



# CITY OF MENDOTA

*"Cantaloupe Center Of The World"*

ROLANDO CASTRO  
Mayor

VICTOR MARTINEZ  
Mayor Pro Tempore

JESSE MENDOZA

OSCAR ROSALES

ROBERT SILVA

**AGENDA**  
**MENDOTA CITY COUNCIL**  
Regular City Council Meeting  
**CITY COUNCIL CHAMBERS**  
643 QUINCE STREET  
April 25, 2017  
6:00 PM

VINCE DiMAGGIO  
City Manager

JOHN KINSEY  
City Attorney

The Mendota City Council welcomes you to its meetings, which are scheduled for the 2nd and 4th Tuesday of every month. Your interest and participation are encouraged and appreciated. Notice is hereby given that Council may discuss and/or take action on any or all of the items listed on this agenda. **Please turn your cell phones on vibrate/off while in the council chambers.**

Any public writings distributed by the City of Mendota to at least a majority of the City Council regarding any item on this regular meeting agenda will be made available at the front counter at City Hall located at 643 Quince Street Mendota, CA 93640, during normal business hours, 8 AM - 5 PM.

## **CALL TO ORDER**

## **ROLL CALL**

## **FLAG SALUTE**

## **INVOCATION**

## **FINALIZE THE AGENDA**

1. Adjustments to Agenda.
2. Adoption of final Agenda

## **PRESENTATION**

1. Council to honor the Mendota High School Boys Varsity Soccer Team for their victory of the Division VI Valley Championship.

## **CITIZENS ORAL AND WRITTEN PRESENTATIONS**

At this time members of the public may address the City Council on any matter not listed on the agenda involving matters within the jurisdiction of the City Council. Please complete a "request to speak" form and limit your comments to THREE (3) MINUTES. Please give the completed form to City Clerk prior to the start of the meeting. All speakers shall observe proper decorum. The Mendota Municipal Code prohibits the use of boisterous, slanderous, or profane language. All speakers must step to the podium, state their names and addresses for the record. Please watch the time.

## APPROVAL OF MINUTES AND NOTICE OF WAIVING OF READING

1. Minutes of the regular City Council meeting of April 11, 2017.
2. Notice of waiving of the reading of all resolutions and/or ordinances introduced and/or adopted under this agenda.

## CONSENT CALENDAR

Matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Calendar and will be considered separately.

1. APRIL 17, 2017 THROUGH APRIL 19, 2017  
WARRANT LIST CHECKS NO. 042363 THRU 042423  
TOTAL FOR COUNCIL APPROVAL = \$299,594.14
2. Proposed adoption of the Addendum to the Memorandum of Understanding between the City of Mendota and Operating Engineers Local No. 3, on Behalf of the Mendota Police Officers Association
3. Proposed adoption of **Resolution No. 17-29**, setting a sole source standard for water meters and automated meter reading equipment.

## BUSINESS

1. Introduction and first reading of **Ordinance No. 17-09**, adding Chapter 8.28 to the Mendota Municipal Code, "The Landlord Accountability Act".
  - a. *Receive report from Economic Development Manager Flood*
  - b. *Inquiries from Council to staff*
  - c. *Mayor opens floor to receive any comment from the public*
  - d. *Council provide any input and waive the first reading of Ordinance No. 17-09, setting the public hearing for May 9<sup>th</sup>.*
2. Council discussion and direction to staff on the City's policy on Code Enforcement.
  - a. *Receive report from City Manager DiMaggio*
  - b. *Inquiries from Council to staff*
  - c. *Mayor opens floor to receive any comment from the public*
  - d. *Council provide direction to staff on how to proceed*

3. Council discussion and consideration of **Resolution No. 17-30**, opposing Senate Bill 54 – The California Values Act.
  - a. *Receive reports from City Manager DiMaggio and Police Chief Andreotti*
  - b. *Inquiries from Council to staff*
  - c. *Mayor opens floor to receive any comment from the public*
  - d. *Council take action as appropriate*

### **PUBLIC HEARING**

1. Second reading and proposed adoption of **Ordinance No. 17-04**, approving amendments to Title 17 of the Mendota Municipal Code as it relates to outdoor advertising, and a finding of exemption from the California Environmental Quality Act.
  - a. *Receive report from Economic Development Manager Flood*
  - b. *Inquiries from Council to staff*
  - c. *Mayor opens the public hearing, accepting comments from the public*
  - d. *Mayor closes the public hearing*
  - e. *Council provide any input, waive second reading, and adopt Ordinance No. 17-04*
2. Second reading and proposed adoption of **Ordinance No. 17-05**, approving amendments to Title 17 of the Mendota Municipal Code relating to recreational marijuana use and cultivation, and a finding of exemption from the California Environmental Quality Act.
  - a. *Receive report from City Attorney Kinsey*
  - b. *Inquiries from Council to staff*
  - c. *Mayor opens the public hearing, accepting comments from the public*
  - d. *Mayor closes the public hearing*
  - e. *Council provide any input, waive second reading, and adopt Ordinance No. 17-05*

3. Second reading and proposed adoption of **Ordinance No. 17-06**, approving amendments to Title 17 of the Mendota Municipal Code relating to permit application processing and siting locations for installations of new wireless telecommunications facilities, and a finding of exemption from the California Environmental Quality Act.
  - a. *Receive report from City Attorney Kinsey*
  - b. *Inquiries from Council to staff*
  - c. *Mayor opens the public hearing, accepting comments from the public*
  - d. *Mayor closes the public hearing*
  - e. *Council provide any input, waive second reading, and adopt Ordinance No. 17-06*
  
4. Second reading and proposed adoption of **Ordinance No. 17-08**, amending sections 5.28.020 and 5.28.025 of the Mendota Municipal Code relating to the number of itinerant food vendors allowed within the city, and a finding of exemption from the California Environmental Quality Act.
  - a. *Receive report from Economic Development Manager Flood*
  - b. *Inquiries from Council to staff*
  - c. *Mayor opens the public hearing, accepting comments from the public*
  - d. *Mayor closes the public hearing*
  - e. *Council provide any input, waive second reading, and adopt Ordinance No. 17-08*

#### **DEPARTMENT REPORTS AND INFORMATIONAL ITEMS**

1. Public Works
  - a) Monthly Report
  
2. City Attorney
  - a) Update
  
3. City Manager

#### **MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS**

1. Council Member(s)
  
2. Mayor


**CLOSED SESSION**

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
CA Government Code § 54956.8  
Property: Approximately 2,000 acres within Westlands Water District in the County of Fresno located south of the Ashlan Avenue alignment, west of Dos Palos Road/State Highway 33 (Derrick Avenue), north of Belmont Avenue, and east of Douglas Avenue  
Agency Negotiator: Vince DiMaggio, City of Mendota  
Negotiating Parties: Westlands Water District

**ADJOURNMENT**

**CERTIFICATION OF POSTING**

I, Celeste Cabrera, Deputy City Clerk of the City of Mendota, do hereby declare that the foregoing agenda for the Mendota City Council Regular Meeting of April 25, 2017, was posted on the outside bulletin board located at City Hall, 643 Quince Street Friday, April 21, 2017 at 2:50 p.m.

  
\_\_\_\_\_  
Celeste Cabrera, Deputy City Clerk



## MINUTES OF MENDOTA REGULAR CITY COUNCIL MEETING

---

**Regular Meeting**

**April 11, 2017**

**Meeting called to order by Mayor Castro at 6:00 p.m.**

### **Roll Call**

**Council Members Present:** Mayor Rolando Castro, Councilors Jesse Mendoza, Oscar Rosales, and Robert Silva.

**Council Members Absent:** Mayor Pro Tem Martinez.

**Flag salute led by Deputy City Clerk Cabrera.**

### **FINALIZE THE AGENDA**

1. Adjustments to Agenda.
2. Adoption of final Agenda.

A motion was made by Councilor Rosales to adopt the agenda, seconded by Councilor Mendoza; unanimously approved (4 ayes, absent: Martinez).

### **CITIZENS ORAL AND WRITTEN PRESENTATIONS**

None offered.

### **APPROVAL OF MINUTES AND NOTICE OF WAIVING OF READING**

1. Minutes of the special City Council meeting of March 13, 2017 and the regular City Council meeting of March 14, 2017.
2. Notice of waiving of the reading of all resolutions and/or ordinances introduced and/or adopted under this agenda.

A motion was made by Councilor Silva to approve items 1 and 2, seconded by Councilor Rosales; unanimously approved (4 ayes, absent: Martinez).

### **CONSENT CALENDAR**

1. MARCH 09, 2017 THROUGH MARCH 24, 2017  
WARRANT LIST CHECKS NO. 042250 THRU 042321  
TOTAL FOR COUNCIL APPROVAL = \$341,797.17
2. MARCH 28, 2017 THROUGH APRIL 06, 2017  
WARRANT LIST CHECKS NO. 042322 THRU 042362  
TOTAL FOR COUNCIL APPROVAL = \$132,664.52
3. Proposed adoption of **Resolution No. 17-15**, entering into a lease agreement with Fresno Area Workforce Investment Corporation.
4. Proposed adoption of **Resolution No. 17-28**, approving and accepting the public improvements of Tract No. 5847 and Tract No. 5925.

A request was made to pull item 1 for discussion.

A motion was made by Councilor Rosales adopt items 2 through 4 of the Consent Calendar, seconded by Councilor Mendoza; unanimously approved (4 ayes, absent: Martinez).

1. MARCH 09, 2017 THROUGH MARCH 24, 2017  
WARRANT LIST CHECKS NO. 042250 THRU 042321  
TOTAL FOR COUNCIL APPROVAL = \$341,797.17

City Manager DiMaggio reported that there was an incorrect number attributed to the total of warrant number 42287; stated that the item needs to read \$375.00; and requested that the Council include the modification of the warrant amount within their motion to approve item 1 of the Consent Calendar.

A motion was made by Councilor Mendoza to adopt item 1 of the Consent Calendar with a modification of the total of warrant number 42287 to read \$375.00, seconded by Councilor Silva; unanimously approved (4 ayes, absent: Martinez).

### **BUSINESS**

1. Introduction and first reading of **Ordinance No. 17-04**, approving amendments to Title 17 of the Mendota Municipal Code as it relates to outdoor advertising, and a finding of exemption from the California Environmental Quality Act.

Mayor Castro introduced the item and Economic Development Manager Flood summarized the report including the background of amending the sign ordinance; what

is permitted under the current sign ordinance; the process of amending the sign ordinance; and the proposed changes to outdoor advertising.

Discussion was held on the total amount of window space that businesses can cover with advertising; allowing free-standing signs in the C-3 districts; and educating businesses on the proposed amendments of the sign ordinance.

A motion was made by Councilor Mendoza to perform the first reading of Ordinance No. 17-04, with the second reading waived, seconded by Councilor Silva; unanimously approved (4 ayes, absent: Martinez).

2. Introduction and first reading of **Ordinance No. 17-05**, approving amendments to Title 17 of the Mendota Municipal Code relating to recreational marijuana use and cultivation, and a finding of exemption from the California Environmental Quality Act.

Mayor Castro introduced the item and Deputy City Attorney Helsley summarized the report including the ordinance being in response to Adult Use of Marijuana Act (AUMA); what the Mendota Municipal Code currently allows; and the amendments included in the proposed ordinance.

Discussion was held on whether the proposed ordinance would allow the commercial cultivation, and what is allowed under the AUMA.

A motion was made by Councilor Rosales to perform the first reading of Ordinance No. 17-05, with the second reading waived, seconded by Councilor Silva; unanimously approved (4 ayes, absent: Martinez).

3. Introduction and first reading of **Ordinance No. 17-06**, approving amendments to Title 17 of the Mendota Municipal Code relating to permit application processing and siting locations for installations of new wireless telecommunications facilities, and a finding of exemption from the California Environmental Quality Act.

Mayor Castro introduced the item and Deputy City Attorney Helsley summarized the report including the background of the issue, and the purpose of the proposed ordinance.

Discussion was held on the background of the issue, and whether other Fresno County cities are also regulating telecommunications facilities.

A motion was made by Councilor Mendoza to perform the first reading of Ordinance No. 17-06, with the second reading waived, seconded by Councilor Silva; unanimously approved (4 ayes, absent: Martinez).



4. Introduction and first reading of **Ordinance No. 17-08**, amending sections 5.28.020 and 5.28.025 of the Mendota Municipal Code relating to the number of itinerant food vendors allowed within the city, and a finding of exemption from the California Environmental Quality Act.

Mayor Castro introduced the item and Economic Development Manager Flood summarized the report including individuals requested that the city increase the number of itinerant food vendors allowed within the city; the amount of vendors that the MMC currently allows; and lowering the population threshold to allow an additional two vendors.

Discussion was held on the various individuals that want to open an itinerant food business in the city, and the threshold being changed in the past.

**Ignacio Larios (240 McCabe Avenue)** – explained that he wants to bring a small business to Mendota to sustain his family, and that his business will be bring joy to children.

Discussion was held on Mr. Larios wanting to bring an ice cream truck to the City; how Mr. Larios can be added to the itinerant food vendor waiting list; whether the city can add a local-preference to the proposed ordinance; and analyzing the issue and reporting out at a future meeting.

**Miguel Porti Urias (329 Gomez Street)** – stated that he wants to have a lunch truck; the various food items that he sells at his restaurant; and explained that he buys his produce locally.

Discussion was held on the individuals selling at the farmers market.

A motion was made by Councilor Rosales to perform the first reading of Ordinance No. 17-08, with the second reading waived, seconded by Councilor Mendoza; unanimously approved (4 ayes, absent: Martinez).

## **PUBLIC HEARING**

1. Second reading and proposed adoption of **Ordinance No. 17-03**, amending Title 15 of the Mendota Municipal Code related to adoption, by reference, of the 2016 California Building Code and associated trade codes.

Mayor Castro introduced the item and Planning & Public Works Director Gonzalez summarized the report.

Discussion was held on what type of buildings the code applies to.

At 6:46 p.m. Mayor Castro opened the hearing to the public and, seeing no one present wishing to comment, closed it in that same minute.

A motion was made by Councilor Mendoza to adopt Ordinance No. 17-03, seconded by Councilor Silva; unanimously approved (4 ayes, absent: Martinez).

## **DEPARTMENT REPORTS AND INFORMATIONAL ITEMS**

1. Code Enforcement
  - a) Monthly Report

Economic Development Manager Flood reported on the importance of ensuring the safety of Code Enforcement officers; provided an update on the weed abatement process; and provided updates on ongoing cases.

Discussion was held on the bidding process to associated with contracting an individual to forcefully abate properties, and the process of dealing with abandoned buildings.

2. Police Department
  - a) Monthly Report

Chief of Police Andreotti provided a personnel update; provided information on significant cases; commended the proactive work by the officers; reported on an immigration forum that was held by the catholic church; and a car wash that was held by the Explorers Program.

3. City Attorney
  - a) Update

Deputy City Attorney Helsley provided an update on SB 54.

Discussion was held on impact that the passage of SB 54 would have on the community, and discussing the issue at a future meeting.

4. City Manager

City Manager DiMaggio reported on SB 199, and shared the impact that the passage of the bill would have on the community.

## **MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS**

1. Council Member(s)

Councilor Silva reported on the items discussed at a previous Public Safety Sub-Committee meeting, and inquired on where residents can get dispose of mattresses.

Councilor Mendoza requested that the City have portable restrooms at Pool Park for the upcoming holiday weekend.

2. Mayor

Mayor Castro reported on the upcoming Mendota Youth Recreation Annual Easter Egg Hunt; the upcoming Westside Youth Inc. carnival; and an upcoming football camp for kids with special needs.

**CLOSED SESSION**

1. CONFERENCE WITH LABOR NEGOTIATORS  
CA Government Code 54957.6  
Agency designated representatives: City Manager Vince DiMaggio  
Employee organization: Mendota Police Officers Association
  
2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
CA Government Code § 54957(b)  
Title: City Manager

At 7:36 p.m. the Council moved into closed session.

At 9:07 p.m. the Council reconvened in open session and Deputy City Attorney Helsley stated that the only reportable item in regards to closed session was a motion to approve a \$3,000 performance bonus for City Manager DiMaggio; approved (4 ayes, 1 no).

**ADJOURNMENT**

With no more business to be brought before the Council, a motion for adjournment was made at 9:08 p.m. by Councilor Mendoza, seconded by Councilor Rosales; unanimously approved (5 ayes).

\_\_\_\_\_  
Rolando Castro, Mayor

ATTEST:

\_\_\_\_\_  
Matt Flood, City Clerk

CITY OF MENDOTA  
CASH DISBURSEMENTS  
04/17/2017 - 04/19/2017  
Check # 042363 - 042423

Date	Check #	Amount	Vendor	Department	Description
April 17, 2017	42363	\$2,769.56	A-1 NATIONAL FENCE	GENERAL- WATER- SEWER- STREETS	GAUGE CHAIN LINK FENCE, POSTS, TOP RAIL, TENSION BARS, HOOKED TIES, HOG RINGS, BRACE BANDS, BOLTS AND NUTS, FLANGES, WALK GATES
April 17, 2017	42364	\$3,110.00	ADMINISTRATIVE SOLUTIONS, INC.	GENERAL	5-HRA ADMINISTRATION- APRIL 2017 (PD), 20- MONTHLY MEDICAL ADMINISTRATION FEES- APRIL 2017, MEDICAL CHECK RUN NOTIFICATION
April 17, 2017	42365	\$338.67	AG & INDUSTRIAL SUPPLY, INC.	WATER	CAMLOCK AL PT (2), CAMLOCK ALUM A 'PT (1), CAMLOCK ALUM A 'PT (1)
April 17, 2017	42366	\$28.84	AIRGAS USA, LLC	WATER	RENT CYL IND SMALL CARBON DIOXIDE 20LBS- MARCH 2017
April 17, 2017	42367	\$604.80	AMERITAS GROUP	GENERAL	VISION INSURANCE FOR THE MONTH OF MAY 2017
April 17, 2017	42368	\$425.28	AMERIPRIDE SERVICES INC	GENERAL- WATER- SEWER	PUBLIC WORKS UNIFORM WEEKS- 2/26/17-3/4/17, 3/5/17-3/11/17, 3/12/17-3/18/17, 3/19/17- 3/25/17, 3/26/17- 4/1/17
April 17, 2017	42369	\$203.26	AT&T	GENERAL	POLICE DEPARTMENT DISPATCH 2/17/17- 3/26/17
April 17, 2017	42370	\$44.37	AUTOZONE, INC.	GENERAL	BC2 BOOSTER CABLE, SUMMER WINDSHIELD WIPER FLUID, (PD)
April 17, 2017	42371	\$100.00	CRYSTAL G. AVITIA	GENERAL	(1) BLOOD DRAW 4/09/17 (PD)
April 17, 2017	42372	\$342.00	BMI	GENERAL	MUSIC LICENSE FEE 4/1/17- 3/31/18
April 17, 2017	42373	\$493.00	BSK ASSOCIATES	WATER- SEWER	SOURCE MONITORING PROFILE- DRINKING WATER ANALYSIS, WASTE WATER WEEKLY ANALYSIS
April 17, 2017	42374	\$297.96	BSN SPORTS INC.	GENERAL	SOCCER NET(1) & BASKETBALL NET (20)
April 17, 2017	42375	\$58,546.00	CSJVRMA C/O BICKMORE RISK SERVICES	GENERAL	2016/2017 4TH QUARTER DEPOSITS WORKERS COMPENSATION, 2016/2017 4TH QUARTER DEPOSITS LIABILITY PROGRAM
April 17, 2017	42376	\$114.00	CENTRAL VALLEY TOXICOLOGY, INC.	GENERAL	LAW ENFORCEMENT LAB ANALYSIS - ETHYL ALCOHOL (3)- PD
April 17, 2017	42377	\$175.00	CORELOGIC INFORMATION	GENERAL- WATER- SEWER	REALQUEST SERVICES FOR JUNE 2017
April 17, 2017	42378	\$341.20	CROWN SHORTLAND CONCRETE	STREETS	CONCRETE (QTY- 2 1/4) 6 SACK MIX FOR 6TH STREET AND DERRICK AVE.
April 17, 2017	42379	\$81.00	DEPARTMENT OF JUSTICE ACCOUNTING OFFICE	GENERAL	MARCH 2017 (2) FINGERPRINTS APPLICATIONS (1) FINGERPRINT FBI
April 17, 2017	42380	\$797.66	ECS HOUSE INDUSTRIES, INC.	SEWER	(1) TE STUBSHAFT AND BEARING FOR WTP
April 17, 2017	42381	\$113.37	EINERSON'S PREPRESS	GENERAL	BUSINESS CARDS TSARIS, AYALA, AND ESQUEDA (PD)
April 17, 2017	42382	\$10,833.33	FIREBAUGH POLICE	GENERAL	DISPATCH SERVICES 3/1/17- 3/31/17 (PD)
April 17, 2017	42383	\$372.00	CITY OF FRESNO- POLICE DEPARTMENT REGIONAL TRAINING CENTER	GENERAL	PERISHABLE SKILLS CLASS JANUARY 24-26, 2017 (PD)
April 17, 2017	42384	\$161.24	FRESNO COUNTY SHERIFF BUSINESS OFFICE	GENERAL	RMA JMS ACCESS EE FOR MARCH 2017, PRISONER PROCESSING SERVICES FOR MARCH 2017 (1) (PD)
April 17, 2017	42385	\$434.00	FRESNO MOBILE RADIO INC.	GENERAL	31 TELEPHONE RADIOS (PD) MARCH 2017
April 17, 2017	42386	\$150.00	FRESNO MADERA COUNTIES POLICE CHIEF'S ASSOCIATION C/O JOE GARZA	GENERAL	2017 MEMBERSHIP DUES- #163 G. ANDREOTTI, #138 KEVIN SMITH (PD)
April 17, 2017	42387	\$223.69	HR DIRECT	GENERAL	POSTER GUARD 1YR STATE/ FEDERAL/ LOCAL NEW CALIFORNIA LAWS

