ORDINANCE NO. 2452

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, AMENDING SECTIONS 20.20.020, "PERMITTED USES," 20.20.040, "CONDITIONAL USES," 20.22.020, "PERMITTED USES," 20.22.050, "CONDITIONAL USES," 20.24.020, "PERMITTED USES," 20.24.040, "CONDITIONAL USES," 20.26.040, "CONDITIONAL USES," AND 20.28.040, "CONDITIONAL USES," OF THE MERCED MUNICIPAL CODE REGARDING THE ZONING OF MASSAGE ESTABLISHMENTS AS CONDITIONAL USES SUBJECT TO SPECIFIC CONDITIONS

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

SECTION 1. AMENDMENT TO CODE. Section 20.20.020, "Permitted Uses," of the Merced Municipal Code is hereby amended to read as follows:

"**20.20.020 Permitted Uses.**

The following are the principal permitted uses:

A. Medical and dental offices and clinics;

B. Administrative, executive and editorial offices;

C. Professional offices for lawyers, engineers, architects;

D. Financial offices, including banks and real estate and other general business offices;

E. Medical and dental laboratories, not including the manufacture of pharmaceutical or other products for general sale or distribution;

F. Commercial parking lots for passenger vehicles;

G. Schools and studios for arts and crafts, photography, music and dance;

H. Therapeutic/rehabilitation offices;

I. Any other office or professional use which is determined by the commission to be of the same general character as the above permitted uses.

J. Massage therapy provided by a sole practitioner who has a valid certificate from the State California as a massage therapist or massage practitioner pursuant to the Massage Therapy Act (Business and Professions Code Section 4600 *et seq.*)."

SECTION 2. AMENDMENT TO CODE. Section 20.20.040, "Conditional Uses," of the Merced Municipal Code is hereby amended to read as follows:

"20.20.040 Conditional Uses.

The following are conditional uses:

A. Public and quasi-public uses appropriate to the district, such as hospitals, convalescent or nursing homes and professional, business and technical schools;

B. Mortuaries and crematories;

C. R-4 district residential uses subject to all restrictions and requirements of that district;

D. Public utility uses, substation, and communication equipment buildings;

E. Signs for single occupant in excess of the allowable area, but not to exceed fifty (50) square feet per lot;

F. Prescription pharmacies, without variety goods;

G. Bail bond businesses;

H. Day care facilities for more than twelve children;

I. Day care facilities for the elderly of twelve or fewer persons.

J. Beauty salons, barber shops, tanning salons, and nail salons.

K. Massage establishments, provided that a massage establishment permit has not been revoked at that location within twelve (12) months from the date of the application for a conditional use permit and a massage establishment permit is obtained pursuant to Chapter 5.44."

SECTION 3. AMENDMENT TO CODE. Section 20.22.020, "Permitted Uses," of the Merced Municipal Code is hereby amended to read as follows:

"20.22.020 Permitted Uses.

The following principal permitted uses are:

A. Any local retail business or service establishment, such as but not limited to a grocery store, bake shop, drug store, barber and beauty shop, clothes cleaning and laundry pickup station, business or professional office, financial institutions, supplying commodities or performing services for residents of the neighborhood;

B. Restaurant, cafe, and soda fountain, not including entertainment or dancing, or sale of liquor, beer and other

alcoholic beverages by the glass, or for consumption on the premises;

C. Commercial parking lots for passenger vehicles;

D. Any other retail business or service establishment which is determined by the commission to be of the same general character as the above permitted retail business or service uses.

E. Beauty salons, barber shops, tanning salons, and nail salons.

F. Massage therapy provided by a sole practitioner who has a valid certificate from the State of California as a massage therapist or massage practitioner pursuant to the Massage Therapy Act (Business and Professions Code Section 4600 *et seq.*)."

SECTION 4. AMENDMENT TO CODE. Section 20.22.050, "Conditional Uses," of the Merced Municipal Code is hereby amended to read as follows:

"20.22.050 Conditional Uses.

