2%	2%	4%	1%	4%	1%	1%	
Merced Current	7%	4%	\$7/sqft or 4% GR	\$7/sqft or 4% GR	\$1/sqft or 2% GR	\$1/sqft or 2% GR	\$1/sqft or 2% GR	\$7/sqft	\$0.25/sqft	\$7/sqft	\$0.25/sqft	\$0/sqft	
Merced Recommended	7%	2%	\$4/sqft or 4% GR	\$4/sqft or 4% GR	\$1/sqft or 2% GR	\$1/sqft or 2% GR	\$4/sqft	\$4/sqft	\$0/sqft	\$4/sqft	\$0/sqft	\$0/sqft	

No Changes Recommended



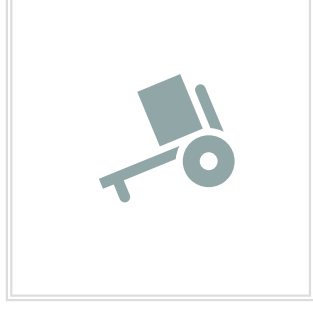
Dispensary: Adult Use

Since three retail businesses are already operational, and with the limit of five total businesses, reduction in this tax rate would not incentivize any more growth in this part of the industry.



Nursery

Nursery rates were started at a significantly lower rate than other cultivation to begin with, and thus do not need a reduction.



Distribution

Distribution rates are competitive, there is no present need to lower them.

Proposed Changes



Medicinal: Reduce from 4% to 2% of GR.
Medicinal use has generally been low, and further reducing the tax rate both incentivizes people to take advantage of the medicinal program at the state level and demonstrates compassion for those requiring cannabis as medicine by reducing their costs, per the original intent of the City's cannabis policy.



Cultivation: Reduce from the greater of \$7/sq. ft. or 4% of gross receipts, to the greater of \$4/sq. ft. or 4% of gross receipts

This is the area that the City has heard the most that its taxes are too high compared to other municipalities. With a lapsed cultivation license and a lack of any licensees in operation this could incentivize new applications and lighten the burden of getting operational.

Merced's gross receipts number is competitive, matching that of Sacramento, but reduction of the square footage rate is particularly helpful for the businesses as they get started, in years where gross receipts will be low.

Proposed Changes, II



Manufacturing: **Reduce from \$7/sq. ft. to \$4/sq. ft.**

This change is proposed both to remain consistent with the cultivation tax and reflective of the fact that manufacturers have struggled to open their doors. Reducing this tax may assist current permittees in opening their doors as well as incentivize new operators to consider Merced.



Testing: **Reduce from \$0.25/sq. ft. to \$0/sq. ft.**

There have been zero applications for a Testing facility, and the presence of one or more would dramatically improve the cannabis industry's health in the City and the region.

Inspections

- When the City created the procedure to inspect cannabis businesses, it took an aggressive approach according to the below schedule.
- Having performed inspections on the retail sales dispensaries, staff believes that the schedule could be reduced without an adverse impact on the level of compliance or compromising the quality of the businesses. Additionally, reduction in inspections would reduce annual regulatory fees, lowering the burden of maintaining an active cannabis business on operators. If for all business types the inspections are reduced to two inspections per year, this would commensurately reduce the regulatory fees and annual City revenues.

Business Type	Inspections/Year	Annual Regulatory Fee	Approximate Fee @2 Insp./Year
Cultivation	4	\$19,777	\$9,889
Nursery	4	\$16,605	\$8,303
Distribution	4	\$13,649	\$6,825
Manufacturing	4	\$35,432	\$17,716
Retail	6	\$22,741	\$7,581
Testing	2	\$6,804	\$6,804

Other Updates

- For clarity and consistency, language stating when an appeal must be heard vs. scheduled will be proposed as part of an update to the Zoning Code.
- While all regulations still apply to cannabis businesses, the City's Ordinance does not directly address labor peace agreements or OSHA.
 - Applicants for a license with more than 20 employees must enter or agree to enter into a labor peace agreement.
 - Several Cal/OSHA regulations apply to workforces in the cannabis industry.



Does the Council agree with the update of scheduling language for clarity and consistency?



Does the Council wish to provide direction regarding labor peace agreements or OSHA Standards?

Overview

Vacant Dispensary Permit

- Total Permits Remain at 5?
- Distance requirement from existing?
- Selection process

Merit Process

- Points for Local?
- Other Changes?

Taxes

- Medicinal 2% GR?
- Cultivation \$4/sq. ft. or 4% GR?
- Manufacturing \$4/sq. ft. or 4% GR?
- Testing \$0/sq. ft.?

Appeals Language

LPA/OSHA

Community Benefit Review?

Inspections

- 2 per year for retail?
- 2 per year for all types?

C-T for Dispensaries?

B-P for all types?