



Legislation Details (With Text)

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On agenda:	11/20/2017	Final action:	11/20/2017		
Title:	SUBJECT: Introduction of Ordinance to Amend the Zoning Ordinance to Adopt Regulations for Commercial Cannabis Businesses and Cultivation of Cannabis for Personal Use in the City of Merced				

REPORT IN BRIEF

The City Council will hold a public hearing and consider the introduction of an ordinance amending the Zoning Ordinance to adopt regulations for Commercial Cannabis Businesses and cultivation of cannabis for personal use in the City of Merced.

RECOMMENDATION

City Council - Adopt a motion:

Adopting a Categorical Exemption and Introducing Ordinance No. 2480 that would allow commercial cannabis businesses, including dispensaries/retail sales, deliveries, cultivation, manufacturing, distribution, and testing, in various zones of the City and would also adopt regulations regarding the cultivation of cannabis for personal use in residential zones:

“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 Planning Commission recommended that Land Use Table 20.44-1 be modified to allow cannabis dispensaries/retail sales in the Light Industrial (I-) zone. This is not reflected in the Draft Ordinance at Attachment 15, so if the City Council agrees, that will need to be addressed in the motion.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Att 1-Land Use Table.pdf, 2. Att 2A-Map Dispens. RC 600 feet.pdf, 3. Att 2B-Map Dispens.RC 1000 feet.pdf, 4. Att 3-City Center & C-C Zone.pdf, 5. Att 4A-Map Disp.CO 600 feet.pdf, 6. Att 4B-Map Disp.CO 1000 feet.pdf, 7. Att 5A-Map Disp.CG 600 feet.pdf, 8. Att 5B-Map Disp.CG 1000 feet.pdf, 9. Att 6A-Map Disp.IL 600 feet.pdf, 10. Att 6B-Map Disp.IL 1000 feet.pdf, 11. Att 7A-Map Disp.IH 600 feet.pdf, 12. Att 7B-Map Disp.IH 1000 feet.pdf, 13. Att 8-Cannabis Permit Flowchart.pdf, 14. Att 9-Draft Selection Criteria.pdf, 15. Att 10-Draft CCBP Application.pdf, 16. Att 11-Cat Ex for ZOA 17-01.pdf, 17. Att 12-Letters.pdf, 18. Att 13-PC Res #3087 ZOA #17-01.pdf, 19. Att 14-PC Staff Rpt 17-14 Add.pdf, 20. Draft Cannabis Ordinance

Date	Ver.	Action By	Action	Result
11/20/2017	1	City Council/Public Finance and Economic Development Authority/Parking Authority/Successor Agency to the Redevelopment Agency	approved as amended	Pass

Report Prepared by: Kim Espinosa, Planning Manager, Development Services Department

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“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 Planning Commission recommended that Land Use Table 20.44-1 be modified to allow cannabis dispensaries/retail sales in the Light Industrial (I-) zone. This is not reflected in the Draft Ordinance at Attachment 15, so if the City Council agrees, that will need to be addressed in the motion.

ALTERNATIVES

1. Introduce the ordinance as recommended by the Planning Commission and City staff; or,
2. Introduce a modified ordinance as revised by the City Council; or,
3. Deny the request; or,
4. Refer back to staff for reconsideration of specific items (specific items to be addressed in City Council motion); or,
5. Continue to a future City Council meeting (date and time to be specified in City Council motion).

AUTHORITY

This Ordinance is adopted pursuant to the authority granted by the California Constitution and State law including, but 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”).

CITY COUNCIL PRIORITIES

On March 29, 2017, the City Council held a study session on priorities and medical marijuana regulations were listed under “City Administration-Current Projects.”

DISCUSSION

Project Description

The City of Merced is proposing to adopt an Ordinance (Attachment 15) 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

From 1996 to 2015, California voters and the Legislature adopted several bills regarding the use and regulation of medical marijuana. 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”), which 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 allows no more than four medical marijuana dispensaries with a Conditional Use Permit in Commercial Office areas with specific restrictions regarding distances from schools, parks, and other sensitive uses. The Ordinance also allow deliveries from the hours of 8:00 a.m. and 7:00 p.m.; and allows the indoor growth of up to six marijuana/cannabis 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 these specific regulations, even though the ordinance was effective in September 2016, the City has not been able to accept applications 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 “Public Participation” section below), resulting in the Draft Ordinance at Attachment 15.

General Overview of Proposed Changes to the Zoning Ordinance

The City of Merced is proposing to adopt an Ordinance (Attachment 15) 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 Planning Commission Staff Report at Attachment 14 gives a detailed summary of each section of the Ordinance in Findings F through V. Below is a brief summary of the proposed Ordinance sections, please refer to the Planning Commission Staff Report or the Draft Ordinance itself for details.

