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PREAMBLE

An Ordinance adopting a revision and codification of Ordinances to be known as the Mendota City Code. The City Council of Mendota ordains:

SECTION 0.01 - CODE ADOPTED

There is hereby adopted that certain revision and codification of the Ordinances of the City contained in a printed compilation entitled "Mendota City Code". A copy of such code shall be marked "Official Copy" and filed - as part of the official records of the City in the Office of the City Clerk.

SECTION 0.02 - REPEALS

All Ordinances of the City of Mendota enacted before the passage of this code on the effective date of this code are hereby repealed.

SECTION 0.03 - COPIES

Copies of the Mendota City Code are available to any member of the public upon request to the City Clerk for a reasonable charge.

SECTION 0.04 - *PRIMA FACIE* EVIDENCE

The Mendota City Code shall be *prima facie* evidence of the law of the City.

SECTION 0.05 - SEPARABILITY

This City Code and the various parts, sentences, paragraphs, sections and clauses thereof are hereby declared to be separable. If any part, sentence, paragraph, section or clause is adjudged to be unconstitutional or invalid for any reason by a court of competent jurisdiction, such holding shall not affect the refining portions of this City Code.

SECTION 0.06 - RELATIONSHIP TO OTHER LAWS

Neither the issuance of a permit nor compliance with the conditions thereof, nor with the

provisions of this City Code shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit or license hereunder serve to impose any liability on the City of Mendota or its officers or employees for injury or damage to persons or property.

SECTION 0.07 - EFFECTIVE DATE

This Ordinance becomes effective July 1, 1991.

Passed this 1st of July, 1991.

_____/s/_____
Mayor, City
of Mendota

ATTEST:

_____/s/_____
Clerk, City of Mendota

CHAPTER I: CITY ADMINISTRATION AND ELECTIONS

SECTION 101 - ADMINISTRATION OF CITY CODE

101.01 - How Cited - This code of ordinances shall be known as The Mendota City Code, and may be so cited.

101.02 - Additions - New ordinances proposing amendments or additions to the code shall be assigned appropriate code numbers and shall be incorporated into the code as of their effective date. Reference or citation to the code shall be deemed to include such amendments and additions. When an ordinance is integrated into the code, there may be omitted from the ordinance the title, enacting clause, section numbers, definitions of terms identical to those contained in this ordinance, the clause indicating date of adoption, and validating signatures and dates. In integrating ordinances into the code, the Clerk, in cooperation with the City Attorney, may correct obvious grammatical, punctuation, and spelling errors; change reference numbers to conform with sections, articles, and chapters; substitute figures for written words and vice versa; substitute dates for the words "the effective date of this ordinance", without, however, altering the meaning of the ordinances enacted. Procedures for the consideration of amendments to zoning regulations are described in Section 806.07 of this City Code.

101.03 - Title Headings - Cross References - Chapter, part, section, subdivision, and other titles shall not be considered part of the subject matter of this code, but are intended for convenience only and not necessarily as comprehensive titles.

101.04 - Copies - Copies of this code shall be kept in the Office of the Clerk for public inspection or sale for a reasonable charge.

101.05 - Existing Rights and Liabilities - The repeal of prior ordinances and adoption of this code are not to be construed to affect, in any manner, rights and liabilities existing at the time of repeal and the enactment of this code. Insofar as provisions in this code are substantially the same as preexisting ordinances, they shall be considered as continuations thereof, and not as new enactments. Any act done, offense committed, or right accruing, or liability, penalty, forfeiture or punishment incurred or assessed prior to the effective date of this code is not affected by the

enactment of the code.

101.06 - Administrative Standards - Whenever, in the course of administration and enforcement of this City Code, it is necessary or desirable to make any administrative decision, it shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance or injurious to the surrounding neighborhood.

SECTION 102 - RULES OF CONSTRUCTION

102.01 - Statutory Rules Adopted - The rules of construction, presumptions, and miscellaneous provisions pertaining to construction contained in Minnesota Statutes Chapter 645, are adopted by reference and made a part of this code. As so adopted, references in that chapter to laws and statutes mean provisions of this code, and references to the legislature mean the Council. Unless otherwise expressly stated in an ordinance of City Code provision, any state law currently in effect shall have precedence over any City regulation contained herein that is found to be contradictory to the current state law.

102.02 - Minnesota Statutes Definitions Apply - Unless clearly in conflict with definitions or other provisions of this Code, the definitions found in Minnesota Statutes Chapter 645 are hereby adopted by reference and apply. Chapter IX contains additional definitions of relevance to the Mendota City Code.

SECTION 103 - PENALTIES

103.01 - Misdemeanors - Unless otherwise stated herein, every person violating any provision of this Code shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed Seven-Hundred (\$700.00) Dollars, or by imprisonment not to exceed ninety (90) days or both, plus in either case the costs of prosecution.

103.02 - Separate Violations - Unless otherwise provided, each act of violation and every day on which a violation occurs or continues, constitutes a separate offense.

103.03 - Application to City Personnel - The failure of any officer or employee of the City to perform any official duty imposed by this code shall not subject the officer or employee to

the penalty imposed for violation, unless a penalty is specifically provided for such failure.

SECTION 104 - ADMINISTRATIVE ORGANIZATION PROCEDURES

104.01 - Regular Council Meetings - Regular meetings of the Council shall be held on the second Tuesday of each calendar month at 7:00 P.M.. Any regular meeting falling upon a holiday shall be held on the next following business day at the same time.

104.02 - Special Meetings - The Mayor or any two members of the Council may call a special meeting of the Council upon at least three (3) days written prior to the meeting date. The Clerk will adhere to the requirements of Minn. Stat. §13D.04 regarding the requirements for Special Meetings. In addition, to the requirements of the statute, the Clerk shall mail or deliver the notice of the request to all members of the Council.

104.021 - Special Meetings Availability - Special Meetings shall be called only in the case of extreme emergency. Except in extreme emergency, all permits, licenses and fees, shall be considered by the council at its regularly scheduled meeting as provided by Ordinance No. 104.01.

Amended/Approved June 22, 1997

104.022 - Costs of Special Meetings - All costs of special meetings, including the salaries of the council and city clerk, those charged by the city attorney, the engineer, and building official, and the costs of any publication which may be required, will be paid by the person on whose behalf the special meeting is called.

Amended/Approved June 22, 1997

104.03 - Initial Meeting - At the first regular Council meeting in January of each year the Council shall:

- a. Designate the bank in which City funds are deposited.
- b. Designate the official newspaper.
- c. After hearing a recommendation by the Mayor, choose one of the Council persons as Deputy Mayor, who shall perform the duties of the Mayor during the disability

or absence of the Mayor from the City or, in case of a vacancy the office of Mayor, until a successor has been appointed and qualifies.

- d. After hearing a recommendation by the Mayor, appoint such officers and employees and such members of City Attorney, boards, commissioners, and committees as may be necessary.
- e. Consider the approval of liquor licenses.

104.04 - Public Meetings - All Council meetings, including special and adjourned meetings and meetings of Council committees, shall be open to the public.

104.05 - Presiding Officer - The Mayor shall preside at all meetings of the Council. In the absence of the Mayor, the acting mayor shall preside. In the absence of both, the Clerk shall call the meeting to order and shall preside until the Council members present at the meeting choose one of their number to act temporarily as presiding officer. The presiding officer shall preserve order; enforce the rules of procedure herein prescribed; and determine without debate, subject to the final decision of the Council on appeal, all questions of procedure and order. Except as otherwise provided by statute or by these rules, the proceedings of the Council shall be conducted in accordance with Robert's Rules of Order, Revised.

104.06 - Minutes - Minutes of each Council meeting shall be kept by the Clerk or in his absence, by the Deputy Clerk. In the absence of both, the presiding officer shall appoint a secretary *pro tem*. Ordinances, resolutions, and claims need not be recorded in full in the minutes, if they appear in other permanent records of the Clerk and can be accurately identified from the description given in the minutes. The minutes of each meeting shall be reduced to written form, shall be signed by the Clerk, and copies thereof shall be available for inspection as soon as practicable after the meeting. At the next regular Council meeting following such delivery, approval of the minutes shall be considered by the Council. The minutes need not be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the Council. If

there is an objection, the Council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved.

104.07 - Order of business - Each meeting of the Council shall convene at the time and place appointed therefore. Council business may be conducted in the following order:

- a. Call to order.
- b. Roll call.
- c. Approval of minutes.
- d. Discussion and approval of bills.
- e. Public hearings.
- f. Petitions, requests and communications.
- g. Ordinances and resolutions.
- h. Reports of officers, boards, and committees.
- i. Unfinished business.
- j. New business.
- k. Miscellaneous.
- l. Adjournment.

The order of business may be varied by the presiding officer, but all public hearings shall be held at the time specified in the notice of hearing.

104.08 - Agenda - The agenda shall be prepared in accordance with the order of business and copies thereof shall be available to each Council member and to the public as far in advance of the meeting as time for preparation will permit.

104.09 - Quorum - At all Council meetings, a minimum of two Council members, and the Mayor or Acting Mayor shall constitute a quorum for the transaction of business, but a smaller number may adjourn.

104.10 - Voting - The votes of the members of any question may be taken in any manner which signifies the intention of the individual members, and the votes of the members on any action taken shall be recorded in the minutes. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute. If any member is present but does not vote, the minutes, as to his or her name, shall be marked "Present-Not Voting".

A majority vote of all members of the Council shall be necessary for approval of any ordinance unless a larger number is required by statute. Except as otherwise provided by statute, a majority vote of a quorum shall prevail in all other cases.

104.11 - Ordinances, resolutions, motions, petitions and communications - Every ordinance shall be presented in writing. Every ordinance shall be read by the Council prior to final adoption. Oral reading of the ordinances at the Council meetings shall be optional.

Every ordinance and written resolution passed by the Council shall be signed by the Mayor, attested by the Clerk, and filed by him in the ordinance or resolution book. Proof of publication of every ordinance shall be attached and filed with the ordinance.

Every ordinance or resolution repealing a previous ordinance or resolution or a section or subdivision thereof, shall give the number, if any, and the title of the ordinance or code number of the ordinance or resolution to be repealed in whole or in part.

Every motion shall be stated in full before it is submitted to a vote by the presiding officer and shall be recorded in the minutes.

Every petition or other communication addressed to the Council shall be in writing and shall be read in full upon presentation to the Council, unless the Council dispenses with the reading. Each petition or other communication shall be recorded in the minutes by title and filed with the minutes in the Office of the Clerk.

104.12 - General Fund - A general fund shall be maintained into which shall be placed or credited all monies received not otherwise appropriated, and from which shall be paid all expenses and disbursements not otherwise provided for.

104.13 - Other Funds - The City Council may create by resolution and maintain such other funds as they desire.

SECTION 105 - MAYOR, COUNCIL PERSONS AND CLERK SALARIES

105.01 - Stipends - The Mayor of the City of Mendota shall be paid an annual salary of \$360.00 and each Council member of the City of Mendota shall be paid an annual salary of \$240.00. The City Clerk shall be paid on a monthly basis as determined by the City Council.

105.02 - Payment - The salaries provided by Section 1 hereof shall be paid biannually or more frequently, as, directed by the City Council. The City Clerk shall be paid on a monthly basis.

SECTION 106 - CITY COUNCIL ELECTIONS

106.01 - Election Date - Pursuant to Minnesota Statutes, §205.07, the "regular City election of Mendota shall be held on the first Tuesday after the first Monday in November of each even-numbered year.

106.011 - Whenever this change in the election year results in the expiration of any current term of office at a time when no City election is held in the months immediately prior thereto, each term is extended until the date for taking office following the next scheduled City election.

106.012 - Each term of office for the Mayor shall be for a period of two years. Each of the four terms of office for the City Council shall be for a period of four years. Each

even numbered year, two of the four-year City Council positions shall be filled by City election. In the event that a vacancy in an unexpired elected term of office occurs, said unexpired vacant position shall be filled pursuant to the Minnesota Statutes then in effect.

SECTION 107 - PLANNING COMMISSION

107.01 - Establishment of Commission - A Planning Commission of the City of Mendota is hereby established.

107.02 - Composition - Such Planning Commission shall consist of at least three acting members. Members are recommended by the Mayor and shall be appointed only by majority vote of the Council. One member of the City Council shall act as ex-official member.

107.03 - Terms and Compensation - Each of the members of the commission may be removed at any time by a majority of the City Council. Vacancies shall be filled by majority vote of the council for the unexpired portion of the term. All members and officers shall serve without compensation, except for the payment of expenses approved by the City Council.

107.04 - Organization - The Planning Commission shall designate a chairperson from among its appointed members for a term of one year; and the Commission may create and fill such other offices as it may determine.

107.05 - Meetings, Reports - The Commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions and findings, which record shall be a public record. The Commission shall submit to the City Council a report of its work within one month after the request for the same has been made by the City Council.

107.06 - Powers and Duties - The Commission shall have the powers and duties given to such agencies generally by the laws of Minnesota, said powers to include, but not necessarily be

limited to the study and recommending to the City Council of the following:

- a. To prepare and maintain, subject to Council approval, a comprehensive plan for the development of the City, including capital improvement plans.
- b. To make recommendations to the City Council in regard to plat approval, zoning amendments, re-zoning, variances, appeals, conditional use permits.
- c. ~~To review liquor license applications and make recommendations to the City Council in regard to approval or denial of such applications. [Repealed]~~

SECTION 108 - ADMINISTRATION

108.01 - CLERK/TREASURER - Position - The offices of the City Clerk and City Treasurer shall be combined in the office of the Clerk-Treasurer effective October 1, 1992.

Adopted/Approved 9/15/92

108.02 - BUILDING INSPECTOR - The Council shall appoint a Building Inspector. This person shall be charged with inspection and enforcement of pertinent codes as they apply to projects within the city. This position shall be renewable on a yearly basis at the first council meeting of the new year. Compensation shall be based upon an agreed upon amount as a percentage of any permits issued.

Adopted/Approved 10/8/91

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CHAPTER II: LICENSES

SECTION 201 - GENERAL PROVISIONS

201.01 - Intent - The intent of administering licenses for various devices and activities in the City is to insure that such activities are conducted and maintained in a manner that protects the health and safety of customers; to minimize consumer fraud; and to offset City administrative costs in the enforcement of the above stated objectives.

201.02 - License Eligibility - No license shall be granted for operation on any premises on which taxes, assessments or other financial claims of the City are delinquent and unpaid.

201.03 - Name and Address Must Be Filed.

Every person, firm partnership or corporation conducting any trade, business, profession or occupation or any multiple dwelling, wherein a license or permit or registration is required, shall file with the City Clerk a statement designating the name and address of the person authorized to receive citations, tags or notices from the city. Effective 2/9/98

201.04 - Notice of Change of Name or Address.

In the event of the change of name or address of the person required by Section 201.03, the appropriate department shall be notified immediately and the name or address of the newly appointed person shall be filed.

201.05 - Failure to Comply With Name and Address Filing.

Failure to comply with Sections 201.03 and 201.04 shall be grounds for revocation of the license, permit or registration.

201.06 - Transfer of Licenses.

Licenses issued under this article may be transferred from person to person or from place

to place with the consent of the city council.

201.07- Music Not to Disturb Residents.

No on-sale establishment or bottle club licensed under this title which uses any form of live or recorded music shall allow noise to emanate beyond the confines of the premises so that it disturbs the peace and quiet of the residents of any dwelling unit. Every licensee shall be responsible for taking measures to comply with this section, including closing doors and windows where necessary or turning down the volume. Failure to comply with this section shall be grounds for prohibiting the use of all live or recorded music, or imposing restrictions as to the hours during which music is played and the areas of the premises where live or recorded music may be played.

SECTION 202 - RETAIL SALE OF CIGARETTES

202.01 - License Required - No person, firm or corporation shall sell cigarettes or other tobacco products on a retail basis within the City of Mendota without first having applied for and received a license therefore, as hereinafter provided.

202.02 - List of Machines - Each applicant for a license hereunder shall file, with the Office of the City Clerk, for one or both of the following types of cigarette license: a) an over-the-counter cigarette license, where customers purchase cigarettes directly from a store owner or employee; or b) a cigarette vending machine license. To aid identification of licensed machines, the City Clerk may require that numbered tags or stickers be attached to each cigarette vending machine. If, during the life of said license, there is any change in the number of such devices operated or in the locations at which such devices are operated, or if new devices are purchased and operated by the licensee, or new locations are acquired and used by the licensee, said licensee shall immediately notify the City Clerk of such changes in the same manner as the original list was filed, and shall pay any additional license fee due; provided, however, that no fee shall be charged for replacement of a device for which a fee has been paid.

202.03 - Fee - An annual license fee shall be assessed in accordance with the current City fee schedule, which may be established and changed from time to time by resolution of the Council.

202.04 - Revocation - Any license granted under the terms of this chapter may be revoked by the City Council at any time with a hearing and with notice to the licensee. Any misstatement of fact in the application for said licensee, or any violation of this Ordinance, shall be grounds for revocation of such license. No refund of any part of the annual license fee shall be made in the event that the license is revoked.

202.05 - Termination - A license issued hereunder shall expire on February 20 of each calendar year unless sooner revoked or forfeited.

SECTION 203 - COIN-OPERATED DEVICES

203.01 - Definition - A coin operated device is hereby defined as any machine which, upon the insertion of a coin, token or slug, operates or may be operated by the public for the purchase of food, tobacco, or other product or for use as a game, entertainment or amusement. The term "coin operated device" shall include vending machines; so-called pinball machines; coin-operated pool tables; music machines; jute boxes; electronic games and rides; motion picture machines; table shuffleboard games; table bowling games; or similar games of amusement for which a fee is charged to players for the playing thereof; and all other machines which, by the insertion of a coin or token, operate for the entertainment or amusement of the player, except weighing machines and penny gumball machines.

203.02 - License Required - No person, firm or corporation shall own, operate, maintain or keep for operation within the City of Mendota any such coin-operated device as hereinbefore defined, without first having applied for and receive, a license therefore as hereinafter provided.

203.03 - List of Machines - Each applicant for a license hereunder shall file with the Office of the City Clerk, a list of the coin-operated devices operated by him and the locations where such devices are so operated. The list shall contain the serial numbers or other identification data of each coin operated device. To aid identification of licensed machines, the City Clerk may require that numbered tags or stickers be attached to each machine. If, during the life of said license, there is any change in the number of such devices operated or in the locations at which such devices are operated, or if new devices are purchased and operated by the licensee, or new locations are acquired and used by the licensee, said licensee shall immediately notify the City Clerk of such changes in the same manner as the original list was filed, and shall pay any additional license fee due; provided however, that no fee shall be charged for replacement of a device for which a fee has been paid.

203.04 - Fee - An annual license fee shall be assessed in accordance with the current City fee schedule, which may be established and changed from time to time by ordinance of the Council.

203.05 - Revocation - Any license granted under the terms of this chapter may be revoked by the City Council at any time, with a hearing and with notice to the licensee. Any misstatement of fact in the application for said licensee, or any violation of this Ordinance, shall be grounds for revocation of such license. No refund of any part of the annual license fee shall be made in the event that the license is revoked.

203.06 - Termination - A license issued hereunder shall expire on February 20 of each calendar year, unless sooner revoked or forfeited.

SECTION 204 - RESTAURANTS

204.01 - License Required - It shall be unlawful for any person, firm or corporation to keep or operate a restaurant within the limits of the City of Mendota without first having obtained a license to do so as hereinafter provided. All restaurants in the City must comply with

requirements of State law.

204.02 - Definition - For the purpose of this chapter, every building, structure, lunch wagon or motor vehicle, which is kept, used, maintained, advertised or held out to the public to be a place where meals and lunches are served, without sleeping accommodations, shall be deemed a restaurant. The person or persons in charge of any such restaurant, whether as owner, lessee, manager or agent, shall for the purpose of this Ordinance, be deemed to be the proprietor thereof.

204.03 - Application for License - Any person desiring a new license to engage in the business of operating a restaurant as provided for in this Ordinance, shall first make an application in writing to the Council of the City of Mendota, by filing with the City Clerk on a form provided for that purpose for presentation to the City Council, an application therefore; which application shall set forth the name and place of residence of the applicant and the location at which the applicant proposes to carry on such business and shall further state whether or not he is then or has theretofore been engaged in such business. Such application shall be signed by the applicant in person, and when received by the City Clerk, shall be registered in a book of registration to be kept at the clerk's office for that purpose.

Every person, firm or corporation conducting or operating a restaurant shall make application for a renewal of license at least thirty (30) days before the expiration thereof and shall pursuant to Minnesota Statutes §157.20 show compliance with any applicable health department rules or regulations. Such compliance shall be either through certificate from the appropriate agency or some other form of communication evidencing compliance.

Amended/Approved 12/1996

204.04 - License Fee - The annual license fee for conducting a restaurant under a license issued pursuant to this Ordinance, shall be assessed in accordance with the current City fee schedule, which may be established and changed from time to time by ordinance of the Council.

204.05 - Issuing a License - Upon the passage of any City Council resolution granting a license hereunder and upon presentation to the City Clerk of the receipt of such license fee, it shall be the duty of said City Clerk to issue a license to such applicant. A license issued hereunder shall expire at the end of the calendar year, unless sooner revoked or terminated.

204.06 - Inspection - It shall be the duty of the City Clerk, City Council member, or duly appointed inspector, from time to time during the life of any license granted hereunder, at least once annually, to inspect the place of business of the licensee to ascertain that the same is conducted in a proper, cleanly and sanitary manner; and if such inspection shows that the same is not so conducted, to make report of the fact to the City Council. The conduct of his business by a licensee hereunder in an unclean or unsanitary manner shall be cause for the revocation of any City license issued under this chapter.

204.07 - Disorderly Operation - The conducting of any restaurant in a disorderly manner shall be sufficient cause for the refusal of a license or the cancellation of any license already issued to the keeper or owner thereof.

204.08 - Revocation of License - Any person whose license is revoked by the City Council, or to whom a renewal of license shall be denied, shall immediately cease to operate a restaurant. In the case of license revocation, the holder of the revoked license shall not be reimbursed any part of the annual license fee.

204.09 - Transfer of License - A restaurant license shall not be transferred to a new owner unless the transfer is approved by the City Council.

204.10 - Grease Traps - All restaurants and other business that use or produce grease have installed a grease trap and that the grease traps are maintained. Any business that maintains a grease trap as required must clean said grease trap at a minimum on a monthly basis and provide proof of cleaning to an appropriate City Official when requested. Failure to clean said traps as

required or failure to provide proof of cleaning as required is a misdemeanor for each offense, and a separate offense shall be deemed committed on each day during on or which a violation occurs or continues. In addition to the foregoing penalties the City may at its discretion assess a civil penalty equal to the amount of costs incurred to have the sewer system cleaned or repaired.

Approved 2/10/2004

SECTION 205 - SALE OF NON-INTOXICATING MALT LIQUOR AND INTOXICATING LIQUOR

205.01 - Provisions of State Law Adopted - The provisions of Minnesota Statutes, Chapter 340A as amended, with reference to the definition of terms, applications for license, granting of license, conditions of license, restrictions on consumption, provisions on sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of non-intoxicating malt liquor and intoxicating liquor, are hereby adopted and made a part of this Ordinance, as if fully set out herein.

205.02 - License Required - No person, except wholesalers or manufacturers, to the extent authorized under state license, shall directly or indirectly deal in, sell or keep for sale any non-intoxicating malt liquor or intoxicating liquor, without first having received a license to do so as provided in this Ordinance. Licenses shall be of four kinds: Regular "Off-Sale", Regular "On-Sale", Sunday "On-Sale, and "Club".

205.03 - Issuance of License - Unless otherwise provided, application for a license shall be made to the City Planning Commission, upon forms provided by the City, and applicants shall state the location of the proposed activity and such other facts as may be required for or be applicable to the granting of such a license. All licenses shall be acted upon by the City Planning Commission within 30 days of the receipt of the license application, except in those cases where the approval of any City officers, State officers, or the Council is required prior to the issuance of any license. The City Planning Commission shall thereupon forward its recommendation to the City Council for consideration at its next regular meeting, at which time the City Council shall

hear the applicant, review the determination of the City Planning Commission, and may grant or deny such license.

205.031 - Application Procedure:

(A) Every application for a license to sell liquor, including applications for renewal of existing licenses or for recording changes in the ownership or management of establishments having existing licenses, or for an expansion of licensed premises, shall be made only upon forms furnished by the city clerk and when completed by the applicant, shall be filed with said clerk, and a record of the same made therein. The application shall then be referred by the clerk to the police department, who, upon having completed investigation thereof, shall direct the same to the city council.

(B) Any person desiring renewal of either of the licenses to sell liquor shall make and file on or before sixty (60) days prior to the expiration of the license year a verified written application to the city council, in form as prescribed by the state liquor control commission. If, in the judgment of the council, good and sufficient cause is shown by an applicant for failure to file the application for a license on or before sixty (60) days prior to the expiration of the license year, the council may, if the other provisions of this chapter are complied with, grant such application.

205.032 - Renewal Application Form - In the case of renewal of an existing license, application may be made in such abbreviated form as the city council may approve.

205.033 - Contents of Application - In addition to the information which may be required by the state liquor control commissioner's form, the application shall contain the following:

- (A) True name, place and date of birth, and street residence address of applicant.
- (B) Whether applicant is married or single. If married, true name, place and date of

birth, and street residence address of applicant's spouse.

(C) Whether applicant and spouse maintain their principal place of abode in the State of Minnesota.

(D) Street addresses at which applicant has lived during the preceding ten (10) years.

(E) Kind, name and location of every business or occupation applicant has been engaged in during the preceding ten (10) years.

(F) Names and addresses of applicant's employers for the preceding ten (10) years.

(G) Whether or not applicant has ever been convicted of any felony crime or ordinance violation since January 6, 1934. If so, when, where and for what such convictions were had.

(H) Whether applicant has ever been engaged as an employee in operation of a saloon, cafe, soft drink parlor or other business of similar nature. If so, when, where and for how long.

(I) Whether applicant is a natural person, corporation, partnership or unincorporated association.

(J) If applicant is other than a natural person, the name of the manager or proprietor of the premises to be licensed, giving all the information about said manager or proprietor as is required about the applicant by subsections (A) through (H) above.

(K) If applicant is other than a natural person, the names of all the members or owners thereof, giving all the information about said members or owners as is required about the applicant by subsections (A) through (H) above. This subsection (K), however, shall not apply to a corporation whose stock is publicly traded on a stock exchange and who is applying for an "on sale" license to be owned or operated by it.

(L) The floor number and street number where sale of liquor is to be conducted, and if to be conducted in a hotel, the number of dining rooms open to the public where meals are regularly served to guests.

(M) Names and addresses of the owner and any lessees of the land upon which is located the building which houses the premises to be licensed.

