



CITY OF MENDOTA

"Cantaloupe Center Of The World"

JUAN LUNA
Chair
MARTIN GAMEZ
Vice-Chair
ALBERT ESCOBEDO
JONATHAN LEIVA
KEVIN ROMERO
ABDUL OBAID
Alternate Commissioner

CITY OF MENDOTA PLANNING COMMISSION AGENDA

City Council Chambers
Mendota, CA 93640
SPECIAL MEETING
July 26, 2017
6:00 P.M.

VINCE DIMAGGIO
City Manager
CRISTIAN GONZALEZ
Public Works/Planning Director
JEFF O'NEAL
City Planner

The Mendota City Planning Commission welcomes you to its meetings, which are scheduled for the 3rd Tuesday every month. Your interest and participation are encouraged and appreciated. Notice is hereby given that Planning Commissioners may discuss and/or take action on any or all of the items listed on this agenda. **Please turn your cell phone off. Thank you for your respect and consideration.**

Any public writings distributed by the City of Mendota to at least a majority of the Planning Commission 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.

CALL TO ORDER

ROLL CALL

FLAG SALUTE

FINALIZE THE AGENDA

1. Adoption of final Agenda.

MINUTES AND NOTICE OF WAIVING OF READING

1. Approval of the minutes of the regular meeting of April 18, 2017.
2. Notice of waiving the reading of all resolutions introduced and/or adopted under this agenda.

PUBLIC HEARING

1. Public Hearing to adopt **Resolution No. PC 17-05**, recommending that the City Council adopt an ordinance amending Title 17 of the Mendota Municipal Code creating a commercial marijuana overlay district and amending Chapter 8.36 for consistency therewith.
 - a. *Receive report from Planning & Public Works Director Gonzalez*
 - b. *Inquiries from Planning Commissioners to staff*
 - c. *Chair Luna opens the public hearing*
 - d. *Once all comment has been received, Chair Luna closes the public hearing*
 - e. *Commission considers Resolution No. PC 17-05 for adoption*

PUBLIC COMMENT ON ITEMS THAT ARE NOT ON THE AGENDA

The public is invited to speak to the Planning Commission at this time about any item that is not on the Agenda. Please limit your comments to five (5) minutes. Please note that the Planning Commission cannot take action on any item not listed on the agenda.

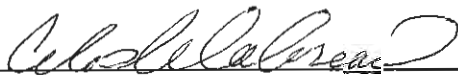
PLANNING DIRECTOR UPDATE

PLANNING COMMISSIONERS' REPORTS

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 Planning Commission Special Meeting of Wednesday, July 26, 2017 was posted on the outside bulletin board of City Hall, 643 Quince Street on Tuesday, July 25, 2017 at 4:45 p.m.



Celeste Cabrera, Deputy City Clerk



CITY OF MENDOTA PLANNING COMMISSION MINUTES

Regular Meeting

Tuesday, April 18, 2017

6:30 p.m.

Meeting called to order by Chairperson Luna at 6:30 PM.

Roll Call

Commissioners Present: Chairperson Juan Luna, Vice-Chairperson Martin Gamez, Commissioners Albert Escobedo, Jonathan Leiva, and Kevin Romero.

Commissioners Absent: None.

Staff Present: Cristian Gonzalez, Planning & Public Works Director; Matt Flood, Economic Development Manager; and Celeste Cabrera, Deputy City Clerk.

Flag Salute led by Economic Development Manager Flood.

FINALIZE THE AGENDA

1. Adoption of final Agenda.

A motion was made by Commissioner Escobedo to adopt the agenda, seconded by Commissioner Romero; unanimously approved (5 ayes).

MINUTES AND NOTICE OF WAIVING OF READING

1. Approval of the minutes of the special meetings of March 13, 2017 and March 27, 2017.
2. Notice of waiving the reading of all resolutions introduced and/or adopted under this agenda.

A motion to approve items 1 and 2 was made by Commissioner Escobedo, seconded by Vice-Chairperson Gamez; unanimously approved (5 ayes).