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

This Section contains Land Use Table 20.44-1, shown at Attachment 1, 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.

Due to legislation (AB 133) that was just recently adopted by the State, SCI and City staff 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) and Attachment 1].

Maps of Zoning Districts and Buffers from Sensitive Uses

City staff prepared maps (Attachments 2A through 7B) 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 City Council 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. There is also a map included at Attachment 3 that shows the “City Center” Area within the Regional/Central Commercial (C-C) Zone, where commercial cannabis businesses would be prohibited.

All the maps also include the buffer areas from sensitive land uses, such as schools and parks. There are two sets of maps for each zoning district: 1) one that shows the 600-foot buffer from schools and all other sensitive uses; and, 2) one that shows a 1,000-foot buffer from schools only for comparison purposes.

On October 18, 2017, the Planning Commission had given direction for a 1,000-foot buffer 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. If the Ordinance is adopted as recommended, the maps at Attachments 2B, 4B, 5B, 6B, and 7B would apply to Dispensaries/Retail Sales businesses, and the maps at Attachments 2A, 4A, 5A, 6A, and 7A would apply to all other commercial cannabis businesses if they are allowed in those zones.

In order to make sure that the City’s Draft Ordinance was consistent with State law in regard 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.

Please note that the maps are included for illustrative purposes only and contain information that is current only up to the date of this 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. However, 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

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.
- 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.

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

This Section spells out general provisions that are applicable to all commercial cannabis businesses in Merced, including:

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.

3) Operational Standards For All Commercial Cannabis Business Activities

- Interior and exterior of the business property and all points of ingress/egress 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.
- 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

schools and 600 feet from the other uses.

- 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, labeling, and disposal of cannabis products shall meet State regulations.
- No free samples of any cannabis or cannabis products can be given out at any time.

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

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.
- 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.
- 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).
- No recommendations from a doctor for medical cannabis to be issued on-site.
- No on-site sale of alcohol or tobacco products.
- No on-site consumption of food, alcohol, or tobacco by patrons.
- No cannabis products shall be visible from the exterior.
- No drive-through facilities or vending machines are allowed and no cannabis shall be sold through a drive-through facility or a vending machine.

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

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.

- 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.
- May only deliver to a physical address in California, cannot leave the State.
- 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.
- The delivery service must provide a flyer regarding “prohibited conduct” to all customers.

20.44.170 (H) - Additional Requirement for Manufactured Cannabis Businesses

Additional requirements for cannabis manufacturing include:

- 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.
- 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

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 or view of cannabis plants.
- The use of generators for cultivation is prohibited.
- 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

Cannabis testing laboratories must do the following:

- Must follow all State Regulations and maintain all certifications.
- A licensed testing facility business, its owners, and employees may NOT hold an interest in any other cannabis business except for another testing business.

20.44.170 (K) - Additional Requirements for Cannabis Distribution Businesses

Additional regulations for cannabis distribution businesses include:

- Proof of bond for at least \$5,000 to cover cost of cannabis destruction.

- Inspections by Police Chief may be conducted during business hours.
- 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 with security fencing.
- 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

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)

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.
- Deficient applications given an opportunity to make corrections within certain parameters.
- 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” only if the application passes Phase 1 and if a CCBP becomes available, whether by creation of a new license or the forfeiture of an existing one.

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.

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, 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 after a public hearing.

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

A Flow Chart that describes the process for issuing a Commercial Cannabis Business Permit (CCBP) is included at Attachment 8. A Draft of the Merit-Based Scoring System used to score the applications for the four dispensary permits is included at Attachment 9. A Draft sample of one of the application forms for a Commercial Cannabis Business Permit is also included at Attachment 10. The Merit-Based Scoring System and application forms are still being refined, but SCI and City Staff wanted to show the City Council the Drafts in case the Council has any suggestions or changes to offer. Regarding the Merit-Based Scoring System, City staff anticipates that the criteria will continue to be refined in the future.

20.44.170 (O) - Fees and Taxes

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 10), 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. An early draft of those fees indicates that the application fees may run from

\$960 for Phase 1 to \$8,600 for Phase 2 for dispensaries. The annual regulatory fee, depending on the type of cannabis business and the number of inspections anticipated, may run from \$6,000 to \$32,000.

Public Participation Process

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 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. Another public/stakeholder workshop was held on July 12, 2017. Study sessions were held with both the City Council and Planning Commission (both together and separately) on April 17, 2017, July 5, 2017, and September 12, 2017. On September 12, 2017, 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.

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 public hearings as they were scheduled. To date, this mailing list has over 90 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 12).

Planning Commission Meetings (October 11 and 18, 2017)

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 included clarifying a property owner's right to restrict cultivation for personal use, setting a minimum age for owners and employees, requiring signs that spell out prohibited conduct involving cannabis, clarifying what criminal convictions would preclude someone from obtaining a City permit, and others. Those changes were subsequently incorporated into the Draft Ordinance at Attachment 15.

