



# CITY OF MENDOTA

*"Cantaloupe Center Of The World"*

JUAN LUNA  
Chairperson  
ALBERT ESCOBEDO  
Vice-Chairperson  
JOSE ALONSO  
JOSE GUTIEREZ  
JONATHAN LEIVA  
KEVIN ROMERO  
Alternate Commissioner

## CITY OF MENDOTA PLANNING COMMISSION AGENDA

City Council Chambers  
Mendota, CA 93640  
REGULAR MEETING  
July 16, 2019  
6:30 P.M.

CRISTIAN GONZALEZ  
City Manager  
Public Works/Planning Director  
KARL SCHOETTLER  
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.

In compliance with the Americans with Disabilities Act, those requiring special assistance to participate at this meeting please contact the City Clerk at (559) 655-3291. Notification of at least forty-eight hours prior to the meeting will enable staff to make reasonable arrangements to ensure accessibility to the meeting.

### CALL TO ORDER

### ROLL CALL

### FLAG SALUTE

### FINALIZE THE AGENDA

1. Adjustments to Agenda
2. Adoption of final Agenda

### SWEARING IN

1. City Clerk Cabrera-Garcia to swear in Alternate Planning Commissioner Kevin Romero.

## MINUTES AND NOTICE OF WAIVING OF READING

1. Approval of the minutes of the special Planning Commission meeting of April 22, 2019.
2. Notice of waiving the reading of all resolutions introduced and/or adopted under this agenda.

## PUBLIC HEARING

1. Proposed adoption of **Resolution No. PC 19-02**, recommending approval of proposed zoning code amendments to permit commercial cannabis retail businesses in the C-3 District subject to a conditional use permit.
  - a. *Receive report from City Manager Gonzalez*
  - b. *Inquiries from Planning Commissioners to staff*
  - c. *Chairperson Luna opens the public hearing*
  - d. *Once all comment has been received, Chairperson Luna closes the public hearing*
  - e. *Commission considers Resolution No. PC 19-02 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-Garcia, City Clerk of the City of Mendota, do hereby declare that the foregoing agenda for the Mendota Planning Commission Regular Meeting of Tuesday, July 16, 2019 was posted on the outside bulletin board of City Hall, 643 Quince Street on Friday, July 12, 2019 at 4:35 p.m.

  
\_\_\_\_\_  
Celeste Cabrera-Garcia, City Clerk



## CITY OF MENDOTA PLANNING COMMISSION MINUTES

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**Special Meeting**

**Monday, April 22, 2019**

**6:00 p.m.**

**Meeting called to order by Chairperson Luna at 6:00 PM.**

### **Roll Call**

**Commissioners Present:** Chairperson Juan Luna, Vice-Chairperson Albert Escobedo, Commissioners Jose Alonso, Jose Gutierrez, and Jonathan Leiva (at 6:04 p.m.)

**Commissioners Absent:** None

**Staff Present:** Cristian Gonzalez, City Manager; and Celeste Cabrera-Garcia, City Clerk

**Flag Salute led by Commissioner Alonso.**

### **FINALIZE THE AGENDA**

1. Adoption of final Agenda.

A motion was made by Commissioner Alonso to adopt the agenda, seconded by Commissioner Gutierrez; unanimously approved (4 ayes, absent: Leiva).

### **SWEARING IN**

1. City Clerk Cabrera-Garcia to swear in Jose Alonso.

City Clerk Cabrera-Garcia swore in Commissioner Alonso.

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

1. Approval of the minutes of the regular Planning Commission meeting of February 19, 2018.
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 Gutierrez, seconded by Vice-Chairperson Escobedo; unanimously approved (4 ayes, absent: Leiva).

*At 6:04 p.m. Commissioner Leiva entered the Council Chambers.*

### **PUBLIC HEARING**

1. Proposed adoption of **Resolution No. PC 19-01**, approving Conditional Use Permit 2019-01 (AMOR).

Chairperson Luna introduced the item and City Manager Gonzalez summarized the report.

Discussion was held on whether there would be a pharmacy included within the development; the layout of the storm drain basin; and the purpose of the storm drain basin.