PUBLIC HEARING

1. Public Hearing to adopt **Resolution No. PC 17-04**, recommending that the City Council adopt an ordinance adding Chapter 8.28 to the Mendota Municipal Code, "The Landlord Accountability Act".

Chairperson Luna introduced the item and Economic Development Manager Flood summarized the report including that the ordinance was still under review by the City Attorney; that the City of Fresno is passing an ordinance that addresses landlord accountability; the proposed ordinance having the same intention as the Fresno ordinance but being modified to address the needs specific to Mendota; and summarized how the landlord accountability process will work.

Discussion was held on whether the adoption of the Act would warrant the need to hire additional officers; whether tenants need to work with their landlord prior to reporting an issue; when the ordinance would go into effect if it were adopted; and whether the ordinance would apply to government housing.

At 6:41 p.m. Chairperson Luna 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 Commissioner Romero to adopt Resolution No. PC 17-04, seconded by Commissioner Leiva; unanimously approved (5 ayes).

PUBLIC COMMENT ON ITEMS THAT ARE NOT ON THE AGENDA

None offered.

PLANNING DIRECTOR UPDATE

Nothing to report.

PLANNING COMMISSIONERS' REPORTS

Discussion was held on what was being developed on the property adjacent to Derrick and Belmont Avenues.

ADJOURNMENT

At the hour of 6:43 p.m. with no more business to be brought before the Planning Commission, a motion for adjournment was made by Commissioner Escobedo, seconded by Commissioner Romero; unanimously approved (5 ayes).

Juan Luna, Chairperson

ATTEST:

Matt Flood, City Clerk

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

DATE: July 26, 2017

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

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

SUBJECT: Resolution Recommending that the City Council of the City of Mendota Adopt [Proposed] Ordinance No. 17-13 An Ordinance of the Council of the City of Mendota Amending Title 17 of the Mendota Municipal Code Creating a Commercial Marijuana Overlay District and Amending Chapter 8.36 for Consistency Therewith.

RECOMMENDATION:

Adopt a Resolution that:

- A. Recommends that the City Council adopt an ordinance that would add Chapter 17.99 to Title 17 and amend Sections 8.36.050, subd. (B) and 8.36.60, subd. (A) of Title 8, Chapter 8.36 of the Mendota Municipal Code (“MMC”) to create a Commercial Marijuana Overlay District and revise other provisions of the MMC for consistency therewith.
- B. Finds the Proposed Ordinance is not subject to environmental review under the California Environmental Quality Act.
- C. Directs the Secretary to schedule a public hearing before the City Council 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 the resolution.

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.

Following the adoption of the AUMA, the City adopted amendments to Chapter 8.36 of the Mendota Municipal Code pertaining to Medical Marijuana (the “Marijuana Ordinance”) 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. The effect of these amendments was to prohibit, among other things, commercial marijuana activities within the City.

Since the adoption of the amendments to the Marijuana Ordinance, both the City and several other surrounding communities have received inquiries from various commercial enterprises engaged in the commercial marijuana operations.

On July 11, 2017, the City Council adopted a Resolution No. 17-43: Resolution of Intention to Initiate an Amendment to the Mendota Municipal Code Relating to the Commercial Growing, Production, and Processing of Cannabis Products. A copy of the Resolution of Intention is attached as **Exhibit “A.”**

In response to the Resolution of Intention, City Staff has prepared proposed amendments to add Chapter 17.99 to Title 17 and revise Sections 8.36.050, subd. (B) and 8.36.60, subd. (A) of Title 8, Chapter 8.36. A draft of the proposed ordinance is attached as **Exhibit “B”** (the “Proposed Ordinance”).

DISCUSSION:

Staff is recommending that the Planning Commission consider and adopt a resolution recommending that the City Council adopt the proposed amendments to Title 17 and Chapter 8.36 of the MMC.

The Proposed Ordinance will establish an overlay district to facilitate the establishment of commercial marijuana businesses within the City. It will also revise the City’s existing Marijuana Ordinance to ensure consistency with the new provisions.