**CITY OF MENDOTA  
CASH DISBURSEMENTS  
04/17/2017 - 04/19/2017  
Check # 042363 - 042423**

April 17, 2017	42388	\$97.07	JORGENSEN BATTERIES, INC.	GENERAL	(1) 65 BATTERY - UNIT #80 (PD)
April 17, 2017	42389	\$249.00	KERWEST NEWSPAPER	GENERAL- WATER- SEWER	CLASSIFIED - HELP WANTED AWOP CREW LEADER, CLASSIFIED - HELP WANTED ADMINISTRATIVE ASSISTANT, LEGAL NOTICE ORD 17-03
April 17, 2017	42390	\$991.98	KOPPEL & GRUBER	MENDOTA CFD	CFD- NO. 2006-1 (PD & FIRE) ANNUAL ADMINISTRATION SERVICES JANUARY THRU MARCH 2017
April 17, 2017	42391	\$78.00	LOU'S GLOVES, INC.	SEWER	NITRIL, EXAM GRADE, POWDER-FREE, BLACK , LARGE (10)
April 17, 2017	42392	\$1,334.98	MENDOTA SMOG & REPAIR	GENERAL- WATER- SEWER	FORD- OIL CHANGE & NEW BATTERY, UNIT#83 MOTOR OIL CHANGE & DIAGNOSTIC(PD), NISSAN OIL CHANGE & FRONT AND BACK BRAKES,FORD-
April 17, 2017	42393	\$55,406.36	MID-VALLEY DISPOSAL, INC.	REFUSE- STREETS	SANITATION CONTRACT SERVICES EXCHANGE- 10 YARD BIN, 30 YARD BIN, & SANITATION CONTRACT SERVICES FOR MARCH 2017
April 17, 2017	42394	\$2,800.00	MOUNTAIN VALLEY ENVIRONMENTAL SERVICES	SEWER	MAY 2017 CITY WASTEWATER TREATMENT AND CPO SERVICE
April 17, 2017	42395	\$1,351.66	NORTHSTAR CHEMICAL	WATER	SODIUM HYPOCHLORITE 12.5% MILL A ( 700.000 G) FOR WTP
April 17, 2017	42396	\$200.42	AT&T	GENERAL- WATER- SEWER	MONTHLY SERVICES FOR 559-266-6456 3/26/17-4/25/17
April 17, 2017	42397	\$7,371.57	PG&E	GENERAL- WATER- SEWER	WATER DEPARTMENT UTILITIES 2/13/17- 3/14/17, UTILITIES FOR ROJAS-PIERCE PARK UNIT #B
April 17, 2017	42398	\$4,500.00	PROVOST & PRITCHARD	GENERAL- WATER- SEWER	CITY ENGINEERING SERVICES- RETAINER FISCAL YEAR 16/17
April 17, 2017	42399	\$8.62	QUINN COMPANY	WATER- STREETS	ELBOW-1 GRADER PARTS
April 17, 2017	42400	\$252.56	R&B COMPANY	WATER	CONC TRAFFIC VALVA BOX- CI LID MK: WATER
April 17, 2017	42401	\$701.83	RAMON'S TIRE & AUTO SERVICE	GENERAL- WATER- SEWER	RADIAL TUBE, FIRESTONE FARM TUBE, BIAS TUBE TR13, FREIGHTLINER-STREET SWEEPER- ROADMASTER, TIRE REPAIR AND WHEEL BALANCE
April 17, 2017	42402	\$906.13	ERNEST PACKING SOLUTIONS SAN JOAQUIN SUPPLY	GENERAL- WATER- SEWER	SOLARIS LIVI 500CT (4), SOLARIS LIVI TT JRJUMBO 2-PLY (3), PUMICE SCOURING STICK (2), - JANITORIAL SUPPLIES
April 17, 2017	42403	\$38.00	SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT	GENERAL- WATER- SEWER	ANNUAL PERMIT FEE- CITY YARD GAS DISPENSE TANK
April 17, 2017	42404	\$330.81	SMITH & LOVELESS, INC.	SEWER	4- VACUUM BOWL, VALVE- LOZANO LIFT STATION
April 17, 2017	42405	\$1,939.11	SORENSEN MACHINE WORKS	GENERAL- WATER- SEWER- STREETS	MULTIPLE DEPARTMENT SUPPLIES MARCH 2017-
April 17, 2017	42406	\$194.85	TCM INVESTMENTS	GENERAL	MPC3503 LEASE PAYMENT COPY MACHINE (PD)
April 17, 2017	42407	\$220.74	THOMASON TRACTOR COMPANY	STREETS	(2) KEY- TRACTOR, (1)- O-RING HOSE FITTING & KEY- BACKHOE, (1)SEAL KIT & CYLINDER- FOR DISC
April 17, 2017	42408	\$3,500.00	TOWNSEND PUBLIC AFFAIRS, INC.	GENERAL- WATER- SEWER	CONSULTING SERVICES FOR MARCH 2017
April 17, 2017	42409	\$436.73	TRIANGLE ROCK PRODUCTS, LLC	STREETS	6.13 ST 3/8 CM SC3000 ENVIRONMENTAL FEE AGG & ASPHALT
April 17, 2017	42410	\$151.32	USA BLUEBOOK	WATER	(3) CHLORINE REAGENT SET- WWTP
April 17, 2017	42411	\$120.00	VALLEY TELECOM	GENERAL- WATER- SEWER	LABOR CHARGE FOR PHONE EXTENSION 102
April 17, 2017	42412	\$190.00	VERIZON WIRELESS - GPS	WATER- SEWER	MONTHLY GPS SERVICE FOR JANUARY 2017 (QTY 10)

CITY OF MENDOTA  
 CASH DISBURSEMENTS  
 04/17/2017 - 04/19/2017  
 Check # 042363 - 042423

April 17, 2017	42413	\$78.00	VETERINARY MEDICAL CENTER	GENERAL	(3) CITY EUTHANASIA & MEDICAL WASTE DISPOSAL FEE
April 17, 2017	42414	\$1,092.06	VULCAN MATERIALS COMPANY	STREETS	ST 1/2 IN HMA TYPE A AGG & ASPHALT (QTY-16)
April 18, 2017	42415	\$2,862.56	AMERITAS GROUP	GENERAL	DENTAL INSURANCE FOR MAY 2017
April 18, 2017	42416	\$19,024.81	BLUE SHIELD OF CALIFORNIA	GENERAL	MEDICAL INSURANCE FOR MAY 2017
April 18, 2017	42417	\$37.82	JENNIFER LEKUMBERRY	GENERAL	MILEAGE REIMBURSEMENT- ZIMMERMAN BOYS AND GIRLS CLUB
April 18, 2017	42418	\$10.28	MARIA PEREZ	GENERAL	REIMBURSEMENT FOR SUPPLIES FOR SART(PD)
April 18, 2017	42419	\$311.57	UNION PACIFIC RAILROAD COMPANY	STREETS	PUBLIC ENCROACHMENT PERMIT 5/1/17-5/31/17
April 18, 2017	42420	\$1,197.34	VERIZON WIRELESS	GENERAL- WATER- SEWER	CITY WIDE CELL PHONE SRVICES 3/7/17 - 4/6/17
April 19, 2017	42421	\$99,286.00	WESTAMERICA BANK	GENERAL- WATER- SEWER	PAYROLL TRANSFER 4/3/17 - 4/16/17
April 19, 2017	42422	\$108.50	DAVID A. FIKE	GENERAL	PROFESSIONAL SERVICES SPECIAL SERVICE MARCH 2017
April 19, 2017	42423	\$11,113.23	WANGER JONES HENSLEY	GENERAL- WATER- SEWER	LEGAL SERVICE RETAINER FOR MARCH 2017 & SPECIAL SERVICES
		<b>\$299,594.14</b>			

**ADDENDUM TO MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF MENDOTA AND OPERATING ENGINEERS LOCAL  
UNION NO. 3, ON BEHALF OF THE MENDOTA POLICE OFFICERS ASSOCIATION**

This Addendum to Memorandum of Understanding Between the City of Mendota and Operating Engineers Local Union No. 3, on Behalf of the Mendota Police Officers Association (the “*Addendum*”), made this 25th day of April, 2017, is entered into between the City of Mendota (the “*City*”), on the one hand, and Mendota Police Officers Association (“*MPOA*” or the “*Association*”) and Operating Engineers Local Union No. 3 (“*OE3*” or the “*Union*”), on the other. The City, MPOA and OE3 are sometimes collectively referred to herein as the “*Parties*” or individually as a “*Party*.” This Addendum is governed by Sections 3500-3510 of the Government Code of the State of California (otherwise known as the “*Meyers-Milias-Brown Act*” or “*MMBA*”), and the City’s Personnel Rules, ordinances, policies, rules, or other regulations. In the event of a conflict between the laws under the MMBA and this Agreement, the City’s Personnel Rules, ordinances, policies, rules and other regulations, and laws under the MMBA shall govern.

**RECITALS**

The Parties agree that the following background facts are true and correct:

A. On or about July 1, 2017, the City, MPOA, and OE3 entered into the Memorandum of Understanding Between the City of Mendota and Operating Engineers Local Union No. 3, on Behalf of the Mendota Police Officers Association (the “*Agreement*”).

B. The City anticipates ordering a special election by mail-in ballot on August 29, 2017 (the “*Election*”), on (i) an ordinance increasing in the City’ Sales and Use Tax and (ii) an ordinance imposing a Special Parcel Tax, to help fund public safety (collectively, the “*Ordinances*”).

C. Until the Ordinances are submitted to the electorate for approval, it is unclear what level of funding will be available to the City to enhance public safety.

In this context, the Parties hereby agree that the Agreement shall be amended as follows:

**1. Modifications to Article I, Section E**

Article I, Section E, is replaced with the following language:

*The term of this Agreement will be July 1, 2015, to June 30, 2018. There shall be no additional request made for a wage reopener for the fiscal year of 2016/17 or 2017/18. If the electorate passes both Ordinances at the Election, the Parties will begin the process for a comprehensive update to this Agreement on or before January 31, 2018.*

///

///

///

2. **Modifications to Article V, Section A**

Article V, Section A, is replaced with the following language:

*The annual compensation schedule for Police Officers and Police Corporals, and Police Sergeants employ on a full-time basis shall be as follows from July 1, 2015, to June 30, 2017:*

<b>Compensation Schedule (July 1, 2015, to June 30, 2017)</b>					
<b>Position</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>
<b>Police Officer</b>	\$17.9178	\$18.8137	\$19.7544	\$20.7421	\$21.7799
<b>Police Corporal</b>	\$18.8191	\$19.7601	\$20.7481	\$21.7855	\$22.8747
<b>Police Sergeant</b>	\$20.3081	\$21.3235	\$22.3897	\$23.5092	\$24.6846

*The annual compensation schedule for Police Officers and Police Corporals, and Police Sergeants employed on a full-time basis shall be as follows starting July 1, 2017, reflecting an additional five percent (5%) COLA for each classification listed below:*

<b>Compensation Schedule (July 1, 2017, to June 30, 2018)</b>					
<b>Position</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>
<b>Police Officer</b>	\$18.8137	\$19.7544	\$20.7421	\$21.7792	\$22.8689
<b>Police Corporal</b>	\$19.7601	\$20.7481	\$21.7855	\$22.8748	\$24.0184
<b>Police Sergeant</b>	\$21.3235	\$22.3897	\$23.5092	\$24.6847	\$25.9188

*Employees shall be eligible for a salary step increase at the time of his/her yearly performance evaluation, contingent on the Employee receiving a satisfactory performance evaluation along with a recommendation for the salary step increase made by the Employee's supervisor and approved by the City Manager. When an Officer is promoted to Corporal, they shall be promoted to the same step in the new classification.*

*If the electorate passes both Ordinances at the Election, the City shall approve a revised salary schedule by January 31, 2018, which shall go into effect no earlier than June 1, 2018.*

///

///

///

///



///

*IN WITNESS WHEREOF*, the Parties hereto, pursuant to authorization duly granted, have executed this Agreement to be effective as of the date first shown above.

**FOR THE CITY OF MENDOTA**

**FOR THE UNION/ASSOCIATION**

By \_\_\_\_\_  
Vince DiMaggio, City Manager  
Employees Division

By \_\_\_\_\_  
Operating Engineers, Local Union No. 3

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

By \_\_\_\_\_  
John P. Kinsey, City Attorney

By \_\_\_\_\_  
Carlos Esqueda, President  
Mendota Police Officers Association

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

---

---

## AGENDA ITEM

---

---

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS  
**FROM:** DAVID McGLASSON, PE, PLS, CITY ENGINEER  
**VIA:** VINCE DIMAGGIO, CITY MANAGER  
**SUBJECT:** ADOPTION OF A STANDARD WATER METER AND AMR EQUIPMENT  
**DATE:** APRIL 25, 2017

---

### **ISSUE**

Should the City Council adopt the attached resolution setting a sole-source standard for water meters and automated meter reading (AMR) equipment?

### **BACKGROUND**

The City has been awarded a State Revolving Fund Drinking Water grant to implement an automated meter reading system throughout the City. This includes standardization of water meters, installation of the automated reading equipment at each water meter, and installation of the necessary radio and computer equipment at City Hall to receive the meter data.

As you are aware, public contracting requirements usually mandate specification of “or equal” equipment on public bids, to allow fair competition without prejudice. Because of the nature of this project, where the City would like to continue to use some of the current meters while adding compatible AMR equipment, and would like all new meters to match the current stock, the State allows use of “sole source” specifications, where the City can mandate use of a particular brand and model of meter and AMR equipment in the bid. Staff recommends that we proceed in that direction.

### **ANALYSIS**

In order to implement “sole source” specifications for this AMR contract, the Council must adopt the attached resolution, finding that the selected equipment is advantageous to the City, that standardizing on a single brand and model is beneficial, and specifying the brand and model of equipment which must be used. From that time, staff may specify “sole source” water meters and AMR equipment in all City contracts and on all private development within the City.

**FISCAL IMPACT**

This measure will have no direct fiscal impact on the City.

**RECOMMENDATION**

Staff recommends that the City Council adopt the attached resolution setting a sole-source standard for water meters and automated meter reading (AMR) equipment.

**BEFORE THE CITY COUNCIL  
OF THE  
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MENDOTA TO SET A  
SOLE-SOURCE STANDARD FOR WATER  
METERS AND AUTOMATED METER  
READING (AMR) EQUIPMENT**

**RESOLUTION NO. 17-29**

**WHEREAS**, the City of Mendota has long mandated installation of water meters on all residential, commercial and industrial water services; and

**WHEREAS**, different meters have been allowed by the City over the years, resulting in a non-homogenous mix of equipment that must be maintained by City staff, and which is not compatible with a single automated reading system; and

**WHEREAS**, the City recently received a State Revolving Fund Drinking Water grant which will allow standardization of water meters and installation of automated reading equipment; and

**WHEREAS**, State grant rules allow the City to specify the brand and model of meter and AMR equipment to be supplied under the grant project, if that brand is determined beforehand to be the City's sole source; and

**WHEREAS**, the City will benefit from the standardization of service parts inventory and repair procedures inherent in limiting installations to a single brand and model of equipment;

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Mendota that the City of Mendota finds the following equipment to be best suited to the needs of the City of Mendota and declares that the following equipment shall be provided on all public and private construction projects within the City of Mendota whenever such equipment is required:

Residential, Commercial and Industrial Water Meters: Badger Model E Series  
with Nicor Connector (E-Series  
Ultra Plus for sizes 3/4" and 5/8")

Automated Meter Reading Equipment: Badger Model Orion  
CDMA-N Cellular Endpoint with Nicor  
Connector fully loaded (120 service  
units) with through lid mounting kit

---

Rolando Castro, Mayor

ATTEST:

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a regular meeting of said Council, held at the Mendota City Hall on the 25th day of April, 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

Matt Flood, City Clerk

---

---

**AGENDA ITEM – STAFF REPORT**

---

---

**TO:** HONORABLE MAYOR AND COUNCILORS  
**FROM:** MATT FLOOD, ECONOMIC DEVELOPMENT MANAGER  
**VIA:** VINCE DIMAGGIO, CITY MANAGER  
**SUBJECT:** INTRODUCTION AND FIRST READING OF ORDINANCE NO. 17-09, THE LANDLORD ACCOUNTABILITY ACT  
**DATE:** APRIL 25, 2017

---

**ISSUE**

Shall the City Council conduct the first reading of Ordinance No. 17-09, the “Landlord Accountability Act”, and set the public hearing for the May 9<sup>th</sup> City Council meeting?

**BACKGROUND**

Recently the City of Fresno passed an ordinance to hold landlords accountable when they do not fulfill their duty to keep their properties clean and maintained. Because of problems they have faced in their city and the measures that their ordinance proposed, it received overwhelming support from different sectors of the community.

Due to issues and complaints received by residents in our community, the Planning Commission, and the City Council over the years, staff formulated an ordinance with the same intention that has the potential to be implemented by our staff here in Mendota. This “potential” is further explained in the “Analysis” section.

**ANALYSIS**

The proposed ordinance attached to the resolution in this report would add Chapter 8.28 to the Mendota Municipal Code (MMC). This Chapter would do three principal things:

- Emphasize the role landlords have in complying with health and safety standards concerning the units they lease
- Establish a procedure by which City staff would schedule inspections
- Provide locally enforced penalties for not complying with these standards

The way it is currently envisioned to work is that a party makes a formal report (including the exact location of the violation and a description of what the violation is), staff reports to the site to perform an inspection, and, based on the results of the inspection, a determination is made regarding corrections. This determination will consist of a Correction Notice that will give the landlord a certain reasonable amount of days (dependant on the work needed to be done), and if it is not done within that timeframe, the penalties listed in Section 8.28.100 will apply.

However, the potential of this ordinance to be enforced (referenced in the “Background” section), thereby reaching its maximum effectiveness, will depend on how many resources are allocated to staffing, since an ordinance of this nature, once it is in full effect, will require at least one staff member dedicated completely to this operation. That is why staff crafted an ordinance that is reactive in nature, providing flexibility and discretion in enforcement, since the history of Mendota’s staffing levels has fluctuated depending on perceived priorities.

**FISCAL IMPACT**

Dependant on the level of attention and resources allocated to the implementation of this ordinance, minor to moderate expenditure impacts due to staff conducting inspections, and minor revenues from fines for non-compliance.

**RECOMMENDATION**

Staff recommends that the City Council discuss the proposed ordinance, that the Mayor open a hearing to take comment from the public, then the Council conduct the first reading of Ordinance No. 17-09 and set the public hearing for the May 9<sup>th</sup> Council Meeting.