The conditional uses are:

A. Public and quasi-public uses appropriate to the C-N district;

B. Auto service station;

C. Sidewalk cafe;

D. Social hall, lodge, fraternal organizations and clubs;

E. Public utility uses, substations, and communication equipment buildings;

F. Time and Temperature Signs. These signs are exempt from the provisions of Section 20.22.040, and only the words "time" and "temperature," or an abbreviation thereof, and the electrically controlled figures indicating the time and temperature shall be permitted thereon, and the area of the sign shall not exceed twenty-four (24) square feet per face;

G. Drive-in restaurant;

H. Residential uses appropriate to R-1, R-2, R-3, or R-4 districts, subject to all restrictions and requirements of the residential zone that coincides with the density permitted;

I. Theater;

J. Restaurant or cafe, which includes the sale of liquor, beer, or other alcoholic beverages by the glass, or for consumption on the premises;

K. Carwash;

L. Convenience market with gasoline sales;

M. Fast-food restaurants;

N. Supermarket, super grocery store;

O. Church;

P. Shopping center;

Q. Day care facilities for more than twelve (12) children;

R. Day care facilities for the elderly of twelve (12) or fewer persons;

S. Retail business of twenty thousand (20,000) square feet or less selling alcoholic beverages for off-site consumption;

T. Tattoo parlors.

U. Massage establishments, provided that a massage establishment permit has not been revoked at that location within twelve (12) months from the date of the application for a conditional use permit and a massage establishment permit is obtained pursuant to Chapter 5.44."

SECTION 5. AMENDMENT TO CODE. Section 20.24.020, "Permitted Uses," of the Merced Municipal Code is hereby amended to read as follows:

"20.24.020 Permitted Uses.

The following are principal permitted uses:

A. Stores, shops and offices supplying commodities or performing services for residents of the city as a whole or the surrounding community, such as but not limited to department stores, specialty shops, banks and other financial institutions, barber or beauty shops, personal service enterprises, antique shops, upholstery shops, artist's supply stores, medical and professional offices, and including a regional shopping center or major element of the center;

B. New automobile sales and service within an enclosed building;

C. Restaurants, theaters, and similar enterprises;

D. Business and technical schools, and schools and studios for photography, arts and crafts, music and dance;

E. Garages, including those having facilities for automobile storage, and minor repairs as defined in this section, and commercial parking lots;

F. Hotels and motels;

G. Social halls, lodges, fraternal organizations and clubs;

H. Billiard parlors or pool halls with five (5) or fewer tables and video arcades (no alcohol);

I. Any other retail business or service establishment determined by the planning commission to be consistent with the purpose of this section and which will not impair the present or potential use of adjacent properties;

J. Beauty salons, barber shops, tanning salons, and nail salons;

K. Bakery;

L. Fast-food restaurants.

M. Massage therapy provided by a sole practitioner who has a valid certificate from the State California as a massage therapist or massage practitioner pursuant to the Massage Therapy Act (Business and Professions Code Section 4600 *et seq.*)."

SECTION 6. AMENDMENT TO CODE. Section 20.24.040, "Conditional Uses," of the Merced Municipal Code is hereby amended to read as follows:

"20.24.040 Conditional Uses.

The following are conditional uses:

A. Public and quasi-public uses appropriate to the C-C district;

B. Creamery, laundry, cleaning, and dyeing establishment employing less than ten (10) persons on the premises;

C. Used car sales;

D. Night club, bowling alley, dance hall, roller skating rink;

E. Automobile service station;

F. Sidewalk cafe;

G. Printing and publishing or lithographic shop;

H. R-4 district residential uses, subject to all restrictions and requirements of that district;

I. Public utility uses, substations, and communication equipment buildings;

J. Refrigerated locker plants;

K. Mortuary;

L. Heating and air-conditioning sales and services;

M. Taverns, cocktail lounges, and cardrooms;

N. Public transportation terminals;

O. Commercial baking plant;

P. Commercial laundry plant;

Q. Drive-in restaurant, drive-through restaurant;

R. Billiard parlor or pool hall with six (6) or more tables;

S. Day care facilities for more than twelve (12) children;

T. Day care facilities for the elderly of twelve (12) or fewer persons;

U. Retail business of twenty thousand (20,000) square feet or less selling alcoholic beverages for off-site consumption;

V. Tattoo parlors;

W. Hookah bars.

X. Massage establishments, provided that a massage establishment permit has not been revoked at that location within twelve (12) months from the date of the application for a conditional use permit and a massage establishment permit is obtained pursuant to Chapter 5.44."