**Davena Witcher (AMOR)** – commented on the layout of the health center; looking into available alternatives to provide pharmaceutical services at the health center; the landscape of the development; and ensuring that the location of the development is a safe and helpful environment to the community.

At 6:17 p.m. Chairperson Luna opened the hearing to the public and seeing no one in the public interested in commenting, closed the hearing in that same minute.

A motion was made by Commissioner Leiva to adopt Resolution No. PC 19-01, seconded by Vice-Chairperson Escobedo; unanimously approved (5 ayes).

### **PUBLIC COMMENT ON ITEMS THAT ARE NOT ON THE AGENDA**

None offered.

### **PLANNING DIRECTOR UPDATE**

City Manager Gonzalez provided an update on the commercial lot at the La Colonia subdivision.

Discussion was held on various projects throughout the City.

### **PLANNING COMMISSIONERS' REPORTS**

None offered.

### **ADJOURNMENT**

At the hour of 6:20 p.m. with no more business to be brought before the Planning Commission, a motion for adjournment was made by Commissioner Alonso, seconded by Commissioner Gutierrez; unanimously approved (5 ayes).

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Juan Luna, Chairperson

ATTEST:

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Celeste Cabrera-Garcia, City Clerk

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**AGENDA ITEM**

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**TO:** HONORABLE PLANNING COMMISSION CHAIRPERSON AND COMMISSIONERS

**FROM:** CRISTIAN GONZALEZ, CITY MANAGER

**SUBJECT:** PROPOSED AMENDMENTS TO THE MENDOTA ZONING CODE PERMITTING COMMERCIAL CANNABIS RETAIL BUSINESSES IN THE C-3 DISTRICT SUBJECT TO A CONDITIONAL USE PERMIT

**DATE:** JULY 16, 2019

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**BACKGROUND:**

Last year, the City amended Title 17 of the MMC by adding Chapter 17.99, which created a commercial cannabis overlay district and permitted indoor cannabis cultivation, cannabis manufacturing, cannabis testing, and cannabis distribution within the overlay district, subject to a conditional use permit (CUP). The amendments expressly prohibited outdoor cannabis cultivation and cannabis dispensaries.

On January 16, 2019 the Office of Administrative Law officially approved state regulations developed by the Bureau of Cannabis Control (Bureau) for cannabis business across the supply chain (Regulations). Among other things, the Regulations, at 16 C.C.R. § 5416(d) state that “a [cannabis] delivery employee may deliver to *any jurisdiction* within the State of California provided that such delivery is conducted in compliance with all delivery provisions of this division.” Previously, state law had permitted local jurisdictions to prohibit deliveries within its jurisdiction.

As a result of this change, the City’s former ban on dispensaries, which included cannabis delivery businesses, no longer achieved its intended public health and safety benefits in that it could not prevent delivery businesses located in other jurisdictions from consummating cannabis deliveries in the City. Consequently, in light of the potential tax revenue associated with potential deliveries to consumers located in the City, and the fact state law preempts the City’s ability to prohibit deliveries to consumers in the City, the City amended its municipal code to eliminate the ban on commercial cannabis dispensaries with Ordinance No. 19-06.

However, because the commercial cannabis overlay district is not located in a commercial use area, and because commercial cannabis retail is suitable to being located in a commercial use area, the City now desires to amend its Zoning Code to permit a limited number of commercial cannabis retail businesses in the C-3 district subject to a conditional use permit.

**DISCUSSION:**

The proposed amendment makes only one change to the City’s Zoning Code. It amends Section 17.52.030 by adding Subdivision KK, which identifies “cannabis retail businesses” as a use permitted subject to a conditional use permit in the C-3 central business and shopping center district.

Pursuant to Section 17.08.040(G)(4) of the MMC, if the Planning Commission determines that it is appropriate to recommend approval of the amendments to the City Council, then it must adopt a resolution to that effect, which must then be filed with the City Council.

**FISCAL IMPACT:**

The City will likely incur additional costs to the extent these amendments prompt additional regulatory oversight. However, any increased costs will largely be offset by increased revenue from cost recovery requirements, permit fees, business license fees, and development agreement provisions.

**RECOMMENDATION:**

Staff recommends that the Planning Commission adopt Resolution No. PC 19-02 recommending approval of the proposed zoning code amendments to the City Council.