**PLANNING COMMISSION  
OF THE CITY OF MENDOTA  
FRESNO COUNTY, CALIFORNIA**

**RESOLUTION NO. PC 17-04**

**A RESOLUTION OF THE CITY OF MENDOTA PLANNING COMMISSION  
RECOMMENDING THAT THE CITY COUNCIL OF THE CITY OF MENDOTA ADOPT  
AN ORDINANCE ADDING CHAPTER 8.28 TO THE MENDOTA MUNICIPAL CODE,  
“THE LANDLORD ACCOUNTABILITY ACT”**

**WHEREAS**, the City of Mendota Planning Commission is responsible for overseeing the more integral elements of urban development within the City of Mendota; and

**WHEREAS**, it is requested of the Planning Commission that, from time to time, it provide recommendations on ordinances that will impact the development of Mendota; and

**WHEREAS**, the City council has requested that more resources be made available for the enforcement of Health and Safety Codes, especially as it relates to housing; and

**WHEREAS**, City Staff has prepared a proposed Ordinance adding Chapter 8.28 to the Mendota Municipal Code that would implement a more specific reactive program that would ensure residents have appropriate and ample recourse to receive help when their living situation is substandard, which ordinance is attached hereto as “Exhibit A”; and

**WHEREAS**, on April 5, 2017, the City published notice in the Firebaugh Mendota Journal advising that the Planning Commission would conduct a public hearing on the Proposed Ordinance at its April 18, 2017, regular meeting; and

**WHEREAS**, on April 18, 2017, the Planning Commission conducted a duly-noticed public hearing on the proposed ordinance; and

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission for the City of Mendota hereby recommends to the City Council approval of the proposed ordinance, attached hereto and made a part of this resolution as “Exhibit A.”

**BE IT FURTHER RESOLVED** that the Planning Commission finds the approval of this ordinance is not subject to CEQA, pursuant to Section 15060(c)(2) of the CEQA Guidelines, on the grounds that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) of the CEQA Guidelines, on the grounds that the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the Planning Commission finds the approval of this ordinance is not a project under Section 15061(b)(3) of the



CEQA Guidelines because it has no potential for causing a significant effect on the environment.


**PASSED AND ADOPTED** by the Planning Commission of the City of Mendota at a regular meeting held on the 18<sup>th</sup> of April, 2017, upon a motion by Commissioner Romero, a second by Commissioner Leiva, and by the following vote:

**AYES: 5 - Chairperson Luna, Vice-Chairperson Gamez, Commissioners Escobedo, Leiva, and Romero.**

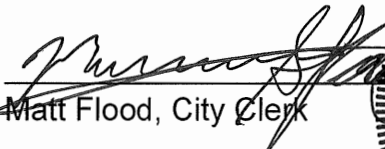
**NOES: 0**


**ABSTAIN: 0**

**ABSENT: 0**

  
\_\_\_\_\_  
Juan Luna, Chair

ATTEST:

  
\_\_\_\_\_  
Matt Flood, City Clerk



**BEFORE THE CITY COUNCIL  
OF THE  
CITY OF MENDOTA, COUNTY OF FRESNO**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF MENDOTA, CALIFORNIA,  
ADDING CHAPTER 8.28 TO THE  
MENDOTA MUNICIPAL CODE, THE  
“LANDLORD ACCOUNTABILITY ACT”**

**ORDINANCE NO. 17-09**

***WHEREAS***, the City Council is duly authorized and obligated to formulate policies that protects the health, safety, and peace of the community; and

***WHEREAS***, the City Council finds that within the community of Mendota there exists a preponderance of rented or leased housing that, due to negligence by the landlord or their agent, is in a substandard condition or otherwise not appropriate for reasonably comfortable human habitation; and

***WHEREAS***, the existence and continued support of such housing practices is not only a hazard to the health and welfare of the residents of Mendota, but a blight to the reputation of our City; and

***WHEREAS***, the exposition of significant cases in and around Mendota has brought to light the widespread practice of marginal property management methods that have put at risk the health and safety of surrounding dwellings; and

***NOW THEREFORE***, the City Council of the City of Mendota does ordain as follows:

**SECTION 1.** Chapter 8.28 of the Mendota Municipal Code is added, known hereby as the “Landlord Accountability Act”, and shall read:

**8.28.010 – Purpose and Intent**

**It is the purpose and intent of this chapter to protect the health, safety, and general welfare of Mendota residents by emphasizing the importance of maintaining residential rental properties free of substandard living situations and to provide the City programmatic procedures and resources to facilitate and ensure correction when such situations are present.**

**It is also the purpose of this Chapter to provide a manner for residents within the City Limits to report, receive assistance with, and follow up on situations within their dwelling that pose a health and safety risk, especially to the most vulnerable populations, such as children and the elderly.**

**8.28.020 – Relationship with Other Laws**

This chapter is not intended to, nor shall it be construed or given effect in a manner that causes it to conflict or supplant any Federal, State or other law that applies to housing, to the extent that application of this chapter would conflict with such law or would unduly interfere with the achievement of federal or state regulatory purposes. It is the intention of the City Council that this chapter shall be interpreted to be compatible and consistent with federal and state enactments and in furtherance of the purposes which those enactments express.

#### **8.28.030 – Definitions**

Notwithstanding any other provision in the Mendota Municipal Code, for purposes of this Chapter, the following terms shall have the following meanings:

**“Director” shall mean the City Manager, or his or her designee.**

**“City” shall mean the City of Mendota and/or any agent hired to implement this article.**

**“Code” shall mean the Mendota Municipal Code unless otherwise specified.**

**“Health and Safety Standards” shall mean the standards set forth in California Civil Code 1941.1.**

**“Owner” means the person or entity identified and listed as having title by the latest property tax assessment roll, maintained by the Fresno County Assessor.**

**“Property” or “Residential Rental Property” means any lot or parcel of land containing Residential Rental Units, and all improvements thereon, including common areas.**

**“Residential Rental Unit” means any structure or part of a structure that is used or may be used by one or more persons as a home, residence, dwelling, or sleeping place for longer than thirty days, including single family dwellings, duplexes, triplexes, or multi-family (four units or more) residential buildings, or the residential component of any mixed-uses, which is not an owner occupied unit, including rooming houses, boarding houses, apartment units, condominium units, and single room occupancies, but excluding: (1) mobile home parks; (2) any dwelling unit in a building that is properly registered pursuant to Chapter 8.30 of this Code; (3) hotels, motels, and bed and breakfasts used for transient lodging; (4) any rental units in a state licensed hospital, hospice, community care facility, intermediate care facility, or nursing home; (5) rental housing units owned, managed or operated by an educational, religious, or medical institution, or by a third party for an educational, religious, or medical institution, when units are used for the sole purpose of**

housing employees, students, clergy, patients, or others directly related to the operation or service of the institution; and (6) any temporary structure illegally established or inhabited that does not comply with the provisions of Title 15 of this Code and that qualifies as a Public Nuisance pursuant to any of the subsections of Section 8.20.050 of this Code.

“Tenant’s Affirmative Obligations” shall mean the standards set forth in California Civil Code 1941.2. An Inspector’s determination that a tenant is or is not in substantial violation of Tenant’s Affirmative Obligations, or the cause of the existence of a dilapidation or violation, or interferes substantially with the Owner’s obligation to effect necessary maintenance or repairs is not intended as evidentiary proof of the condition of the unit, and shall be used only for purposes of implementing and enforcing this article.

#### **8.28.40 – Scope**

- A. The provisions of this article shall apply to all Residential Rental Units located within the city.**
- B. Provisions of this article shall be supplementary and complementary to all of the provisions of this Code, and any local, state or federal law. Nothing herein shall be construed or interpreted to limit any existing right or power of the city to abate and prosecute any and all nuisances or to enforce any other conditions in violation of state or local laws, including but not limited to any building, housing, property maintenance, and public nuisance law.**

#### **8.28.050 – Inspections and Compliance with Applicable Codes and Standards**

- A. Inspections. The Director, or his or her designee, hereinafter referred to as the Inspector, is authorized to inspect all Residential Rental Units to determine whether such Residential Rental Units meet minimum Health and Safety Standards.**
- B. Number of Units Inspected. Where there exists more than four Residential Rental Units on a Residential Rental Property, the Inspector may choose a percentage of representative units to inspect.**
- C. Compliance with Codes and Standards. Residential Rental Units shall be required to be in conformance and maintained in accordance with the code standard that was in effect at the time the Residential Rental Unit was constructed, substantially altered, or remodeled, erected, or converted, except for any additional requirements mandated by this Code or state law.**

#### **8.28.060 – Cause of Inspection**

- A. The City may perform an inspection (i) whenever probable cause exists that any Residential Rental Units do not conform to any requirement of the Code or state law, or (ii) to perform a baseline inspection to determine compliance with the requirements of the Code or state law. For purposes of prioritizing baseline inspections, the City shall have the right to select those properties it has identified as having frequent health and safety code violation, and inspect those Properties first when implementing the program.**
- B. In the event that the owner or party in control of the property does not give consent to the Inspector to enter the premises and carry out an investigation, the City shall contact the owner via written correspondence and notify them that they have 7 days to comply with the request of the Inspector to allow access to the premises for an inspection. In case of refusal, the City Attorney shall procure a warrant for the completion of such. If the City discovers a violation of Health and Safety codes in such a property, the City shall have the right to recover costs related to any administrative or legal processes undertaken in order to gain access to the premises.**

#### **8.28.70 – Exemption from Requirements of Inspection**

- A. Any Owner that has their Residential Rental Property managed by a professional property management company licensed by the State of California, can submit an application to exempt those properties managed by said company from the inspections required in this Chapter.**
- B. Upon submittal of an application for exemption, the Inspector shall inspect the subject property pursuant to 8.28.050(B) of this Chapter and determine if the property complies in keeping with the Purpose and Intent of this Chapter. That application shall last three years, until a change of ownership, or until a change in the company that manages the property, whichever comes first.**
- C. Exemption forms shall be signed under penalty of perjury. It shall be unlawful to knowingly falsify any material information on a self-certification form, and any such falsification may be prosecuted as a misdemeanor.**

#### **8.28.80 – Content, Time, and Compliance for Correction**

##### **A. Correction Notices.**

- 1. Whenever it is determined by the Inspector that a violation of Health and Safety Standards exists, the Inspector shall**

issue a written correction notice. The notice shall contain a description of the violation, the specific action required to correct the violation, and a demand the violations be corrected within the specified time period listed in the notice. The notice shall contain the scheduled re-inspection date and time, and shall otherwise comply with any pertinent Regulations promulgated pursuant to Section 8.28.090 of this Code.

2. The notice shall provide a reasonable time for correction. The time shall depend on the time it would take a reasonably diligent person to complete the required action; the potential harm to the public welfare, health and safety; the harm to the tenant or nearby properties; and the extent of the corrections required. Certain imminently dangerous life-safety violations in occupied units shall require immediate correction.
3. Compliance re-inspections shall be conducted to verify the violations identified on the correction notice have been abated. Violations that were not noted on the initial correction notice but are discovered during any re-inspection due to subsequent activities, damage or deterioration, shall be subject to correction.

#### **8.28.090 – Rules, Regulations, and Operating Procedure**

- A. The City Manager may make rules and regulations enforceable hereunder, which are not inconsistent with the provisions of this article and which may be necessary or desirable to aid in the administration or enforcement of the provisions of this article.

#### **8.28.100 – Violations and Penalties**

- A. If, after a correction notice has been issued in accordance with subsection 8.28.080(A) and the Owner fails to correct the violations, the Owner will be assessed the following penalties:
  1. A fine of \$100 per unit not in compliance.
  2. An additional fine of \$250 per unit not in compliance if the unit is not corrected within 15 days from the deadline given.
  3. An additional fine of \$500 per unit not in compliance if the

unit is not corrected in 30 days from the deadline.

4. An additional fine of \$500 per unit for every 30 days that passes thereafter in which the unit is not corrected.
- B. The violation may be declared a public nuisance and the City may proceed with all remedies available under law to compel compliance, including, but not limited to, execution of the actions and procedures contained in Chapter 8.20 of this Code, issuing administrative citations, abatement proceedings, civil injunction, and/or criminal prosecution, or any combination of remedies, so long as violations are not caused by tenant's breach of Tenant's Affirmative Obligations, and may recover its costs through the process outlined in Section 8.20.150 of this Code or by any other legal means.
  - C. Additionally, in any other action or proceeding brought by the City to enforce this article, the City shall be entitled to recover its costs, including attorney's fees, when it is the prevailing party. The City Attorney, working in consultation with the Director, may charge any violation of this ordinance as either an infraction or a misdemeanor.
  - D. If it is found that a false statement was made in the fulfillment of the requirements contained in Section 8.28.070 of this Code, a fine of \$250 shall be issued to the signer of the application, in addition to any other remedies that may be available.

#### **8.28.110 – Appeals**

- A. The Owner of a Residential Rental Unit or a party with a legal property interest in the unit may file an appeal in writing with the City Manager on any action taken pursuant to this Chapter within 15 days of said action. Upon submittal of the appeal, the City Manager or his/her designee will review the facts of the case and make a determination whether to grant a hearing. If a hearing is denied, the City Manager shall notify the appealing party in writing.
- B. Any hearing granted under this Chapter shall be scheduled within 15 days of the City Manager having received the appeal, and a written decision shall be rendered and sent to the appealing party within 5 days after the scheduled hearing.

**SECTION 2.** The City Council finds the approval of this ordinance is not subject to the California Environmental Quality Act, Public Resources Code, § 21000, *et seq.* ("CEQA"), pursuant to Section 15060(c)(2) of the CEQA Guidelines, on the grounds that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) of the CEQA Guidelines, on the grounds that the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the City Council finds the approval of this ordinance is not a project under Section 15061(b)(3) of the CEQA Guidelines because it has no potential for causing a significant effect on the environment.

**SECTION 3.** If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Mendota City Council hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional.

**SECTION 4.** The adoption of any provision of this Ordinance does not affect any prosecution, civil action or administrative proceeding for any ordinance violation committed prior to the effective date of this ordinance; does not waive any fee, penalty, license or permit requirement due or in effect on the date this ordinance is adopted; and does not affect the validity of any bond or cash deposit posted, filed or paid pursuant to the requirements of any Ordinance.

**SECTION 5.** Within fifteen (15) days of the adoption of this Ordinance, a summary thereof, including the names of the City Council Members voting for and against it, shall be prepared by the City Attorney for publication in the *Firebaugh-Mendota Journal*, and a certified copy of the Ordinance shall be posted in the office of the City Clerk.

**SECTION 6.** This ordinance shall become effective and in full force at 12:00 midnight on the 31st day following its adoption.

\* \* \* \* \*

The foregoing ordinance was introduced on the 9<sup>th</sup> day of May, 2017 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 23<sup>rd</sup> day of May, 2017 by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**

\_\_\_\_\_  
Rolando Castro, Mayor



ATTEST:

---

Matt Flood, City Clerk

APPROVED AS TO FORM:

---

John Kinsey, City Attorney

---

---

**AGENDA ITEM – STAFF REPORT**

---

---

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS  
**FROM:** VINCE DIMAGGIO, CITY MANAGER  
**SUBJECT:** PROVIDE STAFF DIRECTION FOR THE CITY'S POLICY ON CODE ENFORCEMENT  
**DATE:** APRIL 25, 2017

---

**BACKGROUND**

Over the last several months, the composition of the City Council has changed and consists now of a majority of new Councilmembers. With this change, it is important that the Council have a policy discussion and provide direction to staff on the code enforcement policy in the City.

**ANALYSIS**

Code enforcement is traditionally one of the most contentious operations of City government. The obvious purpose of code enforcement is to contribute to the overall safety and positive aesthetic appearance of the community. Code enforcement covers a wide array of activities, including weed abatement, illegal businesses, illegal signs, illegal dumping and improper outdoor storage of materials – to name a few areas.

A strong code enforcement program will generate a high volume of complaints to elected officials from those feeling that the City is being too strict in its enforcement activities. On the other end of the spectrum, a more lenient code enforcement program could possibly result in a negative aesthetic in the community, a lack of overall community pride, and irregular regulation of land uses. Therefore, the Council, in setting the overall policy for staff to follow, needs to find the “happy medium” in order to achieve the desired outcome of a safe and clean community.

Council should consider providing direction on what types(s) of violations the Council considers “priority” issues. Issues that the Council considers priority will be the principal focus of the code enforcement officers. Council may also wish to give direction on whether staff should provide an offender with a written warning first, and if so, which violations should receive a warning prior to a citation being issued.

Individual Councilmembers will obviously have differing opinions on how code enforcement should be addressed. For this reason, it is important for the Council, as a whole, to achieve a compromise position so that staff can develop a program that implements the Council’s overall policy direction.

**RECOMMENDATION**

Staff recommends that the City Council attempt to agree on a unified approach to code enforcement, including discussion and direction on the types of violations they wish the staff to focus on and when (and if) warnings should be provided for some (or all) violations.

---

---

**AGENDA ITEM – STAFF REPORT**

---

---

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS  
**FROM:** VINCE DIMAGGIO, CITY MANAGER  
**SUBJECT:** CONSIDER RESOLUTION IN OPPOSITION TO SB 54  
**DATE:** APRIL 25, 2017

---

**BACKGROUND**

Senate Bill 54 (SB 54) authored by State Senator Kevin De Leon (D – Los Angeles), would prohibit local law enforcement from cooperating with federal immigration or law enforcement officials.

The bill would prohibit local law enforcement from disclosing information pertaining to the status of immigration warrants to federal immigration officials; prohibit federal officials from having access to individual's with immigration warrants who were arrested or detained on other, unrelated charges; prohibit local law enforcement from participating in joint task forces with other regional law enforcement officials if the federal immigration enforcement is also involved; and a host of other cooperative measures. *See* Senate Bill 54, Section 1, *adding* Chap. 17.25 to the Gov't Code, § 7284.6 (A)(1) *et seq.*

**ANALYSIS**

The Mendota Police Department *does not* conduct immigration enforcement. Immigration enforcement is the exclusive purview of federal law enforcement officials. However, if an individual is detained or arrested as a result of involvement in a crime (unrelated to an immigration violation) and it is discovered through the course of the investigation by the Mendota Police Department that an immigration warrant exists pertaining to that individual, federal immigration officials are notified.

SB 54 creates a potential conflict with federal law, specifically 8 U.S.C. § 1373, which restricts states from prohibiting the sharing of immigration information with federal immigration officials. In a case where a state law is in direct conflict with federal law, the federal law shall prevail. (U.S. Constitution, Article VI, Clause 2).

Additionally, there have been instances where a suspect in a gang-related criminal investigation has been apprehended by Mendota police and was found to have an immigration warrant. Federal immigration officials were subsequently notified and the suspect was taken into federal custody. This level of cooperation between local law enforcement and federal immigration authorities has undoubtedly provided a benefit to the community by removing gang-affiliated elements.

Another factor to consider is how SB 54 would adversely affect Mendota's efforts to obtain federal funding. The Trump administration's position has been unequivocal: federal funds will be withheld from "sanctuary" cities and states. No doubt this issue will be litigated, but until a definitive ruling comes down, cities and states may see federal funds dry up in the interim. According to the U.S. Department of Homeland Security, the President ordered the creation of a list of cities and states that refuse to cooperate with federal detainer warrants. Known as the Declined Detainer Outcome Report, the report details the states, counties, and cities that have refused to honor detainer warrants. The list is used, in part, to disqualify local jurisdictions from receiving federal assistance.

Local law enforcement independence is paramount in ensuring a safe community. SB 54 dictates how local law enforcement conducts business. No two communities are alike. Each community is unique in how it deals with criminal activity. Some cities are plagued with gang violence, while others may have an unusually large number of burglaries or robberies. Having the state government dictate how local law enforcement should conduct business (or prohibit its cooperation with federal authorities) is antithetical to our system of government. The point being that only local law enforcement officials know what measures will result in the highest degree of safety for the community.

This is a very difficult issue. There are undoubtedly local residents who are here illegally and have detainer warrants. The only crime they have committed is an immigration violation, but otherwise live peacefully in the community. On the other end of the spectrum, there are bad actors who reside in the community who are also in the country illegally and pose a real danger to all residents.

As the city manager, my recommendation is based on two principle factors: 1) what is legal; and 2) what is most beneficial for the community. Should this bill pass, there becomes a real question as to whether it is in direct conflict with federal law or encourages or sanctions local officials to ignore federal law. Additionally, the Trump administration and its officials have been clear both in personal conversations with your staff and to the larger national audience that they will take any and all steps necessary to remove federal funds from sanctuary cities. Mendota receives over \$400,000 per year in combined federal funds (CDBG and COPS) that could potentially be lost if the administration is successful in its efforts to defund sanctuary cities. The potential loss of such a large amount of funding is significant and would have a serious adverse impact on our ability to provide services to the City's residents.