The Proposed Ordinance maintains the Zoning Ordinance's existing use classifications and development standards within the Commercial Marijuana Overlay District ("Overlay District"). It then permits specified uses within the Overlay District that would otherwise be prohibited by the Zoning Ordinance and the Marijuana Ordinance, but only if a Conditional Use Permit ("CUP") is first obtained. These uses are: (1) indoor marijuana cultivation, (2) marijuana manufacturing, (3) marijuana testing services, and (4) marijuana distribution. The Proposed Ordinance specifically prohibits outdoor marijuana cultivation and marijuana dispensaries within the Overlay District.

To ensure an appropriate balance between allowing some commercial marijuana businesses and avoiding negative impacts associated with such businesses, the Proposed Ordinance requires the applicant to obtain a CUP before engaging in commercial marijuana activity in the Overlay District. The Proposed Ordinance incorporates existing CUP procedures, but supplements these procedures by requiring that thirteen additional findings be made before a CUP may be granted. These additional findings are designed to ensure that the marijuana activity permitted in the Overlay District does not negatively impact other land uses or the health, safety, and welfare of the citizens of Mendota.

Among other things, the Proposed Ordinance requires a finding that the applicant and the City have entered into a development agreement. The development agreement will contain the specific requirements that the applicant must adhere to in order to engage in the proposed use. This approach is intended to allow City officials the flexibility to regulate the proposed land use based on the particulars of the proposed use, rather than mandating specific requirements that may not be necessary or appropriate under the circumstances of a particular case. Additionally, it is contemplated that the development agreement will contain revenue-raising provisions, such as a fee based on the property's square footage, and, if desired, a fee based on the business's gross revenues. By incorporating these provisions into the development agreement, the City will have the freedom to devise revenue-raising measures without the need to hold an election for the imposition of a new tax, as required by Proposition 218.

Finally, the Ordinance makes two revisions to the City's existing Marijuana Ordinance. These revisions are intended solely to avoid any conflict between the Proposed Ordinance and the existing Marijuana Ordinance.

Staff is also recommending that the City follow the procedures set forth in Chapter 17.08.040 of the Mendota Municipal Code for the amendment, as the regulations affect land uses within the City. As a result, as part of its consideration and adoption of the proposed resolution, City Staff recommends that the Planning Commission direct the Secretary to file the resolution with the City Council, and schedule a public hearing on the proposed amendments to add Chapter 17.99 to Title 17 and revise Sections 8.36.050, subd. (B) and 8.36.60, subd. (A) of Title 8, Chapter 8.36 of the MMC no less than ten (10) days nor more than forty (40) days after the adoption of the resolution.

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

CONCLUSION

Based on the foregoing, Staff recommends that the Planning Commission adopt a resolution recommending that the City Council adopt the Proposed Ordinance, which would add Chapter 17.99 to Title 17 and revise Sections 8.36.050, subd. (B) and 8.36.60, subd. (A) of Title 8, Chapter 8.36 of the MMC to create a Commercial Marijuana Overlay District and revise other provisions of the MMC for consistency therewith.

Staff also recommends that the Planning Commission direct the Secretary to file the resolution with the City Council, and schedule a public hearing 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 the resolution.

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

ATTACHMENT

Ex. “A”: July 11, 2017, Resolution No. 17-43: Resolution of Intention to Initiate an Amendment to the Mendota Municipal Code Relating to the Commercial Growing, Production, and Processing of Cannabis Products

Ex. “B”: [Proposed] Ordinance No. 17-13 An Ordinance of the Council of the City of Mendota Amending Title 17 of the Mendota Municipal Code Creating a Commercial Marijuana Overlay District and Amending Chapter 8.36 for Consistency Therewith.