SECTION 7. AMENDMENT TO CODE. Section 20.26.040, "Conditional Uses," of the Merced Municipal Code is hereby amended to read as follows:

"20.26.040 Conditional Uses.

The conditional uses are:

A. Public and quasi-public uses appropriate to the C-T district;

B. Drive-in theaters;

C. Cemeteries, mortuaries, crematoria, columbaria;

D. Animal hospitals, veterinary clinics, and kennels;

E. Social hall, lodge, fraternal organizations and clubs;

F. Heliports;

G. Signs aver two hundred square feet when adjacent to or across the street from an R district, but not to exceed five hundred square feet of total sign area per lot. Shopping centers located on a lot of 10 acres or larger and having at least two street frontages may be allowed additional sign area over 500 square feet, but not more than one freestanding sign per street frontage;

H. Other retail, wholesale, or heavy commercial uses listed as principal permitted uses in the C-C or C-G districts and not listed in the CT district, appropriate in or necessary to serve a thoroughfare commercial area, but not including residential uses or institutions for human care;

I. Taverns, cocktail lounges and cardrooms;

J. Concrete mixing and asphalt mixing yards;

K. Outdoor secondhand merchandise sales;

L. Carwash;

M. Day care facilities for the elderly of twelve or fewer persons.

N. Retail business of 20,000 square feet or less selling alcoholic beverages for off-site consumption.

O. Beauty salons, barber shop, tattoo parlors, tanning salons, and nail salons.

P. Massage establishments, provided that a massage establishment permit has not been revoked at that location within twelve (12) months from the date of the application for a conditional use permit and a massage establishment permit is obtained pursuant to Chapter 5.44."

SECTION 8. AMENDMENT TO CODE. Section 20.28.040, "Conditional Uses," of the Merced Municipal Code is hereby amended to read as follows:

"20.28.040 Conditional Uses.

The conditional uses are:

A. Public or quasi-public uses appropriate to the C-G district;

B. Salvage and wrecking operations;

C. Commercial recreation facilities, including but not limited to drive-in theaters and bowling alleys;

D. Concrete mixing and asphalt mixing yards;

E. Other retail commercial uses, listed as principal permitted uses in the C-T or C-C district, and not listed as permitted uses in the CG district, appropriate in or necessary to serve a general commercial area, but not including residential uses or institutions for human care;

F. Heliports;

G. Taverns, cocktail lounges and cardrooms;

H. Carwash;

I. Drive-in restaurant, drive-through restaurant;

J. Fast-food restaurant;

K. Garment manufacturing facilities;

L. Pregnancy counseling and testing clinic;

M. Day care facilities for the elderly of twelve or fewer persons.

N. Retail business of 20,000 square feet or less selling alcoholic beverages for off-site consumption.

O. Beauty salons, barber shops, tattoo parlors, tanning salons, and nail salons.

P. Massage establishments, provided that a massage establishment permit has not been revoked at that location within twelve (12) months from the date of the application for a conditional use permit and a massage establishment permit is obtained pursuant to Chapter 5.44."

SECTION 9. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 10. 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 11. 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.

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The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the 21st day of December, 2015, and was passed and adopted at a regular meeting of said City Council held on the 4th day of January, 2016, by the following called vote:

AYES: 6 **Council Members:** BELLUOMINI, BLAKE, DOSSETTI, MURPHY, PEDROZO, THURSTON

NOES: 0 **Council Members:** NONE

ABSTAIN: 0 **Council Members:** NONE

ABSENT: 1 **Council Members:** LOR

APPROVED:

Mayor

ATTEST:
JOHN M. BRAMBLE, CITY CLERK

BY:_____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:
RANDOLPH S. HOM, CITY ATTORNEY

10/26/15

City Attorney **Date**

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