While I am sensitive to all of the various dimensions this issue has, my recommendation is based on how best to provide city services to *all* residents and how the deprivation of federal funds could negatively affect *all* residents. Given the totality of these factors, the only responsible recommendation that I can make is to urge the Council to adopt a resolution formally opposing SB 54.

## **FISCAL IMPACT**

If SB 54 is signed into law and the Trump administration is successful in defunding sanctuary cities and states, Mendota could lose approximately \$400,000 in federal funding which will result in the loss of at least one police officer (due to the elimination of COPS funding) and over \$300,000 in CDBG funding, which is used to fund a variety of road and other public improvements.

In addition, federal grants will no longer be available for Mendota, resulting in the loss of an unknown amount of federal funds – potentially several hundred thousand dollars.

## **ALTERNATIVES**

The City Council has the following alternatives:

- 1) Adopt the resolution opposing SB 54. Adoption of the resolution will likely have little effect on the lawmakers in Sacramento as this bill moves through the legislative process. The resolution simply expresses the sense of the Council on this matter. Although if dozens of cities throughout the state adopt similar resolutions, or otherwise express their opposition to the bill to their local lawmakers, that may have a cumulative impact on whether the bill becomes law.
- 2) Take no action. The Council can choose to take no action and simply observe, through periodic notifications from staff, the bill's progress. The downside of this approach is that the local representatives and Governor's office remains unaware of serious concerns the Council may have and the demonstrably negative impact the bill's passage could have on Mendota directly.

## **RECOMMENDATION**

Staff recommends that the City Council adopt the attached resolution expressing its opposition to SB 54.

---

---

**AGENDA ITEM - STAFF REPORT**

---

---

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS  
**FROM:** GREGG L. ANDREOTTI, CHIEF OF POLICE  
**VIA:** VINCE DIMAGGIO, CITY MANAGER  
**SUBJECT:** OPPOSITION TO SB-54 AND SANCTUARY CITY STATUS  
**DATE:** APRIL 25, 2017

---

**ISSUE:**

Should the City Council support SB-54 and/or the City of Mendota designation as a Sanctuary City?

**BACKGROUND:**

*See the Staff Report by City Manager Vince DiMaggio for additional information relating to this topic.*

Police Officers, Deputy Sheriffs, Highway Patrol Officers, State DOJ Investigators, and Federal Investigators from all agencies are Law Enforcement Officers. Some have specific authorities while others have much broader local, state and/or federal authorities. Regardless, they are all dedicated to serving and protecting the public and need each other to best perform their duty. All in Law Enforcement work together. Taking a tool out of the tool box is not the correct answer to providing quality public safety.

President Donald Trump stated that jurisdictions designated with a Sanctuary status will have their federal funds reduced or eliminated. The Mendota Police Department currently is dependent upon federal funds from a COPS grant to fund a Police Officer. Loss of federal funding will reduce police staffing and further negatively impact police services.

City Manager DiMaggio and I travelled to Washington D.C. earlier this month and met with representatives and/or elected officials from the U.S. House of Representatives, Senate, both Appropriations Committees, COPS Office, and White House Office of Intergovernmental Affairs. In these meetings we presented language for legislation and discussed options to assist rural communities in receiving funding. During nearly every meeting the question of whether Mendota was in support of becoming a Sanctuary City was asked, followed up with the President's position. Each time we informed the questioner "No" and explained how losing or having federal funding reduced would devastate the city.

During our meeting with the Director of the Office of Intergovernmental Affairs, he was asked to consider a Mendota representative be placed on the President's Task Force on Crime Reduction and Public Safety. A position on this committee will greatly benefit Mendota and enhance our status in Washington by bringing attention to our community.

Immediately following our trip we received information that members of Congress and White House staff are very interested in Mendota's issues. Outwardly supporting SB-54 and/or supporting Sanctuary City status has the opportunity to damage the progress made during the Washington D.C. meetings.

**FISCAL IMPACT:**

Unknown. Possibly thousands of federal fund dollars eliminated from the City budget.

**RECOMMENDATION:**

Staff recommends the City Council adopt the attached resolution opposing SB-54.



**BEFORE THE CITY COUNCIL  
OF THE  
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MENDOTA OPPOSING  
SB 54, A LEGISLATIVE BILL THAT  
PROHIBITS LOCAL LAW ENFORCEMENT  
FROM SHARING INFORMATION WITH  
FEDERAL IMMIGRATION OFFICIALS**

**RESOLUTION NO. 17-30**

**WHEREAS**, the federal government has authority, under the law, to regulate and enforce immigration into the United States; and

**WHEREAS**, in order to ensure the maximum level of safety and public protection in the community, local police departments require the discretion to cooperate with federal officials on a myriad of different law enforcement and crime prevention measures; and

**WHEREAS**, during the conduct of certain crime prevention and law enforcement activities, the immigration status of an individual under investigation for a criminal offense unrelated to immigration comes to the attention of local law enforcement personnel; and

**WHEREAS**, in the interest of continuing a cooperative working relationship with law enforcement at all governmental levels, local law enforcement will share information pertaining to an alleged violation of federal law with federal law enforcement officials; and

**WHEREAS**, the California Legislature is considering Senate Bill 54, which as drafted would prohibit local law enforcement from sharing certain information with federal law enforcement officials; and

**WHEREAS**, if signed into law, SB 54 would have a negative consequences for the local governments, including but not limited to the following:

- a. SB 54 could be interpreted to be in direct contradiction with federal law, specifically 8 U.S.C. § 1373, and places individual local government officials in a position where they must choose between violating state or federal law.
- b. SB 54 could result in the loss of hundreds of thousands or millions of dollars of federal funding to local communities that rely upon such funding by requiring California cities to ignore federal law, including immigration policies, and policies pertaining to grant eligibility.
- c. SB 54 substitutes the judgment local law enforcement in carrying out the specific duties for keeping their individual communities safe and replaces it

with a one-size-fits-all mandate that does not fit the needs of all local communities.

- d. SB 54 would adversely impact the cooperative efforts of law local enforcement and federal law enforcement to suppress the criminal activities of foreign-influenced gangs.
- e. SB 54 would eliminate or substantially harm the productive working relationships between local police departments and federal law enforcement agencies that is vital at combating violent crime.
- f. SB 54 may result in the loss of federal funding for other important municipal functions and projects, including public transportation, housing, roads, and public safety.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Mendota that the City Council expresses to the Legislature and the Governor of the State of California its opposition to Senate Bill 54 for the reasons set forth above.

\_\_\_\_\_  
Rolando Castro, Mayor

ATTEST:

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a regular meeting of said Council, held at the Mendota City Hall on the 25th day of April, 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Matt Flood, City Clerk

---

---

**AGENDA ITEM – STAFF REPORT**

---

---

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS  
**FROM:** MATT FLOOD, ECONOMIC DEVELOPMENT MANAGER  
**SUBJECT:** PUBLIC HEARING AND ADOPTION OF ORDINANCE NO. 17-04 MODIFYING THE ZONING CODE AS IT PERTAINS TO OUTDOOR ADVERTISING (SIGNS)  
**DATE:** APRIL 25, 2017

---

**ISSUE**

Shall the City Council perform the second reading, hold the public hearing, and adopt Ordinance No. 17-04, modifying the Zoning Code as it relates to Outdoor Advertising (Signs) in Commercial Districts?

**BACKGROUND**

As discussed at the previous Council meeting, members of the business community had requested that the City Council consider modifying the Zoning Code as it relates to outdoor advertising (signs). Staff hopes this action by Council will represent the culmination of this process, providing a compromise advantageous to all parties.

As part of the process of formulating these changes, staff analyzed the needs and practices of our business community, what laws other municipalities have and how they are implemented, and other considerations that would provide an appropriate and comparable perspective while facilitating the modernization of our Zoning Code.

As discussed at the previous meeting the changes can be summarized as follows:

- Allow 50% of window space to contain signs advertising products or services.
- Allow free-standing signs in the C-3 district.
- Allow A-frame type signs.
- Allow temporary signs to advertise certain irregular and limited occasions.

After discussion and analysis, the Planning Commission at their regular March meeting adopted a resolution to recommend that the City Council adopt the ordinance.

**ANALYSIS**

Once implemented, the changes proposed will provide more options to the Business Community for legally advertising their products and services while at the same time making it clear for Planning and Code Enforcement to process and apply the codes as it relates to signage.

An integral part of a complete analysis of such a law is understanding the overarching philosophical principle in the creation of outdoor advertising ordinances. Each community has different provisions depending on their need, with “need” being defined in this case as balancing what businesses want with the type of image the community (both residents and

businesses) wishes to convey to visitors. In other words, the ordinance needs to help businesses as well as keep the business districts safe, clean, and beautiful.

The provisions contained in this ordinance satisfy this need by creating an unprecedented flexibility while still providing the limits and enforcement tools that are needed in order to maintain the health, safety, and aesthetic look of our community.

**FISCAL IMPACT**

None.

**RECOMMENDATION**

Staff recommends that the Mayor receive any inquiries from other Council Members, open the hearing to the public, and adopt of Ordinance No. 17-04.

**BEFORE THE CITY COUNCIL  
OF THE  
CITY OF MENDOTA**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF MENDOTA AMENDING  
SECTIONS 17.04.110, 17.44.050(K),  
17.52.050(K), 17.56.050(K), AND  
17.88.010, OF THE MENDOTA  
MUNICIPAL CODE RELATED TO  
OUTDOOR ADVERTISING (SIGNS)**

**ORDINANCE NO. 17-04**

**The City Council of the City of Mendota does hereby ordain as follows:**

Section 1. The following definition is added to Subsection (C) of Section 17.04.110 of Chapter 17.04 of Title 17 of the Mendota Municipal Code:

**“Temporary Sign” means a sign that is installed, erected, or displayed on the property of a business advertising the opening, establishment, or new location of a business, change of ownership of the business, or sales related to the opening or closing of that business.**

Section 2. Subsection (g) of Subsection (11) of Subsection (A) of Section 17.88.010 of Chapter 17.88 of Title 17 of the Mendota Municipal Code is hereby added to read as follows:

**g. Temporary signs may be permitted in a non-residential district for a maximum of thirty (30) days, subject to the following regulations:**

- i. A sign permit is obtained from the planning department prior to the installation of such a sign, via a completed sign application, and a graphical color rendering of the sign.**
- ii. The content of such a sign contains no more than the name, address, phone number, website, hours of operation, logo of the business, and nature of the event.**
- iii. It is composed of a wood, plastic, banner, flag or similarly durable material.**
- iv. The size of such a sign is no more than fifty (50) square feet.**
- v. Only one such sign is allowed per street frontage, per business.**

Section 3. Subsections (g) and (h) of Subsection (1) of Subsection (K) of Section 17.44.050 of Chapter 17.44 of Title 17 of the Mendota Municipal Code is hereby added to read as follows:

**g. Where County, State, or Federal law does not prohibit such, the posting of signs without a permit on the inside of a window advertising the business, services, and products offered on the premises, not to exceed 50% of the total area of the window and be done in a manner that inhibits the ability of law enforcement to see inside of the business.**

**h. One A-frame or other standing sign of a temporary nature per street frontage without a permit, not to exceed ten (10) square feet in area, including the area occupied by any fixture at or near parallel to the face of the sign, and four (4) feet in height, placed within five (5) feet of the building that the business occupies and not encroaching on the public-right-of way.**

Section 4. Subsection (K) of Section 17.52.050 of Chapter 17.52 of Title 17 of the Mendota Municipal Code is hereby amended to read as follows:

**K. Outdoor Advertising. The provisions of the C-1 district, Section 17.44.050(K)(1)(a), (b), (d), and (f), (g), and (h) shall apply, with one free-standing sign per street frontage permitted, subject to the following regulations:**

- 1. The sign shall only contain the name of the business or businesses, principal services provided, and the address of the location.**
- 2. The sign shall not exceed seventy-five (75) square feet in area or twenty (20) feet in height.**
- 3. Any lighting or other forms of illumination utilized shall not create a hazard to drivers or cause a visual or noise disturbance to any surrounding residential area.**

Section 5. Subsection (K) of Section 17.56.050 of Chapter 17.56 of Title 17 of the Mendota Municipal Code is hereby amended to read as follows:

**K. Outdoor Advertising. The provisions of the C-1 district, Section 17.44.050(K)(1)(a), (b), (d), (e), and (f), (g), and (h) shall apply.**

Section 6. The City Council of the City of Mendota hereby finds that the amendments contained herein solely constitute changes to regulations, and do not authorize or approve any development or physical changes. As such, they have no potential to significantly affect the environment, and are therefore not subject to the California Environmental Quality Act (CEQA) as indicated in CEQA Guidelines §15061(b)(3).

Section 7. If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Mendota City Council hereby

declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional.

Section 8. Within fifteen (15) days of the adoption of this Ordinance, a summary thereof, including the names of the City Council Members voting for and against it, shall be prepared by the City Attorney for publication in the *Firebaugh-Mendota Journal*, and a certified copy of the Ordinance shall be posted in the office of the City Clerk.

Section 9. This ordinance shall become effective and in full force at 12:00 midnight on the 31<sup>st</sup> day following its adoption.

\* \* \* \* \*

The foregoing ordinance was introduced on the 11<sup>th</sup> day of April, 2017 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 25<sup>th</sup> day of April, 2017 by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

\_\_\_\_\_  
Rolando Castro, Mayor

ATTEST:

\_\_\_\_\_  
Matt Flood, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
John Kinsey, City Attorney

**A G E N D A   I T E M   -   S T A F F   R E P O R T**

**DATE:** April 20, 2017

**TO:** Honorable Mayor and City Council Members

**FROM:** Vince DiMaggio, City Manager  
John P. Kinsey, City Attorney

**SUBJECT:** Second Reading and Adoption of Proposed Ordinance No. 17-05: An Ordinance Amending Chapter 8.36 of the Mendota Municipal Code Relating to Recreational Marijuana Use and Cultivation

---

**ISSUE:**

Consideration of an ordinance that would provide a comprehensive update to Chapter 8.36 of the Mendota Municipal Code, including provisions to (i) regulate the cultivation of marijuana for personal use; (ii) prohibit the location of commercial marijuana operations and dispensaries within the City; (iii) prohibit the delivery of marijuana; (iv) clarify the City’s enforcement of any violations of Chapter 8.36; and (v) provide any further amendments needed to clarify the regulation of marijuana use and cultivation within the City.

**BACKGROUND:**

In 1996, California voters approved Proposition 215, the Compassionate Use Act, which exempted qualified patients and their primary caregivers from criminal liability for the possession and cultivation of marijuana for medical purposes. In 2003, the California Legislature enacted additional regulations through the passage of Senate Bill 420, the Medical Marijuana Program Act, to establish and implement a program for voluntary registration of qualified patients and their primary caregivers through a statewide identification card.

In late 2015, the Legislature passed, and the Governor signed, three pieces of legislation, AB 266, AB 243 and SB 643, collectively called the Medical Marijuana Regulation and Safety Act (the “Act”). The Act is effective as of January 1, 2016. The Act provides a statewide program for the licensing and regulation of commercial cannabis activity, specifically, the operation of medical marijuana dispensaries and the delivery and cultivation of marijuana. The Act provides that, in accordance with the California Constitution and as expressly held by the California Supreme Court, local authority remains intact, and the City may adopt ordinances to either regulate medical marijuana businesses or to prohibit such operations and related activities altogether.



On November 8, 2016, the voters of the State of California adopted the Adult Use of Marijuana Act (“AUMA”). The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products. Adults, age 21 and older, will be allowed to possess marijuana and grow certain amounts at home for personal use.

As a result of the foregoing, City Staff has been exploring potential amendments to the City of Mendota Municipal Code concerning the cultivation of marijuana for personal use, and the location of marijuana operations and dispensaries in the City.

On January 24, 2017, the City Council adopted Resolution No. 17-09: Resolution of Intention to Initiate an Amendment to Chapter 8.36 of the Mendota Municipal Code Relating to Recreational Marijuana Use and Cultivation. (**Exhibit “C.”**)

On March 15, 2017, the City published notice in the Firebaugh Mendota Journal advising that the Planning Commission would conduct a public hearing on the Proposed Ordinance at its March 27, 2017, meeting. At the March 27, 2017, meeting, the Planning Commission conducted a public hearing, and recommended that the City Council approve the Proposed Ordinance. (**Exhibit “D.”**)

On April 11, 2017, the City Council introduced the Ordinance.

#### **DISCUSSION:**

Staff is recommending that the City Council conduct a first reading of the Proposed Ordinance amending Chapter 8.36 of the Mendota Municipal Code which, if enacted, would (i) regulate the cultivation of marijuana for personal use; (ii) prohibit the location of commercial marijuana operations and dispensaries within the City; (iii) prohibit the delivery of marijuana; (iv) clarify the City’s enforcement of any violations of Chapter 8.36; and (v) provide any further amendments needed to clarify the regulation of marijuana use and cultivation within the City.

Staff also recommends that the City Council find the Proposed Ordinance is not subject to environmental review under the California Environmental Quality Act.

#### Purpose and Intent of the Ordinance

In recommending the above measures, staff is making no judgment on whether individuals obtain some medical benefit from marijuana. The sole purpose of the Ordinance would be to protect the City’s residents, business owners, and visitors from the detrimental secondary effects that such activities can create. The adoption of this Ordinance would allow the City to retain local control over the regulation of the cultivation and sale of marijuana.

#### Secondary Effects of Medical Marijuana Activities

Much of the criminal activity associated with marijuana dispensary operations is due to the fact that federal law still classifies marijuana as a Schedule I drug, considered one of the most dangerous controlled substances along with heroin, LSD, Ecstasy and others. As long as it remains so classified, banks face severe monetary penalties or even closure, and individual

bankers can be criminally prosecuted and banned from the industry, if they assist dispensary owners with opening and maintaining bank accounts. As a result, dispensaries must generally operate as a cash-only business. The Los Angeles Times recently reported that the “\$700-million-a-year cannabis industry run[s] almost entirely on cash.” (**Exhibit “B.”**) With so much cash moving around, it is perhaps no surprise that dispensaries and related marijuana activities are a magnet for crime. In addition to robberies at dispensaries, grow houses have been broken into, and the Times reported that gangs in Denver have targeted couriers moving dispensary cash around the city.

Even a very cursory web search confirms that dispensaries are particularly vulnerable to criminal activity: in 2015 alone, at least three Los Angeles dispensaries were robbed; security guards at two of them were injured and an employee was injured at the third. A security guard was shot and killed at a San Bernardino dispensary in February. And an armed robbery of a dispensary in Upland in January 2015 led to a stand-off with the SWAT team at a nearby apartment building.

The City of Mendota Police Department, the County of Fresno, and the Fresno County Sheriff, have each determined that medical marijuana cultivation poses a threat to the public peace, health and safety. Many medical marijuana grows have recently emerged in Fresno County, which are visible to the public, including children and youths. Some of these grows contain booby-trap devices that threaten severe bodily harm or death to those who attempt to access them. There is also a threat of violent crime due to the size, location, and monetary value of these mature medical marijuana grows.

#### Proposed Features of the Potential Ordinance

Staff’s proposed amendments to Chapter 8.36 of the Mendota Municipal Code would (i) regulate the cultivation of marijuana for personal use; (ii) prohibit the location of commercial marijuana operations and dispensaries within the City; (iii) prohibit the delivery of marijuana; (iv) clarify the City’s enforcement of any violations of Chapter 8.36; and (v) provide any further amendments needed to clarify the regulation of marijuana use and cultivation within the City.

**CEQA.** Staff has found that the approval of this ordinance is not subject to the California Environmental Quality Act, Public Resources Code, § 21000, *et seq.* (“CEQA”), pursuant to Section 15060(c)(2) of the CEQA Guidelines, on the grounds that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) of the CEQA Guidelines, on the grounds that the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly. In addition, and in the alternative, the approval of this ordinance is not a project under Section 15061(b)(3) of the CEQA Guidelines because it has no potential for causing a significant effect on the environment.

#### **RECOMMENDATION**

Motion to waive further reading of Ordinance No. 17-05.