(N) Names and addresses of all owners, lessees, mortgagors or vendors of fixtures or furniture used or to be used in the premises to be licensed.

(O) Name and address of every person who shall have charge, management or control of the place licensed.

(P) Names and residence and business addresses of three (3) persons, residents of the County of Dakota, of good moral character, not related to the applicant, who may be referred to as to his or her character.

(Q) If applicant is a corporation, partnership, unincorporated association or club, the name and general purpose of such corporation, partnership, unincorporated association or club, and the names and street addresses of all officers. In addition, corporations shall file with the application two (2) certified copies of the bylaws, articles of incorporation and minutes of the meeting setting forth the officers of the corporation.

(R) If applicant is a corporation, the state of incorporation, and a complete list of all stockholders with number of shares owned by each. This subsection (R), however, shall not apply to a corporation whose stock is publicly traded on a stock exchange and who is applying for an "on sale" license to be owned or operated by it.

(S) If applicant is a partnership, the names and addresses of all partners.

(T) If a permit from the federal government is required by the laws of the United States, whether or not such permit has been issued, and, if so, in what name.

(U) Exact legal description of the premises to be licensed including the plat and parcel number.

(V) Whether or not all real estate and personal property taxes for the premises to be licensed have been paid, and if not paid, the years for which delinquent.

(W) Such other information as the city council may require.

(X) An applicant for any "on sale" or "off sale" liquor license shall file with the application, a notarized agreement that in consideration of the granting of such a license he or she will, in the event that he or she ever hires any off-duty city employee to work at the licensed premises, hold the city harmless and assume the defense of the city against any claim or lawsuit against it, by reason of the licensee's employee also being an off-duty city employee, and that during all periods of employment of an off-duty city employee, he or she will maintain in force and effect an insurance policy written by a company authorized to do business in the State of

Minnesota, insuring against public liability or damages in the sum of one hundred thousand dollars (\$100,000.00) for injury or death to one person, and three hundred thousand dollars (\$300,000.00) for each accident or occurrence, and five thousand dollars (\$5,000.00) property damage, with the city and any off-duty city employee so employed as additional named assureds, and further that during such periods of employment he or she will maintain in effect an insurance policy with workmen's compensation coverage, fully covering the off-duty city employee during periods of employment by the licensee. The granting of a license shall be deemed to be acceptance of the agreement by the city, causing it to be in full force and effect during the license period.

205.034 - Application For New Premises:

(A) If the application is for the issuance or renewal of a license for premises at which the licensed business is not then being conducted, the applicant shall also provide the license inspector of the police department and the appropriate committee of the city council a verified statement of intent as to when and how he or she plans to house the business, including with his or her statement all pertinent documentary proof and evidence thereof including leases, contracts and architectural plans.

(B) If the application is granted pursuant to such application, the city shall investigate and determine at appropriate times whether the statement of intent upon which the issued license was conditioned is being effectuated. If it is found that it is not being carried out in a timely and diligent manner, the license may be revoked or renewal thereof may be denied, but in no case shall such a license continue in effect if the licensed business is found not to have been operational within one (1) year from the date of issuance of the new or renewed license unless such license is for a liquor establishment under construction within that year but not yet completed, in which case one (1) additional year shall be granted for the licensed business to become operational.

205.035 - Execution of Application - If the application is by a natural person, it shall be signed and sworn to by such person; if by a corporation, by an officer thereof; if by a partnership, by one of the partners; and if by an unincorporated association or club, by the manager or managing officer thereof. If the applicant is a partnership, the application and license shall be made and issued in the name of all of the partners, but the application may be signed by but one partner; provided, however, that if the partnership is applying for an "on sale" license for a hotel to be owned and operated by it, the application and license shall be made and issued in the partnership name.

205.036 - Insurance Required - At the time of filing any application for any type of liquor license, the applicant shall file with the city, through the department of licenses and consumer services, a liability insurance policy, or other evidence of financial responsibility, which fully satisfies all of the requirements of Minnesota Statutes, Section 340A.409. Such insurance shall be provided by an insurer authorized to do business in the State of Minnesota.

205.037 - Revocation of License For Failure of Security - The licensee shall at all times keep in full force and effect insurance required by Minnesota Statutes, Section 340A.409, and any failure at any time so to do shall be grounds for immediate revocation of the license.

205.038 - Investigation - The police license inspector shall investigate into the truthfulness of the statements set forth in the application and shall endorse his or her findings thereon. The applicant shall furnish to the police license inspector such evidence as he or she may reasonably require in support of the statements set forth in the application. Upon completing his or her report, the police license inspector shall return the application to the city clerk.

205.039 - False Statements in Application - No person shall make any material false statement in any written application, and in addition to all other penalties, his or her license shall

be revoked by the city council for a violation of this section after notice to the licensee and hearing, and an opportunity of the licensee to be heard.

205.031 - 205.039 Amended/Approved 01/20/1998

205.04 - License Fees - Each application for a license shall be accompanied by a receipt from the City Clerk for payment in full of the required fee for the license. All fees shall be paid into the general fund of the municipality. Upon rejection of any application for a license, the City Clerk shall refund the amount paid.

205.05 - Expiration - All licenses shall expire on the 20th day of February of each year. Each license shall be issued for a period of one year except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro-rata fee not to exceed one-half the cost of the original license. In computing such fee, any unexpired fraction of a month shall be counted as one month.

205.06 - Annual Fee - The annual fee for an "on-sale" license, "off-sale" license and "club" license shall be assessed in accordance with the current City fee schedule, which may be established and changed from time to time by resolution of the Council.

205.07 - Refunds - No refund of any fee shall be permitted except as authorized under Minnesota Statutes, §340A.408.

205.08 - Granting of Licenses - The City Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard, for or against the granting of the license. After such investigation and hearing, the City Council shall grant or refuse the application at its discretion within 30 days. No "off-sale" license shall become effective until it, together with the bond furnished by the applicant, has been approved by the State Liquor Control Commissioner.

205.09 - Issuance - Each license shall be issued to the applicant only. Each license shall be issued only for the premises described in the application. No license shall be transferred to another person or to another place without the approval of the City Council.

205.10 - Persons Ineligible for License - No license shall be granted to or held by any person made ineligible for such a license by State law.

No license shall be issued for any place or for any business ineligible for such a license under state law.

No license shall be granted for operation on any premises on which taxes, assessments or other financial claims of the City are delinquent and unpaid.

No license shall be granted within 300 feet of any public school building, or within 300 feet of any church building.

205.101 - Qualifications of Applicant - No license shall be issued to any applicant who does not meet the following qualifications:

(A) Applicant must be the actual owner of the premises or the business at the licensed premises. In case of a corporation, he or she must be the manager of such premises or business.

(B) Applicant cannot have been convicted, within five (5) years of the date of the application, of any felony, or of any two (2) crimes other than a felony, or of any willful violation of any law dealing with the sale, possession, manufacture or transportation of liquor or beer. If such conviction within the United States shall have resulted in a forfeiture of civil rights, the five-year period shall begin to run at the date of restoration of civil rights.

(C) If the applicant is a person, he or she must be a resident of the State of Minnesota. If the applicant is a partnership, the managing partner must be a resident of the State of Minnesota. If the applicant is an unincorporated association or a corporation, the manager or person in charge must be a resident of the State of Minnesota or must reside within seventy-five (75) miles of Mendota. Such residency requirements shall mean being a resident continuously while the license is in effect.

(D) If the applicant is a partnership, all partners must qualify in the same manner as individual applicants.

(E) If the applicant is a corporation, it must be authorized to do business in Minnesota.

(F) No license shall be issued or transferred to any person who has had a license revoked within five (5) years prior to the date of application under the terms of this chapter or the statutes of the State of Minnesota nor shall any license be issued or transferred to the spouse of such person.

205.102 - Licensing of Corporations:

(A) A license may be granted to any corporation authorized to do business in the State of Minnesota, provided that the manager of the premises operated by such corporation is a resident of the State of Minnesota or resides within seventy-five (75) miles of Mendota. All stockholders who hold ten (10) per cent or more of the stock of the corporation, directors, officers or managers must qualify under the terms of this chapter in the same manner as required of individual applicants for such licenses. Whenever a corporation applies for a license, such application shall also state whether said corporation is a subsidiary of any other corporation, in which event the application shall state full particulars of such parent corporation or holding company, including name, business address, state of incorporation, and names of stockholders who hold ten (10) percent or more of the stock of the corporation, directors and officers thereof. When such application is received, it shall be investigated and processed in the same manner as is provided for individual applicants under the terms of this chapter, and the stockholders who hold ten (10) percent or more of the stock of the corporation, directors, officers and managers of such corporation shall be investigated and reported upon by the police license inspector. Whenever the record of equitable ownership of stock of any such corporation is transferred, sold, pledged or otherwise assigned to new or different stockholders or whenever new or different directors, officers or managers are elected or appointed by any corporation holding a license as herein defined, such changes shall require the filing of an application for license in the manner provided by this chapter.

(B) Failure to report any change in stockholders, officers or managers shall be grounds for the revocation of all licenses held by the corporation. Every corporation licensed under the provisions of this section shall adopt and maintain in its bylaws a provision that no transfer of stock is valid or effective unless approved by the city council and shall require that all of its certificates of stock shall have printed on the face thereof: "The transfer of this stock certificate is invalid unless approved by the city council of Mendota, Minnesota," and failure to comply with this provision shall be grounds for the revocation of all licenses held by the corporation. The provisions of this section shall not apply to the issuance of any license to a corporation whose stock is traded on a public stock exchange.

205.11 - Conditions of License - Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this Ordinance, and of any other applicable ordinance of the City or State law.

205.111 - Every licensee shall be responsible for the conduct of his place of business and the conditions of sobriety and order in it.

205.112 - Any properly designated officer or employee of the City shall have the unqualified right to enter, inspect, and search the premises of the licensees during business hours without a warrant.

205.113 - In accordance with Minnesota Statutes §340A.504, Subd, 4, no "off-sale" of intoxicating liquor shall be made before 8:00 A.M. or after 10:00 P.M., nor on any Sunday or other calendar date in which "off-sale" liquor sales are prohibited by State or Federal law.

205.114 - Licensed Premises:

- (a) For any license or permit issued under this section the physical space included in

the licensed premises shall be limited and determined in accordance with the following conditions:

1. The licensee must be the exclusive operator of the entire licensed premises, which must be operated as a single business entity with the same hours of operation. If more than one trade name or logo is used to designate different areas, those trade names or logos must have something in common to suggest single ownership of the premises.
2. The licensee may not lease or contract out a part of the physical space of the licensed premises to a separate individual or entity to be operated as a separate unit without council approval.
3. The physical space of the licensed premises must be compact and contiguous. All areas of the licensed premises which are open to the public must be connected by passageways which are open to, commonly used by, and readily accessible to customers without leaving and reentering the premises.

205.12 - Sunday On-sale Liquor Sales - Any person, firm, partnership or corporation holding an on-sale liquor license in the City of Mendota, issued pursuant to the provisions of Minnesota Statute §340A.404 and amendments thereto, may apply to the City Council for the issuance of a special on-sale liquor license for the sale of intoxicating liquors on Sunday, pursuant to the provisions of Minnesota Statute §340A.504, Subd. 3, and Amendments thereto.

205.13 - Applications - Applications shall be made to the City Clerk of the City of Mendota.

205.14 - Annual Fee - The annual fee for the issuance of said license shall be the maximum set by State law.

205.15 - Service Hours - All persons, firms, partnerships or corporations holding special on-sale liquor licenses for the sale of intoxicating liquors on Sunday pursuant to Minnesota Statutes §340A.504, Subd. 3 as amended, are allowed to serve intoxicating liquors only between the hours of 10:00 A.M. and 1:00 A.M. on Mondays, in conjunction with the serving of food, provided that the licensee establishment is in conformance with the Minnesota Clean Indoor Air Act.

205.16 - Restrictions on Purchase and Consumption - No minor shall misrepresent his age for the purpose of obtaining non-intoxicating malt liquor or intoxicating liquor.

No person shall induce a minor to purchase or procure liquor.

No person shall mix or prepare liquor for consumption in any public place or place of business, not licensed to sell liquor "on-sale" and no person shall consume liquor in any such place.

No liquor shall be consumed or served at bars or counters except counters where food is regularly served and consumed, and which counters are equipped with chairs or stools.

No liquor shall be sold or consumed on a public highway or in an automobile on the public right-of-way.

205.17 - Revocation - The City Council may suspend or revoke any liquor license for violation of any provision or condition of this Ordinance, or any State law regulating the sale of intoxicating liquor, and shall revoke such license if the licensee willfully violates any provision of Minnesota Statutes, Chapter 340A, as amended. Except in the case of a suspension pending a hearing on revocation, revocation or suspension by the Council shall be preceded by written notice to the grantee and a public hearing. The notice shall give at least ten days notice of the time and place of the hearing, and shall state the nature of the charges against the licensee. The City Council may, without any advance notice, suspend any license pending a hearing on revocation, for a period not to exceed 30 days.

205.171 - Revocation - The city council may deny, revoke, suspend a license for any of the following reasons:

- (A) The existence of liquor disturbs the peace, quiet or repose of surrounding residential or commercial areas.
- (B) The existence of liquor contributes to crime, disorderly behavior, noise, traffic, litter or parking problems in the area near the establishment.
- (C) Any violation of the laws relating to the sale or service of alcoholic beverages.
- (D) Any violation of the terms of this section.
- (E) Any other good cause related to the operation of the establishment.
- (F) Licenses issued under this section are subject to all laws and ordinances governing the sale of intoxicating liquor except those laws and ordinances which by their nature are not applicable.

205.172 - Revocation of Licenses Generally - Except as otherwise provided by this Code, any license issued under this chapter may be revoked by the city council for any violation of this chapter or the laws of the State of Minnesota relative to the sale of liquor, or to the conduct of the business of the licensee. Such revocation by the city council may be made for cause after notice to the licensee and hearing, and an opportunity of the licensee to be heard relative thereto.

205.173 - Revocation of Erroneously Issued License - Any license issued to a person not entitled to receive the same under this chapter or any law of the State of Minnesota shall be revoked by the city council at any time after notice and public hearing.

205.174 - Suspension, Revocation on Conviction - Upon conviction of the licensee, or of any agent or employee of said licensee, for violation of any of the provisions of law relating to the sale, possession, manufacture or transportation of liquor upon the premises of the licensee operated under said license, all licenses of the licensee shall be forthwith revoked, unless it shall appear that such violation was not willful on the part of the licensee, in which case, and in lieu of

such revocation, such licenses may be suspended for a period of ten (10) days for the first violation or offense, for a period of thirty (30) days for the second violation or offense, and for the third violation, or offense said licenses shall be revoked forthwith, which suspension or revocation shall be in addition to other penalties provided by this Code.

205.18 - Premises to be Open to Inspection - The premises named in any license shall at all times while open to the public be open also to inspection and examination by any police, fire or other city official.

205.19 - Compliance with State Laws - No license shall be issued in violation of any of the laws of the State of Minnesota, and any violation of any law of the State of Minnesota relating to the sale and distribution of liquor shall be considered a violation of this Code.

205.20 - Discretion of Council - The city council may grant or deny any application in accordance with the provisions of this chapter.

SECTION 206 - BUSINESS AND STREET VENDING OPERATIONS

206.01 - License Required - It shall be unlawful for any person, firm, or corporation to keep or operate any business within the limits of the City of Mendota without first having obtained a license to do so as hereinafter provided. All businesses in the City, including street vending operations of both short-term and long-term duration, except home occupations, must receive a license from the City.

206.02 - Application for License - Any person desiring a new license to engage in operating a business or street vending operation, as provided for in this Ordinance, shall first make an application in writing to the Council of the City of Mendota, by filing with the City Clerk on a form provided for that purpose for presentation to the City Council, an application therefore; which application shall set forth the name and place of residence of the applicant, the

location at which the applicant proposes to carry on such business, and shall further state whether or not he or she is then or has theretofore been engaged in such business. The applicant shall further state whether a temporary or permanent license is desired. Such application shall be signed by the applicant in person, and when received by the City Clerk, shall be by him or her registered in a book of registration to be kept at his office for that purpose.

206.03 - License Fee - The annual license fees for conducting temporary and permanent businesses under a license issued pursuant to this Ordinance shall be assessed in accordance with the current City fee schedule, which may be established and changed from time to time by ordinance of the Council.

206.04 - Issuing a License - Upon the passage of any City Council resolution granting a license hereunder and upon presentation to the City Clerk of the receipt of such license fee, it shall be the duty of said City Clerk to issue a temporary or permanent license to such applicant. Temporary licenses shall be issued to those businesses or vendors that conduct business for less than 30 calendar days of the year. A license issued hereunder shall expire at the end of the calendar year, unless sooner revoked or terminated.

206.05 - Inspection - It shall be the duty of the City Clerk, City Council member, or duly appointed inspector, from time to time during the life of any license granted hereunder, at least once annually to inspect the place of business of all permanent licensees to ascertain that the same is conducted in safe, clean and sanitary manner; and if such inspection shows that the same is not so conducted, to make report of the fact to the City Council. The conduct of his or her business by a licensee hereunder in an unsafe or unsanitary manner shall be cause for the revocation of any City license issued under this chapter.

206.06 - Disorderly Operation - The conducting of any business or vending operation in a disorderly manner shall be sufficient cause for the refusal of a license, or the cancellation of any license already issued to the keeper or owner thereof.

206.07 - Revocation of License - Any person whose license is revoked by the City Council, or to whom a renewal of license shall be denied, shall immediately cease to operate. In the case of license revocation, the holder of the revoked license shall not be reimbursed any part of the annual license fee.

206.08 - Transfer of License - A business license shall not be transferred to a new owner, unless the transfer is approved by the City Council.

SECTION 207 - LAWFUL GAMBLING

207.01 - In General - Lawful gambling conducted pursuant to Minnesota Statutes, Chapter 349 shall be operated in accordance with the conditions prescribed in this chapter and other applicable provisions of the Mendota Code of Ordinances.

207.02 - Premises Permit - (a) The Minnesota Gambling Control Board shall notify the city council in writing in the manner required by law of each pending application for a premises permit for a gambling site in Mendota. Each pending application for a license shall be approved or disapproved by resolution of the city council within sixty (60) days after receipt of the application. (b) The city council may disapprove an application for issuance or renewal of a premises permit for any of the following reasons:

- (1) Violation of the gambling organization of any statute, ordinance or rule relating to gambling;
- (2) Violation by the on-sale establishment, or other organization leasing its premises for gambling, of any statute, ordinance or rule relating to the operation of the establishment, including but not limited to laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice and protection of public safety;
- (3) Failure by the gambling organization to make adequate corrections in its organizational structure and procedures in response to an audit report;

- (4) Where the operation of gambling at the site would be detrimental to health, safety and welfare;
- (5) For any other good cause related to the operation of gambling or the business located on the premises.

207.03 - Authorized Forms of Gambling - All forms of lawful gambling may be approved by the city council subject to the terms and conditions of this chapter and all provisions of statute.

207.04 - Location - Lawful gambling under license issued by the Minnesota Gambling Control Board may be conducted only at the following locations:

- (a) In the licensed organization's hall where it has its regular meetings. No organization shall rent, lease, or occupy, directly or indirectly, any other property for the purpose of conducting gambling, except an on-sale establishment as permitted in this chapter; or an organization leasing its premises for the conduct of bingo pursuant to subsection 207.05(c);
- (b) In licensed on-sale liquor, wine, and beer establishments;
- (c) Notwithstanding subsections (a) and (b) above, Class D (raffle only) licenses may be approved for any proper location;
- (d) No location shall be approved for gambling unless it complies with the applicable zoning, building, fire, and health codes of the City of Mendota.

207.05 - Conditions - The conduct of lawful gambling under license issued by the Minnesota Gambling Control Board shall be subject to the following conditions in the City of Mendota:

- (a) No sale, consumption, or possession of liquor, wine, or 3.2 beer shall be permitted during gambling conducted by a licensed organization, except as permitted under a valid on-sale liquor, wine or 3.2 beer license, or a bottle club permit; provided further that no sale, consumption, or possession of liquor, wine, or 3.2 beer shall

be permitted in the room where a bingo session is taking place.

- (b) Bingo shall be subject to the following conditions:
 - (1) Bingo shall not be conducted more than four (4) days each week at any site;
 - (2) No more than seven (7) bingo occasions shall be conducted each week by an organization;
 - (3) Subject to the limits set forth above, an organization may lease its hall where it has its regular meetings to no more than one licensed organization, for the conduct of bingo only, provided that the site has been used for bingo by a validly licensed organization within the previous three (3) years.
 - (4) Bingo halls shall not be permitted.
- (c) No organization shall hold more than three (3) premises permits for locations in the City of Mendota.
- (d) No person may serve as gambling manager for any organization licensed to conduct gambling in the City of Mendota unless that person has satisfactorily completed the periodic training required by the Minnesota Gambling Control Board on the duties and responsibilities of the gambling manager, and holds a valid gambling manager's license issued by the board. In the case of death, disability or termination of a gambling manager, the replacement gambling manager must receive the required training within ninety (90) days after being issued a license.

207.06. Investigation - Every organization which files an application for issuance or renewal of a premises permit shall deliver the application to the police license inspector as the designee of the city clerk. The police license inspector shall investigate each application and report their findings and recommendations to the city council. In connection with the investigation, the police license inspector may require the organization to submit such other

documents and records deemed necessary to verify compliance with the terms of this chapter and other laws relating to gambling.

207.07. Permits for exempt organizations under Minnesota Statutes Section 349.166 -

Every organization seeking to conduct lawful gambling which is exempt from state licensing under Minnesota Statutes, Section 349.166 shall obtain a permit issued by the City Clerk subject to the following conditions:

- (a) The organization shall pay a permit fee of Fifty-Two Dollars (\$52.00) per day;
- (b) Permits for all classes of gambling activities may be approved;
- (c) Lawful gambling by an organization exempt from licensing under Minnesota Statutes, Section 349.166 may be conducted on the premises of a licensed on-sale liquor, wine or beer establishment, or a bottle club subject to the restrictions in this chapter relating to the conduct of gambling in on-sale establishments and bottle clubs;
- (d) Except as provided in subsection (c) above, the sale, consumption, and possession of intoxicating liquor at a gambling event by an exempt organization shall be prohibited, however, 3.2 beer may be served and consumed only under a valid temporary on-sale beer license;
- (e) The organization shall comply with all statutory requirements for an exempt organization, including the sixty-day notice requirement to the City of Mendota. The director of licenses and consumer services, when granting a permit to an exempt organization, may waive the sixty-day notice requirement.

207.08 - Filing of records; inspection; access to records

- (a) Every organization licensed to conduct gambling in the City of Mendota shall file with the City Clerk copies of all records and reports required to be filed with the Minnesota Gambling Control Board and department of revenue pursuant to Minnesota Statutes, Chapter 349 and the rules and regulations promulgated thereunder. The records and reports shall be due at the

same time they are due to the board and department of revenue;

(b) Every gambling event in the City of Mendota conducted by an organization under Minnesota Statutes, Chapter 349, shall be open to inspection by officers of Mendota Police Department and employees of the department of licenses and consumer services;

(c) Employees of the police license inspector and city officials so designated by the City Council may inspect, at any reasonable time without notice or search warrant, all records of a licensed organization, including gambling account and other bank records, required by the Minnesota Gambling Control Board to be maintained and preserved;

(d) Each lawful purpose contribution shall be accompanied by an acknowledgement on a form prescribed by the city, which shall be signed by the recipient of the contribution. The form shall contain such information as the City Clerk deems necessary to verify compliance with the laws relating to the use of gambling proceeds and to track expenditures for audit purposes.

207.09 - Lawful gambling at on-sale establishments - Lawful gambling at on-sale liquor, wine, and 3.2 beer establishments shall be conducted in compliance with the following regulations:

- (a) Only Class B and Class D gambling licenses may be issued, except where the licenses gambling organization also holds the on-sale liquor, wine, or 3.2 beer license for the premises, in which case any class of gambling license may be issued;
- (b) On-sale establishments shall be limited to one licensed gambling organization at any one time in the licensed premises and any rooms adjoining the premises under the same management. No lease shall be made with one organization while another lease is in effect for the same on-sale establishment;
- (c) Every agreement between a nonprofit organization and an on-sale premises for gambling shall be in the form of a written lease. The written lease shall be the complete agreement between the parties and there shall be no unwritten terms of conditions. The lease shall specifically provide that the lessee shall operate only after issuance of a license and shall be subject to the terms of this ordinance;

- (d) A copy of any lease agreement between a nonprofit organization and an on-sale licensee shall be filed with the City Clerk with the premises permit application;
- (e) A lease agreement between a nonprofit organization and an on-sale establishment shall not provide for rental payments based on a percentage of receipts or profits from lawful gambling. The maximum rental fee shall be one thousand dollars (\$1,000) per month. There shall be no other compensation paid to the on-sale establishment, directly or indirectly, other than the rental fee provided in the lease agreement. In addition to rent, an organization may claim as an allowable expense an expenditure directly to a janitorial service or trash hauler for cleanup and services directly related to gambling activities on the premises. Such expenditures shall not exceed twenty-five (25) percent of the establishment's total expenditures for janitorial services and trash removal for the previous twelve (12) months. No such expenditures shall be made without prior approval of the City Clerk after the organization has submitted written account records of the establishment verifying the total of such expenditures for the previous twelve (12) months.
- (f) No gambling funds shall be commingled with funds of the on-sale establishment;
- (g) No food, drink, or entertainment discounts or other promotions shall be offered in conjunction with the sale of gambling devices or changes;
- (h) The on-sale establishment shall allow the organization to conduct gambling at any time during its lawful business hours, and shall prohibit gambling at any time other than its lawful business hours;
- (i) The on-sale licensee shall make no agreements with any gambling equipment distributor requiring the use of his or her gambling equipment in the establishment. The on-sale licensee shall not receive from any gambling equipment distributor any money, gift, or other thing of value.
- (j) Subsections 207.09(f), (g), (h), (i), (j) and (k) shall not apply when the licensed gambling organization is also the holder of the on-sale license for the establishment where the gambling is conducted.

- (k) The city council may disapprove a premises permit application for an on-sale establishment in which gambling violations have previously occurred.

207.10 - Reserved.

207.20 - Local gambling tax

(a) There is hereby imposed a tax on all lawful gambling conducted in the City of Mendota by organizations licensed by the Minnesota Gambling Control Board at the rate specified in this section. An organization conducting lawful gambling may not exclude from its calculation in determining its net proceeds any tax paid to distributors or any combined receipt tax.

(b) An organization's receipts from lawful gambling that is exempt from licensing under Minnesota Statutes, Section 349.214 are not subject to the tax imposed by this section.