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

RESOLUTION NO. PC 17-05

**A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL OF THE CITY OF
MENDOTA ADOPT AN ORDINANCE AMENDING TITLE 17 OF THE MENDOTA
MUNICIPAL CODE CREATING A COMMERCIAL MARIJUANA OVERLAY DISTRICT
AND AMENDING CHAPTER 8.36 FOR CONSISTENCY THEREWITH**

WHEREAS, Section 17.08.040 requires that amendments to Title 17 of the Mendota Municipal Code be adopted in accordance with the procedures set forth therein; 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, on July 11, 2017, the City Council voted to adopt a Resolution of Intention to Initiate an Amendment to the Mendota Municipal Code Relating to the Commercial Growing, Production, and Processing of Cannabis Products (the “Resolution of Intention”); and

WHEREAS, City Staff has prepared a proposed Ordinance Amending Title 17 of the Mendota Municipal Code Creating a Commercial Marijuana Overlay District and Amending Chapter 8.36 for Consistency Therewith, a copy of which is attached hereto as Exhibit “A” (the “Proposed Ordinance”); and

WHEREAS, Section 17.08.040(F) 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, on July 12, 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 July 26, 2017, special meeting; and

WHEREAS, on July 26, 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 ground 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 ground 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 ground 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 ground 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 17-05 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 26th of July, 2017, upon a motion by Commissioner _____, a second by Commissioner _____, and by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Juan Luna, Chair

ATTEST:

Matt Flood, City Clerk

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

**A RESOLUTION OF INTENTION TO
INITIATE AN AMENDMENT TO THE
MENDOTA MUNICIPAL CODE
RELATING TO THE COMMERCIAL
GROWING, PRODUCTION, AND
PROCESSING OF CANNABIS
PRODUCTS**

RESOLUTION NO. 17-43

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; and

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; and

WHEREAS, following the passage of the AUMA, the City adopted amendments to Chapter 8.36 of the Mendota Municipal Code pertaining to Medical Marijuana (the "Marijuana Ordinance") 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; and

WHEREAS, both the City and several other surrounding communities have received inquiries from various commercial enterprises engaged in the commercial marijuana operations; and

WHEREAS, to accommodate potential commercial enterprises engaged in the commercial marijuana operations, and to help avoid potential health, safety, and welfare issues associated with commercial marijuana activities within the City, the City would need to amend the Marijuana Ordinance, and potentially other portions of the Mendota Municipal Code, to allow such uses, and to impose reasonable regulations on the cultivation, processing, manufacture, distribution, testing, and sale of marijuana products.

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 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."

NOW, THEREFORE, BE IT RESOLVED that the City Council for the City of Mendota hereby authorizes Staff to proceed with amendments to the Mendota Municipal Code to regulate the commercial growing, production, and processing of cannabis products within the City.

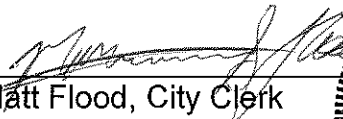
BE IT FURTHER RESOLVED that the Secretary shall schedule a public hearing before the Planning Commission on the proposed amendments to the Mendota Municipal Code no less than ten (10) days nor more than forty (40) days after the adoption of this resolution.


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 11th day of July, 2017, by the following vote:

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


Matt Flood, City Clerk



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

**AN ORDINANCE OF THE COUNCIL
OF THE CITY OF MENDOTA AMENDING
TITLE 17 OF THE MENDOTA MUNICIPAL
CODE CREATING A COMMERCIAL
MARIJUANA OVERLAY DISTRICT AND
AMENDING CHAPTER 8.36 FOR
CONSISTENCY THEREWITH**

ORDINANCE NO. 17-13

WHEREAS, pursuant to the authority granted the City by Article XI, Section 7 of the California Constitution, the City has the police power to adopt regulations designed to promote the public health, the public morals, or public safety; and

WHEREAS, comprehensive zoning regulations and regulations upon the use of land and property lie within the City's police power; and

WHEREAS, in 1996, the voters of the State of California adopted the Compassionate Use Act of 1996 ("CUA"), the intent of CUA being to enable persons who are in need of marijuana for medical purposes to be able to obtain and use it without fear of state criminal prosecution under limited, specified circumstances; and

WHEREAS, in 2003, Senate Bill 420, titled the "Medical Marijuana Program Act" ("MMPA"), was enacted to clarify the scope of the Compassionate Use Act of 1996 ("CUA") and to promulgate rules by which counties and cities can adopt and enforce regulations consistent with its provisions; and