Adopt Ordinance No. 17-05: An Ordinance Amending Chapter 8.36 of the Mendota Municipal Code Relating to Recreational Marijuana Use and Cultivation

Attachments

**Ex. “A”:** [Proposed] Ordinance Amending Chapter 8.36 of the Mendota Municipal Code Relating to Recreational Marijuana Use and Cultivation.

**Ex. “B”:** *Limited by U.S. banking rules, pot businesses rely on bags of cash and armed guards,* Los Angeles Times, December 19, 2015.

**Ex. “C”:** City Council, City of Mendota, Resolution No. 17-09, Resolution of Intention to Initiate amending Chapter 8.36 of the Mendota Municipal Code relating to recreational marijuana and cultivation.

**Ex. “D”:** Planning Commission, City of Mendota, Resolution No. PC 17-03

**BEFORE THE CITY COUNCIL  
OF THE  
CITY OF MENDOTA, COUNTY OF FRESNO**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF MENDOTA, CALIFORNIA,  
AMENDING CHAPTER 8.36 OF THE  
MENDOTA MUNICIPAL CODE RELATING  
TO RECREATIONAL MARIJUANA USE AND  
CULTIVATION**

**ORDINANCE NO. 17-05**

**WHEREAS**, in 1996, the People of the State of California approved Proposition 215, the Compassionate Use Act, which exempted qualified patients and their primary caregivers from criminal liability for the possession and cultivation of marijuana for medical purposes; and

**WHEREAS**, in 2003, the California Legislature enacted additional regulations through the passage of Senate Bill 420, the Medical Marijuana Program Act, to establish and implement a program for voluntary registration of qualified patients and their primary caregivers through a statewide identification card; and

**WHEREAS**, in late 2015, the Legislature passed, and the Governor signed, three pieces of legislation, AB 266, AB 243 and SB 643, collectively called the Medical Marijuana Regulation and Safety Act (the "Act"), which provides a statewide program for the licensing and regulation of commercial medical cannabis activity, specifically, the operation of medical marijuana dispensaries and the delivery and cultivation of medical marijuana; and

**WHEREAS**, on November 8, 2016, the voters of the State of California adopted the Adult Use of Marijuana Act ("AUMA"). The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products. Adults, age 21 and older, will be allowed to possess marijuana and grow certain amounts at home for personal use.

**WHEREAS**, in 2012, as amended in 2016, the City adopted Chapter 8.36 of the Mendota Municipal Code pertaining to Medical Marijuana (the "Marijuana Ordinance"). The Marijuana Ordinances bans commercial marijuana cultivation, commercial deliveries, and dispensaries in the City based upon various health, safety and welfare, and land use findings relating to marijuana cultivation, dispensing, and consumption, which findings are incorporated herein by reference.

**WHEREAS**, in light of the adoption of the AUMA, the City seeks to update the Marijuana Ordinance.

**WHEREAS**, the City of Mendota has identified a number of health, safety, and welfare concerns associated with marijuana activities. These concerns are set forth in the original reports accompanying the Medical Marijuana Ordinance, and are incorporated herein by reference. These concerns continue and have been exemplified throughout Fresno County and the State as evidenced by numerous area agency police reports and news articles and stories. Some of the continued documented problems include offensive odors, trespassing, theft, violent encounters, fire hazards and problems associated with mold, fungus, and pests.

**WHEREAS**, under the Act and the AUMA, the City retains its police powers and land use authority to regulate or ban marijuana activities, including commercial marijuana operations, cultivation, distribution and consumption for the health, safety, and welfare of the citizens of Mendota.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MENDOTA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1:** Chapter 8.36 of the Mendota Municipal Code amended in its entirety to read as follows:

**8.36.010 – Purpose & intent.**

It is the purpose and intent of this Chapter 8.36, pursuant to Section 25123(d) of the Government Code to regulate the cultivation, processing, extraction, manufacturing, testing, distribution, transportation, sale, and consumption of marijuana to preserve the public peace, health, safety and general welfare of the citizens of the City of Mendota. It is also the purpose and intent of this Chapter 8.36 to continue in effect the City of Mendota's prohibition of marijuana dispensaries and limitations on the places where marijuana may be consumed.

**8.36.020 – Relationship with other laws.**

This chapter is not intended to, nor shall it be construed or given effect in a manner that causes it to apply to, any activity that is regulated by federal or state law to the extent that application of this chapter would conflict with such law or would unduly interfere with the achievement of federal or state regulatory purposes. It is the intention of the City Council that this chapter shall be interpreted to be compatible and consistent with federal and state enactments and in furtherance of the purposes which those enactments express. It is the intention that the provisions of this chapter will supersede any other provisions of this Mendota Municipal Code found to be in conflict.

**8.36.030 – Definitions.**

Notwithstanding any other provision in the Mendota Municipal Code, for purposes of this Chapter 8.36, the following terms shall have the following meanings:

“Act” means the Adult Use of Marijuana Act (“AUMA”) or Proposition 64. The terms “Act,” “Adult Use of Marijuana Act,” “AUMA,” and “Proposition 64” may be used interchangeably, but shall have the same meaning.

“Cannabis” or “marijuana” shall have the meaning set forth in California Business and Professions Code Section 19300.5(f). “Cannabis” and “marijuana” may be used interchangeably, but shall have the same meaning.

**“Collective or cooperative cultivation” means the association within California of qualified patients, persons with valid identification cards, and the designated primary caregivers of patients and persons with identification cards to cultivate medical marijuana.**

“Commercial marijuana operation” means any commercial cannabis activity as set forth in California Business and Professions Code Section 19300.5(k) and allowed under the Act, and all uses permitted under any subsequently enacted State law pertaining to the same or similar uses for recreational cannabis.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, storing or trimming of medical marijuana.

“Delivery” means the commercial transfer of medical marijuana from a dispensary to a qualified patient, primary caregiver or person with an identification card, as defined in Section 11362.7 of the California Health & Safety Code, through any means of transport or delivery service. The term “Delivery” also includes the use by a medical marijuana dispensary, as defined herein, of any technology platform that enables qualified patients or primary caregivers to arrange for or facilitate the transfer of medical marijuana by a dispensary.

“Medical marijuana” or “medical cannabis” means “medical cannabis” as defined in Section 19300.5, subdivision (af) of the California Business & Professions Code.

“Marijuana dispensary” or “dispensary” means any facility or location, whether fixed or, where marijuana is offered, provided, sold, made available or otherwise distributed to more than two (2) persons.

“Person” means any individual, partnership of any kind, corporation, limited liability company, association, joint venture, or other organization or entity, however formed.

“Recreational marijuana” or “recreational marijuana use” means all uses of cannabis not included within the definition of “medical marijuana use.”

### **8.36.040 – Regulations applicable to the consumption of marijuana.**

No person shall smoke, ingest, or otherwise consume either recreational or medical marijuana in the city of Mendota unless such smoking, ingesting or consumption occurs

entirely within that person's principal place of residence or on the premises of that person's principal place of residence but out of public view. "Out of public view" shall mean out of view from public rights-of-way where members of the public are lawfully entitled to be. The phrase "inside a private residence" shall mean inside habitable areas and shall include garages, whether attached or detached, and other accessory buildings.

Medical marijuana may also be consumed within a clinic, health care facility, residential care facility, or residential hospice licensed pursuant to applicable provisions of the California Health and Safety Code.

All consumption shall be done in a manner so as to not cause a nuisance to nearby residents with noxious odors or other adverse health and safety impacts.

### **8.36.050 – Cultivation of marijuana.**

- A. Personal use cultivation. An individual person shall be allowed to cultivate medical or recreational marijuana to the extent permitted by applicable State law, within his or her private residence, in an attached garage, or in an accessory building if the property is detached single-family residential. Cultivation for personal use shall be subject to the following requirements:
1. Area. The marijuana cultivation area shall not exceed thirty-two (32) square feet measured by the canopy and not exceed ten feet (10') in height per residence. This limit applies regardless of the number of qualified patients or persons residing in the residence. The cultivation area shall be a single designated area.
  2. Lighting. Marijuana cultivation lighting shall not exceed a total of one thousand two hundred (1,200) watts.
  3. Building code requirements. Any alterations or additions to the residence, including garages and accessory buildings, shall be subject to applicable building and fire codes, including plumbing and electrical, and all applicable zoning codes, including lot coverage, setback, height requirements, and parking requirements.
  4. Gas products. The use of gas products (CO<sub>2</sub>, butane, etc.) for marijuana cultivation or processing is prohibited.
  5. Evidence of cultivation. From a public right-of-way or other public space there shall be no exterior evidence of marijuana cultivation occurring on the site.
  6. Residence. The person shall reside in the residence where the marijuana cultivation occurs.

7. Cultivation elsewhere in City. The person shall not participate in marijuana cultivation in any other location within the City of Mendota.
8. Incidental use. The residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and not be used primarily for marijuana cultivation.
9. Ventilation. The marijuana cultivation area shall include a ventilation and filtration system designed to ensure that odors from the cultivation are not detectable beyond the residence, or property line for detached single-family residential, and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence and cultivating the marijuana. This shall include, at a minimum, a system meeting the requirements of the current, adopted edition of the California Building Code Section 1203.4, Natural Ventilation, or 402.3, Mechanical Ventilation (or its equivalent(s)).
10. Storage of chemicals. Any chemicals used for marijuana cultivation shall be stored outside of the habitable areas of the residence and outside of public view from neighboring properties and public rights-of-way.
11. Nuisance. The marijuana cultivation area shall: not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts; and not be hazardous due to the use or storage of materials, processes, products or wastes, or from other actions related to the cultivation.
12. Property owner authorization. For rental property, the lessee shall obtain written authorization from the property owner or property management company to cultivate marijuana.
13. Notification. The owner and any lessee of the residence upon which cultivation will occur shall inform the Police Department of the intent to cultivate marijuana and pick up a handout setting forth the owner and lessee responsibilities under this section. This notification shall be provided prior to the commencement of the cultivation except that, for existing cultivation, the information shall be provided within ten (10) days of the effective date of this chapter. The Police Department may direct the owner and lessee to the Department of Planning and Development Services for more information about building code and permit requirements that may be applicable if alterations or additions to the residence are contemplated. The Police Department and Department of Planning and Development Services shall keep patient information confidential to the extent required by law.



14. Additional requirements for garages and accessory buildings. The following additional requirements shall apply for personal use cultivation that occurs in a garage or accessory building: the garage or accessory building shall be secure, locked, and fully enclosed, with a ceiling, roof or top, and entirely opaque. The garage or building shall include a burglar alarm monitored by an alarm company or private security company. The garage or building, including all walls, doors, and the roof, shall be constructed with a firewall assembly of green board meeting the minimum building code requirements for residential structures and include material strong enough to prevent entry except through an open door.

**B. Collective or cooperative cultivation. The collective or cooperative cultivation of marijuana shall be prohibited in the City.**

#### **8.36.60 – Marijuana dispensaries.**

- A. Commercial marijuana operations. Commercial marijuana operations as defined in Section 8.36.030 are prohibited within the City.
- B. Dispensaries. Marijuana dispensaries as defined in Section 8.36.030 are prohibited within the City.
- C. Exceptions. The following facilities providing medical marijuana to qualified patients are not subject to the dispensary ban so long as they comply with this section, the Mendota Municipal Code, Health and Safety Code Sections 11362.5 and 11362.7 *et seq.* and all other applicable laws, and hold a current and valid state license duly issued in accordance with the applicable California law:
  1. A clinic, as defined in Section 1200 of the Health & Safety Code;
  2. A health care facility, as defined in Section 1250 of the Health & Safety Code;
  3. A residential care facility for persons with chronic life-threatening illness, as defined in Section 1568.01 of the Health & Safety Code;
  4. A residential care facility for the elderly, as defined in Section 1569.2 of the Health & Safety Code;
  5. A home health agency, as defined in Section 1727 of the Health & Safety Code, or a hospice that operates in accordance with Section 1726 of the Health & Safety Code; and
  6. A pharmacy, as defined in Section 4037 of the Business and Professions Code.

- D. Deliveries. The delivery of marijuana as defined in Section 8.36.030 is prohibited in the City regardless of whether the delivery is initiated within or outside of the City, and regardless of whether a technology platform is used for delivery by the dispensary.

#### **8.36.070 – Violation and enforcement.**

Each and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by Title 1, Chapter 1.20 of this Code. Additionally, as a nuisance *per se*, any violation of this chapter shall be subject to injunctive relief, payment to the city of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, civil penalties as set by the city council by resolution and any other relief or remedy available at law or equity. The city may also pursue any and all remedies and actions available and applicable under local and state laws for any violations of this chapter. The Mendota Police Department, with administrative assistance from the city manager's office, shall have primary responsibility for enforcement of the provisions of this chapter; however, nothing herein shall limit the ability of the City's designated code enforcement officer to enforce the provisions of this chapter as may be necessary from time-to-time.

Should a court of competent jurisdiction subsequently determine that the criminal penalty provision renders this Chapter unlawful, the City intends that such penalties be severable from the remaining penalty provisions and the City will only pursue non-criminal remedies for violations of this Chapter.

Nothing in this chapter shall be construed as imposing on the enforcing officer or the City of Mendota any duty to issue any notice to abate, nor to abate, nor to take any other action with regard to any violation of this chapter, and neither the enforcing officer nor the city of Mendota shall be held liable for failure to issue an order to abate, nor for failure to abate, nor for failure to take any other action with regard to any violation of this chapter.

#### **8.36.080 – Judicial Review.**

Judicial review of a decision made under this Chapter may be had by filing a petition for a writ of mandate with the superior court in accordance with the provisions of the Section 1094.5 of the California Code of Civil Procedure. Any such petition shall be filed within ninety (90) days after the day the decision becomes final as provided in Section 1094.6 of the California Code of Civil Procedure, which shall be applicable for such actions.

#### **8.36.090 – Severability.**

If any part of this chapter is for any reason held to be invalid, unlawful, or unconstitutional, such invalidity, unlawfulness or unconstitutionality shall not affect the validity, lawfulness, or constitutionality of any other part of this chapter.

**SECTION 2.** The City Council finds the approval of this ordinance is not subject to the California Environmental Quality Act, Public Resources Code, § 21000, *et seq.* ("CEQA"), pursuant to Section 15060(c)(2) of the CEQA Guidelines, on the grounds that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) of the CEQA Guidelines, on the grounds that the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the City Council finds the approval of this ordinance is not a project under Section 15061(b)(3) of the CEQA Guidelines because it has no potential for causing a significant effect on the environment.

**SECTION 3.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held for any reason 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 the Ordinance. The City Council of the City of Mendota hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

**SECTION 4.** The Mayor shall sign and the City Clerk shall certify to the passage of this Ordinance and will see that it is published and posted in the manner required by law.

**SECTION 5.** This ordinance shall become effective and in full force at 12:00 midnight on the 31<sup>st</sup> day following its adoption.

\* \* \* \* \*

The foregoing ordinance was introduced on the 11<sup>th</sup> day of April, 2017 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 25<sup>th</sup> day of April, 2017, by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

\_\_\_\_\_  
Rolando Castro, Mayor

ATTEST:

\_\_\_\_\_  
Matt Flood, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
John Kinsey, City Attorney

Nation

# Limited by U.S. banking rules, pot businesses rely on bags of cash and armed guards



Kristi Kelly owns Good Meds, a medical marijuana company. Banks face prosecution for working with marijuana dispensaries, forcing businesses like Kelly's to operate almost entirely on cash. (David Kelly / For The Times)

By **David Kelly**

DECEMBER 19, 2015, 3:00 AM | REPORTING FROM DENVER

**T**he Fourth Corner Credit Union occupies a prime spot in downtown Denver, not far from the state Capitol. It has a big safe, four teller windows, drive-up service and a banner out front that says, "The Fourth Corner Credit Union Coming Soon."

But there's a problem.

The Federal Reserve Bank of Kansas City, which oversees Denver, has refused Fourth Corner's request for a "master account," essentially a bank account allowing it to do business.

"You can't have a bank chartered by the state of Colorado and then nullified by the federal government," said Mark Mason, an attorney for the credit union.

Unless the Fed simply doesn't like the customers.

And in this case, the customers work in the cannabis trade. Fourth Corner hopes to be the first financial institution in the nation catering exclusively to the marijuana business.

But although pot is legal here, it remains a Schedule 1 controlled substance along with LSD and heroin in the eyes of the federal government. That means any bank working with the weed business faces prosecution.

**[Interested in the stories shaping California? Sign up for the free Essential California newsletter >>](#)**

"Banks face a number of risks if they choose to serve the industry, up to and including closure of their institutions," said Amanda Averch, director of communications for the Colorado Bankers Assn.

"Regulators can impose civil money penalties, cease-and-desist orders, fines and can ban bankers from their careers for life."

Political remedies are being considered but major roadblocks remain, leaving the \$700-million-a-year cannabis industry running almost entirely on cash. Bags of it are taken to grocery stores to buy money orders to pay staff. Houses are rented and filled with safes full of cash. Phony bank accounts are created and then shut down when the money arrives reeking of pot.

Nearly everyone in the marijuana business has had bank accounts closed.

"So far we have lost 25 bank accounts," said Kristi Kelly, owner of the Good Meds medical marijuana dispensaries near Denver. "Our biggest area of exposure is what we do with our cash. Then how do we pay our bills? We are not talking about \$20 but five- and six-figure bills."

Those who can have hired armed private security to guard the product and ferry cash around Colorado in armored vans.

The guards are often former military personnel with combat experience in Iraq and Afghanistan.

On a recent morning, Tom Morton, a towering former Marine, cruised through a warren of faceless warehouses in North Denver before pulling into a side alley, walking up a few steps and ringing a bell.

The doors opened, revealing a bright, cavernous room with dozens of workers busily tending marijuana plants as tall as summer corn. An alcove flickered with 48 cameras trained on every employee.

Morton, 27, is a supervisor with the security company Helix TCS, checking on Travis Dombrowski, 26, a

guard who carries a semiautomatic pistol on his hip.

"I feel comfortable that I can defend the people here from any threat that comes through that door," Dombrowski said.

Morton nodded.

"Travis and I served together in Afghanistan. I know I can trust him with my life," he said. "I know in a gunfight he won't back down."

The day before, Morton was driving \$20,000 in cash and 50 pounds of pot around Denver in a van, a guard toting an AR-15 assault rifle perched in the back.

"It's totally legal," he said. "But it feels sketchy."

Criminals have targeted dozens of pot businesses. Earlier this year, shots were fired during two robberies. In another incident, a man crashed a pick-up through a grow house and chopped down \$15,000 worth of plants. And then there was a gang preying on couriers moving cash around the city.

No one has been killed, but many believe it's just a matter of time. And that's what got 26-year-old Alex Mason thinking.

He had a lot of friends in the marijuana industry and was appalled at the obstacles they faced conducting a legitimate business. So he and his father, Mark Mason, came up with the idea of a credit union servicing the cannabis business. They assembled a staff, a chief executive and a board of directors, and last year they received a state charter.

"Forget whether you are for or against cannabis, there is no rational argument to keep it an all-cash economy," said credit union Executive Vice President Mark Goldfogel. "There is no scenario where black marketing cash from a legal business is sustainable."

According to Mark Mason, the situation pushes the cannabis industry to the margins of legality.

"Most have figured out a workaround to get money to the state and others through friends or under management companies," he said. "But it all comes very close to the textbook definition of money laundering."

Mason has filed suit against the Federal Reserve for denying the credit union a master account and a hearing is set for Dec. 28 in federal court here.

A Fed spokesman declined comment.

Last year, the Obama administration issued new guidelines for banks wishing to do business with marijuana dealers that lessened the threat of prosecution but didn't offer immunity from it.

According to the Colorado Bankers Assn., 12 small banks are now working with the cannabis industry on a limited basis, but they have been warned by federal regulators not to expand those accounts, which are being closely monitored.

Blue Line Protection Group, a security firm, is doing compliance checks for such banks to ensure their cannabis clients are obeying the law.

"We know the dispensary owners, what questions to ask and how much cash and product they produce," said Blue Line Vice President Michael Jerome. "We do on-site compliance for the banks and they provide accounts for the businesses."

Blue Line is also opening a 12,000-square foot fortified "vaulting and cash processing facility" to safeguard their clients' money.

Kelly, the dispensary owner, recently opened an account with a bank that asked not to be identified. She knows it could be shut at any time.