**ATTACHMENTS:**

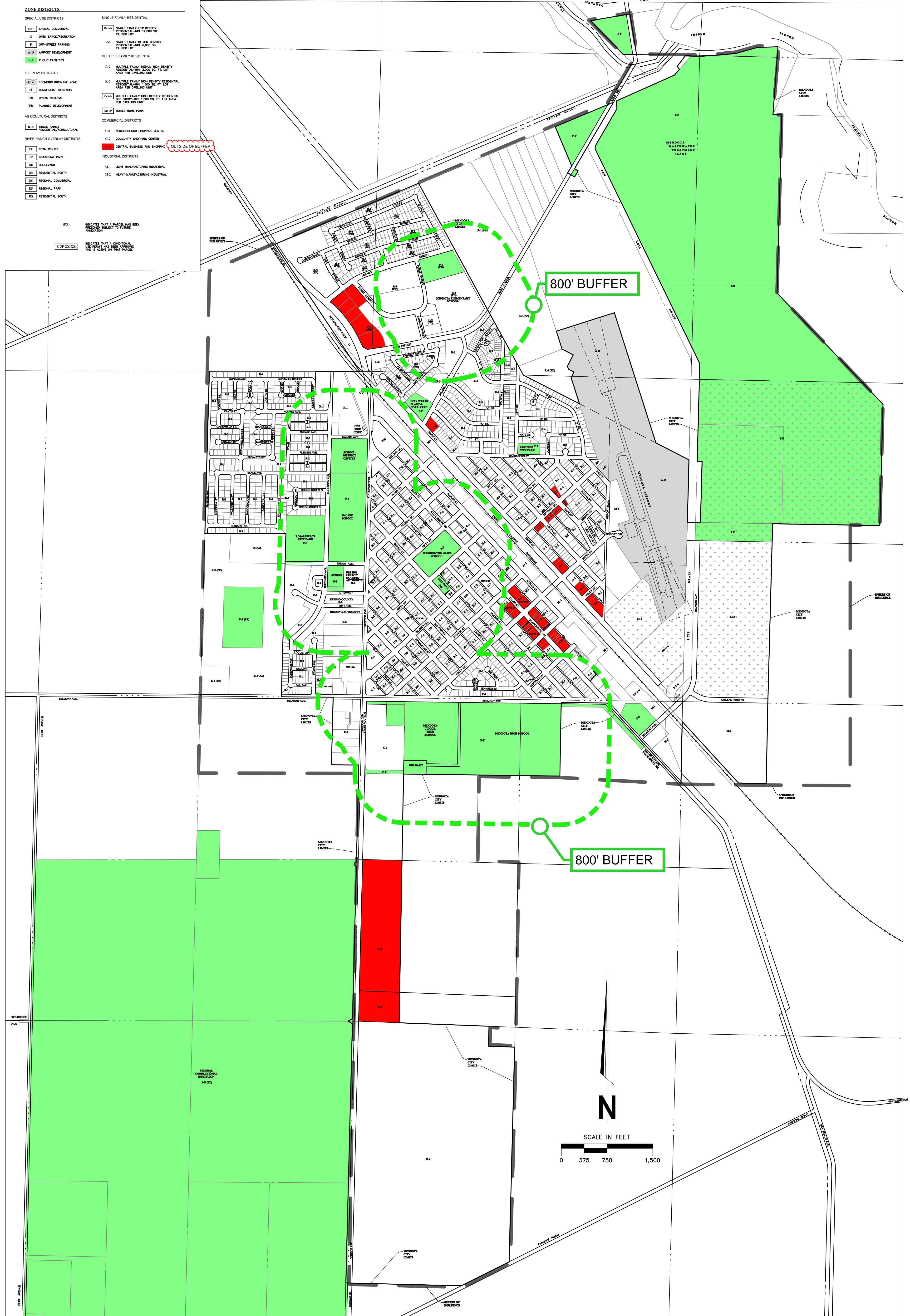
Proposed Ordinance No. 19-07 Permitting Commercial Cannabis Retail Businesses in the C-3 District Subject to a Conditional Use Permit.