(c) On all lawful gambling the tax is ~~three~~ ^{2 3/4} percent of the gross receipts of a licensed organization from lawful gambling less prizes actually paid out, payable by the organization.

(d) The tax imposed by this section shall be paid on a quarterly on the first day of January, April, July and October of each year. The tax imposed by the Section shall be reported to the City and the report shall be an exact duplicate of the report filed with the Minnesota Gambling Control Board, without deletions or additions, and must contain the signatures of organization officials as required on the report form.

The tax return and payment of the tax due must be postmarked, or, if hand-delivered, received by the City Clerk on or before the ~~first~~ ^{twenty-first} business day of the new quarter month following the month for which the report is made.

An incomplete tax return will not be considered timely filed unless corrected and returned by the due date for filing. Delays in mailing, mail pickups, and postmarking are the responsibility of the organization.

The tax return and tax payment shall be delivered to:

Mendota City Clerk
Attn: Gambling Taxation
P.O. Box 50688
Mendota, MN 55150

Checks shall be made payable to:

City of Mendota

(e) There shall be an interest charge of eight (8) percent per annum on the unpaid balance of all overdue taxes owed by an organization under this section.

(f) The city council shall disapprove any pending application for renewal or original issue of a charitable gambling license for any organization which owes delinquent gambling taxes to the City of Mendota. Further, the City Clerk may notify the Minnesota Gambling Control Board of any organization owing delinquent gambling taxes to the City of Mendota, and may request that the board revoke or suspend the organization's license during the license year. The city council shall not issue or renew any on-sale or off-sale alcoholic beverage license, bottle club permit, or food license to any organization which owes delinquent gambling taxes to the City of Mendota. The above remedies are not exclusive, and shall be in addition to any other powers and remedies provided by law.

207.21. Contribution of net profits to Mendota Family Fund. (a) Beginning January 1, 1994, every non-qualified organization licensed by the Minnesota gambling Control Board to conduct gambling in the City of Mendota shall contribute at least ten (10) percent of its net profits from gambling to the Mendota Family Fund established in section 207.20 of this Code. Net profits means profits less amounts expended for allowable expenses.

(b) A "qualified organization" is an organization which has attained tax-exempt status under Section 501(c)(3) of the Internal Revenue Code by having:

- (1) Filed written application for tax-exempt status in the manner required by the Internal Revenue Services; and
- (2) Received written approval of tax-exempt status under Section 501(c)(3) from the Internal Revenue Service; and
- (3) Filed the documents referred to in (1) and (2) above with the department of licenses and consumer services; and
- (4) Filed with the City Clerk on affidavit, signed under oath by an officer of the organization, verifying that the organization has tax-exempt status under Section 501(c)(3) and that such status has not been revoked or otherwise canceled. An affidavit shall be filed at the time the organization originally applies to be a qualified organization and with each subsequent application to renew its gambling license.

A "non-qualified organization" is any organization which is not a qualified organization.

(c) Payments of ten (10) percent of net profits shall be made on a quarterly basis similar to Section 207.20. Payments shall be due on the date upon which duplicate quarterly Minnesota gambling tax returns and taxes are due to the City of Mendota for the previous month's gambling activities under section 207.20. Payment shall be made by separate check made payable to: Mendota City Clerk - Family Fund. Payment shall be remitted to the City Clerk, accompanied by the duplicate Minnesota Gambling Tax Return and schedules for the monthly reporting period covered.

(d) The city council shall disapprove any pending application for renewal or original issue of a lawful gambling license for any non-qualified organization which fails to contribute ten

(10) percent of net profits to the Mendota Family Fund as required by this section. Further, the director of licenses and consumer services may notify the Minnesota Gambling Control Board of any non-qualified organization which has failed to contribute ten (10) percent of its net profits to the Mendota Family Fund, and may request that the board revoke or suspend the organization's license during the license year. The city council shall not issue or renew, and may revoke or suspend, any on-sale or off-sale alcoholic beverage license, bottle club permit, or food license for any non-qualified organization which has failed to contribute ten (10) percent of net profits to the Mendota Family Fund. The above remedies are not exclusive, and shall be in addition to any other powers and remedies provided by law.

207.22 - Mendota Family Fund established - (a) There is hereby established a Mendota Family Fund (the "fund"). The fund is created pursuant to Minnesota Statutes, Section 349.213, Subdivision 1, to collect, administer, and disburse ten (10) percent of the net profits derived from lawful gambling.

(b) The purpose of the Mendota Family Fund shall be to enhance and improve the quality of life for Mendota families. The fund will provide financial resources to programs located within the City of Mendota which enhance the developmental, economic, health, cultural, recreational, and educational opportunities for all family units and family members.

(c) The fund shall be administered by the City Council.

(d) No costs of administration shall be charged to the fund. All proceeds collected shall be disbursed under the provisions of this section.

(e) Disbursement of funds. Proceeds in the funds shall be disbursed in the following manner:

(1) Seventy (70%) percent to the Mendota Recreational Fund for establishing recreational activities, recreational devices to enhance the welfare of Mendota children's recreational needs;

(2) Fifteen (15%) percent to the Greater Mendota Historical Fund for funding the various historical resources of Mendota.

(3) Fifteen (15%) percent to discretionary distributions which further the mission and purpose of the Mendota Family Fund as described in the statement in subsection 207.21.

These distributions shall be allocated by the City Council. The City Clerk shall issue a request for proposal for the distribution of these funds, based upon the mission statement in subsection 207.22(b). Upon receipt of all proposals, the City Clerk shall recommend one or more organizations to receive distributions. In making recommendations, the City Clerk shall consider the services provided by other Mendota Family Fund recipients, to ensure that all areas of the city benefit from the fund. Services to elderly residents shall be considered eligible.

(f) Distributions from the Mendota Family Fund shall qualify as lawful purpose expenditures under Minnesota Statutes, Section 349.12, Subdivision 11.

(g) As a condition of receiving distributions from the Mendota Family Fund, each recipient organization shall maintain on file with the department of licenses and consumer services:

- (1) Verification of nonprofit status, copy of organizational bylaws, and articles of incorporation, if applicable;
- (2) Current address;

- (3) List of officers and directors;
- (4) Previous year's budget and financial statement;
- (5) Current balance sheet and income statement;
- (6) A statement explaining how funds received from the Mendota Family Fund will be used.

(h) Every organization which receives funds from the Mendota Family Fund shall file an annual accounting indicating how the funds were spent.

(i) Every organization which receives funds from the Mendota Family Fund shall be deemed to have consented to an audit of its books and records by the City of Mendota to verify the proper use of the funds received.

Amended 2/8/94

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CHAPTER III: UTILITIES

SECTION 301 - NATURAL GAS

301.01 - Permit Required - No apparatus or equipment to be used with gas supplied from the general gas distribution system of the Northern States Power Company within the City of Mendota shall be installed or connected for use, without a permit having been secured therefore from the City Council.

301.02 - Eligible Equipment - No permits shall be issued by the City Council for the installation or connection for use of any gas-fired apparatus or equipment (except domestic ranges, refrigerators, water heaters, or any gas equipment, other than space heating equipment, having an input rating of less than 50,000 BTU per hour), supplied from the general gas distribution system of the Northern States Power Company located within the City of Mendota, unless the application for said permit for such installation or connection is accompanied by a certificate from said company operating such system stating that it has the facilities and capacity to serve the equipment or apparatus at the location designated.

301.03 - Right to Refuse Gas Service - The Northern States Power Company shall refuse gas service to the premises wherein any gas-fired installation or connection is made contrary to the terms of this chapter, upon discovery of same, until the same has been disconnected and removed.

301.04 - Permission Granted to Gas Company - That there be and hereby is granted to Northern States Power Company, a Minnesota corporation, its successors and assigns, hereinafter referred to as "Company", during the period of 20 years from the date hereof, the right and privilege of erecting a gas plant and using the streets, alleys, and public grounds of said City for the purpose of installing, enlarging, operating, repairing, and maintaining, in, on, under, and across the same, all gas pipes, mains, and appurtenances, usually, conveniently, or necessarily

used in connection therewith, for the purpose of furnishing gas for public and private use in and to said City and the inhabitants thereof, and others, and for the purpose of transmitting gas into and through said City, provided that such gas pipes, mains, and appurtenances shall be so located as in no way to interfere with the safety and convenience of ordinary travel along and over said streets and alleys, and provided that Company, in the installation, enlargement, operation, repair, maintenance, and removal of such gas pipes, mains, and appurtenances, shall be subject to such reasonable regulation as may be imposed by the City Council.

301.05 - Relocation of Gas Lines - In the event it shall become necessary during the term of this Ordinance, in the furtherance of any public improvement made after the passage of this Ordinance, which requires the relocation of said gas pipes, mains, and appurtenances located in, on, under, and across any said streets, alleys, or public grounds, Company shall relocate the same without cost to the City. Any relocation, removal, or arrangement of any such facilities made necessary because of the extension into or through the City of a federally-aided state trunk highway included within the National System of Interstate Highways, shall be governed by the provisions of Laws of Minnesota 1959, Chapter 500, Article II, Section 46.

However, the vacation of any street, alley, or public ground, after the installation of such gas pipes, mains, and appurtenances therein, shall not operate to deprive Company of the right to operate and maintain such gas pipes, mains, and appurtenances, unless the reasonable cost of relocating the same and the loss and expense resulting from such relocation is first paid to Company.

301.06 - Restoration of Property - In erecting, installing, enlarging, repairing, maintaining, moving, removing, or replacing said gas pipes, mains, and appurtenances, Company shall, in all cases, place the streets, alleys, or public grounds, in, on, under, or across which the same are located, in as good condition as they were prior to said operation, and Company shall defend, indemnify, and save harmless the City against any and all claims for injury or damage to persons or property occasioned by or arising out of such operation.

301.07 - Location of Natural Gas - During the term of this Ordinance, natural gas shall be supplied to the City of Mendota and its inhabitants, to the extent that such gas is available therefore under the provisions governing the availability and supply of natural gas contained in the town border contract under which Company purchases such natural gas; provided that this section shall not be construed so as to prevent Company from using liquified petroleum gas, manufactured gas, or mixed gas for peak-shaving purposes; and provided further that, when the amount of natural gas available to Company for distribution in said City is insufficient to meet the additional requirements of connected or new consumers, Company shall have the right to prescribe reasonable rules and regulations for allocating the available supply of natural gas for such additional requirements.

301.08 - Rates Charged - The rates to be charged by Company for gas sold within said City throughout the term hereof shall at all times be reasonable, fair, and non-discriminatory to the City and the inhabitants thereof and to Company.

301.09 - Right to Enforce Rules - The Company shall have the right and authority to prescribe and enforce such reasonable rules and regulations governing the supply and sale of gas service and the general conduct of its business, as may from time to time be necessary, or advisable, for the protection of the public and the proper enjoyment of the rights and privileges herein granted.

301.10 - Limitations of Agreement - This Ordinance shall not be construed to grant any exclusive right, privilege, or franchise to the Company.

SECTION 302 - ELECTRICITY

302.01 - Agreement With Power Company - There be and hereby is granted to Northern States Power Company, a Minnesota corporation, its successors and assigns, hereinafter referred to as "Company", the right and privilege of constructing, operating, repairing, and maintaining,

in, on, over, under, and across the streets, alleys, and public grounds of said City, an electric distribution system and electric transmission lines, including all poles, pole lines, and fixtures and appurtenances, usually, conveniently, or necessarily used in connection therewith, for the purpose of transmitting and furnishing electric energy for light, heat, power, and other purposes for public and private use in and to said City and the inhabitants thereof, and others, and for the purpose of transmitting into and through said City such electric energy, provided that such electric distribution system and transmission lines shall be located as in a way, so as not to cause any inconvenience to ordinary travel along and over said streets, alleys, and public grounds, and provided that Company, in the construction, operation, repair and maintenance of such poles, pole lines, and fixtures and appurtenances, shall be subject to such reasonable regulation as may be imposed by the City Council.

302.02 - Rates Charged - The rates to be charged by Company for the electric energy sold within said City shall be reasonable and shall not exceed Company's standard schedule of rates and minimum charges effective in communities of like size in adjoining territory, which are similarly served and situated.

302.03 - Maintenance - There is also granted to Company, during the term hereof, permission and authority to trim all trees and shrubs in the streets, alleys, and public grounds of said City, interfering with the proper construction, operation, repair, and maintenance of any poles, pole lines, and fixtures or appurtenances, installed in pursuance of the authority hereby granted, provided that Company shall save said City harmless from any liability in the premises.

302.04 - Limitations of Agreement - Nothing in this Ordinance contained shall be construed as giving to Company any exclusive privileges in, on, over, under, or across the streets, alleys, or public grounds of said City.

302.05 - Transfer of Maintenance Responsibilities - Company shall have full right and authority to assign to any person, persons, firm, or corporation all the rights conferred upon it by

this Ordinance, provided that the assignee of such rights, by accepting such assignment, shall become subject to the terms and provisions of this Ordinance.

SECTION 303 - MENDOTA PUBLIC SANITARY SEWER ORDINANCE

303.01 - Sanitary Sewer Department - There is hereby established a Sanitary Sewer Department, which shall be under the supervision of the City Engineer or his designated representative. The department shall be responsible for the management, maintenance, care, and operation of the sanitary sewage system of the City.

303.02 - Use of Sewer System Restricted - No person shall make or use any sewer service installation connected to the City sanitary sewer system except pursuant to application and permit as provided in this chapter. No person shall make or use any such installation contrary to the regulatory provisions of this chapter.

303.03 - Applications for Service.

303.031 - Procedure - Application for a sanitary sewer service installation shall be made to the City Clerk on forms prescribed by the City Engineer and furnished by the City. By his signature, the applicant shall agree to conform to this chapter and to rules and regulations that may be established by the City as conditions for the use of the sanitary sewer system.

303.032 - Fees or Deposit - Application for a service installation shall be made by the owner of the property to be served or by his agent. The applicant shall, at the time of making application, pay to the City the amount of the fees or deposit required for the installation of the service connection as provided in this chapter.

303.04 - Charges for Service Connections.

303.041 - Permit and Fee - No connection shall be made to the City sanitary sewer system without a permit received from the City Engineer or his designated representative. The fee for each such permit shall be \$100.00. This fee shall be in addition to any fees required under Subdivisions 2, 3, and 4.

303.042 - Connection Fees - When a connection requires installation of a service line from the main to the property line, the applicant for a permit shall pay to the City an amount not less than the cost of making the necessary connections, taps, and installation of pipe and appurtenances to provide service to the property and the necessary street repairs.

303.043 - Certification - No building permit to connect with any sanitary sewer main shall be issued unless the City Engineer or his designated representative certifies to the truth of one of the following and that the payments or assessments required under Subdivision 4 are made:

- a. That the lot or tract to be served has been assessed for the cost of construction of the main with which the connection is made or that proceedings for levying such assessment have been, or will be, commenced in due course; or
- b. That the cost of construction of the main has been paid by the developer or builder platting the lot or tract or by some other third party; or
- c. That, if neither of the foregoing is true, a sum equal to the portion of the cost of constructing the main, which would be assessable against the lot or parcel, has been paid to the City.

303.044 - Additional Connection Fees.

- a. If no certificate as required in Subdivision 3 can be issued, the applicant shall pay an additional connection fee equal to the portion of the cost of construction of the main attributable to the property upon the same basis as any assessment

previously levied against other property for the main. If no such assessment has been levied, the assessable cost shall be determined upon the basis of the uniform charge which may have been, or will be, charged for similar connection with the main. The amount shall be determined on the basis of the total assessable cost of the main allocated - one-half on the basis of frontage and one-half on the basis of SAC units;

- b. If any sewer availability charge (SAC), has been or will be levied upon the City by the Metropolitan Waste Control Commission (MWCC) with respect to any property for which an application for a building or connection permit is submitted and such SAC has not been assessed against such property or otherwise paid to the City, such SAC shall be paid by the applicant or assessed against the property as an additional connection fee;
- c. For every SAC unit included in any SAC which has been or will be levied upon the City by the MWCC with respect to any property in an area zoned commercial and for any nonresidential use property for which an application for a building or connection permit is submitted, there shall also be paid or assessed against the property as an additional connection fee, the amount of Nine Hundred Thirty and no/100ths (\$930.00) Dollars; provided, however, that such \$930.00 per unit fee shall be increased or decreased on October 1 of each year after 1983 equivalent to the Engineering News Record Cost Index published for September of the year of increase or decrease and, provided further, that if the property for which the application is being made was previously assessed for the main with which the connection is made under a formula wherein the cost of the main was allocated one-half on the basis of frontage and one-half on the basis of SAC units, then the additional connection charge prescribed in this subparagraph (3) shall apply only with respect to the number of SAC units in excess of those included in the previous assessment; and
- d. The determination of the SAC, number of SAC units, and amounts of any assessments shall be made by the City Engineer. In no event, however, shall the connection charge made under this Subdivision exceed the increase in value of the property attributable to the main.

303.05 - Protection of Public and City.

303.051 - Permit and Bond - A permit for construction and connection of the extension between a building drain and the sewer main or stub, herein called the building sewer, shall be issued only upon application by a master plumber who has furnished a bond either to the Clerk or the Secretary of State under Minnesota Statutes §326.40. The bond shall be in the

amount of \$2,000.00 conditioned so as to secure compliance by the principal with the provisions of this chapter and to further secure performance by him of all work undertaken within the City.

303.052 - Liability Insurance - Before undertaking the construction work authorized by the permit, the plumber shall secure and maintain a policy of insurance against damages to property or injury or death to persons. The policy shall indemnify and save harmless the City and its personnel against any claim, damages, or cause of action arising out of the work and from any expenses of defending the same. The insurance coverage shall be in the amount of at least \$100,000.00 for any single claim and \$300,000.00 for any number of claims per occurrence. Proof of such insurance shall be filed with the City prior to construction work and such policy shall provide that the City shall be notified immediately of any termination or modification of such insurance. If the insurance coverage is inadequate in amount, the master plumber shall indemnify and save harmless the City and its personnel in like manner.

303.053 - Apportionment of Costs - The owner shall bear the costs and expenses incident to the installation and connection of the building sewer. He shall indemnify the City for any loss or damage directly or indirectly caused by its installation and connection. To the extent he deems necessary, the City Engineer or his designated representative shall establish rules and regulations for the proper implementation of these requirements which, when approved by the Council by resolution, shall govern the installation and connection of building sewers to private property.

303.06 - Requirements for Building Sewer and Inspection - Building sewer construction shall meet the requirements of the Minnesota Plumbing Code. The applicant for a building sewer permit shall notify the City Building Inspector, City Engineer, or their designated representative when the building sewer and connection are ready for inspection. The connection shall be made under the supervision of the City Building Inspector, City Engineer or their designated representative. No backfill shall be placed until the work has been inspected and approved.

Amended 6/9/92

303.07 - Sewer System General Regulations.

303.071 - Discharge of Surface Water, Etc. - No person shall discharge or cause to be discharged any storm water, surface water, ground water, cooling water, or unpolluted industrial process waters into any sanitary sewer. No rain spout or other form of surface drainage and no foundation drainage shall be connected with any sanitary sewer.

303.072 - Non-acceptable Wastes - No person shall discharge or permit to be discharged into any public sewer any of the following wastes:

- a. Any liquid or vapor having a temperature in excess of 150 degrees Fahrenheit;
- b. Any water or waste having a five-day biological oxygen demand exceeding 1,000 parts per million by weight as averaged during any 12-month period;
- c. Any gasoline, benzine, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;
- d. Any garbage that has not been properly shredded;
- e. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, manure, grit, brick, cement, onyx, carbide, or other matter that may interfere with the proper operation of the sewers or sewage treatment plant;
- f. Any water or waste having a PH lower than 5 1/2 or higher than 9 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the sewage works;
- g. Any water or waste containing a toxic or poisonous substance in sufficient quantities to constitute a hazard to humans or animals, injure or interfere with sewage treatment, or create any hazard in the receiving waters of the sewage treatment plant; and
- h. Any noxious or malodorous gas or substance capable of creating a public nuisance.

303.073 - Interceptors - Grease, oil, and sand interceptors shall be provided when they are necessary for the proper handling of any liquid waste containing grease in excessive

amounts or any flammable waste, sand or other harmful ingredients; but such interceptors shall not be required for private living quarters or dwelling units. Interceptors shall be located so as to be easily accessible for cleaning and inspection.

303.074 - Control Manhole Required - The owner of any property served by a building sewer carrying industrial waste shall install a suitable control manhole in the building sewer to facilitate observation and sampling of the waste. The manhole shall be constructed by the owner in accordance with plans approved by the City Engineer. The owner shall maintain the manhole so as to be safe and accessible at all times.

303.075 - Separate Sewers - A separate and independent sewer shall be provided for every building connected to the sewer system except that the Council may waive this requirement where it finds that a separate sewer for a building is impractical.

303.08 - Sewer Connection Required.

303.081 - General Requirement - When property abuts upon any public street or alley along which a sewer main has been constructed, the owner of any dwelling or commercial establishment on the property shall install suitable toilet facilities and connect all sewage disposal facilities therein with the sanitary sewer in accordance with the provisions of this ordinance within three years after completion of such construction. No new dwellings or commercial establishments may be constructed nor may any improvements be made to existing dwellings or commercial establishments unless all sewage disposal facilities therein, including those existing in the unimproved portion of any dwelling or commercial establishment to be improved, are connected with the sanitary sewer.

303.082 - Connection by City - Whenever any owner or occupant fails to comply with the previous Subdivision, the Council shall, by resolution, direct that suitable toilet facilities be installed and direct that connection be made with the sewer system as provided in the previous

Subdivision and that the cost of the installation and connection be paid in the first instance out of the general fund and then assessed against the property benefitted.

303.083 - Assessment - After the installation and connection have been completed pursuant to Council resolution, the Clerk shall serve a written notice of the assessment upon the owner or his representative directing him to pay the assessment to the Treasurer within ten (10) days after the service of the notice. If the assessment is not paid within ten days, the Clerk shall certify the amount to the County Auditor for collection in the same manner as special assessments. The Council may, by resolution, spread the assessment over a three-year period.

303.09 - Sewer Service Charges

303.091 - Sewer Rates - Any user of sewer service to property shall pay quarterly a sewer service charge equal to \$40.00 per quarter for each SAC levied on the City by the MWCC for the respective property. Any user of sewer service may prepay their sewer service charge amounting to \$160.00 annually. The first quarterly sewer service is due on or before January 15, and thereafter, the second, third and fourth payments shall be due on or before April 15, July 15, and October 15, respectively. Any property which is a user of sewer service for a partial quarter shall pay the full amount as if it was a user of the sewer service for the entire quarter.

303.092 - Special Cases - In the case of an industrial user contributing wastes to the sewage disposal system in disproportionate amounts or concentrations, the Sanitary Sewer Department shall make an individual study of the particular use and fix an individual charge that is commensurate with the burden placed by the wastes upon the sewage treatment plant. If a building served by sewer is not served by city water and the Council determines that the sewer service charge inaccurately measures use of the sewer system, it may order the installation of a water meter to measure accurately the amount of water used on the premises. In the case of an industry using substantial amounts of water that is not discharged into the sewer system, the

Council may order installation of a meter accurately measuring the amount of water that enters the sewer system and fix the sewer service charge on the basis of such amount. Insofar as practicable, installation and maintenance of such meters shall conform to the regulations contained in this code.

303.093 - Required Information - The owner, occupant, or person in charge of any premises shall supply the City with such information as it may reasonably require relating to use of sewer, or sewer rates. Willful failure to provide such information, willful falsification of such information, or willful failure to comply with any requirement or order issued pursuant to this section constitutes a violation of this section.

303.094 - Disposition of Revenues - All revenues derived from charges imposed under this Section will be deposited into a separate fund to be used for sewer maintenance and administrative costs and to pay MWCC sewer service charges.

303.10 - Repairs - All property owners shall keep and maintain that portion of the sanitary sewer system that services their property or that extends from their property to the sewer main in good repair and good working order, and shall be required to pay all costs of such repair and maintenance.

The City may perform all maintenance, repairs, and inspections, it deems necessary to keep the sanitary sewer system in good repair and good working order, including maintenance, repairs, and inspections for which property owners are responsible pursuant to the previous paragraph, and shall charge back these costs associated with maintenance, repairs, and inspection for which the property owner is responsible to the property owner. The City may also cause these costs to be levied as an assessment against the property.

303.11 - Accounting, Billing and Collecting.

303.111 - Accounts in Name of Owner - All accounts shall be carried in the name

of the owner. Any charges unpaid shall be a lien upon the property.

303.112 - Bills for Service - Sewer Service bills shall be mailed to the customers quarterly on or before December 15, March 15, June 15, and September 15, respectively and shall specify the sewer service charges and other charges in accordance with the rates set out in this chapter.

303.113 - Delinquent Accounts - All charges for sewer service shall be due on the quarterly date specified by the city for the respective account and shall be delinquent thereafter. A late payment charge of 1.5% per month will be charged for any payments not made within 30 days of the date of billing. Delinquent accounts shall be certified to the City Clerk who shall prepare an assessment role each year provided for assessment of the delinquent amount against the respective property served. The assessment role shall be delivered to the Council for adoption on or before October 1 each year for certification to the County Auditor for collection along with taxes. Such action by the Council is optional and may be subsequent to taking legal action to collect delinquent accounts.

303.12 - MWCC Rules and Regulations - The Rules and Regulations of the MWCC are incorporated herein and made a part hereof.

SECTION 304 - INDIVIDUAL SEWAGE TREATMENT SYSTEMS ORDINANCE

Mendota hereby adopts Dakota County Ordinance 113 and the Dakota County Ground Water Protection Plan as its Ordinance. Approved 11/12/1996

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CHAPTER IV: STREET AND TRAFFIC

SECTION 401 - INTENT

The purpose of the following street and traffic regulations is to protect persons and property from motorized vehicles used by un-licensed person, or driven at excessive speeds, to secure adequate public access to real estate properties in the City, and to aid in the identification of properties for emergency service purposes.

SECTION 402 - MOTOR VEHICLE REGISTRATION AND LICENSING STATUTES INCORPORATED BY REFERENCE

The regulatory provisions of Minnesota Statutes 1961, Chapters 168 and 171, as amended, are hereby adopted as regulating the registration of motor vehicles and the licensing of persons operating motor vehicle upon the public highways, alleys and streets within the City of Mendota, and said provisions are hereby incorporated in and made a part of this Ordinance as completely as if set out here in full.

402.01 - DISPLAY OF VEHICLES FOR SALE ON PUBLIC STREETS - No person shall park a vehicle on any street, other public property or commercially zoned or un-surfaced private property, for the purpose of advertising or displaying such vehicle for sale. Provided, however, residents may park a single vehicle on that portion of the street immediately adjacent to their home with a for sale sign in a side window, if the vehicle is registered to a person residing at that address. Any vehicle parked pursuant to this provision shall be subject to all other applicable provisions.