"When my first account was closed I felt indignant," she said, "like I was being discriminated against."

It reminded Kelly of her grandmother, who had moved from China to Washington and stuffed her mattress with money because no one would give her a bank account.

"So these Chinese immigrants got together and opened their own credit union," she said. "I think there are some interesting parallels here. History has shown we can get through this, that we can remedy historical inequities."

The best solution may be an act of Congress.

Lawmakers including Colorado Sens. Michael Bennet, a Democrat, and Cory Gardner, a Republican, have introduced legislation giving marijuana businesses access to banking while barring regulators from punishing banks who legally work with them.

It's supported by the Colorado banking industry and Gov. [John Hickenlooper](#), a Democrat who opposed marijuana legalization.

But until something changes, dispensary owners and growers will continue to play hide-and-seek with criminals and rely on outfits such as Helix to protect their crops and cash.

In Greenwood Village, just south of Denver, Zachary Venegas monitored the movement of his security guards across the region from his office. If one of their unmarked vans carrying cash or marijuana veers off course, he's instantly alerted.

Venegas is a West Point graduate and former infantry officer who has owned security businesses in Africa and the Middle East before becoming chief executive of Helix. Nearly all his employees are former members of the military.

[Join the conversation on Facebook >>](#)

"We are all comfortable in a mission-oriented culture," he said.

Still, he believes it's just a matter of time before a major crime targeting the cannabis industry results in significant casualties.

"A lot of people are saying, 'Well, let's just see how it goes,' as if there's not an actual threat," he said. "But I think the illegal side is out there just watching and waiting to strike."

*Kelly is a special correspondent.*

## **ALSO**

[Tesla Motors receives \\$39 million in sales tax incentives from state](#)

[Northern California woman found dead at home was possibly killed by her 2 dogs](#)

[San Bernardino shooter's friend Enrique Marquez accused of fraud in \\$200-per-month marriage](#)

Copyright © 2016, Los Angeles Times

A version of this article appeared in print on December 19, 2015, in the News section of the Los Angeles Times with the headline "Legal pot shops are a high-risk business to banks" — [Today's paper](#) | [Subscribe](#)

**This article is related to:** [John Hickenlooper](#)



**BEFORE THE CITY COUNCIL  
OF THE  
CITY OF MENDOTA, COUNTY OF FRESNO**

**RESOLUTION OF INTENTION TO INITIATE  
AN AMENDMENT TO CHAPTER 8.36 OF  
THE MENDOTA MUNICIPAL CODE  
RELATING TO RECREATIONAL MARIJUANA  
USE AND CULTIVATION**

**RESOLUTION NO. 17-09**

**WHEREAS**, in 1996, the People of the State of California approved Proposition 215, the Compassionate Use Act, which exempted qualified patients and their primary caregivers from criminal liability for the possession and cultivation of marijuana for medical purposes; and

**WHEREAS**, in 2003, the California Legislature enacted additional regulations through the passage of Senate Bill 420, the Medical Marijuana Program Act, to establish and implement a program for voluntary registration of qualified patients and their primary caregivers through a statewide identification card; and

**WHEREAS**, in late 2015, the Legislature passed, and the Governor signed, three pieces of legislation, AB 266, AB 243 and SB 643, collectively called the Medical Marijuana Regulation and Safety Act (the "Act"), which provides a statewide program for the licensing and regulation of commercial medical cannabis activity, specifically, the operation of medical marijuana dispensaries and the delivery and cultivation of medical marijuana; and

**WHEREAS**, on November 8, 2016, the voters of the State of California adopted the Adult Use of Marijuana Act ("AUMA"). The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products. Adults, age 21 and older, will be allowed to possess marijuana and grow certain amounts at home for personal use.

**WHEREAS**, in 2012, as amended in 2016, the City adopted Chapter 8.36 of the Mendota Municipal Code pertaining to Medical Marijuana (the "Marijuana Ordinance"). The Marijuana Ordinance bans commercial marijuana cultivation, commercial deliveries, and dispensaries in the City based upon various health, safety and welfare, and land use findings relating to marijuana cultivation, dispensing, and consumption, which findings are incorporated herein by reference.

**WHEREAS**, in light of the adoption of the AUMA, the City seeks to update the Marijuana Ordinance.

**WHEREAS**, the City of Mendota has identified a number of health, safety, and welfare concerns associated with marijuana activities. These concerns are set forth in the original reports accompanying the Medical Marijuana Ordinance, and are incorporated herein by reference. These concerns continue and have been exemplified throughout Fresno County and the State as evidenced by numerous area agency police reports and news articles and stories. Some of the continued documented problems include offensive odors, trespassing, theft, violent encounters, fire hazards and problems associated with mold, fungus, and pests.

**WHEREAS**, under the Act and the AUMA, the City retains its police powers and land use authority to regulate or ban marijuana activities, including commercial marijuana operations, cultivation, distribution and consumption for the health, safety, and welfare of the citizens of Mendota.

**WHEREAS**, Section 17.08.040 of the Mendota Municipal Code provides the procedure for the enactment of amendments to the City's Zoning Code, which is located at Title 17 of the Mendota Municipal Code; and


**WHEREAS**, although the Chapter 8.36 is not located in Title 17, the regulation of certain aspects of medical marijuana, including cultivation and dispensaries, imposes potential regulations on land use, and therefore the City in an abundance of caution is employing the procedures set forth in Section 17.08.040 to consider an amendment to Chapter 8.36 of the Mendota Municipal Code; and

**WHEREAS**, Section 17.08.040(B) of the Mendota Municipal Code provides that "Amendments to this title may be initiated in the following manner . . . The council may propose an amendment by a resolution of intention"; and

**WHEREAS**, Section 17.08.040(B) of the Mendota Municipal Code provides that the secretary shall set a public hearing on any proposed amendments by the Planning Commission "no less than ten (10) days nor more than forty (40) days . . . after the adoption of a resolution of intention by the commission or the council."

**NOW, THEREFORE, BE IT RESOLVED** that the City Council for the City of Mendota hereby authorizes Staff to proceed with the preparation of a comprehensive update to Chapter 8.36 of the Mendota Municipal Code to (i) regulate the cultivation of marijuana for personal use; (ii) prohibit the location of commercial marijuana operations and dispensaries within the City; (iii) prohibit the delivery of marijuana; (iv) clarify the City's enforcement of any violations of Chapter 8.36; and (v) provide any further amendments needed to clarify the regulation of marijuana use and cultivation within the City.

**BE IT FURTHER RESOLVED** that the Secretary shall schedule a public hearing before the Planning Commission on the proposed amendments to Chapter 8.36 of the Mendota Municipal Code no less than ten (10) days nor more than forty (40) days after the adoption of this resolution.

  
\_\_\_\_\_  
Rolando Castro, Mayor

**ATTEST:**

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a regular meeting of said Council, held at the Mendota City Hall on the 24<sup>th</sup> day of January, 2017, by the following vote:

**AYES: 5 – Mayor Castro, Mayor Pro Tem Martinez, Councilors Amador, Rosales, and Silva.**  
**NOES: 0**  
**ABSENT: 0**  
**ABSTAIN: 0**

  
\_\_\_\_\_  
Matt Flood, City Clerk



**BEFORE THE PLANNING COMMISSION  
OF THE  
CITY OF MENDOTA, COUNTY OF FRESNO**

**RESOLUTION NO. PC 17-03**

**RESOLUTION RECOMMENDING THAT THE CITY COUNCIL OF THE CITY OF  
MENDOTA ADOPT AN ORDINANCE AMENDING CHAPTER 8.36 OF THE  
MENDOTA MUNICIPAL CODE RELATING TO RECREATIONAL MARIJUANA USE  
AND CULTIVATION**

**WHEREAS**, on January 24, 2017, the City Council voted to adopt a Resolution of Intention to Initiate an Amendment to Chapter 8.36 of the Mendota Municipal Code Relating to Recreational Marijuana Use and Cultivation (the "Resolution of Intention"); and

**WHEREAS**, although Chapter 8.36 is not located in Title 17, the regulation of certain aspects of recreational marijuana, including cultivation and dispensaries, imposes potential regulations on land use, and therefore the City in an abundance of caution is employing the procedures set forth in Section 17.08.040 to consider an amendment to Chapter 8.36 of the Mendota Municipal Code; and

**WHEREAS**, Section 17.08.040(B) of the Mendota Municipal Code provides that "Amendments to this title may be initiated in the following manner . . . The council may propose an amendment by a resolution of intention"; and

**WHEREAS**, Section 17.08.040(B) of the Mendota Municipal Code provides that the secretary shall set a public hearing on any proposed amendments by the Planning Commission "no less than ten (10) days nor more than forty (40) days . . . after the adoption of a resolution of intention by the commission or the council"; and

**WHEREAS**, City Staff has prepared a proposed Ordinance Amending Chapter 8.36 of the Mendota Municipal Code Relating to Recreational Marijuana Use and Cultivation, a copy of which is attached hereto as Exhibit "A" (the "Proposed Ordinance"); and

**WHEREAS**, on March 15, 2017, the City published notice in the Firebaugh Mendota Journal advising that the Planning Commission would conduct a public hearing on the Proposed Ordinance at its March 27, 2017, special meeting; and

**WHEREAS**, on March 27, 2017, the Planning Commission conducted a duly-noticed public hearing on the Proposed Ordinance; and

**WHEREAS**, Staff has reviewed the Proposed Ordinance, and has determined that the approval of the Proposed Ordinance is not subject to the California Environmental Quality Act, Public Resources Code, § 21000, *et seq.* ("CEQA"), pursuant to Section 15060(c)(2) of the CEQA Guidelines, on the grounds that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) of the CEQA Guidelines, on the grounds that the activity is not a project as defined in Section 15378 of the CEQA Guidelines,

because it has no potential for resulting in physical change to the environment, directly or indirectly. Staff has also determined that, alternatively, the Proposed Ordinance is not a project under Section 15061(b)(3) of the CEQA Guidelines because it has no potential for causing a significant effect on the environment.

**WHEREAS**, Section 17.08.040(H) of the Mendota Municipal Code provides that the City Council shall hold a public hearing on the proposed amendments “not less than ten days nor more than forty (40) days after the filing of the commission’s resolution by the council,” and that notice of said council hearing “shall be given as provided in Section 17.08.040(F).”

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission for the City of Mendota hereby recommends to the City Council approval of the Proposed Ordinance, attached hereto and made a part of this resolution as Exhibit “A.”

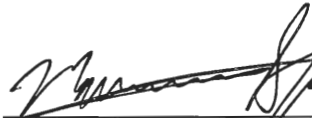
**BE IT FURTHER RESOLVED** that the Planning Commission finds the approval of this ordinance is not subject to CEQA, pursuant to Section 15060(c)(2) of the CEQA Guidelines, on the grounds that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) of the CEQA Guidelines, on the grounds that the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the Planning Commission finds the approval of this ordinance is not a project under Section 15061(b)(3) of the CEQA Guidelines because it has no potential for causing a significant effect on the environment.

**BE IT FURTHER RESOLVED** that the Secretary shall file this Resolution No. PC 17-03 with the City Council, and shall schedule a public hearing before the City Council on the Proposed Ordinance no less than ten (10) days nor more than forty (40) days after the adoption of this resolution. The Secretary shall also provide notice of the City Council hearing as provided under Section 17.08.040 of the Mendota Municipal Code no later than 10 days before the hearing.

**PASSED AND ADOPTED** by the Planning Commission of the City of Mendota at a special meeting held on the 27<sup>th</sup> of March, 2017 upon a motion by Commissioner Escobedo, a second by Commissioner Obaid, and by the following vote:

- AYES: 3 – Chairperson Luna, and Commissioners Escobedo and Obaid.**
- NOES: 0**
- ABSTAIN: 0**
- ABSENT: 3 – Vice-chairperson Gamez, and Commissioners Leiva and Romero.**

ATTEST:

  
Matt Flood, Secretary



  
Juan Luna, Chair

# A G E N D A I T E M - S T A F F R E P O R T

**DATE:** April 20, 2017

**TO:** Honorable Members of the Planning Commission of the City of Mendota

**FROM:** Vince DiMaggio, City Manager  
John P. Kinsey, City Attorney

**SUBJECT:** Second Reading and Adoption of Proposed Ordinance No. 17-06: An Ordinance Amending the Mendota Municipal Code Relating to Permit Application Processing and Siting Locations for the Installation of New Wireless Telecommunications Facilities

---

## **ISSUE:**

Consideration of ordinance that would provide a comprehensive update to Title 17 of the Mendota Municipal Code (“MMC”) to (i) regulate the time, place, and manner of construction of new wireless telecommunications facilities; (ii) restrict or limit the siting of wireless telecommunications facilities in residential and commercial zoning districts to the extent allowed under applicable state or federal laws; and (iii) clarify the application requirements and procedures for construction of new wireless telecommunications facilities (“WCF”).

## **BACKGROUND:**

In 1996, Congress passed the Telecommunications Act of 1996 (“TCA”), in order to increase competition within the telecommunications industry by creating lower prices, higher quality service, and rapid technological development, and while preserving the authority of local governments over zoning and land use matters. Section 253(a) of the TCA precludes state and local governments from enacting ordinances that prohibit or have the effect of prohibiting the provision of telecommunications services, including wireless services. However, under section 253(c), cities and local governments may exercise reasonable control over the time, place, and manner of construction of WCF. Furthermore, under section 332(c)(8), cities generally retain local zoning authority over WCF siting locations, subject to some limitations.

Previously, City Staff had been advised of incidents of telecommunications companies erecting wireless facilities within public rights-of-way without (i) notice to the local government(s) in question or (ii) engaging in any permitting process for the construction and placement of such facilities. In addition, area cities have all been approached by at least one company claiming to be a telecommunications company, and purporting to “inform” the local agencies that they are going to commence work on a telecommunications tower within a public right-of-way.

On November 22, 2016, the City Council adopted Ordinance No. 16-12, an interim urgency ordinance, “Enacting a Temporary Moratorium on New and Relocated Wireless Telecommunications Facilities within Public Rights-of-Ways, Pursuant to Government Code Section 65858.” The interim urgency ordinance temporarily halted the issuance of any permits for new and relocated WCFs until the City could fully analyze the impacts of WCF installations on public rights of way. The urgency ordinance was extended by the City Council on December 13, 2016.

On January 24, 2017, the City Council adopted Resolution No. 17-08: Resolution of Intention to Initiate an Amendment to Title 17 of the Mendota Municipal Code Relating to Permit Application Processing and Siting Locations for Installations of New Wireless Telecommunications Facilities. (**Exhibit “B.”**)

On March 15, 2017, the City published notice in the Firebaugh Mendota Journal advising that the Planning Commission would conduct a public hearing on the Proposed Ordinance at its March 27, 2017, meeting. At the March 27, 2017, meeting, the Planning Commission conducted a public hearing, and recommended that the City Council approve the Proposed Ordinance. (**Exhibit “C.”**)

On April 11, 2017, the City Council introduced the Ordinance.

#### **DISCUSSION:**

The City presently does not have any provisions of its Ordinance that govern the erection of wireless facilities within the City. In light of the foregoing, City Staff believes it is important to consider reasonable restrictions on the permitting of wireless facilities within the City, including the permitting of wireless facilities within public rights-of-way. City Staff wishes to implement a comprehensive update to the MMC for regulating the installation of WCF without triggering preemption under the TCA or applicable state law.

As a result of the foregoing, Staff has developed proposed modifications to Title 17 of the Mendota Municipal Code to (i) regulate the time, place, and manner of construction of new wireless telecommunications facilities; (ii) restrict or limit the siting of wireless telecommunications facilities in residential and commercial zoning districts to the extent allowed under applicable state or federal laws; and (iii) clarify the application requirements and procedures for construction of new wireless telecommunications facilities. A copy of the proposed ordinance is attached hereto as **Exhibit “A.”**

**CEQA.** Staff has found that the approval of this ordinance is not subject to the California Environmental Quality Act, Public Resources Code, § 21000, *et seq.* (“CEQA”), pursuant to Section 15060(c)(2) of the CEQA Guidelines, on the grounds that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) of the CEQA Guidelines, on the grounds that the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly. In addition, and in the alternative, the approval of this ordinance is not a project under Section 15061(b)(3) of the CEQA Guidelines because it has no potential for causing a significant effect on the environment.

## **RECOMMENDATION**

Motion to waive further reading of Ordinance No. 17-06.

Adopt Ordinance No. 17-06: An Ordinance Amending the Mendota Municipal Code Relating to Permit Application Processing and Siting Locations for the Installation of New Wireless Telecommunications Facilities

### Attachments

**Ex. “A”:** [Proposed] Ordinance No. 17-06: An Ordinance Amending the Mendota Municipal Code Relating to Permit Application Processing and Siting Locations for the Installation of New Wireless Telecommunications Facilities

**Ex. “B”:** City Council Resolution No. 17-08: Resolution of Intention to Initiate an Amendment to Title 17 of the Mendota Municipal Code Relating to Permit Application Processing and Siting Locations for Installations of New Wireless Telecommunications Facilities.

**Ex. “C”:** Planning Commission Resolution No. PC 17-02: Resolution Recommending that the City Council of the City of Mendota Adopt an Ordinance Amending the Mendota Municipal Code Relating to Permit Application Processing and Siting Locations for Installations of New Wireless Telecommunications Facilities.



**BEFORE THE CITY COUNCIL  
OF THE  
CITY OF MENDOTA, COUNTY OF FRESNO**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF MENDOTA, CALIFORNIA,  
AMENDING THE MENDOTA MUNICIPAL  
CODE RELATING TO PERMIT APPLICATION  
PROCESSING AND SITING LOCATIONS  
FOR THE INSTALLATION OF NEW WIRELESS  
TELECOMMUNICATIONS FACILITIES**

**ORDINANCE NO. 17-06**

**WHEREAS**, in 1996, Congress passed the Telecommunications Act of 1996 (“TCA”), in order to increase competition within the telecommunications industry by creating lower prices, higher quality service, and rapid technological development, and while preserving the authority of local governments over zoning and land use matters; and

**WHEREAS**, section 253(a) of the TCA precludes state and local governments from enacting ordinances that prohibit or have the effect of prohibiting the provision of telecommunications services, including wireless services; and

**WHEREAS**, under section 253(c) of the TCA and section 7901.1 of the California Public Utilities Code, the City may exercise reasonable control over the time, place, and manner of construction of wireless telecommunications facilities (“WCF”); and

**WHEREAS**, under section 332(c)(7) of the TCA, the City generally retains local zoning authority over WCF siting locations subject to certain, narrow limitations; and

**WHEREAS**, California Public Utilities Code section 7901 provides that the City may require telecommunications companies to obtain permits before constructing WCF on public rights of way; and

**WHEREAS**, the City has been advised of recent incidents of telecommunications companies erecting WCF within public rights-of-way without notice to the local government authorities or engaging in any permitting process for the construction and placement of such facilities. In addition, area cities have all been approached by at least one company claiming to be a telecommunications company, and purporting to “inform” the local agencies that they are going to commence work on a telecommunications tower within a public right-of-way; and

**WHEREAS**, the City presently does not have any provisions of its Ordinance that govern the erection of WCF within the City; and

**WHEREAS**, the City believes it is important to consider reasonable restrictions on the permitting of WCF within the City, including the permitting of WCF within public

rights-of-way; and

**WHEREAS**, in light of the foregoing, the City seeks to add and amend provisions to the Municipal Code relating to the application process for installations and siting locations of WCF.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MENDOTA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1:** Title 17 of the Mendota Municipal Code amended to read as follows:

**Chapter 17.16 – R-A SINGLE-FAMILY RESIDENTIAL/AGRICULTURAL DISTRICT**

**17.16.040 – Uses expressly prohibited.**

Uses expressly prohibited in the R-A single-family residential/agricultural district are as follows:

[. . .]

E. Advertising structures;

**F. Wireless telecommunications facilities**

**Chapter 17.20 - R-1-A SINGLE-FAMILY/LOW DENSITY RESIDENTIAL DISTRICT**

**17.20.040 - Uses expressly prohibited.**

Uses expressly prohibited in the R-1-A single-family/low density residential district are as follows:

[. . .]

F. Truck parking;

**G. Wireless telecommunications facilities**

**Chapter 17.24 - R-1 SINGLE-FAMILY/MEDIUM DENSITY RESIDENTIAL DISTRICT**

**17.24.040 - Uses expressly prohibited.**

In the R-1 single-family/medium density residential district, uses expressly prohibited are as follows:

[. . .]

