CITY OF MERCED

Merced Civic Center
678 W. 18th Street
Merced, CA 95340

Legislation Details (With Text)

File #:	19-106	**Version:**	1	**Name:**	
Type:	Consent Item			**Status:**	Held
File created:	2/25/2019			**In control:**	City Council/Public Finance and Economic Development Authority/Parking Authority/Successor Agency to the Redevelopment Agency
On agenda:	3/4/2019			**Final action:**	3/4/2019

Title: SUBJECT: Second Reading and Adoption of Ordinance 2498 to Amend Section 20.44.170, "Regulation of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required"

REPORT IN BRIEF
Adoption of previously introduced Ordinance to amend section 20.44.170, "Regulation of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required" of the Merced Municipal Code.

RECOMMENDATION
City Council - Adopt a motion approving Ordinance 2498, an Ordinance of the City Council of the City of Merced, California, Amending Section 20.44.170, "Regulation of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required," of the Merced Municipal Code.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Ordinance Redline Version, 2. Ordinance 2498.pdf

Date	Ver.	Action By	Action	Result
3/4/2019	1	City Council/Public Finance and Economic Development Authority/Parking Authority/Successor Agency to the Redevelopment Agency	continued	Pass

Report Prepared by: Michael Hren, Principal Planner, Development Services Department

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RECOMMENDATION

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ALTERNATIVES

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

AUTHORITY

Merced Municipal Code Section 20.80, “Zoning Ordinance Amendments” spell out procedures for amending the Zoning Ordinance.

CITY COUNCIL PRIORITIES

Not applicable.

DISCUSSION

The City of Merced’s regulations regarding commercial cannabis businesses have been in effect since January 3, 2018. In order to ensure that the City’s process continues to function in an effective and timely fashion, amendments to the language are proposed. These amendments are based on a number of factors, including observation of the process since the initial implementation of the City of Merced’s cannabis business application process and best practices learned from contact with other communities and professionals in the cannabis industry. At the City Council meeting on February 19, 2019, the Council recommended the modification of the definition of ‘school’ to require the use to be the primary use of the site and for a list of schools to be approved by the City Council at an additional Public Hearing, to be updated annually and as retail sales dispensary permits become available.

Summary

The City is proposing various changes to what was adopted under Cannabis Ordinance #2480 in 2017. Changes include an addition of a fifth permit for a cannabis dispensary for retail sales, clarification of key definitions, modifications to the list of disqualifying factors for an application that can be discovered during a background check, clarifications and updates to the procedures undertaken in order to select applications to be recommended to the Planning Commission, updates to the method by which modifications to applications or permitted businesses can be undertaken, and other clarifications to bring the ordinance and the City’s implementation of it in line with best practices, along with minor corrections for spelling, grammar, and formatting throughout Section 20.44.170.

Proposed Changes to the Zoning Ordinance

The proposed zoning ordinance amendment (redline changes to the Ordinance are presented at Attachment 3) would do the following:

1) Increase the number of allowable commercial dispensaries for retail sale of cannabis from four (4) to five (5).

2) Change the point at which the City reviews sensitive uses for each application to the time at which an application is received. Previously, this point was the time at which a permit was issued.

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3) Add a definition of “Greenhouse” that is inclusive of facilities using solely artificial light and facilities using mixed-light.

4) Update the definition of “Owner” and “Ownership interest” to include “entities” and note that persons holding 5% or greater financial interest in an entity that is an owner makes those persons owners of a cannabis business.

5) Add a definition of “Selection Panel.”

6) Update the definition of “School” to eliminate a circular definition and prevent edge cases.

7) Update the validity of a Commercial Cannabis Business Permit issued on or after October 1 to be valid until December 31 of the following calendar year. Previously, such permits would expire on December 31 of the same calendar year.

8) Modify permittee requirements to inform the City in writing within ten (10) days of receipt of a State license. Previously, the requirement was to inform the City within ten (10) days of applying for a State license.

9) Give the Director of Development Services the discretion to grant an exception to fencing requirements in the event fencing which fully encloses the premises is impossible or impractical, and there are other appropriate security measures in place on the premises.

10) Update the number of days the Director of Development Services has to notify applicants of deficiencies in applications to thirty (30) days, consistent with other City policies. Previously, the Director of Development Services had twenty-one (21) days to do so.

11) Give the Chief of Police discretion to disqualify an applicant if any of the following are discovered upon completion of the comprehensive background check: any civil judgment(s) against any owner for torts involving dishonesty including, but not limited to, fraud, embezzlement, theft, and breach of fiduciary duties; any outstanding liens and/or judgments against any owner for unpaid state, federal, or local taxes; or any material misrepresentation made by the applicant in the application for a Commercial Cannabis Business Permit.

12) Update the Zoning Clearance provided by the Zoning Administrator during the Phase I process to be a Provisional Zoning Clearance, and add that it shall be subject to final approval by the Planning Commission. The Zoning Clearance confirms that the application is outside of the buffer zones from sensitive uses, such as schools, and adheres to all other zoning requirements.

13) Update the scoring process for ranking of applicants consistent with established practice from previously approved permits, as well as noting that the existing ranking list expires on September 20, 2019, and that future ranking lists created after that date shall expire 180 days after the issuance of the last available Commercial Cannabis Business Permit.

14) Require the Planning Commission to review only the Commercial Cannabis Business Permit application(s) for Dispensaries/Retail Sales recommended by the Selection Panel. Previously, the requirement was for “all” such applications to be reviewed.

15) Add language to sections discussing disqualification of applicants requiring notice to be provided to the applicant within ten (10) days, and noting that there shall be no further right to

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appeal the disqualification.

16) Add a section relating to modifications of pending applications, allowing minor modifications to such things as name or structure of business, change in ownership, floor/site/elevation plans, operation/security procedures, and modifications to the parcel on which the proposed business is located.

17) Add a section relating to modifications of approved permits consistent with #16 above, with the addition of location changes, with the approval of the Planning Commission at a public hearing.

18) Update numbering, references, spelling, grammar, and formatting throughout Section 20.44.170.

Planning Commission Recommendation

At the January 23, 2019, public hearing of the Planning Commission, the Commission voted 5-2 (5 ayes, 2 noes) to recommend approval of the Zoning Ordinance Amendment as proposed. See Attachments 1 and 2 for the Planning Commission Staff Report and Resolution.

After the Planning Commission's review and recommendation, staff noted that a number of passages of the proposed Ordinance followed the format, "[Position Title] or his designee." Staff has updated the proposed Ordinance to follow the format, "[Position Title] or designee," instead.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed.

ATTACHMENTS

1. Ordinance Redline Version
2. Ordinance 2498

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