Adopted/Approved 9/24/96

SECTION 403 - HIGHWAY TRAFFIC REGULATION ACT INCORPORATED BY REFERENCE

The regulatory provisions of Minnesota Statutes 1961, Chapter 169, as amended, are hereby adopted as regulating the use of highways, streets and alleys within the City of Mendota, and said provisions are hereby incorporated in and made a part of this Ordinance as completely as if set out here in full.

SECTION 404 - SPEED LIMIT

The speed limit on all City streets within the City of Mendota other than those designated as State of County highways, shall be twenty (20) miles per hour, and any speed in excess thereof shall be unlawful except where cautionary signs are located.

SECTION 405 - REDUCED SPEED LIMITS

Appropriate signs designating such reduced speed limit shall be erected in accordance with Minnesota Manual on Uniform Traffic Control Devices.

SECTION 406 - WEIGHT RESTRICTIONS

The City Council may from time to time impose vehicle weight restrictions on City streets.

SECTION 407 - PAVING DRIVEWAY PROVISION

Any private drive above street elevation entering onto a paved or blacktopped street shall be paved or blacktopped within three (3) years of July 1, 1991, or within six months of construction if constructed after January 1, 1991.

SECTION 408 - UNIFORM STREET AND HOUSE ADDRESS SYSTEM

408.01 - Uniform Numbering System - A uniform system of numbering properties and principal buildings, as shown in the document identified by the title Provisions of the Mendota Uniform House Numbering System and as shown on the map identified by the title Official House Numbering Map, City of Mendota, which is filed with the City Clerk, is hereby adopted for use in the City of Mendota. This document and map and all explanatory matter thereon, are hereby adopted and made part of this Ordinance.

408.02 - Assignment of Numbers - All Properties or parcels of land within the incorporated limits of the City Of Mendota, shall hereafter be identified by reference to the uniform numbering system adopted herein. All existing numbers of property and buildings not

now in conformity with provisions of this Ordinance shall be changed to conform to the system herein adopted within six months from the date of passage of this Ordinance.

Each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance of such principal building shall bear a separate number.

Numerals indicating the official numbers for each principal building or each front entrance to such building shall be posted in a manner as to be visible from the street on which the property is located.

408.03 - Administration - The City Clerk shall be responsible for maintaining the numbering system. The performance of this responsibility shall be guided by the provisions of this Ordinance.

The City Clerk shall record, on the Official Map, all numbers assigned under this Ordinance.

The City Clerk shall issue to any property owner, upon request and without charge, a number for each building or separate front entrance to such buildings. In doing so, he shall issue only the numbers assigned to such building under the provisions of the Ordinance. The numbers described herein shall not be interpreted to mean physical numbers of attachment to a building; the property owner shall be responsible for obtaining suitable numbers for property identification.

Upon approval by the City Council, The City Clerk may develop procedures whereby owners may secure numbers provided said numbers are in accordance with the provisions of this Ordinance.

SECTION 409 - PARKING

409.01 - Definitions - Any term used in this ordinance and defined in Minnesota Statutes, Section 169.01, has the meaning given it by that section.

409.02 - No Parking, Stopping, or Standing Zones - The City Council may by resolution, designate certain streets or portions of streets or a portion of any private parking area, if requested by the owner or owners of private within the City having a parking area, as no parking or no stopping or standing zones and may limit the hours in which the restrictions apply. The Chief of Police shall mark by appropriate signs each zone so designated. Except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic control device, no person shall stop or park a vehicle in a established no parking or standing zone when stopping or standing is prohibited. No vehicle shall be parked in the no parking zone during hours when parking is prohibited except that a vehicle may be parked temporarily in said zone for the purpose of forming a funeral procession.

409.03 - Time Limit Parking Zones - The City Council may by resolution designate certain areas where the right to park is limited during hours specified. The Chief of Police shall mark by appropriate signs each zone so designated. During the hours specified on the sign, no person shall park a vehicle n any limited parking zone for a longer period than is so specified.

409.04 - Impoundment - Any police officer may remove a vehicle from a street to a garage or other place of safety when the vehicle is left unattended and constitutes an obstruction to traffic or hinders snow removal or street improvements or maintenance operations. Such vehicle shall not be released until the fees for towing and storage are paid in addition to any fine imposed for violation of this ordinance.

409.05 - Prima Facie Violation - The presence of any motor vehicle on any street or parking area when standing or parked in violation of this ordinance is prima facie evidence that the registered owner of the vehicle committed or authorized the commission of the violation.

409.06 - Property Owner Initiative - Any person desiring the establishment of a no parking, stopping, or standing zone on property owned by him/her, shall make written application therefor to the City Council. If the Council grants the request, the proper City officer shall bill

the applicant for the estimated costs of placing signs and painting the curb, if any. When the amount is paid to the City Treasurer, the Chief of Police shall install the necessary signs and paint the curb.

409.07 - No Parking or Standing on Highway 13 - No person, firm, or corporation in charge of any vehicle shall park or permit such vehicle to park or stand upon any part of State Highway 13 (Sibley Memorial Highway) or any part of the right-of-way of said Highway at any time. This section does not apply to the downtown area consisting of the 30 mph zone from the east to the west or vice versa, including but not limited to 2nd St. through the City limits to the west. Signs may be posted at appropriate locations along said Highway as to give notice of this prohibition.

409.08 - Truck Parking Restriction -

- a. General Rule - A person may not park a truck except for the purpose of loading and unloading, or transacting business and then only for such period of time as is necessary to load or unload or to transact such business. As used in this subsection, the term "truck" means a truck, a tractor, a truck-tractor, a trailer, and a semi-trailer as those respective terms are defined in Minnesota Statutes, chapter 168. The term "truck" does not mean a trailer coach as defined in Minnesota Statutes, section 327.14, subdivision 2, and does not mean a single unit truck with an unenclosed box (generally referred to as a pick-up) having a gross weight not exceeding 10,000 pounds.
- b. Curb and Street - A person may not park a tractor, truck-tractor, or semi-trailer between the curb, or curb line in case there is not a curb, and the street right-of-way line in any dwelling or commercial district, except for the purpose of loading or unloading and then for only such reasonable time as is necessary to load or unload.

Adopted/Approved 12/10/96

409.09 - Penalty - Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor.

Amended 12/10/96 (changed from petty misdemeanor)

SECTION 410 - ALARM SYSTEMS

An Ordinance providing for the regulation of the use of alarm systems; establishing user fees; and providing penalties for false alarms.

410.01 - Purpose - The purpose of this Ordinance is to ensure the availability of the City's public safety services for appropriate public safety needs and to encourage alarm users to adequately maintain and utilize alarm systems.

410.02 - Definitions -

- a. Alarm Systems - An alarm system installation designed to be used for the prevention or detection of burglary, robbery, or fire and located in or on a building, structure or facility.
- b. Alarm User - The legal entity in control of any building, structure or facility wherein or whereon an alarm system is located.
- c. False Alarm - An alarm signal eliciting a response by personnel of the City's law enforcement agency when a situation requiring a response does not, in fact, exist, and which is caused by the activation of an alarm system through mechanical failure, movement, alarm malfunction, improper installation or the inadvertence of the alarm user or its employees, family or agents. A false alarm does not include an alarm caused by climatic conditions such as tornados, thunderstorms, utility line mishaps, violent conditions of nature, or any other conditions which are clearly beyond the control of the alarm manufacturer, installer or user.
- d. Law Enforcement Agency - An agency or a person designated by the City Council.

410.03 - False Alarm Reports - The City Council shall cause the law enforcement agency to report all false alarms occurring within the City. The report shall include the identification of the alarm user and the date, time and location of the false alarm and also shall include the probable cause of the false alarm.

410.04 - User Fees - An alarm user whose alarm system has resulted in the in the reporting of two (2) or more false alarms shall be charged a user fee of \$500.00 for any subsequent false alarms reported within the calendar year (January 1 through December 31).

Effective 3/15/94

X 410.05 - Notice - Upon notice of the first false alarm report for a particular alarm system, the City shall notify the alarm user by mail that a false alarm has been reported. The notice shall include a copy of the City's false alarm regulations. Upon notice of the second false alarm report for the alarm system, the City shall mail a copy of the notice to the alarm user. Upon receipt of the third and subsequent false alarm reports for a particular alarm system, the city shall notify the alarm user by mail that, within ten (10) days of the date of the City's notice, the appropriate user fee must be paid to the City or the alarm user must file a written notice of appeal with the City.

410.06 - Appeal - User fees or false alarm determinations which have been appealed shall be reviewed by the City Council, and a determination upon the appeal shall be made within a reasonable time following the notice of appeal. If the alarm user is not present when the Council reviews the appeal, the City shall notify the alarm user by mail of the result of the Council's review. User fees, as determined by the City, shall be paid within ten (10) days of the date of the City's notice of the Council's determination.

410.07 - Collection of Delinquent Fees. If payment of the user fee is not made within the time required by Section 410.05 or 410.06 of this Ordinance, the alarm user shall be subjected to a late payment fee of \$50.00. In addition, if the City is forced to institute collection procedures to collect user fees, the alarm user shall be responsible for all costs of collection, plus actual attorney's fees incurred.

410.08 - Excessive Alarm Report - When the operation of an alarm system has resulted in five (5) or more false alarms within 365 days, the City shall request the alarm user to provide the City with a written report indicating the actions taken or to be taken by the alarm user to discover or eliminate the cause of the false alarms. Failure to submit the written report within the time limits provided by the City shall be considered a violation of this Ordinance.

410.09 - Confidentiality - All information submitted in compliance with this Ordinance shall be held in confidence and shall be deemed a confidential report exempt from discovery to the extent permitted by law. Subject to the requirements of confidentiality, the City shall develop and maintain statistics for the purpose of ongoing alarm system evaluation.

410.10 - Prohibited Alarm Systems - Every audible alarm system located in or on a building, structure or facility within the City must be of the type that will automatically reset itself within no more than fifteen (15) minutes after having been activated. A violation of Section 409.10 of the Ordinance shall be punishable by a fine of \$300.00.

Section 410 Adopted 10/13/92

SECTION 411 - NUISANCE EVENTS USER CHARGE

411.01. Purposes - It is the intent of the city council by the adoption of this chapter to impose on and collect from the person or persons in charge of or responsible for any nuisance event or activity that generates extraordinary cost to the city that cost over and above the cost of providing normal law enforcement services and police protection city-wide.

411.02. Definitions. For the purpose of this chapter, the terms defined in this section shall have the meanings ascribed to them:

Last known address shall be the address shown on the records of the Dakota County Department of Property Taxation or a more recent address known to the police department. In the case of parties not listed in these records, the last known address shall be that address obtained by the police department after a reasonable search.

Mail: Service by mail shall mean by depositing the item with the United States Postal Service addressed to the intended recipient at his or her last known address with first class postage pre-paid thereon.

Nuisance event is one requiring special security assignment in order to protect the public peace, health, safety and welfare. A nuisance event includes, but is not limited to, the following: loud and boisterous conduct; noises and activities disturbing the peace; congregation of two (2) or more persons in intoxicated conditions or under the influence of drugs or alcohol; fighting or use of obscene or inflammatory language; loud music constituting a nuisance or disturbing the peace; activities causing excessive pedestrian or vehicular traffic and parking problems and congestions; events occurring after 11:00 p.m. to sunrise of the following day which disturbs the peace and tranquility of the neighborhood; use and display of narcotics, illegal drugs and controlled substances and paraphernalia for its use; congregating in a tumultuous, noisy or rowdy crowd; and indecent exposure and lewd conduct.

Owner: A person or persons shown to be owner or owners of property on the record of the Dakota County Department of Property Taxation.

Personal service: Service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence or place of business with a person of suitable age and discretion.

Police service fee is the fee to be imposed for law enforcement services associated with a special security assignment. Such fee may be either a flat fee of two hundred fifty dollars (\$250.00) or an additional amount of up to a total of one thousand dollars (\$1,000.00) based on, but not limited to, salaries of police officers while responding to or remaining at the nuisance event, the pro rata cost of equipment, the cost of repairing city equipment and property, and the cost of any medical treatment of injured police officers.

Responsible person is a person who owns the property where the nuisance event takes place, and/or a person in charge of the premises, and/or a person who organized or served as a host of the nuisance event. If the responsible person is a minor, then the parents or guardians of that minor will be considered responsible persons.

Service of notice by personal service shall constitute the delivery of the warning letter to the responsible person or by mailing it to the last known address of the responsible person.

Special security assignment is the assignment of police officers, services and/or equipment during a second or subsequent response to the nuisance event after the service of a written notice to the responsible persons that a police service fee may be imposed for costs incurred by the city for any subsequent police response.

411.03. Initial police responses to nuisance event. When any police officer responds to any nuisance event and determines that there is a threat to the public peace, health, safety or general welfare, the police officer may serve a written notice to the responsible person or persons that any subsequent police response to that same location or address within a thirty-day period shall be deemed a special security assignment and that the responsible person or persons may be liable for a police services fee.

411.04. Subsequent police responses; liability.

- (a) If, after a written notice is served pursuant to this chapter, a subsequent police response or responses are necessary to the same location or address within a thirty-day period, then each subsequent response or responses shall be deemed a special security assignment. Responsible persons who had previously received a notice of warning shall be jointly and severally liable for a police services fee for a special security assignment.
- (b) The amount of the police services fee shall be a debt owed to the city by the responsible person or persons.
- (c) The city reserves its rights to seek reimbursement for actual costs and damages exceeding one thousand dollars (\$1,000.00) through other legal remedies or procedures.
- (d) The police response or responses to a nuisance event may also result in the arrest and/or citation for violations of state or local laws or ordinances.

411.05. Cost; collection. The chief of police shall notify the city clerk in writing of the performance of each special security assignment, of the name and address of the responsible person or persons, the date and time of the incident, the services performed, and the amount of the police services fee. If the police services fee is in excess of two hundred fifty dollars (\$250.00), the chief of police shall provide documentation to support the additional amount. The city clerk shall thereafter cause appropriate billings to be made and be responsible for the collection of the police services fee.

411.06. Administrative appeal. An administrative appeal of a police services fee may be made to the city clerk within ten (10) days from the date of mailing of the billing. The request for a hearing shall be in writing and addressed to the city clerk and shall include a copy of the billing and grounds for the appeal. The city clerk may modify the service fee upon a finding that

the responsible person or persons had made a good faith effort to remedy the situation or that the nuisance event was not the fault of the person or persons filing the appeal.

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CHAPTER V: ANIMALS

SECTION 501 – INTENT

In order to protect the public health, safety, and welfare, the following regulations shall apply to the keeping of all animals as defined by this Chapter in the City.

SECTION 502 - DEFINITIONS

As used in this Chapter, the following terms have the following meanings:

AT LARGE: Not under "restraint" as defined herein.

BITE: To seize with teeth or jaws so that the skin of the person or animal seized has been nipped or gripped, or has been wounded or pierced, including scratches, and includes probable contact of saliva with an existing break or abrasion of the skin.

COMMERCIAL KENNEL: A place where three (3) or more dogs over six (6) months of age are kept, or a cattery where more than six (6) cats over six (6) months of age are kept on the same premises in a commercial zoned district, whether owned by the same person or not, for the purpose of selling, boarding for a fee, breeding for sale, or some other enterprise intended primarily for profit making purposes. The term commercial kennel shall include pet stores, but shall not include pet grooming shops, animal hospitals, or veterinary clinics.

GUARD DOG: A dog trained both to guard property and to attack persons or animals coming upon premises containing such guard dog.

HOUSEHOLD PET: A dog or cat, regardless of weight, or an animal not exceeding forty (40) pounds in weight that is usually and customarily considered a pet.

IMPOUND: The actual physical restraint of a dog or other animal within an enclosed structure which will keep said animal apart from any people or other animals, excluding its owner or persons acting under authority of the owner.

OWNER: A person, group, *or* corporation owning, keeping or harboring a dog or other animal.

POTENTIALLY DANGEROUS DOGS: Any dog that: 1) when unprovoked, inflicts bites on a human or domestic animal on public or private property; 2) when unprovoked, chases or approaches a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or 3) has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

POTENTIALLY DANGEROUS ANIMALS: Any animal that: 1) when unprovoked, inflicts bites on a human or domestic animal on public or private property; 2) when unprovoked, chases or approaches a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; 3) has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals. Added 6/19/2007

RESIDENTIAL HOBBY KENNEL: A place where three or more dogs over six (6) months of age are kept, or a cattery where six (6) or more cats over six (6) months of age are kept.

RESTRAINT: Shall have the following meanings in this Chapter:

(A) The controlling of an animal by a leash or other physical control.

(B) An animal while he is on the owner's property or while on another's property with that person's permission.

(C) The control of an animal by means of rope, chain, cable, suitable fence, fixed pen or structure sufficient in strength and size to allow the animal to move about, but also able to prevent the escape of the animal by climbing, digging, chewing, manipulation of locks, gates or any other means.

(D) The controlling of an animal within a vehicle being driven or parked.

SECTION 503 - EXEMPTION FOR POLICE DOGS:

This Chapter shall not apply to police dogs while in the line of duty.

SECTION 504 - LICENSE REQUIRED:

No person shall own, harbor, or keep within the City a dog or cat over six months of age unless a current license for such dog or cat has been obtained as herein provided. Licenses shall be issued on an annual basis and shall be for the whole of or UN-expired portion of the year ending on December 31 next following the first effective day of the license.

SECTION 505 - LICENSE APPLICATION:

The application for a license shall be made to the City appointed Animal Control Officials. It shall include such descriptive information as is necessary to provide a reasonable identification of the dog or cat and its owner. The license fee for such license shall be in an amount established by the City Council annually.

At the time of the license application, the owner of the dog or cat shall furnish proof that the dog or cat being licensed has been vaccinated for rabies and such vaccination is current. A license may be issued for dogs or cats less than six (6) months of age without proof of rabies vaccination provided that the Animal Control Officials shall issue a ticket requiring that proof of vaccination be furnished to the City within a reasonable time after the dog or cat reaches six (6) months of age.

SECTION 505(a) - LICENSE TAGS:

Upon issuance of a license by the Animal Control Official, the licensee shall be provided with a tag bearing the license number, the words "City of Mendota" and the year when the license begins or has begun. The issued tag shall be affixed securely to a collar or harness and, The City may also choose to approve at an owners request other forms of physical tagging or identification in lieu of metal tags. A license tag is not transferable to any other animal. If there is a change in ownership of a dog or cat during the license year, the new owner may have the current license changed to his name upon the payment of a transfer fee, or may secure a new license. If an official tag is lost, the owner may obtain a new tag by surrendering the receipt for the previous tag and by paying a sum to be determined by the City Council annually.

SECTION 506 - RESTRAINT OF ALL DOGS AT ALL TIMES:

All dogs shall be under restraint at all times while in public places.

SECTION 506 (a) - TREATMENT OF DOGS:

Every dog shall be provided with necessary food, water, and shelter. Any dog, which is kept outdoors or in an unheated enclosure, shall be provided with shelter and bedding as prescribed in Minnesota Statutes § 347.23.

SECTION 506 (b) - CONFINEMENT OF CERTAIN DOGS:

The owner shall confine within a building or secure enclosure any dog known to be dangerous or vicious, except when the dog is securely muzzled and in the control of a competent person.

SECTION 507 - OBLIGATION TO PREVENT NUISANCES:

It shall be the responsibility of the owner or custodian of any animal in the City, whether permanently or temporarily therein, to prevent such animal from committing any act that constitutes a nuisance. It shall be considered a nuisance for any animal, including cats and dogs, to habitually or frequently make animal noises including barking, crying, howling, meowing; or whimpering; to frequent school grounds, parks or other public areas while unrestrained; to chase vehicles; to fight with other animals; to chase and kill birds or other wildlife; to annoy any person

if such person is not on the property of the animal owner or custodian of the animal; to molest, defile, destroy any public or private property; or to leave excrement on any property, public or private.

SECTION 508 - ANIMAL POUND:

The City Council may designate as an animal pound a suitable kennel either within or outside the limits of the City.

SECTION 508 (a) - ANIMAL CONTROL OFFICIAL AND ASSISTANT:

The Council may designate a qualified Animal Control Official and such qualified assistants as may be deemed necessary.

SECTION 508 (b) - IMPOUNDING:

(1) Impoundment; Time Of Keeping: Such officers as the Council shall designate to enforce this Chapter may take up and impound in the designated City animal pound any animal found in violation of this Chapter that commits any act constituting a nuisance under this Chapter.

(2) Notice Of Impoundment: Immediately upon the impounding of an animal wearing a current license, the animal warden shall make a reasonable effort to notify the owner of such animal of such impoundment and the conditions whereby the owner may regain custody of the animal. Any oral notices shall immediately be confirmed in writing.

(3) Proof Of License: Any animal owner shall produce for the officer's inspection the owner's license or receipt if requested to do so by such officer.

(4) Impoundment Of Inhumanely Treated Animals: All animals seized on behalf of the City under Minnesota Statutes §§343.22 or 343.29 for cruel treatment to an animal must be held for redemption by the owner for at least ten (10) days unless a veterinarian authorizes immediate destruction of the animal. In the case of an animal raised for food or fiber products, the animal may not be seized or disposed of without prior examination by a licensed veterinarian pursuant to a warrant issued by a judge.

A. Security: A person claiming an interest in an animal seized under Minnesota Statutes, sections 343.22 or 343.29 may prevent disposition of the animal by posting security in an amount sufficient to provide for the animal's actual costs of care and keeping. The security must be posted within ten (10) days of the seizure inclusive of the date of the seizure.

B. Notice: The City must give notice of this subsection by delivering or mailing it to a person claiming an interest in the animal or by posting a copy of it at the place where the animal is taken

into custody or by delivering it to a person residing on the property, and telephoning, if possible. The notice must include:

A description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, telephone number, and contact person where the animal is kept;

A statement that a person claiming an interest in the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure or impoundment and that failure to do so within ten (10) days of the date of the notice will result in disposition of the animal; ...

A statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the person claiming an interest in the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law; and

A form that can be used by a person claiming an interest in the animal for requesting a hearing under this subsection.

Upon request of a person claiming an interest in the animal, if made within ten (10) days of the date of seizure, a hearing must be held within five (5) business days of the request, to determine the validity of the seizure and impoundment. In the case of a seizure pursuant to a warrant issued under Minnesota Statutes § 343.22, the judge who issued the warrant must hold the hearing. In the case of a seizure under Minnesota Statutes § 343.29, the City may either: a) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party; or b) use the services of a hearing officer to conduct the hearing. A person claiming an interest in the animal who is aggrieved by a decision of the hearing officer may seek a court order governing the seizure or impoundment within five (5) days of notice of an order.

SECTION 508 (c) - BITING; IMPOUNDMENT:

(1) It shall be the duty of every person having knowledge of a dog or cat bite, excluding bites where the victim is a member of the animal owners immediate family, or a bite by any animal suspected of having rabies which occurred within the City to report the same to the police as soon as practical after the bite occurs. This report shall include the name and address of the owner of the animal if known, the description of the animal, and the name, address and age if known of any person injured.

(2) Any animal, which may have exposed a person to rabies by bite or other manner, may be immediately seized whether on or off the owners premises and quarantined for a period of at least ten (10) days. Such impounding may be by the owner except as otherwise provided. The owner

shall notify the pound keeper and shall furnish written certification that the animal is being impounded.

In the case of an animal with no known owner, the animal shall be quarantined in the City pound. Where no current rabies vaccination of the animal can be proven or upon written demand by the bite victim to the City pound keeper or police officer, the animal shall be impounded at the City pound. The owner may, however, provide impoundment at an approved animal kennel or veterinarian, provided that until such provision is made the animal shall be impounded in the City pound. In either case, the owner shall be responsible for the impoundment costs and shall make arrangements in advance for the payment of these costs.

In the case of election to use an approved kennel, the owner shall furnish written proof that such animal is being so impounded. For the purposes of this section, an approved animal kennel shall mean a kennel within or outside the City limits that is approved by the City or the pound keeper and that has entered into an agreement with the City to keep animals in a manner consistent with this and all other ordinances of the City. The owner shall be responsible for the impoundment costs and shall make arrangements in advance for the payment of these costs including posting a bond or cash escrow of at least four hundred dollars (\$400.00) to assure proper care and maintenance of the animal.

(3) If the attending physician, health officer, police officer, or animal control officer deems it necessary, the animal shall be euthanized and examined for rabies to determine if it was diseased.

(4) The City may have an autopsy performed on any dead animal, which had been impounded, or on an animal dying while impounded, to determine if it was diseased and the cause of death.

(5) Upon expiration of the required ten (10) days, if the animal does not have rabies, it may be released and the pound keeper notified just prior to the release. If the animal is impounded in the City pound, such animal may be reclaimed as hereinafter provided.

(6) Any animal that has been bitten by a rabid animal or believed to have been exposed to rabies shall be confined and maintained in accordance with the rules and regulations promulgated by the State Board of Animal Health. It shall be the responsibility of the owner of the animal to notify the pound keeper of such bites and exposure to rabies. If the owner fails to provide as set forth above for the care and maintenance of the animal, then the City may at its discretion humanely destroy the animal.

SECTION 508 (d) -EXCEPTIONS TO IMPOUNDMENT:

Animals may be immediately destroyed if: 1) an animal is diseased, vicious, rabid, or exposed to rabies and cannot be impounded after a reasonable effort or without serious risk to the person attempting to impound or others; or 2) upon a proper determination by a licensed doctor of

veterinary medicine that the animal is suffering and is beyond cure through reasonable care and treatment.

SECTION 508 (e) - LENGTH OF IMPOUNDMENT:

Except as otherwise provided in this Chapter, all animals seized by or on behalf of the City must be held for redemption by the owner for at least five (5) regular business days of the impounding agency. If such animal has bitten a person, or is suspected of being rabid or believed to have been exposed to rabies, it shall be kept as specified in hereof. For the purpose of this Chapter, "regular business day" means a day during which the establishment having custody of an animal is open to the public not less than four (4) consecutive hours between the hours of eight o'clock (8:00) A.M. and seven o'clock (7:00) P.M.

SECTION 508 (f) - RECLAIMING OR DISPOSING OF IMPOUNDED ANIMALS:

(1) Reclaiming Impounded Animals: Before reclaiming a dog, cat, or other animal, the owner shall pay an impounding fee as determined by Council resolution, plus the cost to the City of keeping the animal in the pound. If at the end of the impounding period the owner does not reclaim the animal, such animal shall be deemed to have been abandoned and may be sold to any person.