G. Labor camps;

**H. Wireless telecommunications facilities.**

**Chapter 17.28 - R-2 MEDIUM/HIGH DENSITY RESIDENTIAL DISTRICT**

**17.28.040 - Uses expressly prohibited.**

In the R-2 medium/high density residential district, uses expressly prohibited are as follows:

[. . .]

E. Truck parking;

**F. Wireless telecommunications facilities**

**Chapter 17.32 - R-3 HIGH DENSITY MULTIPLE-FAMILY RESIDENTIAL DISTRICT**

**17.32.040 - Uses expressly prohibited.**

In the R-3 high density multiple-family residential district, uses expressly prohibited are as follows:

[. . .]

F. Truck parking;

**G. Wireless telecommunications facilities**

**Chapter 17.40 - MHP MOBILEHOME PARK DISTRICT**

**17.40.040 - Uses expressly prohibited.**

In the MHP mobilehome park district, uses expressly prohibited are as follows:

[. . .]

E. Truck parking;

**F. Wireless telecommunications facilities.**

**Chapter 17.44 - C-1 NEIGHBORHOOD SHOPPING CENTER DISTRICT**

**17.44.030 - Uses permitted subject to conditional use permit.**

In the C-1 neighborhood shopping center district, uses permitted subject to conditional use permit are as follows:

[. . .]

E. Water pump station;

**F. Wireless telecommunications facilities.**

**Chapter 17.48 - C-2 COMMUNITY SHOPPING CENTER DISTRICT**

**17.48.030 - Uses permitted subject to conditional use permit.**

In the C-2 community shopping center district, uses permitted subject to conditional use permit are as follows:

[. . .]

L. Water pump stations;

**M. Wireless telecommunications facilities.**

**Chapter 17.52 - C-3 CENTRAL BUSINESS AND SHOPPING DISTRICT**

**17.52.030 - Uses permitted subject to conditional use permit.**

In the C-3 central business and shopping center district, uses permitted subject to conditional use permit are as follows:

[. . .]

II. Social facilities;

**JJ. Wireless telecommunications facilities.**

**Chapter 17.56 - S-C SPECIAL COMMERCIAL DISTRICT**

**17.56.030 - Uses permitted subject to conditional use permit.**

In the S-C special commercial district, uses permitted subject to conditional use permit are as follows:

[. . .]

**J. Wireless telecommunications facilities;**

**K. Other uses as determined by the planning commission.**

**Chapter 17.60 - M-1 LIGHT MANUFACTURING DISTRICT**

**17.60.030 - Uses permitted subject to conditional use permit.**

[. . .]

S. Banquet hall;

**T. Wireless telecommunications facilities.**

**Chapter 17.64 - M-2 HEAVY MANUFACTURING DISTRICT**

**17.64.030 - Uses permitted subject to conditional use permit.**

In the M-2 heavy manufacturing district, uses permitted subject to conditional use permit are as follows:

[. . .]

AAA. Other uses which by written decision are determined by the commission to be obnoxious or detrimental to the public welfare by reason of the emission of odor, dust, smoke, gas, noise, vibration or other causes;

**BBB. Wireless telecommunications facilities.**

## **Chapter 17.68 - P OFF-STREET PARKING DISTRICT**

### **17.68.030 - Uses permitted subject to conditional use permit.**

In the P off-street parking district, uses permitted subject to conditional use permit are as follows:

[. . .]

B. Incidental commercial uses within a parking structure with a height greater than two stories;

**C. Wireless telecommunications facilities.**

## **Chapter 17.72 - A-D AIRPORT DEVELOPMENT DISTRICT**

### **17.72.030 - Uses permitted subject to conditional use permit.**

In the A-D airport development district, uses permitted subject to conditional use permit are as follows:

[. . .]

C. Caretakers' residences;

**D. Wireless telecommunications facilities.**

## **Chapter 17.76 - UR URBAN RESERVE DISTRICT**

### **17.76.030 - Uses permitted subject to conditional use permit.**

In the UR urban reserve district, uses permitted subject to conditional use permit are as follows:

A. Water pump stations;

**B. Wireless telecommunications facilities.**

## **Chapter 17.80 - P-F PUBLIC FACILITIES DISTRICT**

### **17.80.030 - Uses permitted subject to conditional use permit.**

In the P-F public facilities district, uses permitted subject to conditional use permit are as follows:

[ . . . ]

L. Sewer and water treatment plants;

**M. Wireless telecommunications facilities.**

[ . . . ]

## **Chapter 17.100 – WIRELESS TELECOMMUNICATIONS FACILITIES (“WCF”)**

### **17.100.010 – Purpose.**

**The purpose and intent of this Section is to provide a uniform and comprehensive set of standards for the development, siting, and installation of wireless telecommunications facilities. These regulations are intended to protect and promote the public health, safety and welfare of the residents of the City of Mendota, to preserve community character, protect aesthetic quality in accordance with the guidelines and intent of the Telecommunications Act of 1996, and to encourage siting in preferred locations to minimize aesthetic impacts and to minimize the intrusion of these uses into residential areas.**

### **17.100.020 – Definitions.**

**The following abbreviations, phrases, terms, and words shall have the meanings assigned in this Section or, as appropriate, in this Chapter of the Mendota Municipal Code, as may be amended from time to time, unless the context indicates otherwise. Words that are not defined in this Section or other Chapters or Sections of the Mendota Municipal Code shall have the meanings as set forth in Chapter 6 of Title 47 of the United States Code, Part 1 of Title 47 of the Code of Federal Regulations, and, if not defined therein, their common and ordinary meaning.**

**Antenna. A device used in communications designed to radiate and/or capture electromagnetic signals and its associated equipment. The term includes a macrocell Antenna and a microcell Antenna.**

**Base station. A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined**

herein or any equipment associated with a tower. The term Base Station includes, without limitation:

1. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems (“DAS”) and small-cell networks).
3. Any structure other than a tower that, at the time the relevant application is filed with the City under this section, supports or houses equipment described in paragraphs 1 and 2 above that has been reviewed and approved by the City.

**Collocation.** The installation of antennas operated by different entities in close proximity so that use of substantial elements of the facility such as the antenna tower, equipment shelter, or fenced enclosures are shared.

Collocation also includes replacement of an existing tower with one capable of supporting additional antennas.

**Facility.** See wireless telecommunications facility.

**Radio frequency (“RF”).** Electromagnetic radiation in the portion of the spectrum from 3 kilohertz (kHz) to 300 gigahertz (GHz).

**Stealth design.** Design techniques that blend the facility or additions with the natural or man-made environment in such a manner as to be effectively unnoticeable.

**Stealth structure.** A self-supporting antenna tower designed to closely resemble a commonplace object that effectively blends with its surroundings.

**Tower.** See antenna tower.

**Wireless communications.** The transmission and/or reception of information through space using electromagnetic energy.

**Wireless telecommunications facility (“WCF”).** Structures and/or equipment, including antennas, antenna towers, equipment cabinets, buildings, generators, fencing, access roads and the land upon which they are situated, associated with wireless communications.

**Wireless communications service.** All FCC-licensed back-haul and other fixed wireless services, broadcast, private, and public safety communication services, and unlicensed wireless services.

### **17.100.030 – Application Requirements**

In addition to meeting standard application submittal requirements for conditional use permits pursuant to Section 17.08.050 of this title, all applicants

for wireless telecommunications facilities shall provide the information listed below. The City may waive any of the submittal requirements listed below or require additional information based upon specific project factors:

**A. Geographic Service Area.** Identify the geographic service area for the subject installation, including a map showing all the applicant's existing sites in the local service network associated with the gap the facility is meant to close. Describe how this service area fits into and is necessary for the company's service network.

**B. Visual Impact Analysis.** A visual impact analysis shall be provided showing the maximum silhouette, viewshed analysis, color and finish palette, and proposed screening. The analysis shall include photo simulations and other information as necessary to determine visual impact of the facility. A map depicting where the photos were taken shall be included.

**C. Narrative.**

**1. Height.** Show the height of the facility. Carriers must provide evidence that establishes that the proposed facilities have been designed to the minimum height required from a technological standpoint for the proposed site. If the tower will exceed the maximum permitted height limit, as measured from grade, a discussion of the physical constraints (topographical features, etc.) making the additional height necessary shall be required.

**2. Maintenance.** Describe the anticipated maintenance and monitoring program for the antennas, back-up equipment, and landscaping.

**3. Noise/Acoustical Information.** As part of the Application for Environment Initial Study, provide manufacturer's specifications for all equipment such as air conditioning units and back-up generators, and a depiction of the equipment location in relation to adjoining properties.

**4. Concept Landscape Plan.** Provide a plan showing all proposed landscaping, screening, and proposed irrigation with a discussion of how the chosen material at maturity will screen the site.

**5. Fire Service.** Provide evidence of compliance with applicable fire safety regulations or a service letter from the applicable fire district.

**6. Hazardous Materials.** Listing of all hazardous materials to be used onsite.

**7.** For all applications for facilities located in the public right of way, include on the plot plan the location of parking for maintenance personnel.



**8. A letter stating the applicant's willingness to allow other carriers to co-locate on their facilities wherever technically and economically feasible, and aesthetically desirable.**

**9. The lease area of the proposed wireless telecommunications facility on the plot plan.**

**10. For all applications for wireless telecommunications facilities operating below 1200 megahertz, submit a copy of the Federal Communications Commission Licensing Application Form 601, Main Form, Pages 1 through 4, Schedule A, Page 1, Schedule D, Page 1 and Schedule H, Pages 1 through 3. The application shall be reviewed by the Sheriff's Wireless Services Unit to determine potential interference with the Regional Communication System. Interference with that system may be grounds for denial.**

#### **17.100.050 – Application Procedure**

**A. Tiered Permitting System. Applications for installation or modification of wireless telecommunication facilities will be designated into one of three tiers.**

**1. Tier 1 Permits. Tier 1 permit application procedure will apply to:**

**a. Any modification of an existing tower or base station that does not substantially change the physical dimensions of that tower or base station and involves: (i) the collocation of new transmission equipment, (ii) the removal of transmission equipment, or (iii) the replacement of transmission equipment.**

**b. Any collocation that does not substantially change the physical dimensions of an existing tower or base station.**

**2. Tier 2 Permits. Tier 2 permit application procedure will apply to any modification that substantially changes the physical dimensions of an existing tower or base station. Substantial changes as determined within this section shall include:**

**a. For facilities not located in the public rights-of-way:**

**i. The height of the Tower is increased by (I) more than ten (10) percent, or (II) by the height of one additional Antenna array with separation from the nearest existing Antenna not to exceed twenty (20) feet, whichever is greater; or**

**ii. There is added an appurtenance to the body of the Tower that would protrude from the edge of the Tower by (I) more than twenty (20) feet, or (II) more than the width of the Tower at the level of the appurtenance, whichever is greater.**

**b. For facilities located in the public rights-of-way and for all Base Stations:**

- i. The height of the Tower or Base Station is increased by more than ten (10) percent or ten (10) feet, whichever is greater; or**
- ii. There is added an appurtenance to the body of that structure that would protrude from the edge of that structure by more than six (6) feet; or**
- iii. It involves the installation of ground cabinets that are more than ten (10) percent larger in height or overall volume than any other ground cabinets associated with the structure; or**
- iv. It involves the installation of any new equipment cabinets on the ground if there is no pre-existing ground cabinet associated with that structure.**

**c. For any existing tower or base station at the time an application is filed:**

- i. It involves the installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or**
- ii. There is entailed in the proposed modification any excavation or deployment outside of the current site of the tower or base station; or**
- iii. The proposed modification would cause the concealment/camouflage elements of the tower or base station to be defeated; or**
- iv. The proposed modification would not comply with the conditions associated with the prior siting approval of construction or modification of the tower or base station, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding thresholds in this section.**

**d. To measure changes in height for the purposes of this section, the baseline is:**

- i. For deployments that are or will be separated horizontally, measured from the original Support Structure;**

**3. Tier 3 Permits. Any installation of a new wireless telecommunications facility that is not a (3) A Tier 3 WCF Permit shall be required for the siting**

of any new WCF that is not a Collocation subject to a Tier 1 or 2 WCF Permit.

**B. Permit Review Time Periods.** The timeframe for review of an application shall begin to run when the application is submitted, but shall be tolled if the City finds the application incomplete and requests that the applicant submit additional information to complete the application. Such requests shall be made within 30 days of submission of the application. After submission of additional information, the City will notify the applicant within 10 days of this submission if the additional information failed to complete the application.

**1. Tier 1 Processing Time.** For Tier 1 permits, the City will act on the WCF application together with any other City permits required for a proposed WCF modification, within 60 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time.

**2. Tier 2 Processing Time.** For Tier 2 permits, the City will act on the application within 90 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time.

**3. Tier 3 Processing Time.** For Tier 3 permits, the City will act on the application within 150 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time.

**C. Development Standards.**

Except as otherwise provided in this Section, a proposed WCF Project shall comply with the following standards:

- 1. Shall utilize the smallest footprint possible;**
- 2. Shall be designed to minimize the overall height, mass, and size of the cabinet and enclosure structure;**
- 3. Shall be screened from public view;**
- 4. Shall be architecturally compatible with the existing site;**
- 5. Shall be placed at a location that would not require the removal of any required landscaping or would reduce the quantity of landscaping to a level of noncompliance with the Zoning Code;**
- 6. An Antenna, Base Station, or Tower shall be designed to minimize its visibility from off-site locations and shall be of a “camouflaged” or “stealth” design, including concealment, screening, and other techniques to hide or blend the Antenna, Base Station, or Tower into the surrounding area;**

- 7. A building-mounted Antenna, Base Station, or Tower shall be architecturally compatible with the existing building on which the Antenna, Base Station, or Tower is attached;**
- 8. For any Tier 2 or Tier 3 WCF proposed to be attached on an historic building or, as designated by Section 15.04.130, historic review shall also be required;**
- 9. Except as otherwise permitted by the Spectrum Act, a building-mounted WCF may extend fifteen (15) feet beyond the permitted height of the building in the zone district;**
- 10. Except as otherwise permitted by the Spectrum Act, a tower or other stand-alone Tier 3 WCF Project shall not exceed sixty-five (65) feet in height; and**
- 11. A tower or other stand-alone Tier 3 WCF may encroach into the interior/street side and rear setback.**

#### **D. Conditions for Approval.**

**In addition to any other conditions of approval permitted under federal and state law and this Code that the zoning administrator deems appropriate or required under this Code, all WCF Projects approved under this Chapter, whether approved by the zoning administrator or deemed granted by operation of law, shall be subject to the following conditions of approval:**

- 1. Permit conditions. The grant or approval of a WCF Tier 1 Permit shall be subject to the conditions of approval of the underlying permit, except as may be preempted by the Spectrum Act.**
- 2. As-built plans. The applicant shall submit to the zoning administrator an as-built set of plans and photographs depicting the entire WCF as modified, including all Transmission Equipment and all utilities, within ninety (90) days after the completion of construction.**
- 3. Applicant shall hire a radio engineer licensed by the State of California to measure the actual radio frequency emission of the WCF and determine if it meets FCC's standards. A report, certified by the engineer, of all calculations, required measurements, and the engineer's findings with respect to compliance with the FCC's radio frequency emission standards shall be submitted to the Planning Division within one year of commencement of operation.**
- 4. Indemnification. To the extent permitted by law, the applicant shall indemnify and hold harmless the City, its City Council, its officers, employees and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the**

**indemnified parties and the applicant to attack, set aside or void, any permit or approval authorized hereby for the Project, including (without limitation) reimbursing the City for its actual attorneys' fees and costs incurred in defense of the litigation. The City may, in its sole discretion and at Applicant's expense, elect to defend any such action with attorneys of its own choice.**

**5. Compliance with applicable laws. The applicant shall comply with all applicable provisions of the Code, any permit issued under this Code, and all other applicable federal, state and local laws (including without limitation all building code, electrical code and other public safety requirements). Any failure by the City to enforce compliance with any applicable laws shall not relieve any applicant of its obligations under this code, any permit issued under this code, or all other applicable laws and regulations.**

**6. Compliance with approved plans. The proposed Project shall be built in compliance with the approved plans on file with the Planning Division.**

**E. Denial of Application. If the City denies a wireless telecommunications facility application, the City will notify the applicant of the denial in writing of the reasons for the denial.**

**F. Removal of Abandoned Equipment. A WCF (Tier 1, Tier 2, or Tier 3) or a component of that WCF that ceases to be in use for more than ninety (90) days shall be removed by the applicant, Wireless Communications Service provider, or property owner within ninety (90) days of the cessation of use of that WCF. A new conditional use permit shall not be issued to an owner or operator of a WCF or a Wireless Communications Service provider until the abandoned WCF or its component is removed.**

**G. Permit Revocation. The zoning administrator may revoke any WCF permit if the permit holder fails to comply with any condition of the permit. The zoning administrator's decision to revoke a permit shall be appealable to the planning commission and the decision of the planning commission may be appealed to the city council, as provided in Section 17.08.050.**

**SECTION 2.** The City Council finds the approval of this ordinance is not subject to the California Environmental Quality Act, Public Resources Code, § 21000, *et seq.* ("CEQA"), pursuant to Section 15060(c)(2) of the CEQA Guidelines, on the grounds that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) of the CEQA Guidelines, on the grounds that the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the City Council finds the approval of this ordinance is not a project under Section 15061(b)(3) of the CEQA Guidelines because it has no potential for causing a significant effect on the environment.

**SECTION 3.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held for any reason 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 the Ordinance. The City Council of the City of Mendota hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

**SECTION 4.** The Mayor shall sign and the City Clerk shall certify to the passage of this Ordinance and will see that it is published and posted in the manner required by law.

**SECTION 5.** This ordinance shall become effective and in full force at 12:00 midnight on the 31<sup>st</sup> day following its adoption.

\* \* \* \* \*

The foregoing ordinance was introduced on the 11<sup>th</sup> day of April, 2017 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 25<sup>th</sup> day of April, 2017, by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

\_\_\_\_\_  
Rolando Castro, Mayor

ATTEST:

\_\_\_\_\_  
Matt Flood, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
John Kinsey, City Attorney

**BEFORE THE CITY COUNCIL  
OF THE  
CITY OF MENDOTA, COUNTY OF FRESNO**

**RESOLUTION OF INTENTION TO INITIATE  
AN AMENDMENT TO TITLE 17 OF THE  
MENDOTA MUNICIPAL CODE RELATING  
TO PERMIT APPLICATION PROCESSING  
AND SITING LOCATIONS FOR  
INSTALLATIONS OF NEW WIRELESS  
TELECOMMUNICATIONS FACILITIES**

**RESOLUTION NO. 17-08**

**WHEREAS**, in 1996, Congress passed the Telecommunications Act of 1996 (“TCA”), in order to increase competition within the telecommunications industry by creating lower prices, higher quality service, and rapid technological development, and while preserving the authority of local governments over zoning and land use matters; and

**WHEREAS**, section 253(a) of the TCA precludes state and local governments from enacting ordinances that prohibit or have the effect of prohibiting the provision of telecommunications services, including wireless services; and

**WHEREAS**, under section 253(c) of the TCA and section 7901.1 of the California Public Utilities Code, the City may exercise reasonable control over the time, place, and manner of construction of wireless telecommunications services (“WCF”); and

**WHEREAS**, under section 332(c)(7) of the TCA, the City generally retains local zoning authority over WCF siting locations subject to certain, narrow limitations; and

**WHEREAS**, California Public Utilities Code section 7901 provides that the City may require telecommunications companies to obtain permits before constructing WCF on public rights of way; and

**WHEREAS**, the City has been advised of recent incidents of telecommunications companies erecting wireless facilities within public rights-of-way without notice to the local government authorities or engaging in any permitting process for the construction and placement of such facilities. In addition, area cities have all been approached by at least one company claiming to be a telecommunications company, and purporting to “inform” the local agencies that they are going to commence work on a telecommunications tower within a public right-of-way; and

**WHEREAS**, the City presently does not have any provisions of its Ordinance that govern the erection of WCF within the City; and

**WHEREAS**, the City believes it is important to consider reasonable restrictions on the permitting of WCF within the City, including the permitting of WCF within public rights-of-way; and

**WHEREAS**, in light of the foregoing, the City seeks to add and amend provisions to the Municipal Code relating to the application process for installations and siting locations of WCF;

**WHEREAS**, Section 17.08.040 of the Mendota Municipal Code provides the procedure for the enactment of amendments to the City's Zoning Code, which is located at Title 17 of the Mendota Municipal Code; and

**WHEREAS**, although the Chapter 8.36 is not located in Title 17, the regulation of certain aspects of medical marijuana, including cultivation and dispensaries, imposes potential regulations on land use, and therefore the City in an abundance of caution is employing the procedures set forth in Section 17.08.040 to consider an amendment to Chapter 8.36 of the Mendota Municipal Code; and

**WHEREAS**, Section 17.08.040(B) of the Mendota Municipal Code provides that "Amendments to this title may be initiated in the following manner . . . The council may propose an amendment by a resolution of intention"; and

**WHEREAS**, Section 17.08.040(B) of the Mendota Municipal Code provides that the secretary shall set a public hearing on any proposed amendments by the Planning Commission "no less than ten (10) days nor more than forty (40) days . . . after the adoption of a resolution of intention by the commission or the council."