ZONE DISTRICTS:	
<b>SPECIAL USE DISTRICTS</b>	
S-C SPECIAL COMMERCIAL	R-1.1 SINGLE FAMILY LOW DENSITY RESIDENTIAL-100, 1,000 SQ. FT. PER LOT
O OPEN SPACE/RECREATION	R-1 SINGLE FAMILY MEDIUM DENSITY RESIDENTIAL-MIN. 6,000 SQ. FT. PER LOT
P OFF-STREET PARKING	MULTIPLE FAMILY RESIDENTIAL
A-D AIRPORT DEVELOPMENT	R-2 MULTIPLE FAMILY MEDIUM-HIGH DENSITY RESIDENTIAL-100, 1,000 SQ. FT. LOT AREA PER DWELLING UNIT
PF PUBLIC FACILITIES	R-3 MULTIPLE FAMILY HIGH DENSITY RESIDENTIAL RESIDENTIAL-100, 1,000 SQ. FT. LOT AREA PER DWELLING UNIT
<b>OVERLAY DISTRICTS</b>	
EEZ ECONOMIC INCENTIVE ZONE	R-3.1 MULTIPLE FAMILY HIGH DENSITY RESIDENTIAL RESIDENTIAL-100, 1,000 SQ. FT. LOT AREA PER DWELLING UNIT
CC COMMERCIAL CORRIDORS	R-3.2 MULTIPLE FAMILY HIGH DENSITY RESIDENTIAL RESIDENTIAL-100, 1,000 SQ. FT. LOT AREA PER DWELLING UNIT
UR URBAN RESERVE	R-3.3 MULTIPLE FAMILY HIGH DENSITY RESIDENTIAL RESIDENTIAL-100, 1,000 SQ. FT. LOT AREA PER DWELLING UNIT
FPD PLANNED DEVELOPMENT	MPD MIXED HOME PARK
<b>AGRICULTURAL DISTRICTS</b>	
R-A SINGLE FAMILY RESIDENTIAL/AGRICULTURAL	COMMERCIAL DISTRICTS
<b>RIVER RANCH OVERLAY DISTRICTS</b>	
TC TOWN CENTER	ND NEIGHBORHOOD SHOPPING CENTER
IP INDUSTRIAL PARK	C-1 COMMUNITY SHOPPING CENTER
RD BOWLING	C-2 CENTRAL BUSINESS AND SHOPPING
RS RESIDENTIAL NORTH	INDUSTRIAL DISTRICTS
RSB RESIDENTIAL COMMERCIAL	M-1 LIGHT MANUFACTURING INDUSTRIAL
RP RESIDENTIAL PARK	M-2 HEAVY MANUFACTURING INDUSTRIAL
RSB RESIDENTIAL SOUTH	

(PZ) INDICATES THAT A PARCEL HAS BEEN PREVIOUSLY ZONED SUBJECT TO FUTURE AMENDATION

(CUPXXXX) INDICATES THAT A CONVEYANCE OF THE PROPERTY HAS BEEN PROVIDED AND IS ACTIVE ON THAT PARCEL



# CITY OF MENDOTA

## OFFICIAL ZONING MAP

DEPICTING PARCELS ZONED C-3 OUTSIDE OF A 800 FOOT BUFFER FROM SCHOOLS & YOUTH CENTERS



**BEFORE THE PLANNING COMMISSION  
OF THE  
CITY OF MENDOTA, STATE OF CALIFORNIA**

**RESOLUTION NO. PC 19-02**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MENDOTA  
RECOMMENDING APPROVAL OF PROPOSED ZONING CODE AMENDMENTS TO  
PERMIT COMMERCIAL CANNABIS RETAIL BUSINESSES IN THE C-3 DISTRICT  
SUBJECT TO A CONDITIONAL USE PERMIT**

**WHEREAS**, in 2012, as amended in 2016 and 2017, the City adopted Chapter 8.36 of the Mendota Municipal Code (MMC) pertaining to recreational and medical cannabis activities (Cannabis Ordinance), which banned commercial cannabis cultivation, commercial deliveries of cannabis, and cannabis dispensaries in the City based upon various health, safety and welfare and land use findings relating to cannabis cultivation, dispensing, and consumption, which findings are incorporated herein by reference; and

**WHEREAS**, in 2017, the City enacted Ordinance No. 17-13, which created the Commercial Cannabis Overlay District to allow the establishment of commercial cannabis businesses involving the cultivation, manufacturing, distribution, and testing of cannabis products in a limited area of the City, but retained the ban on cannabis dispensaries;

**WHEREAS**, in light of the developments to state laws and regulations regarding commercial cannabis retail businesses, the City Council directed staff to prepare an ordinance permitting commercial cannabis uses and permitting a limited number of commercial cannabis retail businesses in its primary commercial district, the C-3 district, subject to a conditional use permit.