(2) Unclaimed And Unredeemed Animals: At the end of the five (5) day period, all animals which remain unredeemed must be made available to any licensed institution, as defined in Minnesota Statutes § 35.71, subdivision 1, which has requested that number of animals, under the terms provided under Minnesota Statutes § 35.71. If such animal is not required by a licensed institution, the animal may be sold to any person. If the purchaser of the animal keeps or harbors the animal in the City, any required license shall be obtained before possession of the animal is given to the purchaser. If any animal is not reclaimed, released to an institution, or sold, then it may be destroyed in a humane manner.

(3) Reclaimed Or Released Dogs Or Cats: If an impounded, dog or cat requires a City license, such license shall also be obtained and an unlicensed penalty fee, as established by Council annually, shall be paid before the animal is released. No dog or cat shall be released until sufficient proof of vaccination has been shown. If no proof of vaccination can be shown the dog or cat may be released, but the Animal Control Official shall issue a notice requiring the owner to produce proof of vaccination within ten (10) days of release. If proof of vaccination is not produced within ten (10) days, the City may issue a citation.

(4) Treatment: Any animal which is impounded in the City pound shall be kept with kind treatment and sufficient food, water, and shelter for the animal's comfort, in accordance with the laws of the State.

SECTION 510 - KENNEL LICENSES:

(A) Requirements: No person shall operate a commercial or residential hobby kennel without a license to do so from the City Clerk. The license application shall state the name and address of the kennel owner, the type of kennel, the location of the kennel, and the number of dogs proposed to be kept. The license to operate a kennel shall be for one year and shall expire on December 31 of each year. Each application for a license shall include payment of a fee as established by the City Council from time to time.

In addition to the license required herein the applicant for a commercial kennel license must also secure a conditional use permit, and the kennel must be located in a commercial zoning district.

Each kennel license shall be posted conspicuously on the premises where said kennel is located.

Every kennel shall be kept at all times in a clean and sanitary condition and the dogs shall be reasonably restrained from annoying the neighborhood or the general public by loud, frequent or habitual barking, yelping or howling.

(B) Revocation: Any kennel license may be revoked by the City Council for cause by reason of any violation of City Code, or by reason of the violation of any health or nuisance ordinance, order, law, or regulation.

(C) No commercial kennels are allowed within the city limits of the City of Mendota. No commercial kennel licenses will be issued in the City of Mendota.

(D) The City of Mendota will place a maximum limit of residential hobby kennels to three existing dog and three existing catterys. These kennel licenses will be given upon request to kennels that were known to exist at least six months prior to the establishment of this ordinance. These kennels will be considered grand-fathered and can continue to annually renew their licenses if they continue to meet the criterion of this ordinance and are operated by the original licensees. If a kennel ceases operation or fails to renew its licenses within 30 days of its expiration date, that license will not be renewed for the original operators or issued to any new interested parties. The residential hobby kennel license cannot be transferred to any other person or property.

SECTION 511 - ANIMAL CONTROL OFFICIAL REPORTS AND RECORDS:

(A) Reports: The City Animal Control Official shall:

1. Report, account for, and pay yearly to the City all monies received on behalf of the City such as license or other fees; and

2. Give a written report yearly to the City stating the number of licenses issued, the number of animals impounded, the duration of the impoundment, and a reporting of all animals sold or destroyed.

3. Report any infractions of this ordinance to the City Clerk

(B) Records: The City pound must maintain the following records of the animal in custody, and preserve the records for at least six (6) months:

1. The descriptions of the animal by species, breed, sex, approximate age, and other distinguishing traits;
2. The location at which the animal was seized;
3. The date of seizure;
4. The name and address of the person from whom any animal three (3) months of age or over was received;
5. The name and address of the person to whom any animal three (3) months of age or over was transferred.

The records must be in a form permitting easy perusal by the public and open to the public during regular business hours.

SECTION 512 - ANIMALS WITHIN CITY LIMITS:

Except as otherwise provided, no person shall keep any animal other than a house hold pet within the City and no more than two (2) dogs over the age of six (6) months shall be maintained at anyone residence or premises.

(A) Keeping Of Non-domesticated Animals Prohibited:

1. Definition: As used in this Section, "non-domesticated animal" means: Any wild animal, reptile or fowl, which is not naturally tame or gentle but is of a wild nature or disposition or which, because of its size, vicious nature, or other characteristics would constitute a danger to human life or property.
2. Prohibited Animals: No person shall keep, maintain, or harbor within the City any of the following animals:
 - a. Any animal or species prohibited by Minnesota or Federal law.

b. Any non-domesticated animal or species, including but not limited to the following:

(1) All skunks, whether captured in the wild, domestically raised, de-scented or not de-scented, vaccinated against rabies or not vaccinated against rabies.

(2) All large cats of the family Felidae, such as lions, tigers, jaguars, leopards, cougars and ocelots, except commonly accepted domesticated house cats.

(3) All members of the family Canidae, such as wolves, foxes, coyotes, dingoes and jackals, except domesticated dogs.

(4) All crossbreeds, such as crossbreeds between dogs and coyotes or dogs and wolves, but does not include crossbreeds between domesticated animals.

(5) All poisonous snakes, such as rattlesnakes, coral snakes, water moccasins, cobras or copperheads. .

(6) All raccoons.

(7) All ferrets.

(8) All apes and monkeys.

(9) All other animals not listed explicitly above, but which can be reasonably defined by the term non-domesticated animal, including bears, wolverines and badgers.

3. Selling Prohibited: No person shall offer for sale, within the City limits, any animal prohibited in this section.

4. Exceptions:

a. A one-day children's petting zoo set up by a licensed bonded and insured company for a public or private event.

b. Nonpoisonous snakes, birds kept indoors, hamsters, mice, rabbits, gerbils, white rats, guinea pigs, chinchillas, turtles or lizards, and similar small animals capable of being maintained continuously in cages are also exempt and do not require a permit.

c. Persons keeping animals for a public zoo as volunteers, docents or otherwise, any bona fide research institution or veterinary hospital are exempt from the permit requirement, provided protective devices adequate to prevent such animals from escaping or injuring the public are provided.

d. Handicapped persons keeping monkeys trained as household helpers are exempt.

5. Impounding Of Non domesticated Animals: Any non-domesticated animal kept in violation of this Section may be impounded by the City, and after being so impounded for five (5) days or more without being reclaimed by the owner may be destroyed or sold. Any person reclaiming such impounded animal shall pay the costs of impounding and keeping the same.

6. Existing Non-domesticated Animals: Anyone keeping or maintaining any non-domesticated animal at the time that this Section is adopted has ninety (90) days in which to comply with the provisions of this Section. Extensions beyond ninety (90) days may be granted for just cause by the City Council.

Penalty: Violation of any provision of this subsection (A) shall be a misdemeanor.

SECTION 512 (a) - EXCEPTIONS:

A person may apply to the City Council for a permit to keep animals other than household pets within the City. The Council may grant such a permit if it finds that such animals may be kept without creating a nuisance.

SECTION 512 (b) - CONDITIONS OF KEEPING:

No person shall allow any animal under his ownership or control to disturb the peace and quiet of the City or to otherwise become a public or private nuisance so as to annoy, injure, or endanger the health, safety, comfort, or repose of the public. Nor shall the owner of any animal maintain it in a manner so as to create a nuisance to owners of property adjacent to or in close proximity with the property on which said animal is located.

SECTION 512 (c) FACTORS TO BE CONSIDERED:

Factors to be considered in deciding whether the keeping of an animal creates a public or private nuisance include, but are not limited to, the following:

- (A) The condition of any structure or building wherein any animal is kept.
- (B) The proximity of pens, fences, and other structures to adjacent property lines.
- (C) The general nature and characteristics of neighborhood.
- (D) The number of animals kept on any one parcel.
- (E) The relative size of the parcel on which the animals are kept.

(F) The type of animal being kept.

(G) The extent to which neighboring property is protected from the effects of Said animals, e.g. solid fences, landscape screening, buffer areas, etc.

(H) The presence of objectionable odors and/or noise.

(I) The relative danger the animal would pose if exposed to the general public.

SECTION 512 (d) - STABLES AND OTHER STRUCTURES:

(A) Every stable or other building wherein any animal is kept shall be constructed of such material and in such manner that it can be kept clean and sanitary at all times.

(B) The City may, if it deems such measures necessary in order to avoid a nuisance, require that any such building be screened tightly against flies, and or that it be provided with running water, drain sewer connection, floor impervious to water, facilities for the accumulation of manure and such other measures as maybe necessary to prevent a nuisance

SECTION 512 (e) - PENS; YARDS:

All structures, pens, coops or yards wherein animals are kept or permitted to be shall be maintained in a clean and sanitary condition, devoid of all rodents and vermin, and free from objectionable odors. Such structures shall be maintained in good condition and shall be sufficient in strength and size to allow the particular animal being kept to move about, but also able to prevent the escape of the animal by climbing, digging, chewing, manipulation of locks, gates or any other means if such restraint is necessary to prevent the creation of a nuisance. The City, upon complaint of any individual, shall inspect any such structure or premises and issue any such order as may be necessary to carry out the provisions hereof.

SECTION 512 (f) - ANIMALS AT LARGE:

No person shall suffer, allow, or permit an animal owned by them or in their care to be at large within the City.

SECTION 501 - INTENT

In order to protect the public health, safety, and welfare, the following regulations shall apply to the keeping of all dogs in the City including all living dogs brought into or born in the City, both prior to or after the enactment of the following regulations.

SECTION 502 - INDIVIDUAL DOGS

Each individual dog in the City shall receive appropriate vaccinations, including but not limited to rabies, administered by a licensed veterinarian. Each dog shall also be registered with said veterinarian.

SECTION 503 - RUNNING AT LARGE PROHIBITED

No dog shall be permitted to run at large within the limits of the City.

SECTION 504 - DOGS ON A LEASH

The restriction imposed by Section 503 shall not prohibit the appearance of any dog upon streets or public property when such dog is on a leash or is kept under control of the accompanying person.

SECTION 505 - IMPOUNDING

The police officer shall impound any dog running at large within the City and shall give notice of the impounding to the owner of such dog if known. In case the owner is unknown or cannot be found, the City Clerk shall post notice of impounding at the City Hall. Such notice of impounding shall provide that if the dog is not claimed within five (5) days of the delivery or posting of the notice, it will be killed or sold. If such dog is not claimed within the time specified and all fees and charges not paid, the police officer is authorized to dispose of such dog in a humane manner, or to sell such dog at private sale upon payment of all fees and charges. Any dog impounded under the provision of this Ordinance shall be housed and fed. An impounding fee and a charge per day for feeding shall be charged for any dog held at the pound. The police officer may designate a suitable kennel either within or without the City as the City Pound.

SECTION 506 - QUARANTINE

Any dog or puppy that has bitten a person shall immediately be impounded for at least ten days and kept apart from other animals, under the supervision of a veterinarian, until it is determined whether such dog or puppy had or has a disease which might have been transmitted by such bite. Such impounding may be done by the owner, and need not be at the City Pound, but if it is not at the City Pound, the owner shall notify the City Clerk immediately and shall furnish proof in writing that such dog is being so impounded. Upon the expiration of ten days, if it is determined the dog or puppy does not have a disease, the dog may be released and the City Clerk shall be notified. If the dog was impounded within the pound, it may be reclaimed in ten days if it is determined the dog or puppy does not have a disease. All expenses incurred by the City for impounding a dog shall be assessed to the owner of the dog.

Any dog which has been bitten by a rabid or suspected rabid animal shall be impounded and kept in the same manner for a period of six months, unless the dog has been vaccinated for rabies within the previous year, then the impoundment period would be forty days. The owner of a dog which has been bitten by a rabid animal shall notify the City Clerk in the event of the dog's illness or death during quarantine. All expenses incurred by the City for impounding a dog shall be assessed to the owner of the dog.

SECTION 507 - DESTRUCTION OF DANGEROUS ANIMALS

Any dog which has, when unprovoked, bitten on more than one occasion may be deemed a dangerous animal. The police officer or his appointee, after having been advised of the existence of such animal, shall proceed as follows:

- a. The owner of the alleged dangerous dog shall be notified in writing as to the dates, times, places and persons bitten, and shall be given ten working days to request a hearing before the City Clerk or his or her appointee for a determination as to the dangerous nature of the dog. If the owner does not request within ten working days of said notice, the City Clerk or his or her appointee shall make such order as he or she deems proper. He or she may order the police officer to take the animal into custody for destruction. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the police officer. All expenses incurred by the City for destroying a dog shall be assessed to the owner of the dog.
- b. If the owner requests a hearing for determination as to the dangerous nature of the dog, the hearing shall be held before the City Council at a date not more than four weeks after the demand for such hearing. The records of the police officer shall be admissible for consideration without further foundation. After considering all evidence, the City Council shall make a determination as to whether or not the animal is found to be dangerous and the City Council shall make such order as it deems proper. If the City Council orders the police officer to take the animal into custody for destruction, the owner shall make the animal immediately available to the police officer. All expenses incurred by the City for destroying the dog shall be assessed to the owner of the dog.

SECTION 508 - CONFINEMENT OF CERTAIN DOGS

Each owner shall confine within a certain building or secure enclosure any dangerous dog and not take such dog out of the enclosure unless the dog is securely muzzled.

SECTION 509 - INVESTIGATION

For the purposes of discharging the duties imposed by this Ordinance and to enforce its provisions, the police officer is empowered to enter upon the premises in compliance with Minnesota Statutes upon which a dog is kept or harbored, and to demand the exhibition by the owner of such dog. It is further provided that the police officer may enter the premises where any animal kept in a reportedly cruel or inhumane manner, and demand to examine such animal and to take possession of such animal when, in his opinion, it require humane treatment:

however, only in such cases may the animal be removed from the premises.

SECTION 510 - ORGANIZED ANIMAL FIGHTING PROHIBITED

No organized dog-fighting, cock-fighting, bull-baiting, bear-baiting or other pitting of one animal against another shall be permitted as pursuant to Minnesota State Law on Cruelty to Animals, Chapter 343 and 346, and particularly Section 343.31.

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CHAPTER VI: NUISANCES

SECTION 601 - INTENT

These regulations pertaining to nuisances are designed to prevent and eliminate those conditions that are hazardous and endanger people, private and public property, and the natural environment. The nuisance regulations established in this section shall apply to all existing and future structures and land uses in all zoning districts before any building permit is approved, or any license or permit of any kind granted, the City Council shall determine that the proposed use will not constitute a public nuisance.

DEFINITIONS

1. **Abandoned building** - Abandoned building shall mean any building or portion thereof which has stood with an incomplete exterior shell for longer than three years or any building or portion thereof which has stood unoccupied for longer than one year and which meets one or more of the following criteria:
 - A. Unsecured.
 - B. Boarded.
 - C. Having multiple exterior Housing Code or Building Code violations.
 - D. Placarded as "Unfit for Human Habitation" pursuant to the Mendota City Code.
2. **Abatement deadline** - Abatement deadline shall mean the date by which the nuisance must be abated as specified in a written order.
3. **Annoyances** - Annoyances shall mean any condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public.
4. **Dangerous structure** - Dangerous structure shall mean any structure which is potentially dangerous to persons or property including specifically, but not exclusively:
 - A. A structure which is in danger of partial or complete collapse.

- B. A structure which has any exterior parts such as chimneys, eaves, porches, siding, railings, or trim which are loose or in danger of falling.
 - C. A structure which has any parts such as porches, stairs, ramps, rails, balconies, or roofs which are accessible and which are collapsed, in danger of collapsing, or unable to support a person.
- 5. **Enforcement officer** - Enforcement officer shall mean the City Clerk, Fire Chief, Health Officer, or a duly authorized representative.
 - 6. **Extermination** - Extermination shall mean the eradication of vermin by methods such as poison, fumigation, or trapping.
 - 7. **Hazardous waste** - Hazardous waste shall mean any material so defined by Minnesota Statutes or Minnesota Code of Agency Rules.
 - 8. **Illegal activities** - Illegal activities shall mean any action or condition which constitutes a violation of law.
 - 9. **Interested party** - Interested party shall mean any owner of record, occupying tenant, or lien holder of record.
 - 10. **Junk** - Junk shall mean accumulations of discarded or disused machinery, household appliances, automobile bodies, broken or unused metal, wood, lumber, cement, electrical fixtures, plumbing fixtures, building materials except for building materials awaiting use in construction or improvement presently in progress on the same premises, trash, debris, rubbish situated outside of a building or if situated inside building stored in such a manner as to constitute a fire, health or safety hazard or in a manner conducive to the harboring of vermin.
 - 11. **Last known address** - Last known address shall mean the address shown on the records of the Dakota County Auditor or a more recent address known to the enforcement officer. In the case of parties not listed in the Auditor's records, the last known address shall be that address obtained by the officer after a reasonable search.
 - 12. **Noxious substances** - Noxious substances shall mean substances, solid, liquid or gas, which are offensive, detrimental to health, hurtful, or dangerous. Noxious substances shall include specifically, but not exclusively, any dead animal, putrid carcass, decayed animal matter, green hides, or any

putrid, spoiled, foul, or stinking beef, pork, fish, offal, hides, skins, fat, grease or liquors, human or animal excrement, manure, or sewage.

13. **Nuisance** - Nuisance shall mean any substance, matter, emission, or thing which creates a dangerous or unhealthy condition or which threatens the public peace, health, safety, or sanitary condition of the City or which is offensive or has a blighting influence on the community and which is found upon, in, being discharged or flowing from any street, alley, highway, railroad right of way, vehicle, railroad car, water, excavation, building, erection, lot, grounds, or other property located within the City of Mendota.
14. **Obstructions** - Obstructions shall mean objects or conditions which interfere with, endanger or prevent the ordinary or safe use of any property.
15. **Owner** - Owner shall mean any person shown to be the owner of the property on the records of the Dakota County Auditor.
16. **Personal service** - Personal service shall mean service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence with a person of suitable age and discretion then residing therein.
17. **Privy** - Privy shall mean any type of non-flush fixture for the receipt and storage of human waste including specifically, but not exclusively, fixed units with vaults as well as portable units.
18. **Property** - Property shall mean any parcel of land whether vacant or not, whether any structure thereon is occupied or not, or whether submerged or not.
19. **Refuse** - Refuse shall mean putrescible and non-putrescible and combustible and non-combustible waste, including specifically, but not exclusively, paper, garbage, material resulting from the handling, processing, storage, preparation, serving and consumption of food, vegetable or animal matter, offal, rubbish, plant wastes such as tree trimmings or grass cuttings, ashes, incinerator residue, street cleanings, construction debris, detached vehicle parts and unlicensed vehicles which are not stored inside a building and which are located in a residential district as designated in the Mendota Zoning Ordinance, and industrial and market wastes.
20. **Responsible party** - Responsible party shall mean any one or more of the following:

- A. Agent.
 - B. Collector of rents or assignee.
 - C. Holder of a contract for deed.
 - D. A mortgagee or vendee in possession.
 - E. Receiver or executor or trustee.
 - F. Lessee.
 - G. Other person, firm, or corporation exercising apparent control over a property.
21. **Service by mail** - Service by mail shall mean by depositing the item with the United States Postal Service addressed to the intended recipient at his last known address with first class postage prepaid thereon.
22. **Unoccupied building** - Unoccupied building shall mean a building which is not being used for a legal occupancy or a building which has been ordered vacated by the city.
23. **Unsecured** - Unsecured shall mean:
- A. Open to entry by unauthorized persons without the use of tools or ladders.
 - B. Open to the elements because of broken, cracked or missing windows, doors siding, molding, brick, stucco, concrete, metal, roofing or other exterior building surfaces.
24. **Vermin** - Vermin shall mean specifically, but not exclusively, rats, mice, skunks, raccoons, chipmunks, woodchucks, snakes, bats, grackles, starlings, pigeons, bees, wasps, hornets, cockroaches or flies.
25. **Weeds** - Weeds shall mean useless and troublesome plants commonly known as weeds including specifically, but not exclusively, noxious weeds such as Cocklebur, Burdock, Tumble Mustard, Wild Mustard, Wild Oats, Canadian Thistle, Oxeye Daisy, Quack Grass, French Weed, and Russian Thistle.

SECTION 602 - PUBLIC NUISANCE DEFINED

Whoever by his act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

- (1) Maintains or permits a condition which unreasonably annoys, injures, or

endangers the safety, health, comfort, or repose of any considerable number of members of the public; or

- (2) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- (3) Is guilty of any other act or omission declared by law or this Ordinance to be a public nuisance and for which no sentence is specifically provided.

SECTION 603 - PUBLIC NUISANCE AFFECTING HEALTH

The following are hereby declared to be nuisances affecting health:

- (1) All diseased animals running at large;
- (2) Carcasses of animals not buried or destroyed within 24 hours after death;
- (3) Accumulations of manure, tin cans, bottles, trash, or other debris;
- (4) Sewage disposal facilities and garbage cans which are not rodent-free or fly-tight, or which are so regularly unmaintained as to constitute a health hazard;
- (5) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- (6) All noxious weeds and other rank growths of vegetation upon public or private property that pose a threat to public health;
- (7) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- (8) Any junkyard or vehicle dismantling yard;
- (9) The effluent from any cesspool, septic tank, drainfield or human sewage disposal system, discharging upon the surface of the ground, or dumping the contents thereof at any place except as authorized; and
- (10) All waste materials, debris, refuse, or garbage, except vegetable matter compost shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse. Existing uses shall comply with this provision within six months following enactment of this Ordinance.

SECTION 604 - PUBLIC NUISANCES AFFECTING SAFETY

The following are declared to be nuisances affecting public peace and safety:

- (1) All snow and ice not removed from public sidewalks 12 hours after the snow or other precipitation causing the condition has ceased to fall;
- (2) All trees, hedges, billboards, or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection;
- (3) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- (4) Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this code or other applicable law;
- (5) Radio aerials or television antennae erected or maintained in a dangerous manner;
- (6) Any use of property abutting on a public street or sidewalk or any unauthorized use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;
- (7) All hanging signs, awnings, or other similar structures over streets and sidewalks, or so situated so as to endanger public safety;
- (8) The allowing of ice or snow to fall from any building or structure upon any street or sidewalk;
- (9) Any barbed wire fence less than six feet high above the ground and within three feet of a public sidewalk or way;
- (10) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- (11) Excessive amounts of waste water cast upon or permitted to flow upon streets or other public property;
- (12) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, railroad ties, furniture, household goods, wood or other material, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items accumulated, or in a manner creating fire, health, or safety hazards from such accumulation;

- (13) Any well, hole, or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- (14) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
- (15) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance;
- (16) The depositing of garbage, refuse, trash or other debris in a public park or other public property or a public right-of-way or an adjacent private property;
- (17) The ownership, possession or control of any. unused refrigerator or other container, with doors which fasten automatically when closed of sufficient size to retain any person to be exposed and accessible to the public without removing doors, lids, hinges or latches, or providing locks to prevent access to the public; and
- (18) All other conditions or things which are likely to cause injury to the person or property of anyone.
- (19) It shall be unlawful for any person to deposit snow, ice, or other refuse as defined in Minn. Stat. § 169.42 upon the public roads, streets, alleys, highways, parks, or any other public property within the City of Mendota. Any snow so deposited may be removed by the City and the cost of such removal shall be assessed and charged to the person in violation hereof. Violation of this provision shall constitute a misdemeanor.
Effective 2/9/93

SECTION 605 - NUISANCES

Nuisances shall include specifically, but not exclusively, the following:

- 1. **Junk, refuse, noxious substances, hazardous wastes** - Junk, refuse, noxious substances, or hazardous wastes laying, pooled, accumulated, piled, left, deposited, buried, or discharged upon, in, being discharged or flowing from, any property, body of water, structure, or vehicle; except for:
 - A. Junk, refuse deposited at places designated and provided for that purpose in accordance with the regulations of the City.
 - B. Junk refuse stored in accordance with the regulations of the City.

- C. Compost piles established and maintained in accordance with regulations.
 - D. Dead animals buried in accordance with the regulations of the City.
 - E. Green hides received, stored, dressed, packed, or sold in accordance with the regulations of the City.
 - F. Sewage discharged in accordance with the regulations of the City.
- 2. **Firewood** - Piles of firewood in excess of 200 cubic feet stored closer than 10 feet to buildings used for human habitation, piles of firewood higher than six feet from point of elevation from ground, or piles of firewood harboring vermin.
 - 3. **Weeds** - Grass or Weeds which have grown upon any property to a height of eight or more inches or which have gone to seed.
 - 4. **Stagnant water** - Stagnant water standing on any property and any property, container, or material kept in such a condition that water can accumulate and stagnate.
 - 5. **Vermin harborage** - Conditions which in the opinion of the enforcement officer are conducive to the harboring or breeding of vermin including specifically, but not exclusively, materials stored less than 12 inches off the ground.
 - 6. **Vermin infestations** - Infestations of vermin except for bees or pigeons kept in accordance with the regulations of the City.
 - 7. **Sanitary structures** - Structures for sanitation such as privies, vaults, sewers, private drains, septic tanks, cesspools, drain fields which have failed or do not function properly or which are overflowing, leaking, or emanating odors. septic tanks, cesspools, or cisterns which are abandoned or no longer in use unless they are emptied and filled with clean fill. Any vault, cesspool, or septic tank which does not meet the following criteria:
 - A. The bottom and sides are cemented to be impervious to water.
 - B. The bottom is at least six feet below grade.
 - C. Proper ventilating pipes and covers are provided.

- D. Located at least 20 feet from any house, residence, building, or public street.
 - E. Cleaned at least once a year.
 - F. The property served is located such that connection to the public sewer is not available.
- 8. **Manure vaults** - Manure vaults which have become offensive. Manure vaults for stables where more than two horses are kept which are not cleaned twice in each week.
 - 9. **Unsecured building** - Building or portion thereof which is unsecured.
 - 10. **Dangerous structure** - Dangerous structure.
 - 11. **Abandoned building** - Abandoned building.
 - 12. **Safety hazard** - Any thing or condition on property which, in the opinion of the enforcement officer, may contribute to injury of any person present on the property. Safety hazards shall include specifically, but not exclusively, open holes, open foundations, open wells, wires which are too close to the ground or in violation of any applicable safety code, dangerous trees or limbs, abandoned refrigerators, or barbed wire fences less than six feet above the ground and within three feet of a public sidewalk or way, dangerous and unguarded machinery in any public place or so situated, stored or operated on private property so as to attract the public, antennae erected or maintained in a dangerous manner, or trapping devices.
 - 13. **Fire hazard** - Any thing or condition on property which, in the opinion of the enforcement officer, creates a fire hazard or which is a violation of the Fire Code.
 - 14. **Health hazard** - Any thing or condition on property which in the opinion of the enforcement officer creates a health hazard or which is a violation of any health or sanitation law including specifically, but not exclusively the following:
 - A. Public exposure of persons having a contagious disease.
 - B. Diseased animals not under treatment.
 - C. Diseased animals running at large.

