

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA, ADDING
CHAPTER 20.84, "MEDICAL MARIJUANA AND
CULTIVATION" AND AMENDING SECTIONS
_____ "CONDITIONAL USES," OF THE
MERCED MUNICIPAL CODE REGARDING THE
ZONING OF MEDICAL MARIJUANA
DISPENSARIES AS CONDITIONAL USES**

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

SECTION 1. AUTHORITY. This Ordinance is adopted pursuant to the authority granted by the California Constitution and State law, including but not limited to, Article XI, 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 § 11362.7 et seq.), and The Medical Marijuana Regulation and Safety Act (AB 266, AB 243, and SB 643; hereafter "MMRSA").

SECTION 2. ADOPTION OF CHAPTER 20.84. Chapter 20.84, Medical Marijuana and Cultivation," is hereby added to the Merced Municipal Code to read as follows:

**"Chapter 20.84
MEDICAL MARIJUANA AND CULTIVATION**

Section:

- 20.84.010 Definitions.**
- 20.84.020 Regulations.**
- 20.84.030 Public Nuisance.**
- 20.84.040 Civil Penalties.**

ATTACHMENT 1

20.84.010 Definitions.

‘Cannabis’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(f) as the same may be amended from time to time.

‘Caregiver’ or ‘primary caregiver’ shall have the same meaning as set forth in Health and Safety Code Section 11362.7 as the same may be amended from time to time.

‘Commercial cannabis activity’ shall have the same meaning as that set forth in Business and Professions Code Section 19300.5(k) as the same may be amended from time to time.

‘Cultivation’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(l) as the same may be amended from time to time.

‘Delivery’ or ‘deliveries’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(m) as the same may be amended from time to time.

‘Dispensary’ shall have the same meaning as set forth in Business and Professions Code Section 19300.5(n) as the same may be amended from time to time. ‘Dispensary’ shall not include the following uses:

- (1) A clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code,
- (2) A health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code,
- (3) A residential care facility for persons with chronic life-threatening illnesses licensed pursuant

to Chapter 3.01 of Division 2 of the California Health and Safety Code,

(4) A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code,

(5) A residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code.

‘Medical cannabis,’ ‘medical cannabis product,’ or ‘cannabis product’ shall have the same meanings as set forth in Business & Professions Code § 19300.5(ag) as the same may be amended from time to time.

‘Medical Marijuana Regulation and Safety Act’ or ‘MMRSA’ shall mean the following bills signed into law on October 9, 2015 as the same may be amended from time to time: AB 243, AB 246, and SB 643.

‘Qualifying patient’ or ‘Qualified patient’ shall have the same meaning as set forth in Health and Safety Code Section 11362.7 as the same may be amended from time to time.

20.84.020 Regulations.

A. Commercial cannabis activities are expressly prohibited in all zones in the City of Merced; provided, however, dispensaries are allowed in the _____ district[s] as a conditional use or in Planned Developments which have the equivalent General Plan land use designations of [this/these] zone[s].

B. Licensed dispensaries are _____ [authorized to make OR prohibited from making] medical marijuana deliveries within the City of Merced.

C. Cultivation of cannabis for commercial purposes, is expressly prohibited in all zones and all specific plan areas in the City of Merced; provided, however, that _____ [specific number] or fewer marijuana plants, mature or immature, may be cultivated _____ [indoors, outdoors or both] on any lot if the owner, lessee or tenant of the lot is the primary caregiver or the qualified patient and the cannabis is intended for the qualified patient. Under no circumstances shall more than _____ [specific number] marijuana plants, mature or immature, be allowed on any lot _____ [indoors, outdoors or both] within the City.

OR

Alternatively, the City may allow cultivation of medical marijuana on a specific number of square feet of a lot and/or within a specific number of square feet within the interior portion of a building located on a lot.

[If medical marijuana dispensaries are allowed within the City, specific provisions of the Zoning Code would be also amended depending on the zone or zones in which medical marijuana dispensaries are allowed as a conditional use.]

SECTION ____. **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 ____. **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 _____, 2016, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2016, 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