**WHEREAS**, in 2019, the City enacted Ordinance No. 19-06, which amended Chapter 8.36 of the MMC to eliminate the ban on cannabis dispensaries, and added Chapter 8.37 to the MMC, which established regulations for the operation of commercial cannabis businesses, including cannabis dispensaries, referred to therein as commercial cannabis retail businesses;

**WHEREAS**, Ordinance No. 19-06 contemplated an amendment to the City's Zoning Code to permit commercial cannabis retail businesses in the C-3 district subject to a conditional use permit;

**WHEREAS**, pursuant to Section 17.08.040, amendments to the City's Zoning Code which change any property from one district to another, or impose any regulation not heretofore imposed, or remove or modify any such regulations heretofore imposed shall be initiated and adopted by the procedure specified therein;

**WHEREAS**, the proposed amendments to the Zoning Code, attached hereto as Exhibit "A" and incorporated herein by this reference, remove or modify a regulation

heretofore imposed and are therefore subject to the procedure specified in Section 17.08.040;

**WHEREAS**, pursuant to Section 17.08.040(G)(3), if the Planning Commission determines that it is appropriate to recommend approval of the proposed amendments to the City Council, it must do so by adopting a resolution to that effect.

**NOW, THEREFORE, BE IT RESOLVED**, by the Planning Commission of the City of Mendota, State of California, the proposed amendments to the zoning code, attached hereto as Exhibit "A," are hereby recommended for approval by the City Council.

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Robert Silva, Mayor

ATTEST:

I, Celeste Cabrera-Garcia, 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 16<sup>th</sup> day of July, 2019, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Celeste Cabrera-Garcia, City Clerk

# Exhibit A

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

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF MENDOTA AMENDING  
THE ZONING CODE TO PERMIT  
COMMERCIAL CANNABIS RETAIL  
BUSINESSES IN THE C-3 DISTRICT  
SUBJECT TO A CONDITIONAL USE PERMIT**

**ORDINANCE NO. 19-07**

**WHEREAS**, pursuant to the authority granted the City of Mendota (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;

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

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

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

**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 cannabis cooperative, collective, dispensary, operator, establishment, or provider;

**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 cannabis dispensaries and the delivery and cultivation of medical cannabis;

**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 cannabis, including cannabis products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of cannabis;



**WHEREAS**, in June of 2017, the Governor approved the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which established a uniform licensing regime for both medical and adult-use cannabis, thereby supplanting the MMRSA and adjusting various provisions of the AUMA;

**WHEREAS**, on January 16, 2019 the Office of Administrative Law officially approved state regulations developed by the Bureau of Cannabis Control (Bureau) for cannabis businesses across the supply chain (Regulations);

**WHEREAS**, the Regulations at 16 C.C.R. § 5416, subd. (d) expressly provide that “a [cannabis] delivery employee may deliver to **any jurisdiction** within the State of California provided that such delivery is conducted in compliance with all delivery provisions of this division”;

**WHEREAS**, in 2012, as amended in 2016 and 2017, the City adopted Chapter 8.36 of the Mendota Municipal Code (MMC) pertaining to recreational and medical cannabis activities (Cannabis Ordinance), which banned commercial cannabis cultivation, commercial deliveries of cannabis, and cannabis dispensaries in the City based upon various health, safety and welfare and land use findings relating to cannabis cultivation, dispensing, and consumption, which findings are incorporated herein by reference; and

**WHEREAS**, in 2017, the City enacted Ordinance No. 17-13, which created the Commercial Cannabis Overlay District to allow the establishment of commercial cannabis businesses involving the cultivation, manufacturing, distribution, and testing of cannabis products in a limited area of the City, but retained the ban on cannabis dispensaries;