15. **Statutory and Common Law nuisance** - Any thing or condition on property which is known to the common law of the land, the Statutes of Minnesota, or the Mendota City Code including specifically, but not exclusively, the Mendota Zoning Ordinance, as a nuisance.
16. **Obstructions** - Obstructions shall include specifically, but not exclusively, the following:
 - A. Use of a public street or sidewalk or use of property abutting a public street or sidewalk which causes large crowds of people to gather, obstructing traffic, streets or sidewalks, except in accordance with the regulations of the City.
 - B. Excavations obstructing public property except in accordance with the regulations of the City.
 - C. Placing or storing boxes, goods, wares, merchandise, building materials, machinery, business or trade articles on public property except for the purpose of immediately transferring the same to some other proper place.
 - D. Signs, awnings, vegetation or other objects located on private property which are not constructed and maintained as required by law, which prevent persons from having a clearview of all traffic approaching an intersection, or which overhang and obstruct public property.
 - E. Obstructing the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other substances.
 - F. Digging, excavating, placing culverts, placing dams, or doing any act which alters or affects the drainage of property or alters or affects flows of the public storm sewer and drainage ditch system except in accordance with the regulations of the city.
17. **Burial** - The burial or entombment of any remains of a deceased human being except within a public or private cemetery established under law.
18. **Annoyances** - Annoyances shall include specifically, but not exclusively, the following:
 - A. Noises, odors, vibrations or emissions of smoke, fumes, gas, soot, cinders, ash or otherwise which exceed the standards of the

Minnesota Pollution Control Agency, or if no standard is then in effect which have an unreasonable and adverse effect.

B Operation of artificial lighting facilities upon private property without an effective shade or equivalent device to protect nearby residential premises from being adversely affected thereby.

C. Any offensive trade or business as defined by law and not otherwise licensed by the city.

SECTION 606 - ABANDONED VEHICLES

606.01 - Abandonment of Vehicles - No person shall abandon any vehicle within the City and no person shall leave any vehicle at any place within the City for such time or under such circumstances as to cause such vehicle reasonably appear to have been abandoned.

606.02 - Leaving of Wrecked, Non-Operating Vehicles on Street - No person shall leave any partially dismantled, non-operating, wrecked, or junked vehicle or any vehicle not properly licensed for operation within the state of Minnesota by the State of Minnesota on any street or highway within the City.

606.03 - Disposition of Wrecked or Discarded Vehicles - No person in charge or control of any property within the City, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, non-operating, wrecked junked or discarded vehicle or any vehicle not properly licensed for operation within the City for a longer time than 7 days, except that this Ordinance shall not apply with regard to a vehicle within a closed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner in the City.

605.04 - Removal - A police officer is hereby authorized to remove or have removed any

vehicle left at any place within the City which reasonably appears to be in violation of this Ordinance or lost, stolen or unclaimed. Such vehicle shall be removed and stored at the expense of the owner until disposed of according to law.

SECTION 607 - FIREARMS

607.01 - No person shall shoot, fire off, discharge or explode any gun, air gun, pistol, revolver, or other firearm within the corporate limits of the City of Mendota, except as hereinafter provided.

607.02 - Nothing herein contained shall prohibit the use of firearms:

- (1) By duly authorized police and law enforcement officers;
- (2) When used in the lawful defense of person, property or family;
- (3) When used in conjunction with a Youth Firearm Safety Training Program duly approved by the appropriate officials of the State of Minnesota, and when operated under the supervision of Instructors certified by the Department of Conservation of the State of Minnesota;
- (4) When used in conjunction with a target-shooting program supervised or approved by the National Rifle Association or a similarly recognized organization;
- (5) By the owner, tenant, or lawful user of property solely for the protection of his or her own person or property, or person or property of other rightful users of such property;
- (6) When used with the permission of the City Council; and
- (7) No use permitted in the foregoing subsections of this subdivision shall be deemed to authorize the doing of any act or thing otherwise forbidden or regulated by any laws of the United States of America or the State of Minnesota or regulations promulgated pursuant to such any laws.

SECTION 608 - DISORDERLY CONDUCT

Whoever does any of the following in a public or private place, knowing or having reasonable grounds to know that it will, or will tend to, alarm, disturb, or create hazardous conditions for other persons or person or provide an assault or breach of peace is guilty of disorderly conduct:

- (1) Engages in brawling or fighting;
- (2) Disturbs an assembly or meeting, not unlawful in its character;
- (3) Engages in offensive, obscene, or abusive language or in boisterous and noisy conduct tending to arouse excessive alarm, anger, or resentment in other persons or person; or
- (4) Engages, or assists in making any other improper conduct or diversion to the annoyance or disturbance of any citizen or other persons or person in the City of Mendota.

SECTION 609 - DUTIES OF CITY OFFICERS

The City Council shall enforce the provisions of this Ordinance with reference to nuisances affecting public health and safety. The police officer shall enforce the provisions relating to nuisances resulting from abandoned vehicles, firearms, and disorderly conduct. Such officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

SECTION 610 - VIOLATIONS

1. No person shall, directly or indirectly or by omission, create a nuisance.
2. No responsible party shall allow a nuisance to remain upon or in any property, structure or vehicle under his control.
3. No owner of any truck, trailer, or railroad car, or other vehicle shall leave the vehicle standing on or along any street, highway, freeway, or railroad track, or other public or private property within the City of Mendota carrying or containing any refuse, noxious substance, or hazardous waste, except as otherwise permitted by the Mendota City Code.

SECTION 611 - DISCLOSURE OF RESPONSIBLE PARTY

Upon the request of the enforcement officer, a responsible party or owner shall disclose the name of any other responsible party or owner known to him. This shall include specifically, but not exclusively, the persons for whom he is acting, from whom he is leasing the property, to whom he is leasing the property, with whom he shares joint ownership, or with whom he has any conveyancing contract.

SECTION 612 - INSPECTION OF UNOCCUPIED BUILDINGS

An owner or responsible party shall, upon the request of the enforcement officer, provide the officer with access to all interior portions of any unoccupied building in order to permit the officer to make a complete inspection.

SECTION 613 - ORDER TO CEASE

In the event that an enforcement officer observes a person creating a nuisance, the officer may, after presenting proper identification, order that the person cease creating a nuisance.

SECTION 614 - ENFORCEMENT OFFICER AUTHORIZED TO ENTER

The enforcement officer shall be authorized to enter any property or structure in the city for the purpose of enforcing and assuring compliance with the provisions of this Chapter.

SECTION 615 - AUTHORITY TO ABATE

1. The City is authorized to abate nuisances in accordance with the procedures set forth herein. All abatement costs incurred shall be charged against the property as a special assessment to be collected in the manner provided for in the City Code, except when a request is filed for a review of an emergency abatement the assessment hearing shall be replaced by the hearing provided for herein.
2. Abatement may include specifically, but not exclusively, removing, cleaning, exterminating, cutting, mowing, grading, repairing, draining, securing, boarding, barricading, fencing, and demolishing.
3. Abatement costs shall include specifically, but not exclusively, the cost of the abatement; the cost of investigation, such as title searches, inspection, and testing; the cost of notification; filing costs; and administrative costs.

SECTION 616 - SERVICE

When service of an order or notice is required, any one or more of the following methods of service shall be adequate:

1. Personal service.
2. Service by mail, unless it is a written order which gives three days or less for the completion of any act required by the order.
3. If the appropriate party or address cannot be determined after reasonable effort, by posting a copy of the order in a conspicuous place on the property.
4. If a mailed order or notice is returned by the United States Postal Service, a good faith effort shall be made to determine the correct address, unless the order or notice orders abatement and that abatement has been completed.

SECTION 617 - ABATEMENT PROCEDURE

Unless the nuisance is as described herein, the City may abate the nuisance by the procedure described below.

1. **Order** - The enforcement officer shall serve a written order upon the owner and any responsible party known to the officer. The order may also be served upon any party known to have caused the nuisance. The order shall contain the following:
 - A. A description of the property sufficient for identification which shall include the legal description.
 - B. The location of the nuisance.
 - C. A description of the nuisance and the basis upon which it is declared to be a nuisance.
 - D. The remedial action required to abate the nuisance.
 - E. The abatement deadline, as determined by the enforcement officer allowing a reasonable time for the performance of any act required.
 - F. A statement that the order may be appealed and a hearing before the City Council obtained by filing a written request with the City Clerk before the appeal deadline which shall be the abatement deadline.

designated in the order or seven calendar days after the date of the order, whichever comes first.

- G. A statement that unless the remedial action is taken before the abatement deadline or unless a request for a hearing is filed with the City Clerk within the time specified, the city may abate the nuisance and charge all costs incurred against the property as a special assessment to be collected in the same manner as taxes.
2. **Setting hearing date** - In the event that an appeal is filed with the City Clerk, the City Council shall within three weeks fix a date for a hearing.
 3. **Notice** - The City Clerk shall mail a notice of time date, time, place, and subject of the hearing to the owner and known responsible parties.
 4. **Hearing** - At the time of the hearing, the City Council shall hear from the enforcement officer and any other persons who wish to be heard. After the hearing, the City Council shall adopt a resolution confirming or modifying the order of the enforcement officer. If the Council's resolution requires abatement, the Council shall fix a time within which the nuisance must be abated and provide that unless corrective action is taken or unless the Council's determination is appealed to the District Court within the time specified, the city may abate the nuisance. The City Clerk shall mail a copy of the resolution to the owner and known responsible parties.
 5. **Abatement**- Unless the remedial action is taken or an appeal to the District Court filed within the time specified, the city may abate the nuisance.

SECTION 618 - SUBSTANTIAL ABATEMENT PROCEDURE

When the enforcement officer determines that a nuisance exists on a property, and the cost of abatement of the nuisance is estimated to exceed two thousand dollars, or the abatement involves demolition of a building other than a structure accessory to a residential building, or the abatement substantially diminishes the value of the property, and except in the case of an emergency as provided for herein, the city may abate the nuisance by the procedure described below. A good faith estimate of the abatement costs, not the actual cost calculated after the abatement is completed, shall be the basis for determining which abatement procedure shall be used.

1. **Order** -The enforcement officer shall serve a written order upon the owner, all interested parties, and any responsible party known to the officer. The order shall contain the following:

- A. A description of the property sufficient for identification which shall include the legal description.
 - B. The location of the nuisance.
 - C. A description of the nuisance and the basis upon which it is declared to be a nuisance.
 - D. The remedial action required to abate the nuisance.
 - E. The abatement deadline, as determined by the enforcement officer allowing a reasonable time for the performance of any act required.
 - F. A statement that unless the remedial action is taken before the abatement deadline, the matter will be referred to the City Council which may order the city after a hearing to abate the nuisance and charge all costs incurred against the a special assessment to be collected in the same manner as taxes.
2. **Setting hearing date** - Unless the remedial action is taken within the time specified in the written order, the enforcement officer may notify the City Council that substantial abatement is necessary and appropriate. Upon being notified by the enforcement officer, the City Council shall within three weeks fix a date for a hearing.
3. **Notice** - Written notice of the time, date, place and subject of the hearing shall be given as follows:
- A. At least ten days prior to the hearing, the enforcement officer shall serve the notice upon the owner and interested parties by personal service. If, after reasonable effort personal service cannot be made, either of the following methods of notice shall be considered adequate:
 - (1) Confirmed mail service which is either certified mail with signed receipt returned or first class mail confirmed by written response.
 - (2) Mailing the notice to the last known address and publishing the notice once a week for two weeks in the official newspaper and posting the notice in a conspicuous place on the building or property.

- B. At least ten days prior to the hearing, the enforcement officer shall mail a notice to any responsible party known to the enforcement officer.
- 4. **Hearing** - At the time of the hearing, the City Council shall hear from the enforcement officer and any other persons who wish to be heard. After the hearing, the City Council shall adopt a resolution confirming or modifying the order of the enforcement officer. If the Council's resolution requires abatement, the Council shall fix a time within which the nuisance must be abated and provide that unless corrective action is taken or unless the Council's determination is appealed to the District Court within the time specified, the city may abate the nuisance and charge all costs incurred against the property as a special assessment to be collected in the same manner as taxes. The enforcement officer shall mail copies of the resolution to any of the persons required to be notified in Subd. 3 for whom the enforcement officer has a current mailing address.

SECTION 619 - EMERGENCY ABATEMENT PROCEDURE

When the enforcement officer determines that a nuisance exists on a property and the nuisance constitutes an immediate danger or hazard which if not immediately abated will endanger the health or safety of the public and there does not exist sufficient time to follow the procedures of the previous sections, the city may abate the nuisance by the procedure described below.

- 1. **Order by mayor** - The City may order emergency abatement by an administrative order signed by the mayor. A good faith effort shall be made to inform the owner of the action being taken.
- 2. **Notice of the abatement** - Following an emergency abatement and as soon as the costs incurred are known to the enforcement officer, he shall serve written notice upon the owner. The notice shall contain:
 - A. A description of the property sufficient for identification which shall include the legal description.
 - B. The location of the nuisance.
 - C. A description of the nuisance and the basis upon which it is declared to be a nuisance.
 - D. The remedial action taken by the City.

- E. The reasons for immediate action.
 - F. The costs incurred in abating the nuisance.
 - G. A statement that unless the owner requests a hearing before the City Council to review the actions taken by the city by filing a written request with the City Clerk within 14 calendar days after the date of the notice, the city will charge all costs incurred against the property as a special assessment to be collected in the same manner as taxes.
- 3. **Setting hearing date** - In the event that a request for a review is filed with the City Clerk, the City Council shall within three weeks fix a date for a hearing.
 - 4. **Notice** - At least ten days prior to the hearing, the City Clerk shall mail notice of the date, time, place and subject of the hearing to the owner.
 - 5. **Hearing** - At the time of the hearing, the City Council shall hear from the enforcement officer and any other persons who wish to be heard. After the hearing the City Council may adopt a resolution levying a special assessment for all or a portion of the costs incurred in abating the nuisance. The enforcement officer shall mail a copy of the resolution to the owner.

SECTION 620 - PENALTY

Any person who violates any provision of this Chapter or fails to comply with a lawful written order issued pursuant to said Sections or a lawful oral order issued pursuant to said Sections shall be guilty of a misdemeanor.

SECTION 621 - OTHER REMEDIES

Nothing in this chapter shall be construed to limit the authority of the City under other provisions of the City Code.

SECTION 622 - NOISE

622.01 - Declaration of Policy - The presence of loud, unnecessary and unusual noises or noise which are unusual or unnatural as to time, place or use, within limits of the City of Mendota, affect and are a detriment to public health, comfort, convenience, safety, welfare and

prosperity of the inhabitants of the City of Mendota. The provisions hereinafter contained and enacted are necessary in the public interest and are in pursuance of and for the purpose of securing and promoting the public health and comfort, convenience, safety, welfare, and prosperity of others.

622.02 - Unnecessary Noises Prohibited - In General - No person within the limits of the City of Mendota shall make, continue, or cause to be made or continued any loud, unnecessary or unusual noise which unreasonably annoys, disturbs, injures or endangers the comfort, convenience, safety, health, welfare or repose of persons in the vicinity thereof.

622.021 - Noise Source Limitations

No person shall use, operate or permit the use or operation of any radio, receiving set, musical instrument, phonograph, tape recorder, paging system, machine or other device for the production or reproduction of sound in a distinctly and loudly audible manner as to unreasonably disturb the peace, quiet and comfort of any person nearby. Operation of any such radio, receiving set, musical instrument, phonograph, tape recorder, paging system, machine or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of a structure or building which is located in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building shall be *prima facie* evidence of a violation of this section.

Adopted 2/9/94

622.03 - Particular Noises Defined - The following acts are declared to be loud, unnecessary, or unusual noise in violation of this Ordinance, but such enumeration shall not be deemed to be exclusive, namely:

- a. The sounding of any horn or signalling device on any automobile, motorcycle, or other vehicle, except as a danger warning.
- b. Yelling, shouting, hooting, whistling, or singing so as to annoy the quiet, comfort,

or repose of persons in any office, dwelling, hotel, motel, or other place of residence, or of any persons in the vicinity.

- c. The operation between the hours of 6:00 P.M. to 7:00 A.M. of any pile driver, steam shovel, pneumatic hammer, derrick, power or electric hoist, presses, drills, lathes, or other power appliance, the use of which is attended by loud or unusual noise or vibrations.
- d. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening or destruction of bales, boxes, crates, or containers, between the hours of 6:00 P.M. and 7:00 A.M.

622.04 - Variances.

(a) Authority. The City Council shall have authority, consistent with this section, to grant variances from the sound level restrictions contained in 622.02, 622.021 and 622.03.

(b) Application. Any person seeking a variance shall file an application with the City Council on a form prescribed by it. The application shall include the following information:

- 1. Name of responsible person.
- 2. Dates during which the variance is requested.
- 3. Location of a particular noise source and times of operation.
- 4. Nature of the noise source and equipment involved.
- 5. Reasons why a variance is sought.
- 6. Steps taken to minimize the noise level from the source.

(c) Fee. The application shall be accompanied by the payment of a fee, which fee shall be established and may be amended by City Council resolution.

(d) Action on Application:

- 1. The next City Council Meeting following the receipt of the application, the City Council shall hold a hearing on the application.

2. The Council may by resolution grant, deny, modify or revoke the variance request.
3. The variance may be granted subject to conditions, including restricting the hours of operation of the noise source, a time limit for

the duration of the variance or attempts the applicant shall make to bring the noise source into compliance with this section.

Adopted 2/9/94

622.05 - Severability - If any part or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

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CHAPTER VII: OPEN BURNING RESTRICTIONS

SECTION 701 - EFFECT OF REGULATIONS

The State of Minnesota Air Pollution Control Regulation No. 8 entitled "Open Burning Restrictions" is incorporated and adopted by reference by the City of Mendota, and one copy of said regulation is attached hereto marked as the official copy, and will be filed with the Clerk and attached to this Ordinance.

SECTION 702 - REFUSE BURNING RESTRICTIONS

The State of Minnesota Air Pollution Control Regulation No. 8 entitled "Open Burning Restriction", shall control all open burning in the City of Mendota.

A. Refuse Burning Restrictions

1. No person shall dispose of refuse by open burning or cause, suffer, allow or permit open burning of refuse. In areas where no refuse collection service is available on the effective date of this regulation, as amended, open burning on residential premises, of refuse originating from dwelling units on premises shall not be in violation of this section until such refuse collection service becomes available, but no later than three years from the effective date of this ordinance, or at some earlier time as hereinafter provided.
2. Except as hereafter provided in this paragraph, where any city without regard to location, has a total population of less than 2,500 persons according to the most recent official state or federal census, finding of the Municipal Commission, or estimate of the Metropolitan Council, persons dwelling within said city may dispose of refuse originating from dwelling units on residential premises within said city by open burning an said residential premises. However, persons dwelling within those portions of such City having a population density in excess of 100 occupied dwelling units per square mile, as determined by the Director or by the city government with approval of the Director, shall be required to comply with all provisions of this ordinance and the aforesaid Regulation No. 8. A dwelling shall be occupied for the purposes of this ordinance if it is occupied as either a seasonal or a permanent dwelling. Refuse originating from dwelling units shall include, for the purposes of this subsection, household rubbish, leaves and other natural matter, not including garbage and other perishable solid wastes, which emanate from a dwelling unit.

Refuse from agricultural operations shall not be disposed of by open burning under this ordinance.

B. Prohibition of Salvage Operations by Open Burning

1. No person shall conduct, cause or permit the conduct of a salvage operation by open burning; and
2. A salvage operation shall not constitute an installation within the meaning of APC 3.

C. Restrictions on Open Burning of Tree Leaves

The open burning of leaves is prohibited effective two months after refuse collection service or a general solid waste management system is available. Until such time, burning of leaves is permitted only in containers meeting fire safety standards.

D. Exceptions

Exceptions here from may be allowed upon application and approval by the Director where accompanied by the recommendation of the local fire marshal or other responsible local official having jurisdiction thereof. Such burning shall not be permitted, however, if contrary to other applicable laws, ordinances and regulations. Exemption to conduct open burning, under the provisions of this regulation does not excuse a person from the consequences, damages, or injuries which may result therefrom. In areas in which open burning is permitted pursuant to this regulation, persons seeking a permit to conduct open burning under paragraph (o), subsections (2), (3) and (5), may obtain such a permit from a regular forest officer or a town fire warden pursuant to Minnesota Statutes, §88.17 and §88.18, or a person designated by the County Board of Commissioners. The Director shall be notified of the name and address of such designated person before he may perform such duties. Such notification shall be effective for one year from the date of receipt by the Agency. Failure to comply with the provisions of paragraph (d), subsection (5) of Regulation No. 8 will constitute violation of this ordinance and render the person subject to the legal remedies of the Agency, including but not limited to the termination of the right of said person to conduct open burning pursuant to paragraph (D), subsections (2), (3) and (5). The following are exceptions for which application may be made:

1. Fires purposely set for the instruction and training of public and industrial fire-fighting personnel;
 2. Fires set for the elimination of a fire hazard which cannot be abated by any other practicable means;
 3. Fires purposely set for forest or game management in accordance with practices recommended by the Minnesota Department of Conservation, the Minnesota Department of Agriculture and the United States Forest Service; and
 4. The burning of hydrocarbons which must be wasted through the use of atmospheric flares;
 5. The burning of trees, brush, grass and other vegetable matter in the clearing of land, right of way maintenance operations and agricultural crop burning is permitted under the following conditions:
 - a. The prevailing winds at the time of burning must be away from any municipality;
 - b. The location of burning must not be within 1,000 feet of an occupied residence other than those located on the property on which the burning is conducted;
 - c. Oils, rubber or other similar materials which produce unreasonable amounts of air contaminants may not be burned;
 - d. The burning must not be conducted within 1,000 feet of any highway or public road and, in any event, must be controlled so that a traffic hazard is not created; and
 - e. The burning must not be conducted within one mile of any military, commercial, county, municipal, or private airport or landing strip.
 6. An exception to the prohibition and conditions of paragraph (d) subsection (5) of this regulation may be granted by the Agency or its designated agent.
- E. Open fires for ground thawing for underground utility repair and construction are allowed under the following conditions:

1. Fires must be started with materials which do not generate appreciable smoke;
2. Fuel used must be coke of less than one percent sulfur content when the thawing site is within 500 feet of dwelling or occupied buildings. Coke of higher sulfur content may be used in remote areas except conditions where an air pollution alert has been declared under provisions of Regulation APC 15;
3. The ambient air quality for sulfur dioxide and carbon monoxide must not be exceeded downwind of the thawing site; and
4. Wherever possible, including but not limited to spot repairs propane gas thawing torches or other devices causing minimal pollution shall be used.

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CHAPTER VIII: ZONING

SECTION 801 - ESTABLISHMENT OF ZONING DISTRICTS

801.01 - Establishment of Zoning Districts - The following zoning districts are provided in order to promote and encourage the efficient economic development of land, buildings, and all usable structures. The City of Mendota is hereby divided into the following districts which shall be known by the following respective symbols and names:

R	Residential District
C	Commercial District
FP	Floodplain District
CO	Conservation District

801.02 - Zoning Map - The areas comprising these zoning districts and the boundaries of said districts are as shown upon the map attached hereto and made part of this City Code. The Official Zoning Map for the City, showing all proper notations, references and other information, is on file with the City Clerk.

801.03 - Interpretation of the Zoning Map - Where, due to the scale, lack of detail or illegibility of the official zoning map there is an uncertainty, contradiction or conflict as to the intended location of any zoning district boundary as shown thereon, the Zoning Administrator shall make an interpretation of said map upon request of any person. Any person aggrieved by any such interpretation may appeal such interpretation to the Zoning Board of Appeals. The Zoning Administrator, and the Zoning Board of Appeals, in interpreting the zoning map or deciding any appeal, shall apply to the following standards:

- A. Zoning district boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or along the centerlines of roads, rights-of-way or line fixed by dimensions shown on the zoning map, or to follow elevational contour lines.
- B. Where zoning district boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.
- C. Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on this zoning map, shall be determined by the use of the map scale shown thereon.

- D. If, after the application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary line, the boundary line shall be determined in a reasonable manner, considering the history of uses of property and the history of zoning ordinances and amendments in the City of Mendota, as well as all other relevant facts.

SECTION 802 - ZONING DISTRICTS

802.01 - District R - Residential

A. **Intent**

This district designates areas of the City where there is a concentration of existing single-family development on small lots. Nearly all of the land within this district is developed, and there is little room for expansion.

B. **Permitted Uses**

1. Single-family dwellings on lots larger than 15,000 square feet without City central sanitary sewer service;
2. Single-family dwellings on lots larger than 10,000 square feet with City central sanitary sewer service;
3. Public recreation;
4. Historic sites;
5. Utility lines; and
6. Accessory uses;

C. **Conditional Uses**

1. Home occupations;
2. Cemeteries;
3. Churches;
4. Single-family dwellings on lots smaller than 15,000 square feet without City central sewer service;

5. Public utility buildings;
6. Municipal buildings; and
7. Multi-family dwellings;

D. Prohibited Uses and Structures

All other uses and structures which are not specifically permitted as of right or by a conditional use permit shall be prohibited in the R District.

E. General Regulations

Additional requirements for parking, Signs, sewage systems, and area and height regulations are set forth in Articles III through VI.

802.02 District C - Commercial

A. Intent

The commercial area is established to accommodate those businesses that require accessibility to major highways in order to successfully function. All commercial uses must be served by central public sewer, when the City installs such a system.

B. Permitted Users

1. Retail sales trade and services including eating and drinking establishments;
2. Auto service stations, and car washes;
3. Historic sites;
4. Municipal buildings;
5. Office/medical and related facilities;
6. Commercial recreation; and
7. Accessory uses (including parking, landscaping, fences, incidental repair, processing and storage and essential services).

C. Conditional Uses

1. Schools and educational facilities;
2. Public utilities and public utility building;
3. Wholesale business;
4. Clubs and lodges; and
5. Any other uses which are not listed as permitted in the Commercial District but are permitted or conditional in the Residential District.

D. Prohibited Uses and Structures

All other uses and structures which are not specifically allowed as permitted or conditional uses or cannot be considered an accessory use, shall be prohibited in the C Commercial District.

- E. Storage Standards. All material and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: recreational equipment and construction and landscaping materials and equipment currently being used on the premises.

There shall be no outside storage of either materials or products except through the issuance of a conditional use permit. Adopted 4/10/07

F. General Regulations

Additional requirements for parking, signs, sewage systems, and height regulations are set forth in Articles III through IV.