On October 18, 2017, the Planning Commission gave direction on several items which resulted in further changes to the Draft Ordinance. Those changes included further clarifications regarding criminal convictions and allowing City discretion if the convictions was over 10 years old, clarifying the "prohibited conduct" signs, and requiring a 1,000-foot distance from schools for dispensaries/retail sales.

Planning Commission Action (November 8, 2018)

The Planning Commission held meetings on the Draft Cannabis Ordinance on October 11 and 18, 2017. (Due to an issue with one of the Planning Commissioner's terms, the action taken on October 18 needed to be reconsidered at a new public hearing on November 8, 2017.) On November 8,

2017, the Planning Commission held a public hearing and accepted public testimony from six individuals in support of the ordinance. Some individuals asked the Commission to consider volatile manufacturing in the Light Industrial (I-L) as well as the Heavy Industrial (I-H) zones; to allow dispensaries in the Light Industrial (I-L) zones; and to allow dispensaries in the Neighborhood Commercial (C-N) zones.

After the public hearing and after considering all the issues, the Planning Commission voted 5-1-1 (5 ayes, 1 no, 1 abstain) to recommend approval of the Draft Ordinance to the City Council as proposed, but with the addition to Land Use Table 20.44-1 to allow dispensaries/retail sales in the Light Industrial (I-L) zones.

The Planning Commission Resolution is found at Attachment 13, but due to the short amount of time between the Planning Commission and City Council meetings, no draft minutes are available. The Planning Commission Staff Report is found at Attachment 14 without the attachments as those attachments are all repeated in this administrative report.

Environmental Clearance

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 11).

Timetable/Next Steps

If the City Council introduces the ordinance on November 20, 2017, there will be a second reading and adoption on December 4, 2017. The ordinance, if approved, would then become effective 30 days after that or on January 3, 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 (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.

City Council Action

After the public hearing, the Planning Commission, City staff, and SCI Consulting are recommending that the City Council introduce the Ordinance at Attachment 15 adopting regulations for commercial cannabis businesses and cultivation of cannabis for personal use within the City of Merced. The Planning Commission is also recommending that dispensaries/retail sales be allowed in the Light Industrial (I-L) zones, so if the City Council agrees, that will need to be addressed in the motion.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed. However, adoption of the Ordinance will likely increase the time commitments of City staff toward cannabis activities at the expense of other priorities or projects. Depending on the level of interest, the number of applications for Commercial Cannabis Business Permits may be significant, impacting mostly Planning Division staff, but will also impact the City Manager's office, the Police Department, Finance Department, and others. Ongoing resources will also need to be devoted to inspections and regulatory and enforcement activities of approved Commercial Cannabis businesses.

As noted above, the City Council will be asked in the near future to adopt application fees to cover the cost of processing the Commercial Cannabis Business Permits and annual regulatory fees to cover the costs of ongoing inspections. A ballot measure to consider a tax related to cannabis is also anticipated in 2018.

ATTACHMENTS

1. Land Use Table 20.44-1 for Commercial Cannabis Businesses in Merced
2. Map of Regional/Central Commercial Areas with Buffers from Sensitive Uses
 - a. 600 feet from All Sensitive Uses
 - b. 1,000 feet from Schools and 600 feet from All Other Sensitive Uses
3. Map of “City Center” Area of the Central Commercial Zone
4. Map of Commercial Office Areas with Buffers from Sensitive Uses
 - a. 600 feet from All Sensitive Uses
 - b. 1,000 feet from Schools and 600 feet from All Other Sensitive Uses
5. Map of General Commercial Areas with Buffers from Sensitive Uses
 - a. 600 feet from All Sensitive Uses
 - b. 1,000 feet from Schools and 600 feet from All Other Sensitive Uses
6. Map of Light Industrial Areas with Buffers from Sensitive Uses
 - a. 600 feet from All Sensitive Uses
 - b. 1,000 feet from Schools and 600 feet from All Other Sensitive Uses
7. Map of Heavy Industrial Areas with Buffers from Sensitive Uses
 - a. 600 feet from All Sensitive Uses
 - b. 1,000 feet from Schools and 600 feet from All Other Sensitive Uses
8. Flow Chart of Commercial Cannabis Business Permit Process
9. Draft Merit-Based Selection Criteria
10. Sample of a Commercial Cannabis Business Permit Application
11. Notice of Exemption (Environmental Review #17-10)
12. Written Correspondence Received on the Ordinance
13. Draft Planning Commission Resolution #3087
14. Planning Commission Staff Report #17-14 Addendum (Without Attachments)
15. Draft Cannabis Ordinance for City Council Consideration