**NOW, THEREFORE, BE IT RESOLVED** that the City Council for the City of Mendota hereby authorizes Staff to proceed with the preparation of a comprehensive update to Title 17 of the Mendota Municipal Code to (i) regulate the time, place, and manner of construction of new wireless telecommunications facilities; (ii) restrict or limit the siting of wireless telecommunications facilities in residential and commercial zoning districts to the extent allowed under applicable state or federal laws; and (iii) clarify the application requirements and procedures for construction of new wireless telecommunications facilities.

**BE IT FURTHER RESOLVED** that the Secretary shall schedule a public hearing before the Planning Commission on the proposed amendments to Chapter 8.36 of the Mendota Municipal Code no less than ten (10) days nor more than forty (40) days after the adoption of this resolution.

  
\_\_\_\_\_  
Rolando Castro, Mayor



**ATTEST:**

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a regular meeting of said Council, held at the Mendota City Hall on the 24<sup>th</sup> day of January, 2017, by the following vote:

**AYES: 5 – Mayor Castro, Mayor Pro Tem Martinez, Councilors Amador, Rosales, and Silva.**

**NOES: 0**

**ABSENT: 0**

**ABSTAIN: 0**



**BEFORE THE PLANNING COMMISSION  
OF THE  
CITY OF MENDOTA, COUNTY OF FRESNO**

**RESOLUTION NO. PC 17-02**

**RESOLUTION RECOMMENDING THAT THE CITY COUNCIL OF THE CITY OF  
MENDOTA ADOPT AN ORDINANCE AMENDING THE MENDOTA MUNICIPAL  
CODE RELATING TO PERMIT APPLICATION PROCESSING AND SITING  
LOCATIONS FOR THE INSTALLATION OF NEW WIRELESS  
TELECOMMUNICATIONS FACILITIES**

**WHEREAS**, on January 24, 2017, the City Council voted to adopt a Resolution of Intention to Initiate an Amendment to Title 17 of the Mendota Municipal Code Relating to Permit Application Processing and Siting Locations for Installations of New Wireless Telecommunications Facilities (the "Resolution of Intention"); and

**WHEREAS**, Section 17.08.040(B) of the Mendota Municipal Code provides that "Amendments to this title may be initiated in the following manner . . . The council may propose an amendment by a resolution of intention"; and

**WHEREAS**, Section 17.08.040(B) of the Mendota Municipal Code provides that the secretary shall set a public hearing on any proposed amendments by the Planning Commission "no less than ten (10) days nor more than forty (40) days . . . after the adoption of a resolution of intention by the commission or the council"; and

**WHEREAS**, City Staff has prepared a proposed Ordinance Amending Title 17 of the Mendota Municipal Code Relating to Permit Application Processing and Siting Locations for Installations of New Wireless Telecommunications Facilities, a copy of which is attached hereto as Exhibit "A" (the "Proposed Ordinance"); and

**WHEREAS**, on March 15, 2017, the City published notice in the Firebaugh Mendota Journal advising that the Planning Commission would conduct a public hearing on the Proposed Ordinance at its March 27, 2017, special meeting; and

**WHEREAS**, on March 27, 2017, the Planning Commission conducted a duly-noticed public hearing on the Proposed Ordinance; and

**WHEREAS**, Staff has reviewed the Proposed Ordinance, and has determined that the approval of the Proposed Ordinance is not subject to the California Environmental Quality Act, Public Resources Code, § 21000, *et seq.* ("CEQA"), pursuant to Section 15060(c)(2) of the CEQA Guidelines, on the grounds that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) of the CEQA Guidelines, on the grounds that the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly. Staff has also determined that, alternatively, the Proposed Ordinance is not a project under Section 15061(b)(3) of the CEQA Guidelines because it has no potential for causing a significant effect on the environment.

**WHEREAS**, Section 17.08.040(H) of the Mendota Municipal Code provides that the City Council shall hold a public hearing on the proposed amendments “not less than ten days nor more than forty (40) days after the filing of the commission’s resolution by the council,” and that notice of said council hearing “shall be given as provided in Section 17.08.040(F).”

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission for the City of Mendota hereby recommends to the City Council approval of the Proposed Ordinance, attached hereto and made a part of this resolution as Exhibit “A.”

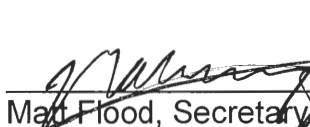
**BE IT FURTHER RESOLVED** that the Planning Commission finds the approval of this ordinance is not subject to CEQA, pursuant to Section 15060(c)(2) of the CEQA Guidelines, on the grounds that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) of the CEQA Guidelines, on the grounds that the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the Planning Commission finds the approval of this ordinance is not a project under Section 15061(b)(3) of the CEQA Guidelines because it has no potential for causing a significant effect on the environment.

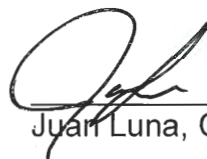
**BE IT FURTHER RESOLVED** that the Secretary shall file this Resolution No. PC 17-02 with the City Council, and shall schedule a public hearing before the City Council on the Proposed Ordinance no less than ten (10) days nor more than forty (40) days after the adoption of this resolution. The Secretary shall also provide notice of the City Council hearing as provided under Section 17.08.040 of the Mendota Municipal Code no later than 10 days before the hearing.

**PASSED AND ADOPTED** by the Planning Commission of the City of Mendota at a special meeting held on the 27<sup>th</sup> of March, 2017 upon a motion by Commissioner Escobedo, a second by Commissioner Obaid, and by the following vote:

**AYES:** 3 – Chairperson Luna, and Commissioners Escobedo and Obaid.  
**NOES:** 0  
**ABSTAIN:** 0  
**ABSENT:** 3 – Vice-Chairperson Gamez, and Commissioners Leiva and Romero.

ATTEST:

  
Matt Flood, Secretary

  
Juan Luna, Chair



---

---

**AGENDA ITEM – STAFF REPORT**

---

---

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS  
**FROM:** MATT FLOOD, ECONOMIC DEVELOPMENT MANAGER  
**VIA:** VINCE DIMAGGIO, CITY MANAGER  
**SUBJECT:** SECOND READING AND PUBLIC HEARING FOR ORDINANCE NO. 17-08,  
INCREASING THE AMOUNT OF PERMITTED ITINERANT FOOD VENDORS  
WITHIN THE CITY  
**DATE:** APRIL 25, 2017

---

**ISSUE**

Shall the Council adopt an ordinance increasing the amount of Itinerant Food Vendors (IFV) within the City Limits?

**BACKGROUND**

The Council performed the first reading of this ordinance at its previous meeting and also requested that staff explore the possibility of adding a provision to favor local vendors. *After review by our legal counsel, staff has determined that a provision to favor local vendors would cause a level of exposure that outweighs any benefit provided by such a provision.* Therefore, the originally proposed ordinance is contained herein for Council consideration.

As discussed at the previous meeting, staff is bringing forth a request to increase the amount of IFV's within the City by adjusting the language of the ordinance so that one vendor is allowed for every 1,500 residents in the community as opposed to the current one per 2,000 that currently is in the Mendota Municipal Code (MMC).

An Itinerant Vendor is one that does business from a mobile unit (in other words, does not have a traditional brick-and-mortar place of business, such as an office building, warehouse, or other structure). The MMC currently prohibits all types of Itinerant Vendors (MMC 5.32.020) with a few exceptions, one of those being IFV's (MMC 5.32.030).

IFV's are separated into two categories: motorized and non-motorized and the current number permitted is based on the section of the code that states one shall be allowed for every 2,000 residents or a portion thereof. This means that, for example, if Mendota had 10,000 residents, five IFV's would be allowed, but if Mendota had 10,001 residents, six would be allowed (because that "1" represents a portion of the next "2,000").

Since the official population count from the 2010 Census was 11,014, the maximum number of IFV's that can be permitted is currently six. If the number from the attached proposed ordinance was implemented, to be one vendor for every 1,500 in population or a portion thereof, the maximum number would be eight.

**ANALYSIS**

The projected impacts of allowing a 25% increase in the amount of IFV's permitted appears to be minimal. No new process is being implemented and the true population of Mendota more than likely can justify such an increase. It is up to the City Council to determine if this change would be appropriate and meet the needs of the community.

**FISCAL IMPACT**

Slight increase in revenues due to increased number of permits issued.

**RECOMMENDATION**

Council perform the second reading, open a hearing to accept public comment, and adopt Ordinance No. 17-08.

**BEFORE THE CITY COUNCIL  
OF THE  
CITY OF MENDOTA, COUNTY OF FRESNO**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF MENDOTA, CALIFORNIA,  
AMENDING SECTIONS 5.28.020 AND  
5.28.025 OF THE MENDOTA MUNICIPAL  
CODE RELATING TO THE NUMBER OF  
ITINERANT FOOD VENDORS ALLOWED  
WITHIN THE CITY**

**ORDINANCE NO. 17-08**

**WHEREAS**, the City Council is duly authorized and obligated to formulate policy that protects the health, safety, and peace of the community; and

**WHEREAS**, City staff has performed a review of the existing requirements of the Mendota Municipal Code regarding the number of motorized and nonmotorized itinerant food vendor permits that may be authorized within the City, which are located at Sections 5.28.020 and 5.28.025 of the Chapter 5.28; and

**WHEREAS**, City staff has determined that the limitations on the number of permits is unduly restrictive, and that it is in the best interest of the City to increase the number of motorized and nonmotorized itinerant food vendors within the City; and

**NOW THEREFORE**, the City Council of the City of Mendota does ordain as follows:

**SECTION 1.** Section 5.28.020 of Chapter 5.28 of Title 5 of the Mendota Municipal Code is hereby amended to read as follows:

One motorized *itinerant* food vendor permit for lunch truck or food items shall be issued for each ~~two thousand (2,000)~~ **one thousand five hundred (1,500)** residents or a portion thereof, in the city, as established by an official census.

**SECTION 2.** Section 5.28.025 of Chapter 5.28 of Title 5 of the Mendota Municipal Code is hereby amended to read as follows:

One nonmotorized (i.e., push cart or bicycle carts) *itinerant* food vendor permit for any food items shall be issued for each ~~two thousand (2,000)~~ **one thousand five hundred (1,500)** residents or a portion thereof, in the city, as established by an official census. The permit fee for an annual permit shall be set by resolution of the city council. All nonmotorized *itinerant* food vendor equipment shall be inspected and approved by the local health officer prior to the issuance or renewal of an itinerate food

vendor permit and such permit shall be displayed in plain sight on the vehicle or cart.

**SECTION 3.** The City Council finds the approval of this ordinance is not subject to the California Environmental Quality Act, Public Resources Code, § 21000, *et seq.* ("CEQA"), pursuant to Section 15060(c)(2) of the CEQA Guidelines, on the grounds that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) of the CEQA Guidelines, on the grounds that the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the City Council finds the approval of this ordinance is not a project under Section 15061(b)(3) of the CEQA Guidelines because it has no potential for causing a significant effect on the environment.

**SECTION 4.** If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Mendota City Council hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional.

**SECTION 5.** The adoption of any provision of this Ordinance does not affect any prosecution, civil action or administrative proceeding for any ordinance violation committed prior to the effective date of this ordinance; does not waive any fee, penalty, license or permit requirement due or in effect on the date this ordinance is adopted; and does not affect the validity of any bond or cash deposit posted, filed or paid pursuant to the requirements of any Ordinance.

**SECTION 6.** Within fifteen (15) days of the adoption of this Ordinance, a summary thereof, including the names of the City Council Members voting for and against it, shall be prepared by the City Attorney for publication in the *Firebaugh-Mendota Journal*, and a certified copy of the Ordinance shall be posted in the office of the City Clerk.

**SECTION 7.** This ordinance shall become effective and in full force at 12:00 midnight on the 31st day following its adoption.

\* \* \* \* \*

The foregoing ordinance was introduced on the 11<sup>th</sup> day of April, 2017 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 25<sup>th</sup> day of April, 2017 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Rolando Castro, Mayor

ATTEST:

---

Matt Flood, City Clerk

APPROVED AS TO FORM:

---

John Kinsey, City Attorney



---

---

## **PUBLIC WORKS REPORT**

---

---

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS  
**FROM:** CRISTIAN GONZALEZ, PUBLIC WORKS DIRECTOR  
**VIA:** VINCE DIMAGGIO, CITY MANAGER  
**SUBJECT:** PUBLIC WORKS MONTHLY REPORT  
**DATE:** APRIL 25, 2017

---

### **STREETS AND ROADS**

- Street sweeping continues as usual.
- Crews will continue addressing potholes citywide.
- Engineering of specifications and plans are nearly complete for the 7th and Derrick Realignment Project. This work is scheduled to commence in the early summer.
- New trees were installed on 7th Street and in front of Rojas Park, to fill existing empty tree wells.

### **PARKS AND PUBLIC BUILDINGS**

- Public Works continues to maintain the parks for the community. Staff has focused on trimming at all parks, including the Pool Park.

### **DRINKING WATER**

- Meter reads are complete.
- Work to repair filter #2 is being scheduled. The existing concrete base must be demolished, then after the concrete and structural steel are reinstalled the media will be carefully refilled. This work will be performed by an independent contractor that specializes in this type of unique work.
- The city's Automated Water Meter conversion project continues to move forward. Staff is working with DWR to finalize the financial package. Formal award of the grant funds should take place late July with construction specifications and plans to follow in order to go to bid.

## **WASTE WATER**

- Monthly samples have been submitted.
- Crews continue to transfer water from semi-full ponds to shallow empty ponds to build up capacity and increase evaporation.
- Waste Water Treatment Plant access roads continue to be graded. The storms have caused the access roads to weaken in some areas. The lower flood prone areas around the perimeter of the plant have been built up to protect against raising slough water levels.

## **ANIMAL CONTROL**

- Staff held a Dog Clinic at Rojas Pierce Park. A total of 120 dogs were brought in to get shots.
- Animals impounded: 26
- Animals euthanized: 25
- Animals redeemed by owner: 1
- Graffiti abated: 6
- Citations issued: 4

## **ADULT OFFENDER WORK PROGRAM**

- AOWP continue working on public right of ways and alley weed abatement, including all tree-wells and City owned lots and the Pool Park.

## **BUILDING PERMITS ISSUED**

- A list of new permits is attached to the report.

## **PLANNING**

- No significant planning updates.

## **STAFFING FOR PUBLIC WORKS**

- 13 full time employees
- 3 part time employees
- 10 Proteus employees

## **FUEL STOCK**

- Unleaded: 6,821 gallons
- Diesel: 1,701 gallons

## Permits Issued

Report Date Range : 02/24/2017 to 04/19/2017

Permit #	Type of Permit	Date Issued	Job Address
20170062	329(b) 28 MODULE PV SOLAR 7.84 KW NEW 125 AMP PANEL UPGRADE	2/24/2017	304 J St
20170063	MISC FENCE PERMIT: FENCE REPAIR	2/24/2017	766 I St
20170064	434(a) RE-ROOF SHINGLES 1500 SQFT	2/27/2017	1748 Jennings St
20170065	434(a) MAIN ELECTRICAL PANEL UPGRADE TO 100 AMPS(LIKE FOR LIKE)	2/27/2017	895 Belmont Ave
20170066	328 10,000 SQFT DOLLAR TREE STORE	2/28/2017	111 BELMONT
20170067	438 GARAGE CONVERSION AND (N) GARAGE CONVERSION 480 SQFT CARPORT 360 SQFT	3/2/2017	1558 10th St
20170068	434(a) SHED 400 SQFT PER APPROVED PLAN	3/8/2017	565 J St
20170069	434(a) REPLACING PLUMBING AND SEWER LINE	3/8/2017	1042 Oller St
20170070	434(a) ROOF PATCHING AROUND NEW COOLER INSTALL 50% FOR WORK WITHOUT PERMIT	3/14/2017	270 Black Ave
20170071	329(b) ROOFTOP P.V. INSTALLATION TILE ROOF 18 INVERTERS 18 PANELS PANEL UPGRADE 100-125 AMP	3/16/2017	303 Blanco St
20170072	329(b) ROOFTOP P.V. INSTALLATION COMP SHINGLE 15 PANELS 15 INVERTORS	3/16/2017	307 L St
20170073	434(a) STORAGE SHED16X10 PER APPROVED PLAN	3/17/2017	660 Quince St
20170074	434(a) RE-ROOF ASPHALT SHINGLE EXISTING 1 LAYER LOW PITCH 1180 SQFT	3/17/2017	349 Pucheu St
20170075	329(b) 85.55 KW PV INSTALL PER APPROVED PLAN (SEE ATTACHED LIST)	3/17/2017	241 TUFT ST
20170076	434(a) ELECTRICAL REPLACEMENT	3/23/2017	1042 Oller St
20170077	329(b) INSTALL ROOFTOP SOLAR 3.835 KW	3/24/2017	230 San Pedro St
20170078	329(b) ROOFTOP P.V. INSTALLATION COMPOSITION SHINGLE 4.06KW	3/24/2017	1990 9th St
20170079	329(b) 3.18KW , 12 MODULES, NEW 200 AMP INSP NEW 1-30 AMP DISCONNECT	3/24/2017	1990 9th St

## Permits Issued

Report Date Range : 02/24/2017 to 04/19/2017

Permit #	Type of Permit	Date Issued	Job Address
20170080	329(b) NEW SOLAR ROOF MOUNT 5.035KW DC SYSTEM WITH 19 MODULES & EXISTING 125A MAIN PANEL	4/6/2017	310 Gomez St
20170081	101 5018 TOTAL SQUARE FEET/15 UNITS APARTMENTS PER APPROVED PLAN	4/4/2017	178 Oller St
20170082	434(a) NEW PATIO ADDITION 548 SQ FT	4/4/2017	570 SILVA ST
20170083	434(a) RE-ROOF 2600 SQ FT PER APPROVED PLAN SHAKES PITCH 4/12 1 EXISTING LAYER	4/5/2017	220 Gregg Ct S
20170084	437(a) EXISTING BUILDING TO BE REMODELED & NEW CONSTRUCTION FOR COMMERCIAL TRUCKING & MECHANIC TRUCKING	4/5/2017	575 Naples St
20170085	437(a) ONE SIGN 3' X 12' X 5" DEEP CABINET, ILLUMINATED WITH WHITE LED'S 36 SQFT PER APPROVED PLAN 662 OLLER STREET	4/6/2017	630 Oller St
20170086	329(b) ROOF MOUNT SOLAR, 13 ROOF MOUNT SOLAR, 13 PANELS	4/6/2017	935 Rio Frio St
20170087	434(a) ELECTRICAL PANEL CHANGE OUT	4/6/2017	935 Rio Frio St
20170088	MISC FENCE PERMIT- REPAIR/ REPLACE, MUST RE-INSTALL REATAINING WALL THEN 6' FENCE ON TOP	4/7/2017	695 Lozano St
20170089	434(a) RE-ROOF 1600 SQ FT PER APPROVED PLAN COMPOSITION- 7/12 PITCH- SYNTHETIC UNDER LAMNENT	4/11/2017	735 I St
20170090	329(b) INSTALL ROOFTOP SOLAR, 1.77 KW 6 PANELS	4/11/2017	741 H St
20170091	329(b) SOLAR INSTALLATION	4/11/2017	304 J St
20170092	329(b) ROOF MOUNT SOLAR SYSTEM	4/14/2017	695 Lozano St

Total Number of Permits List

31