802.03 - District FP - Floodplain

A. Intent

This district is intended to apply in those areas of the City that are subject to periodic flooding which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood projection and relief, and impairment of the base, all of which adversely affect the public health, safety and general

welfare. The purpose of this Ordinance is to protect the public health, safety and general welfare, by regulating the placement of structures in flood prone areas.

B. Permitted Uses

1. Any and all forms of commercial agriculture and commercial horticulture as defined by this Ordinance;
2. Forestry, grazing and gardening;
3. Public and commercial recreational uses such as golf courses, tennis courts, driving ranges, picnic grounds, boat launching sites, swimming areas, parks, wildlife and nature preserves, target ranges, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, hiking and horseback riding trails, which require no structures or facilities obstructing flood waters;
4. Residential open space uses such as lawns, gardens, parking areas, and play areas; and
5. Utility lines.

C. Prohibited Uses and Structures

All uses and structures which are not specifically permitted as of right shall be prohibited in the Floodplain District.

802.04. - District CO - Conservation

A. Intent

The Conservation District is intended to apply to those areas within the City where the natural features are unique, endangered, or could easily be extensively damaged by development. Areas included in this zone are steep slopes, major drainage ways, unique wooded areas and other lands which have been found to be of statewide scenic and environmental significance. The City finds that, in order to best protect the public health, safety and general welfare, it is necessary to strictly regulate the development activities within the Conservation District.

B. Permitted Uses and Structures

1. Public and private recreational uses such as: parks, hiking trails, wildlife and nature preserves and other such uses which require no permanent structures;
2. Utility facilities such as: transmission lines, pipe lines, drainage aids or other related uses, so long as the placement of such structures does not substantially alter the scenic or natural quality of the land;
3. Gardening; and
4. Residential open space uses such as lawns, landscaped yards and play areas.

C. Prohibited Uses and Structures

All uses and structures which are not specifically permitted as of right shall be prohibited in the Conservation District.

SECTION 803 - HEIGHT AND PLACEMENT REGULATIONS

803.01 - Height and Placement Regulations - Except as otherwise specifically provided in this Ordinance, no structure shall be erected or maintained between any lot line and the pertinent setback distance listed below; and no structure shall be erected or maintained which exceeds the height limit specified below. Where a lot fronts on two streets within 30 degrees of being parallel but not at their intersection, no rear setback is required. The side setback requirement applies to a side lot line and also to any lot line which is neither a front, rear nor side lot line. The required side yard on the street side of a corner lot shall be the same as the required front yard on such street.

Placement and Heights of Structures

Setback Limit*

<u>District</u>	<u>Side Setback</u>	<u>Rear Setback</u>	<u>Height Limits</u>
Commercial	None**	5 ft.	35 ft.

Residential	6 ft.@	15 ft.@	35 ft.
Floodplain	NA	NA	35 ft.
Conservation	NA	NA	35 ft.

@ for buildings only

* Any sponsor who proposes any construction or alteration that would exceed a height of 200 feet above ground level at the site shall notify the Commissioner of the Minnesota Department of Transportation at least 30 days in advance, as required by Aeronautics Rule 14 MCAR 1.3015, Subdivision C; and shall present a certified copy of such notification to the City at least 10 days before any building permit is issued.

*See Section 803.03 for front setbacks.

*Six feet if adjacent to a residential use.

803.02 - Land Use Density and Intensity Regulations - Except as otherwise specifically provided in this Ordinance, no development, use or structure shall exceed the density and intensity limit specified below.

<u>Minimum Lot Width</u> <u>District</u>	<u>Minimum Lot Area</u>	<u>At Frontage Line</u>
Commercial	None	None
Residential	10,000 sq. ft.*	60 ft.
Floodplain	NA	NA
Conservation	NA	NA

*15,000 sq.ft. is the minimum lot area permitted without City sanitary sewer service. However, any lot of record in the Residential District that was recorded with the Dakota County Recorder prior to the adoption date of this Ordinance, shall be deemed a buildable lot, regardless of the availability of sanitary sewer service.

803.03 - Structure Setback Requirements

<u>Setback from</u>	<u>Residential District</u>	<u>Commercial District</u>
Centerline of	50 ft.	Off of public right Local Street
		of-way
Centerline of	75 ft.	Off of public right
State Highway		of-way
Mississippi River Shoreline (normal high water mark	200 ft.	200 ft.
Mississippi River Bluff line	40 ft.@	40 ft.@

@ Existing buildings less than 40 feet from the may be replaced if destroyed by accidents or acts of nature.

SECTION 804 - NON-CONFORMING USE

804.01 - Intent - It is the intent of this Ordinance to permit legal non-conforming uses and structures existing on the effective date of this Ordinance or amendment thereto, to continue until they are removed, but not to encourage their survival.

804.02 - Non-Conforming Use-and Structures - Any structure or use existing upon the effective date of the adoption of this Ordinance and which does not conform to the provisions of the Ordinance, may be continued subject to the following conditions:

- A. No such use shall be expanded or enlarged except in conformity with the provisions of this Ordinance.
- B. If a non-conforming use is discontinued for a period of one year, further use of the structures or property shall conform to this Ordinance.

- C. If a non-conforming use is replaced by another use, the new use shall conform to this Ordinance.
- D. If a non-conforming structure is destroyed by any cause, to an extent exceeding fifty percent of its fair market value as indicated by the records of the County Assessor, a future structure on the site shall conform to this Ordinance except for structures whose only non-conformance is the minimum setback from the bluff.
- E. Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

SECTION 805 - PERFORMANCE STANDARDS

805.01 - Intent - These performance standards are designed to prevent and eliminate those conditions that are hazardous and endanger people's private and public property, and the natural environment. The performance standards established in this section shall apply to all future structures and land uses in all zoning districts. The standards shall also apply to existing development where so stated. Before any building permit is approved, the City Building Inspector or the City Council shall determine whether the proposed use will conform to the performance standards.

Amended 6/9/92

805.02 - Performance Standards for Structures, Traffic Control, and Parking

805.021 - Residential Construction Performance Standards - The following standards shall apply to all residential structures built or brought into the City after the effective date of the adoption of these regulations:

- A. **All residential structures shall be built in accordance with the State Uniform Building Code.**

Repealed 9-11-07

A. Section 1 Codes adopted by reference. The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes chapter 16B.59 to 16B.75, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this ordinance. The Minnesota State Building Code is hereby incorporated in this ordinance as if fully set out herein. Adopted 9-11-07

Section 2. Application, Administration and Enforcement. The application, administration, and enforcement of the code shall be in accordance with Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by Minnesota Statutes, 16B.62, subdivision 1, when so established by this ordinance.

The code enforcement agency of this municipality is called the Mendota Code Enforcement Official.

This code shall be enforced by the Minnesota Certified Building Official designated by this Municipality to administer the code (Minnesota statute 16B.65) subdivision 1.

Section 3. Permits and Fees. The issuance of permits and the collection of fees shall be as authorized in Minnesota Statutes, 16B.62, subdivision 1. Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the city of Mendota. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minnesota statute 16B.70.

Section 4. Violations and Penalties. A violation of the code is a misdemeanor (Minnesota statutes 16B.69).

Section 5. Building Code Optional Chapters. The Minnesota State Building Code, established pursuant to Minnesota Statutes 161.59 to 16B.75 allows the Municipality to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code.

The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for this municipality.

1. Chapter 1306 Special Fire Protection Systems
 2. Chapter 1309 International Residential Code
 3. Chapter 1335 Flood Proofing Regulations
 4. Chapter 1325 Solar Energy Systems
- B. All residential structures shall possess a minimum width of 20 feet and a minimum length of 20 feet. A conditional use permit shall be required for a temporary residential structure that does not meet these standards, but is used with a residential structure that meets these standards is being built. The conditional use permit may allow the temporary structure to exist on a lot for a period not to exceed one year.
- C. No basement, garage, tent, or accessory building shall be at any time used as a dwelling. The basement portion of a finished home may be used for normal eating and sleeping purposes, provided it is properly damp-proofed, has suitable fire protection, and is otherwise approved by the Building Inspector.

805.022 - Relocating Structures - A conditional use permit shall be required for all permanent relocation of structures. Relocation of non-residential construction sheds and other non-residential temporary structures to be located on a lot for less than 18 months requires no permit. For relocation of structures requiring a permit, the applicant shall submit photographs showing all sides of the structure that is to be located. The Planning Commission may also require photographs of surrounding lots and structures. The Planning Commission shall consider the compatibility of the structure to be relocated with structures and uses on surrounding lots.

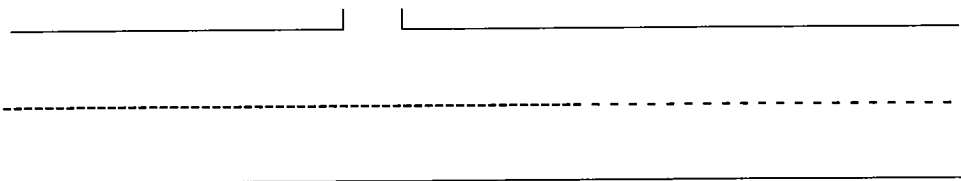
The Planning Commission shall report its conclusions to the City Council. If the City Council decides that relocation of the structure would depreciate the value of structures of lots surrounding the lot upon which it is to be moved, then the permit shall be denied.

805.023 - Landscaping Maintenance - All structures requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.

805.024 - Traffic Control - The traffic generated by any use shall be channelized and controlled in a manner that will avoid: a) congestion on the public streets, b) traffic hazards, and c) excessive traffic through residential areas, particularly truck traffic.

On corner lots, nothing shall be placed or allowed to grow in such a manner as to impede vision between a height of two and one-half and ten feet above the centerline grades of the intersecting streets, to a distance such that a clear line of vision is possible of the intersecting street from a distance of 50 feet from the intersection of the right-of-way lines.

No obstruction in shaded area
of clear sight triangle



805.025 - Parking - Every vehicle parked upon any street with the curb shall be parked parallel to the curb and with the right-hand wheels of such vehicle within 12 inches of the

curb. On other streets, the vehicle shall be parked to the right of the main travel portion thereof and parallel thereto and in such a manner as not to interfere with the free flow of traffic.

805.0251 - Parking Restrictions - No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places:

- (a) on a sidewalk;
- (b) in front of a public or private driveway;
- (c) within an intersection;
- (d) within 10 feet of a fire hydrant;
- (e) on a crosswalk;
- (f) within 20 feet of a crosswalk at an intersection;
- (g) within 30 feet upon the approach to any flashing beacon stop sign or traffic control signal located at the side of the roadway;
- (h) between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone unless a different length is indicated by signs or markings.
- (i) within 50 feet of the nearest rail of a railroad crossing; and
- (j) at any place where official signs prohibit stopping.

805.0252 - Parking - One and two-family dwellings shall provide accessory parking on the same lot. Vehicles which can be seen from the street must have current license plates.

805.0253 - Length of Parking - No vehicle shall be upon any street in any one place for a longer continuous period than twenty-four (24) hours.

805.0254 - Snow Removal - Except when otherwise posted, marked, or metered, no vehicle shall be parked on the street or alleys in such a manner as to obstruct or interfere with the snow plowing or snow removal.

805.0255 - Towing of Parked Vehicles - The police department, and all member thereof, are hereby authorized to remove and tow away, or have removed or towed away by commercial towing service, any vehicle illegally parked in any place in violation of the terms

of the code or the statutes of Minnesota, or any vehicle which blocks the use of a fire hydrant, or obstructs or may obstruct the movement of any emergency vehicles.

Vehicles so impounding shall be surrendered to the duly identified owner or operator thereof only upon payment of the impounding and storage fees assessed against said vehicle. Vehicle so impounded may be placed at any commercial establishment, operating vehicle storage facilities or at public vehicle pounds established by the City.

805.03 - Soil Erosion and Sedimentation Control

805.031 - General Standards

- A. All development shall conform to the natural limitations presented by the topography and soil as to create the best potential for preventing soil erosion.
- B. Slopes over eighteen percent in grade shall not be developed.
- C. Development on slopes with a grade between twelve to eighteen percent shall be carefully reviewed to insure adequate measures have been taken to prevent erosion, sedimentation, and structural damage.
- D. Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.
- E. Land shall be developed in increments of workable size, such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.
- F. The drainage system shall be constructed and operational as quickly as possible during construction.
- G. Whenever possible, natural vegetation shall be retained and protected.
- H. Where the topsoil is removed, sufficient arable soil shall be set aside for re-spreading over the developed area. The soil shall be restored to a depth of four (4) inches and shall be of a quality at least equal to the solid quality prior to development.

- I. When soil is exposed, the exposure shall be for the shortest feasible period of time. No exposure shall be planned to exceed 60 days. Said time period may be extended only if the Planning Commission is satisfied that adequate measures have been established and will remain in place.
- J. The natural drainage system shall be used as far as is feasible for storage and flow of runoff. Storm water drainage shall be discharged to retention basins or other treatment facilities. Diversion of storm water to marshlands or swamps shall be considered for existing or planned surface drainage. Marshlands and swamps used for storm water shall provide for natural or artificial water level control. Temporary storage areas or retention basins scattered throughout developed areas, shall be encouraged to reduce peak flows, erosion damage, and construction cost.

805.032 - Exposed Slopes - The following measures shall be taken to control erosion during construction.

- A. No exposed slope should be steeper in grade than five (5) feet horizontal to one (1) foot vertical.
- B. At the foot of each exposed slope, a channel and berm should be constructed to control runoff. The channelized water should be diverted to a sedimentation basin (debris basin, silt basin or silt trap), before being allowed to enter the natural drainage system.
- C. Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. there runoff collection behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. Such measures should consist of either an asphalt paved flow apron and drop chute laid down the slope, or a flexible slope drain. At the base of the slope drain or flow apron, a rock energy dissipator should be installed to prevent erosion at the discharge end.
- D. Exposed slopes shall be protected by whatever means will effectively prevent erosion considering the degree of slope, soils material, and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch should be anchored to slopes with liquid as halt, stakes, and netting, or should be worked into the soil to provide additional slope stability.

- E. Control measures, other than those specifically stated above, may be used in place of the above measures, if it can be demonstrated that they will as effectively protect exposed slopes.

805.033 - Preservation of Natural Drainageways

805.0331 - Waterways

- A. Generally, storm sewers are not acceptable alternatives to the use of the natural above-ground drainage system to dispose of runoff. Storm sewers may only be used where it can be demonstrated that the use of the aboveground natural drainage system will inadequately dispose of runoff. Above-ground runoff disposal waterways may be constructed to augment the natural drainage system.
- B. The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten (10) year storm. Adequacy shall be determined by the expected runoff, when full development of the drainage area is reached.
- C. The banks of the waterway shall be protected with a permanent turf vegetation.
- D. The banks of the waterway should not exceed five (5) feet horizontal to one (1) foot vertical in gradient.
- E. The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks-of the waterway.
- F. The bed of the waterway should be protected with turf, sod, or concrete. If turf or sod will not function properly, rip rap may be used. Rip rap shall consist of quarried limestone, fieldstone (if random rip rap is used) or construction materials provided said construction materials are limited to asphalt, cement and concrete. The rip rap shall be no smaller than twelve (12) inches square, nor no larger than two (2) feet square. Construction materials shall be used only in those areas where the waterway is not used as part of a recreation trail system.
- G. If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Either gravel or rip rap would be allowed to prevent erosion at these points.

805.034 - Waterway Velocity

- A. The flow velocity of runoff in waterways shall be controlled to a velocity that will not cause erosion of the waterway.
- B. Flow velocity should be controlled through the installation of diversions, berms, slope drains, and other similarly effective velocity control structure.

805.035 - Sediment Control

- A. To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated through out, the contributing watershed.
- B. Temporary pervious sediment traps could consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. Such structures would serve as temporary sediment control features during the construction state of development.
- C. Permanent impervious sediment control structures consist of sediment basins (debris basins, desilting basins, or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

805.04 - Sewage Disposal Standards

805.041 - General Provisions

- A. Raw sewage, septic tank effluent, or seepage from a soil absorption system shall not be discharged onto the ground surface, into abandoned wells or water bodies of surface water, or into any soil or rock formation, the structure of which is not conducive to purification of water by filtration, or into any well or other excavation in the ground which does not comply with the other requirements of this Ordinance.
- B. Bulldozers, trucks, or other heavy machinery shall not be driven over the system after installation.
- C. In areas with a high groundwater table, the final disposal unit shall be a tile field. The bottom of the trenches shall be not less than 3 feet above the highest known or calculated water table.

- D. The portions of any buried sewer more than 50 feet from a well shall be of adequate size and constructed of cast iron, vitrified clay, cement-asbestos, concrete or other pipe material acceptable to the State Board of Health. Clay pipe and clay pipe fittings shall conform to A.S.T.11. specifications for standard strength or extra strength clay pipe and clay pipe fittings. No building drain or building sewer shall be less than 4 inches in diameter.
- E. The system shall consist of a building sewer, a septic tank, and a soil absorption unit. The soil absorption unit shall consist of a sub-surface disposal field. All sewage shall be treated in the septic tank and the septic tank effluent shall be discharged to the treatment field.
- F. Septic tank effluent shall not be discharged into an agricultural tile line or drainage system.

805.042 - Specific Standards - The installation of individual sewage treatment systems shall be in accord with the regulations contained within the Minnesota Pollution Control Agency guidelines entitled "6 MCAR 4.8040 Individual Sewage Treatment Systems Standards". Such standards, including Sections A through K and Appendices A through E of 6 MCAR 4.8040, are hereby incorporated into this zoning ordinance by reference.

805.05 - Drug-related Devices

A. Purpose

The purposes of these regulations are as follows:

1. To protect and promote the public health, safety and general welfare of the people of the City of Mendota by prohibiting the sale and possession of drug-related devices in the City of Mendota; and
2. To deter the use of controlled substances in the City of Mendota by controlling certain devices associated with their use.
3. To reduce the availability of drug-related devices in order to prevent their availability from inducing, promoting, suggesting or increasing the public acceptability of the use of illegal drugs.

This ordinance is not intended to allow what the Minnesota Statutes prohibit nor to prohibit what the state statutes expressly allow.

B. Definitions

1. "Drug-related device" means any pipe or other object suitable to be used for smoking which:
 - a. Contains a visible fine wire mesh screen; or
 - b. Contains a bowl with the interior surface made of metal, glass, acrylic, plexiglass or plastic; or
 - c. Contains a bowl with an inside diameter of one-half inch or less at the halfway point between the top and the bottom of the bowl;
 - d. Contains a chamber; or
 - e. Contains a flexible tube or tubes.
2. "Chamber" means an enclosed area suitable for the collection or movement of smoke, other than a bowl, pipe stem, flexible tube, or a tube suitable for holding cigarettes or cigars.
3. "Bowl" means a concave-shaped object suitable for holding a smoking material to be lighted.
4. "Pipe stem" means a non-flexible tube with one end entering directly into a bowl.

C. Prohibition

The possession, sale, transfer or display for sale or transfer, of any drug-related device is hereby prohibited.

805.06 - Bulk Storage (Liquid) - All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals, and similar liquids shall require a conditional use permit in order that the City Council may have assurance that fire, explosion, or water or soil contamination hazards are not present (that would be detrimental to the public health, safety, and general welfare). All existing, above ground liquid storage tanks having a capacity in excess of five hundred (500) gallons shall secure a conditional use permit within twelve (12) months following enactment of this Ordinance.

The City Council may require the development of diking around said tanks. Diking shall be suitably sealed, and shall hold a leakage capacity equal to one hundred fifteen (115) percent of

the tank's capacity. Any existing storage tank that, in the opinion of the City Council, constitutes a hazard to the public safety shall discontinue operations within five years following enactment of this Ordinance.

805.07 - Tree and Woodlands Preservation - Structures shall be located in such a manner that the maximum number of trees shall be Preserved. When trees are cut to allow for development, trees shall be replanted in a manner satisfactory to the City.

On lands within 100 feet of the normal high water mark of the Mississippi or Minnesota Rivers, and on lands within 20 feet of a bluffline on these rivers, the following regulations shall apply:

- A. Clear cutting, except for authorized public services such as roads and utilities, shall be prohibited.
- B. Selective cutting of trees that are in excess of 4 inches in diameter at a height of 4 feet above the ground is permitted provided that cutting is spaced in several cutting operations and a continuous tree cover is maintained, uninterrupted by large openings. In cases where the existing tree cover has been interrupted by large openings in the past, selective cutting should be performed so as to maintain a continuous tree cover in the remaining wooded areas.
- C. The above cutting provisions will not be deemed to prevent:
 - 1. The removal of diseased or insect infested trees, or of rotten or damaged trees that present safety hazards; or
 - 2. Pruning understory vegetation, shrubs, plants, bushes, grasses, or from harvesting crops, or cutting suppressed trees or trees less than four inches in diameter at breast height.

805.08 - Utility Line - The following standards shall apply to the construction and maintenance of utility lines and public service structures, and shall be considered as requirements for the issuance of permits for construction:

- A. Each road crossing shall be approved by the proper road authority.
- B. In the event of repair or improvement of a road, the line owner shall pay for necessary movement and replacement of the line.

- C. In the event of necessary repairs or improvement of existing, public drainage ditches, the line owner shall pay for necessary movement and replacement of the line.
- D. Drain tile lines shall be repaired or replaced where cut or damaged by construction, for at least 5 feet from the damaged sections.
- E. High voltage power lines, pipelines and associated structures (except service lines from a main to a customer) shall be at least 250 feet from residential dwelling units.
- F. Wherever feasible, utility lines shall be located underground, and within or along existing railroad, highway, or utility line rights-of-ways, section lines or other established boundaries and/or easements, or other such routes as approved by the City Council.
- G. The owner and/or builder of the utility line shall be responsible to pay for such inspection procedures incident to the line's construction and maintenance, as the City Council determines to be reasonable, necessary to protect the public interest.
- H. For underground pipe lines which transport products under pressure, but not residential water lines:
 - 1. All underground lines shall be bored and cased through public and private roads unless the road authority approves case and backfill crossing;
 - 2. All underground lines shall be at least five feet below the bottom of drainage ditches and not impede the flow of water;
 - 3. All underground lines shall be at least one foot below existing and proposed drain tile lines. The utility line owner shall be responsible for:
 - a. The cost of surveys for future drain tile line plans that are incurred because of the existence of the utility line;
 - b. Additional expenses for installation of future drain tile caused by existence of the utility line; and
 - c. Cost of repair of drain tile and crop loss due to settling after utility line construction.
 - 4. Where feasible, underground utility lines shall be at least 20 feet from parallel drain tile.

5. Except as otherwise stated, underground utility lines shall be at least 4 feet below the ground surface.
- I. Underground electrical and telephone lines shall be subject to the provisions contained in the state electrical code.
- J. The owners of utility lines shall be held strictly liable for any and all damages that may arise out of the operation or malfunction of any utility line or facilities incidental to the operation of the utility line.
- K. The City Council may impose such other conditions, terms, bonds, and indemnities as may be necessary to protect the public interest.

805.09 - Commercial Operations

805.091 - Off-Street Parking - Parking areas should conform to the following minimum site requirements; in figuring the needed area, one parking space shall equal 150 square feet of area.

Retail Store	At least one off-street parking space for each 150 sq.ft. of gross floor area.
Restaurants, Cafes, Bars, Taverns, Night Clubs	At least one space for each three seats based on capacity design.
Industrial, Warehouse Storage, Handling of Bulk Goods	At least one space for each employee on maximum shift or one space for each 2000 square feet of gross floor area, whichever is larger.
Uses not Specifically Noted	As determined by the governing body following review by the Planning Commission.

805.092 - Drive-in Business Development Standards

These standards shall apply to all drive-in businesses except auto service stations.

A. General Standards

1. No person shall construct, operate, or maintain a drive-in business within the City without first obtaining a license.
2. The hours of operation shall be a condition for granting of any drive-in business license.

- C. If a non-conforming use is replaced by another use, the new use shall conform to this Ordinance.
- D. If a non-conforming structure is destroyed by any cause, to an extent exceeding fifty percent of its fair market value as indicated by the records of the County Assessor, a future structure on the site shall conform to this Ordinance except for structures whose only non-conformance is the minimum setback from the bluff.
- E. Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

SECTION 805 - PERFORMANCE STANDARDS

805.01 - Intent - These performance standards are designed to prevent and eliminate those conditions that are hazardous and endanger people's private and public property, and the natural environment. The performance standards established in this section shall apply to all future structures and land uses in all zoning districts. The standards shall also apply to existing development where so stated. Before any building permit is approved, the City Building Inspector or the City Council shall determine whether the proposed use will conform to the performance standards.

Amended 6/9/92

805.02 - Performance Standards for Structures, Traffic Control, and Parking

805.021 - Residential Construction Performance Standards - The following standards shall apply to all residential structures built or brought into the City after the effective date of the adoption of these regulations:

- A. All residential structures shall be built in accordance with the State Uniform Building Code.
- B. All residential structures shall possess a minimum width of 20 feet and a minimum length of 20 feet. A conditional use permit shall be required for a temporary residential structure that does not meet these standards, but is used with a residential structure that meets these standards is being built. The conditional use permit may allow the temporary structure to exist on a lot for a period not to exceed one year.

- C. No basement, garage, tent, or accessory building shall be at any time used as a dwelling. The basement portion of a finished home may be used for normal eating and sleeping purposes, provided it is properly damp-proofed, has suitable fire protection, and is otherwise approved by the Building Inspector.

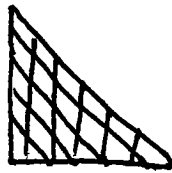
805.022 - Relocating Structures - A conditional use permit shall be required for all permanent relocation of structures. Relocation of non-residential construction sheds and other non-residential temporary structures to be located on a lot for less than 18 months requires no permit. For relocation of structures requiring a permit, the applicant shall submit photographs showing all sides of the structure that is to be located. The Planning Commission may also require photographs of surrounding lots and structures. The Planning Commission shall consider the compatibility of the structure to be relocated with structures and uses on surrounding lots.

The Planning Commission shall report its conclusions to the City Council. If the City Council decides that relocation of the structure would depreciate the value of structures of lots surrounding the lot upon which it is to be moved, then the permit shall be denied.

805.023 - Landscaping Maintenance - All structures requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.

805.024 - Traffic Control - The traffic generated by any use shall be channelized and controlled in a manner that will avoid: a) congestion on the public streets, b) traffic hazards, and c) excessive traffic through residential areas, particularly truck traffic.

On corner lots, nothing shall be placed or allowed to grow in such a manner as to impede vision between a height of two and one-half and ten feet above the centerline grades of the intersecting streets, to a distance such that a clear line of vision is possible of the intersecting street from a distance of 50 feet from the intersection of the right-of-way lines.