WHEREAS, in 2011, Assembly Bill 2650 was enacted, affirming that counties and cities can under state law adopt ordinances that control and restrict the location and establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider; 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 ("MMRSA"), 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, in November 2016, the voters of the State of California adopted the Adult Use of Marijuana Act ("AUMA"), the intent being to establish a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacturing,

distribution, testing, and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of marijuana; and

WHEREAS, in 2012, as amended in 2016 and 2017, the City adopted Chapter 8.36 of the Mendota Municipal Code pertaining to recreational and medical marijuana activities (the “Marijuana Ordinance”), which bans commercial marijuana cultivation, commercial deliveries of marijuana, and marijuana 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; and

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 report accompanying the 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. Some of the continued documented problems include offensive odors, trespassing, theft, violent encounters, fire hazards, and problems associated with mold, fungus, and pests; and

WHEREAS, under the MMRSA and the AUMA, the City retains its police powers and land use authority regulate or ban marijuana activities, including commercial marijuana activities, 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. The Recitals set forth above are incorporated herein and by this reference made an operative part hereof.

SECTION 2. This ordinance amends the City’s Zoning Ordinance, Title 17, by adding Chapter 17.99, and amends the City’s Marijuana Ordinance, Title 8, Chapter 8.36 by revising Sections 8.36.050, subd. (B) and 8.36.60, subd. (A). The ordinance will create an overlay zone to allow the establishment of commercial marijuana businesses and activity which will involve the cultivation, manufacturing, distribution, and testing of marijuana products, and will revise the City’s Marijuana Ordinance for consistency therewith.

SECTION 3. Chapter 17.99 is hereby added to Title 17 of the Mendota Municipal Code to read as follows:

17.99.010 Purpose and Intent

A. There is created a Commercial Marijuana Overlay District, the boundaries of which are shown on the map entitled, "Commercial Marijuana Overlay District", which is on file at city hall. Said map is adopted and made a part of this ordinance.

B. This chapter is enacted to preserve and promote the public health, safety, and welfare of the citizens of Mendota, to facilitate the establishment of permitted commercial marijuana businesses within the City while ensuring that such businesses do not interfere with other lawful land uses, and to provide new sources of revenue to fund City services.

17.99.020 Definitions

"Commercial marijuana business" means any business engaged in commercial marijuana activity.

"Commercial marijuana activity" shall have the same meaning set forth in Business and Professions Code Section 26001, subd. (d).

"Cultivation" shall have the same meaning set forth in Business and Professions Code Section 26001, subd. (e).

"Delivery" shall have the same meaning set forth in Business and Professions Code Section 26001, subd. (h).

"Distribution" shall have the same meaning set forth in Business and Professions Code Section 26001, subd. (j).

"Manufacture" or "manufacturing" shall have the same meaning set forth in Business and Professions Code Section 26001, subd. (q).

"Marijuana" or "cannabis" shall have the same meaning set forth in California Business and Professions Code Section 19300.5, subd. (f).

"Marijuana dispensary" means any facility or location, whether fixed or mobile, where marijuana is offered, provided, sold, made available or otherwise distributed for commercial purposes to more than (2) persons.

"Testing" or "testing service" shall have the same meaning set forth in Business and Professions Code Section 26001, subd. (bb).

17.99.030 Conflict between regulations

Where a conflict occurs between the Commercial Marijuana Overlay District and any other section of the zoning code, or any provision of the Mendota Municipal Code, the Commercial Marijuana Overlay District regulations shall prevail.

17.99.040 Use classifications

The use classifications allowed in the Commercial Marijuana Overlay District shall be those use classifications allowed in the underlying base zoning district.

17.99.050 Development standards

The development standards for all development within the Commercial Marijuana Overlay District shall be those standards of the underlying base zoning district.