**WHEREAS**, in 2019, the City enacted Ordinance No. 19-06, which amended Chapter 8.36 of the MMC to eliminate the ban on cannabis dispensaries, and added Chapter 8.37 to the MMC, which established regulations for the operation of commercial cannabis businesses, including cannabis dispensaries, referred to therein as commercial cannabis retail businesses;

**WHEREAS**, in light of the developments to state laws and regulations regarding commercial cannabis retail businesses, the City now desires to permit a limited number of commercial cannabis retail businesses in its primary commercial district, the C-3 district, subject to a conditional use permit.

**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.** Section 3 amends Title 17, Chapter 17.52, Section 17.52.030 by adding Subdivision KK.

**SECTION 3.** Title 17, Chapter 17.52, Section 17.52.030 is hereby amended to read as follows:

**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:

- A. Auditoriums;
- B. Automatic self-serve car wash;
- C. Automobile parts sales;
- D. Automobile service stations (with incidental repair);
- E. Bakeries (wholesale);
- F. Bars, provided that no bar may be located within five hundred (500) feet of a church, school or other bar;
- G. Bowling establishments;
- H. Buildings with heights greater than two stories;
- I. Bus stations;
- J. Car sales (new and used);
- K. Churches;
- L. Clinics and laboratories;
- M. Communications substations, gas regulator stations, utility pumping stations, radio and television stations;
- N. Convenience markets;
- O. Drive-in restaurants;
- P. Dry cleaners;
- Q. Hospitals;
- R. Janitorial services;
- S. Linen supply services;
- T. Mortuaries;
- U. Nurseries (within or behind the main buildings);
- V. Nursing and convalescent hospitals or homes;
- W. Private clubs, lodges;
- X. Public grounds and buildings;
- Y. Parking lots, in conjunction with permitted uses;
- Z. Radio and television repair;
- AA. Restaurant/bars;
- BB. Significant tobacco retailers, provided that no significant retailer may be located within five hundred (500) feet of a school;
- CC. Theaters;
- DD. Trade and professional schools;
- EE. Day nurseries, child care nurseries or nursery schools, not exceeding two hundred fifty (250) children;
- FF. Light Manufacturing (where required for the repair or assembly of pre-manufactured components of the retailed goods, and where the floor space

devoted to the repair and/or assembly process is less than ten (10) percent of the total floor are of business);

GG. Pool halls and billiards clubs.

HH. Planned developments, including mixed commercial-residential and/or mixed office-residential uses, pursuant to Chapter 17.84.

II. Social facilities;

JJ. Wireless telecommunications facilities;

KK. Cannabis retail businesses.

**SECTION 4.** Severability. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed the remainder of this Ordinance, as if such invalid portion thereof had been deleted.

**SECTION 5.** The City Council hereby finds and determines that its adoption of this Ordinance is not subject to environmental review under the Public Resources Code, § 21000 *et seq.*, the California Environmental Quality Act (CEQA), because the amendments to the zoning code, in and of themselves, do not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and therefore are not considered a “project” under CEQA. (Pub. Res. Code, § 21065; 14 Cal. Code Regs., § 15378(a).) Further, the uses permitted as a result of the amendments contained herein may never actually occur and therefore any potential environmental impacts remain wholly speculative. (14 Cal. Code Regs., §15064(d)(3).) Finally, any uses permitted as a result of the amendments contained herein will be subject to environmental review under CEQA prior to the issuance of a conditional use permit. Accordingly, the City Clerk is hereby directed to file a Notice of Exemption.

**SECTION 6.** This ordinance shall take effect thirty (30) days after its passage.

**SECTION 7.** 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.

\* \* \* \* \*

The foregoing ordinance was introduced on the 13<sup>th</sup> day of August, 2019 and duly passed and adopted by the City Council of the City of Mendota at a regular meeting thereof held on the 27<sup>th</sup> day of August, 2019 by the following vote:

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

\_\_\_\_\_  
Robert Silva, Mayor

ATTEST:

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Celeste Cabrera-Garcia, City Clerk

APPROVED AS TO FORM:

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John Kinsey, City Attorney