17.99.060 Permitted uses

A. The following uses shall be permitted in the Commercial Marijuana Overlay District if a conditional use permit is obtained:

1. Indoor marijuana cultivation
2. Marijuana manufacturing
3. Marijuana testing services
4. Marijuana distribution

B. In addition to the findings required by Section 17.08.050, the following findings shall also be made before any conditional use permit for commercial marijuana activity is granted:

1. That a development agreement has been entered into by and between the City and the applicant, which is consistent with the provisions of this Chapter and promotes the purposes and intent of the Commercial Marijuana Overlay District.
2. That marijuana odors will not be detectable from the property boundary or public right-of-way and that, in multi-tenant buildings, marijuana odors will not be detectable from the building exterior, or from the exterior and/or interior common areas, such as walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public or within any other unit located inside the same building as the proposed use.
3. That all commercial marijuana activities will occur within an enclosed building and will not be visible from the property boundary or public right-of-way.
4. If buildings are proposed for growing purposes that would cause light to be emitted from any building roof or window (sometimes referred to as “light-assisted” or “mixed-light” greenhouses), that no light will be visible through the roof and windows of grow areas from dusk to dawn.

5. That all pesticide use will comply with the State Department of Pesticide Regulations.
6. That a Water Recycling Management Plan has been prepared demonstrating sufficient water supply for the proposed use, including a certification that the applicant may use that water legally under state law, and, if water is used for irrigation purposes, that irrigation water will be recycled to the maximum extent feasible using best management practices.
7. That a Site Security Plan has been prepared demonstrating sufficient site security measures to prevent all unauthorized access to the site.
8. That a Power Use Plan has been prepared demonstrating sufficient power supply for the proposed use.
9. That the applicant has obtained all necessary state permits and authorizations to engage in the proposed use.
10. That the applicant has provided to the City all information required for state licensing purposes pursuant to Business and Professions Code Section 26050 *et seq.*
11. That the applicant will provide to the City all information required for any renewal of a state license related to commercial marijuana activity and the state licensing authority's decision on any such renewal.
12. That the applicant has consented to the City's inspection, without notice, of any and all records required to be maintained under any state or local law.
13. That the applicant will immediately provide notice to the City of any suspension or revocation of any state license issued pursuant to Business and Professions Code Section 26050 *et seq.*

17.99.070 Prohibited uses

The following uses shall be prohibited in the Commercial Marijuana Overlay District:

- A. Outdoor marijuana cultivation
- B. Marijuana dispensaries

17.99.080 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 4. Chapter 8.36, Section 8.36.050, subd. (B) is hereby amended to read in full as follows (additions indicated in bold and underline):

B. Collective or cooperative cultivation. **Except as provided in Chapter 17.99,** the collective or cooperative cultivation of marijuana shall be prohibited in the City.

SECTION 5. Chapter 8.36, Section 8.36.60, subd. (A), is hereby amended to read in full as follows (additions indicated in bold and underline):

A. Commercial marijuana operations. **Except as provided in Chapter 17.99,** commercial marijuana operations as defined in Section 8.36.030 are prohibited within the City.

SECTION 6. The City Council finds the approval of this ordinance is not subject to the California Environmental Quality Act, Public Resources Code, Section 21000, *et seq.* (“CEQA”), pursuant to Section 15060(c)(2) of the CEQA Guidelines, on the ground 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 ground 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 7. 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 8. 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 9. 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 8th day of August, 2017 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 22nd day of August, 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

31 | 32

U.S.A.

50 ST

7.45Ac.

CITY OF MENDOTA

68 ST

114.80Ac.

CITY OF MENDOTA

67 ST

50.00Ac.

69 P

1321.95'

1622.75'

62 S

8.71Ac.

32

61 S

70.99Ac.

DRAIN

SAN LUIS

400 GUILLAN PARK DR.

TUX ARBO
12-010
12-013

06

04 T

2.09Ac.

16 T

0.71Ac.

CITY OF MENDOTA

26 T

5.16 Ac.

CITY OF MENDOTA

29

15.05Ac.

15

13.34 Ac.

01

CITY OF MENDOTA

7 T

0.23Ac.

U.S.A.

8 ST

0.05Ac.

10 ST

0.11Ac.

Bk. 19

31 | 32

6 | 5

T. 13 S.

T. 14 S.

Agricultural Record of S

03-2014 SH

1992.00'

5006.46'

1347.12'

1347.12'

973.11'

1269'

1269'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'

736.62'

611.04'

80'

370.93'

627.94'

80'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

1347.12'

135.24'