No obstruction in shaded area
of clear sight triangle

805.025 - Parking - Every vehicle parked upon any street with the curb shall be parked parallel to the curb and with the right-hand wheels of such vehicle within 12 inches of the curb. On other streets, the vehicle shall be parked to the right of the main travel portion thereof and parallel thereto and in such a manner as not to interfere with the free flow of traffic.

805.0251 - Parking Restrictions - No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places:

- (a) on a sidewalk;
- (b) in front of a public or private driveway;
- (c) within an intersection;
- (d) within 10 feet of a fire hydrant;
- (e) on a crosswalk;
- (f) within 20 feet of a crosswalk at an intersection;
- (g) within 30 feet upon the approach to any flashing beacon stop sign or traffic control signal located at the side of the roadway;
- (h) between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone unless a different length is indicated by signs or markings.
- (i) within 50 feet of the nearest rail of a railroad crossing; and
- (j) at any place where official signs prohibit stopping.

805.0252 - Parking - One and two-family dwellings shall provide accessory parking on the same lot. Vehicles which can be seen from the street must have current license plates.

805.0253 - Length of Parking - No vehicle shall be upon any street in any one place for a longer continuous period than twenty-four (24) hours.

805.0254 - Snow Removal - Except when otherwise posted, marked, or metered, no vehicle shall be parked on the street or alleys in such a manner as to obstruct or interfere with the snow plowing or snow removal.

805.0255 - Towing of Parked Vehicles - The police department, and all member thereof, are hereby authorized to remove and tow away, or have removed or towed away by commercial towing service, any vehicle illegally parked in any place in violation of the terms of the code or the statutes of Minnesota, or any vehicle which blocks the use of a fire hydrant, or obstructs or may obstruct the movement of any emergency vehicles.

Vehicles so impounding shall be surrendered to the duly identified owner or operator thereof only upon payment of the impounding and storage fees assessed against said vehicle. Vehicle so impounded may be placed at any commercial establishment, operating vehicle storage facilities or at public vehicle pounds established by the City.

805.03 - Soil Erosion and Sedimentation Control

805.031 - General Standards

- A. All development shall conform to the natural limitations presented by the topography and soil as to create the best potential for preventing soil erosion.
- B. Slopes over eighteen percent in grade shall not be developed.

- C. Development on slopes with a grade between twelve to eighteen percent shall be carefully reviewed to insure adequate measures have been taken to prevent erosion, sedimentation, and structural damage.
- D. Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.
- E. Land shall be developed in increments of workable size, such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.
- F. The drainage system shall be constructed and operational as quickly as possible during construction.
- G. Whenever possible, natural vegetation shall be retained and protected.
- H. Where the topsoil is removed, sufficient arable soil shall be set aside for re-spreading over the developed area. The soil shall be restored to a depth of four (4) inches and shall be of a quality at least equal to the solid quality prior to development.
- I. When soil is exposed, the exposure shall be for the shortest feasible period of time. No exposure shall be planned to exceed 60 days. Said time period may be extended only if the Planning Commission is satisfied that adequate measures have been established and will remain in place.
- J. The natural drainage system shall be used as far as is feasible for storage and flow of runoff. Storm water drainage shall be discharged to retention basins or other treatment facilities. Diversion of storm water to marshlands or swamps shall be considered for existing or planned surface drainage. Marshlands and swamps used for storm water shall provide for natural or artificial water level control. Temporary storage areas or retention basins scattered throughout developed areas, shall be encouraged to reduce peak flows, erosion damage, and construction cost.

805.032 - Exposed Slopes - The following measures shall be taken to control erosion during construction.

- A. No exposed slope should be steeper in grade than five (5) feet horizontal to one (1) foot vertical.

- B. At the foot of each exposed slope, a channel and berm should be constructed to control runoff. The channelized water should be diverted to a sedimentation basin (debris basin, silt basin or silt trap), before being allowed to enter the natural drainage system.
- C. Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. there runoff collection behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. Such measures should consist of either an asphalt paved flow apron and drop chute laid down the slope, or a flexible slope drain. At the base of the slope drain or flow apron, a rock energy dissipator should be installed to prevent erosion at the discharge end.
- D. Exposed slopes shall be protected by whatever means will effectively prevent erosion considering the degree of slope, soils material, and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch should be anchored to slopes with liquid as halt, stakes, and netting, or should be worked into the soil to provide additional slope stability.
- E. Control measures, other than those specifically stated above, may be used in place of the above measures, if it can be demonstrated that they will as effectively protect exposed slopes.

805.033 - Preservation of Natural Drainageways

805.0331 - Waterways

- A. Generally, storm sewers are not acceptable alternatives to the use of the natural above-ground drainage system to dispose of runoff. Stop sewers may only be used where it can be demonstrated that the use of the aboveground natural drainage system will inadequately dispose of runoff. Above-ground runoff disposal waterways may be constructed to augment the natural drainage system.
- B. The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten (10) year storm. Adequacy shall be determined by the expected runoff, when full development of the drainage area is reached.

- C. The banks of the waterway shall be protected with a permanent turf vegetation.
- D. The banks of the waterway should not exceed five (5) feet horizontal to one (i) foot vertical in gradient.
- E. The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks-of the waterway.
- F. The bed of the waterway should be protected with turf, sod, or concrete. If turf or sod will not function properly, rip rap may be used. Rip rap shall consist of quarried limestone, fieldstone (if random rip rap is used) or construction materials provided said construction materials are limited to asphalt, cement and concrete. The rip rap shall be no smaller than twelve (12) inches square, nor no larger than two (2) feet square. Construction materials shall be used only in those areas where the waterway is not used as part of a recreation trail system.
- G. If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Either gravel or rip rap would be allowed to prevent erosion at these points.

805.034 - Waterway Velocity

- A. The flow velocity of runoff in waterways shall be controlled to a velocity that will not cause erosion of the waterway.
- B. Flow velocity should be controlled through the installation of diversions, berms, slope drains, and other similarly effective velocity control structure.

805.035 - Sediment Control

- A. To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated through out,the contributing watershed.
- B. Temporary pervious sediment traps could consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. Such

structures would serve as temporary sediment control features during the construction state of development.

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- E. The system shall consist of a building sewer, a septic tank, and a soil absorption unit. The soil absorption unit shall consist of a sub-surface disposal field. All sewage shall be treated in the septic tank and the septic tank effluent shall be discharged to the treatment field.
- F. Septic tank effluent shall not be discharged into an agricultural tile line or drainage system.

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805.05 - Drug-related Devices

A. Purpose

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2. To deter the use of controlled substances in the City of Mendota by controlling certain devices associated with their use.
3. To reduce the availability of drug-related devices in order to prevent their availability from inducing, promoting, suggesting or increasing the public acceptability of the use of illegal drugs.

This ordinance is not intended to allow what the Minnesota Statutes prohibit nor to prohibit what the state statutes expressly allow.

B. Definitions

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 - a. Contains a visible fine wire mesh screen; or
 - b. Contains a bowl with the interior surface made of metal, glass, acrylic, plexiglass or plastic; or
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- e. Contains a flexible tube or tubes.
- 2. "Chamber" means an enclosed area suitable for the collection or movement of smoke, other than a bowl, pipe stem, flexible tube, or a tube suitable for holding cigarettes or cigars.
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C. Prohibition

The possession, sale, transfer or display for sale or transfer, of any drug-related device is hereby prohibited.

805.06 - Bulk Storage (Liquid) - All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals, and similar liquids shall require a conditional use permit in order that the City Council may have assurance that fire, explosion, or water or soil contamination hazards are not present (that would be detrimental to the public health, safety, and general welfare). All existing, above ground liquid storage tanks having a capacity in excess of five hundred (500) gallons shall secure a conditional use permit within twelve (12) months following enactment of this Ordinance.

The City Council may require the development of diking around said tanks. Diking shall be suitably sealed, and shall hold a leakage capacity equal to one hundred fifteen (115) percent of the tank's capacity. Any existing storage tank that, in the opinion of the City Council, constitutes a hazard to the public safety shall discontinue operations within five years following enactment of this Ordinance.

805.07 - Tree and Woodlands Preservation - Structures shall be located in such a manner that the maximum number of trees shall be Preserved. When trees are cut to allow for development, trees shall be replanted in a manner satisfactory to the City.

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- B. Selective cutting of trees that are in excess of 4 inches in diameter at a height of 4 feet above the ground is permitted provided that cutting is spaced in several cutting operations and a continuous tree cover is maintained, uninterrupted by large openings. In cases where the existing tree cover has been interrupted by large openings in the past, selective cutting should be performed so as to maintain a continuous tree cover in the remaining wooded areas.
- C. The above cutting provisions will not be deemed to prevent:
 - 1. The removal of diseased or insect infested trees, or of rotten or damaged trees that present safety hazards; or
 - 2. Pruning understory vegetation, shrubs, plants, bushes, grasses, or from harvesting crops, or cutting suppressed trees or trees less than four inches in diameter at breast height.

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- A. Each road crossing shall be approved by the proper road authority.
- B. In the event of repair or improvement of a road, the line owner shall pay for necessary movement and replacement of the line.
- C. In the event of necessary repairs or improvement of existing, public drainage ditches, the line owner shall pay for necessary movement and replacement of the line.
- D. Drain tile lines shall be repaired or replaced where cut or damaged by construction, for at least 5 feet from the damaged sections.

- E. High voltage power lines, pipelines and associated structures (except service lines from a main to a customer) shall be at least 250 feet from residential dwelling units.
- F. Wherever feasible, utility lines shall be located underground, and within or along existing railroad, highway, or utility line rights-of-ways, section lines or other established boundaries and/or easements, or other such routes as approved by the City Council.
- G. The owner and/or builder of the utility line shall be responsible to pay for such inspection procedures incident to the line's construction and maintenance, as the City Council determines to be reasonable, necessary to protect the public interest.
- H. For underground pipe lines which transport products under pressure, but not residential water lines:
 - 1. All underground lines shall be bored and cased through public and private roads unless the road authority approves case and backfill crossing;
 - 2. All underground lines shall be at least five feet below the bottom of drainage ditches and not impede the flow of water;
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 - a. The cost of surveys for future drain tile line plans that are incurred because of the existence of the utility line;
 - b. Additional expenses for installation of future drain tile caused by existence of the utility line; and
 - c. Cost of repair of drain tile and crop loss due to settling after utility line construction.
 - 4. Where feasible, underground utility lines shall be at least 20 feet from parallel drain tile.
 - 5. Except as otherwise stated, underground utility lines shall be at least 4 feet below the ground surface.
- I. Underground electrical and telephone lines shall be subject to the provisions contained in the state electrical code.

- J. The owners of utility lines shall be held strictly liable for any and all damages that may arise out of the operation or malfunction of any utility line or facilities incidental to the operation of the utility line.
- K. The City Council may impose such other conditions, terms, bonds, and indemnities as may be necessary to protect the public interest.

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Retail Store	At least one off-street parking space for each 150 sq.ft. of gross floor area.
Restaurants, Cafes, Bars, Taverns, Night Clubs	At least one space for each three seats based on capacity design.
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Uses not Specifically Noted	As determined by the governing body following review by the Planning Commission.

805.092 - Drive-in Business Development Standards

These standards shall apply to all drive-in businesses except auto service stations.

A. General Standards

1. No person shall construct, operate, or maintain a drive-in business within the City without first obtaining a license.
2. The hours of operation shall be a condition for granting of any drive-in business license.

3. In the process of reviewing a license application, the City Council of the community may review the reputation of the applicant and the desirability of a drive-in business at the proposed location with reference to whether there will be an unreasonable disturbance of the neighborhood or interference with rights of the surrounding property owners.

B. Location

1. No drive-in business shall be located within 200 feet of a school, hospital, or public recreation area.
2. No drive-in shall be located within 100 feet of any residentially zoned property.
3. No drive-in shall be located on any local streets.
4. No drive-in business shall be located such that it may substantially increase traffic volumes on nearby residential streets.

C. Landscaping

The landscaping plan must be approved by the City Council of the community prior to issuance of a license, and said plan shall include complete specifications for plant materials and other features. When landscaping involves significant moving of earth materials, the City will require a separate grading and filling permit upon evaluation of the proposed grading and filling procedures.

D. Site Plan

1. The site plan shall clearly indicate suitable storage containers for all waste material.
2. The parking area shall be paved with asphalt or concrete to specifications approved by the City Council of the community.
3. Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.

4. A suitable screening fence shall be erected along all property lines, except those which are also public right-of-way lines.
5. The design of any structure shall be compatible with other structures in the surrounding area.
6. No drive-in business shall be located on a lot of less than 20,000 square feet.
7. A plan shall be submitted showing adequate provision for surface water drainage, including existing and proposed drainage volumes, rates, and directions.
8. Electronic devices such as loudspeakers, automobile service devices, drive-in theater car speakers and similar instruments shall not be located within 200 feet of any residentially zoned or used property, nor within 100 feet of any adjacent lot regardless of use or zoning district.
9. All deliveries shall be made in the sides and/or rear yards only. Customers served in vehicles may be parked on the front, sides and rear of the principal structure.
10. No permanent or temporary signs visible from the public street shall be erected, without approval from the City Council of the community.
11. No plan shall be approved which will in any way constitute a hazard to vehicular or pedestrian circulation. No access drive shall be within twenty feet of intersection street curb lines.

E. Revocation of License

The City Council of the community shall have the authority to revoke or suspend the license issued when it is found:

1. That the licensee is operating in violation of any governing law, ordinance, or regulation;
2. That the licensee has not complied with all standards and Provisions;

3. That the licensee has failed to properly maintain all landscaped areas, structures, waste disposal containers, access drives, Parking areas, lighting, screening, and other features in a state of good repair and appearance; or
4. That the drive-in business constitutes a nuisance by reason of noise, disorderly conduct or immoral activity on the premises.

805.093 - Convenience Store/Auto Service Station Standards

A. Lot Size

A service station site shall be a minimum of 20,000 square feet.

B. Setbacks

The building or buildings shall be set back at least thirty-five feet from the street right-of-way. Near residential districts, the service station buildings, signs, and pumps shall be a minimum of twenty-five feet from adjoining property. In commercial areas, the structures shall be set back at least ten feet from adjoining Property.

C. Curbs and Gutters

Curbs and gutters shall be installed on all streets giving access to the station. There shall be a six inch curb along all interior driveways.

D. Fencing and Screening

When adjacent or near to residential property, there shall be a screening fence. When adjacent to commercial property, there shall be a bumper-type fence eighteen inches high between the station and the adjacent commercial property.

E. Pedestrian Circulation

Sidewalks or other designated Pedestrian ways shall be clearly indicated and provided for the safety of pedestrians Passing by the station.

F. Surfacing

At least 5% of the site shall be landscaped; all areas not landscaped or covered by structures shall be paved or blacktopped so that there will be proper storm water drainage and a dust-free operation.

G. Trash Enclosures

A receptacle shall be provided for trash which shall be a minimum of six feet by four feet and be constructed of a solid, non-combustible material. Trash enclosures shall present a good appearance to the Public. The station shall be well-maintained so as not to be unsightly.

H. Signs

An overabundance of signs is to be avoided. Special caution shall be taken to avoid signs which blow away and present safety hazards during high winds. Signs shall not be permitted within the street right-of-way.

I. Access Drives

In the absence of local regulations, the drives shall conform to Minnesota Highway Department Technical Manual 5-292, Plate No. 715. In general, however, driveways shall not exceed twenty-four feet in width or be spaced closer than thirty feet apart. No more than two access drives to any street should be permitted. Off-street Parking shall not be such that permits backing onto any street.

J. Architecture

The station shall be of a type that is reasonably compatible with the surroundings.

K. Outdoor Displays

The storage of used tires, batteries, and other such items for sale outside the building shall be controlled; such items shall be displayed in specially designed containers and be limited to one or two areas well back from the street right-of-way line. Junk cars, empty cans, and other unsightly materials shall not be Permitted in areas subject to public view.

Section 805.10 - Signs

805.101 – Purpose. Signs have an impact on the character and quality of the environment in Mendota. They may attract or repel the viewing public and affect the safety of vehicular traffic. As a small community, Mendota is unique. The proper control of signs is of particular importance because of this quality and uniqueness. Signs should be kept within reasonable boundaries consistent with the objectives and goals of the community to retain its special character and economic advantages which rest in part on the quality of its appearance. The following standards in the section are adopted to regulate signs.

805.102 - Permit Required. All signs require a sign permit as set forth in this section. A sign permit application containing the following information shall be filed with the City Clerk.

- A. A drawing of the proposed sign, or signs, showing dimensions and describing materials, lettering, colors, illumination and support systems.
- B. Photographs of the building face and the building faces of both adjacent buildings:
- C. A drawing of the building face and site plan showing the location of the proposed sign(s) if necessary.
- D. A cross section of the building face showing how the sign will be attached and how far it will extend from the building.
- E. any pictorial proof or other information that the sign is of historical significance or is a reproduction of an historic sign as appropriate.
- F. A building sign plan for a building with more than one use or business, showing all signs.

805.103 - Definitions. Unless specifically defined within this section, common definitions, words and phrases used in this Section shall be interpreted so as to give them the same meaning throughout this Code.

805.104 - General Provisions. The following provisions apply to signs located in all zoning districts:

Subd. 1 – Maintenance. All signs and structures shall be properly maintained and shall be constructed of sufficiently permanent material so that they shall not succumb to deterioration from weathering. any existing sign or sign structure which is rotted, unsafe, deteriorated, defaced or otherwise altered, shall be repainted, repaired, replaced or removed as necessary.

Subd. 2 - Electrical Signs. When electrical signs are installed, the installation shall be subject to the State's Electrical Code. Overhead electrical wiring is not allowed.

Subd. 3 - Public Lands and Rights-of-Way. No signs other than governmental signs shall

be erected or temporarily placed within any street right-of-way or upon public lands or, easements of rights-of-ways without Council approval.

Subd. 4- Ingress or Egress. No sign or structure shall be erected or maintained if it prevents free ingress or egress from any door, window or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.

Subd. 5 - Temporary Signs. Temporary signs may be allowed for special business events such as business openings and closings, change in management, city wide events or other special occasions for fifteen (15) days maximum by permit from the City Clerk.

A. The City may grant a permit to locate signs or decorations on, over or within the right-of-way for a specified period of time.

Subd. 6 - Abandoned Sign Structures. Sign structures not used for signing for twelve (12) consecutive months shall be considered abandoned and shall be removed.

Subd. 7 – Compatibility. All signs shall be compatible with the building and area in which they are located.

Subd. 8 - Preservation of Visual Impact of Architectural Features. A sign shall not obscure architectural features of a building to which the sign is attached.

Subd. 9 - Building Address. A building address shall not be considered a sign.

Subd. 10 - Conditions of Waiver. The terms of this ordinance may be waived if the sign is a historic resource or if the sign is a proposed reproduction of a historic sign.

805.105 Permitted Signs

Subd. 1 - Signs Permitted in All Zoning Districts. The following signs are allowed without a permit in all zoning districts, but shall comply with all other applicable provisions of this section.

A. Public Signs. Signs of public, non-commercial nature including safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when signs are erected by or on order of a public officer of employee in the performance of official duty.

B. Integral Signs. Names on buildings, date of construction, commemorative tablet and the like, which are permanent construction and which are an integral part of the building or the structure.

C. Political Signs. Signs or posters announcing candidates seeking political office or, issues to be voted upon at a public election. Such signs must contain the name and address of person(s) responsible for its removal. These signs shall be erected no more than forty-five (45) days before any election and be removed ten (10) days after the general election for which they are intended. The City shall have the right to remove and destroy signs after the ten (10) day limit.

1. Size

a. Residential Districts. The maximum sign size shall be six (6) square feet in area with a maximum height of four (4) feet.

b. Commercial Districts. The maximum size shall be thirty-five-(35) square-feet in area.

Notwithstanding these provisions, all non-commercial signs of any size may be posted from August 1 in a State General Election year until ten (10) days following the State Election.

D. Signs or displays which contain or depict messages pertaining to a National, State or local holiday and no other matter and which are displayed for a period not to exceed sixty (60) days.

E. Construction Signs. A non-illuminated sign announcing the names of architects, engineers, contractors or other individuals or firms involved with the construction, alteration or repair of a building (but not including any advertisement of any product) or announcing the character of the building enterprise or the purpose for which the building is intended. Such signs shall be confined to the site of the construction, alteration or repair and shall be removed within two (2) years of the date of issuance of the first building permit or when the particular project is completed, whichever is sooner. One sign shall be permitted for each street the project abuts. No sign may exceed thirty-two (32) square feet in a Commercial districts, and twelve (12) square feet in Residential District.

F. Individual Property Sale, Lease, or Rental Sign. An on-premise sign announcing the name of the owner, manager, realtor or other person directly involved-in-the sale or-rental-of-the-property or announcing the purpose for which it is being offered. Such signs are limited to six (6) square feet in Residential Districts and thirty-two (32) square feet in Commercial Districts. Signs must be removed within ten (10) days after sale or rental of property.

G. Name Plate Signs

1. One name plate sign, placed on a wall of the structure, for each dwelling not exceeding two (2) square feet is area per structure. No signs shall be constructed to have more than two (2) surfaces.
2. One name plate sign for each dwelling group of six (6) or more units. Such sign shall not exceed six (6) square feet in area per surface. No signs shall be constructed to have more than two (2) sides.

H. Real Estate Development Project Advertising Signs

1. For the purpose of selling or promoting a development projects the following signs are permitted:
 - a. Projects of three (3) to twenty-five (25) acres are allowed one sign not to exceed 100 square feet of advertising surface, on the project site.
 - b. Projects of twenty-six (26) through fifty (50) acres are allowed one (1) or two (2) signs not to exceed two-hundred (200) aggregate square feet of advertising surface on. the project site.
 - c. Projects over fifty (50) acres are allowed one (1), two,(2) or three (3) signs not to exceed two-hundred-(200) aggregate square feet of advertising surface on the project site.
2. No dimension shall exceed twenty-five (25) feet. exclusive of supporting structures.
3. Such sign shall not remain after ninety-five percent (95%) of the project is developed.
4. The permit for such sign must be renewed annually by the council.
5. All signs-shall be bordered with a decorative material compatible with the surrounding area.
6. Any illuminated sign shall be illuminated only during those hours when business is in operation or when the model homes or other development are open for conducting business.

- I. Window Signs. No sign permit is required for window signage that does not cover more than one-third.(1/3) of the total area of the window in which the sign is displayed.

- J. No Trespassing. No trespassing and or private drive signs shall be no larger than two (2) square feet:

805.106 - Prohibited Signs In All Zoning Districts

Subd. 1 The following signs are prohibited in all zoning districts

- A. Signs Obstructing Vision. Any sign which obstructs the vision of drivers or pedestrians or detracts from the visibility of any official traffic control device.
- B. Unofficial traffic or Signals. Any sign which contains or imitates an official traffic sign or signal, except for private, on-premises directional signs.
- C. Off Premises Advertising Signs. Off premises advertising signs except as regulated in this section.
- D. Moving or Rotating Signs. Any sign which moves or rotates, including electronic reader board signs, except approved time and temperature information signs and barber poles.
- E. Illuminated or Flashing Lights. No sign shall display any moving parts, be illuminated with any flashing or intermittent lights or shall be animated, except time and temperature information. All displays shall be shielded to prevent any light to be directed at oncoming traffic in such brilliance as to impair the vision of any driver. No device shall be illuminated in such a manner as to interfere with or obscure an official traffic sign or signal. This includes indoor signs that are visible from public streets:
- F. Roof Signs
- G. Banners, Pennants, Ribbons, Streamers. No sign which contains or consists of banners, pennants, ribbons, streamers, string of light bulbs, spinners or similar devices, except where used for non-commercial purposes or part of an approved sign plan.
- H. Portable Signs. Including but not limited to signs with wheels removed, attached temporarily or permanently to the ground, structure-or other signs; mounted on a vehicle for advertising purposes; parked and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used on the normal day-to-day operations of that business, hot air or gas filled balloons or semi-truck umbrellas used for advertising.

- I. Building Walls. Signs painted directly on building walls unless approved by a sign permit.
- J. Illuminated Signs or Spotlights. Illuminated signs or spotlights giving off an intermittent or rotating beam existing as a collection or concentration of rays of light.
- K. Revolving Beacons, Beamed Lights, or Similar Devices.
- L. Signs Supported by a Guy Wire
- M. Billboards

805.107 Permitted Signs by Zoning District

Subd 1 Permitted Signs in Residential Districts

- A. Professional name plate wall signs, not exceeding two (2) square feet in area.
- B. Memorial signs or tablets, names of buildings and the date of erection when cut into a masonry surface or when constructed of bronze or other incombustible material.
- C. Political signs as regulated in this section.
- D. Individual property sale, lease or rental, as regulated in this section.
- E. Construction signs as regulated in this section.
- F. Bulletin boards or public information signs not over thirty-two (32) square feet located only on the premises of public, charitable or religious institutions.

Section 805.108 Variance Standards

Subd. 1 Variances

The Planning Commission shall hear requests for a variance to the literal provisions of this section in instances where the strict enforcement would cause an undue hardship because of circumstances unique to the individual property under consideration and to grant the variance only when it is demonstrated that:

- A. There are extraordinary circumstances that apply to this property which do not generally apply to other properties in the same zone. These circumstances may

include the narrowness, shallowness, shape, and topography of the parcel of land or setback from right-of-way.

- B. The literal interpretation of the provisions of the sign ordinance deprives the applicant rights commonly enjoyed by other properties in the same district under the terms of the sign ordinance.
- C. The special circumstances are not the result of the applicant.
- D. The granting of the variances requested do not confer on the applicant a special privilege that is denied by this ordinance to owners of other lands, structures, and building in the same district.
- E. The variances requested are the minimum variances, which would alleviate the hardship.
- F. The variance requested would not be materially detrimental to the purposes of the sign ordinance.
- G. The design of the sign or signs are as follows:
 - a. Compatible with the character of the adjacent buildings and with the character of the adjacent neighborhood.
 - b. Have good scale and proportion in the visual relationship to buildings. and adjacent areas.
 - c. The material, size, color, lettering, location and arrangement of the sign(s) is an integral part of the site and building design.
 - d. The colors, materials; and lighting of the-sign(s) are restrained and harmonious, as interpreted by the City.

Subd.2 Application. An application for a variance to this section shall be processed according to Section 800 of the Mendota City Code, Zoning Ordinance.

805.109 - Non Conforming Signs

Signs erected prior to the date of enactment of this Ordinance, which do not conform with the sign regulations contained herein, shall not be expanded, modified or changed in any way except in conformity with these sign regulations. Non-conforming signs

must be removed or modified to conform to this Ordinance within five (5) years of adoption of this Ordinance. Adopted/Approved 1/13/2004

805.11 - Performance Standards, All Districts

A. Intent

The guiding of urban development so as to develop a compatible relationship of uses depends upon certain standards being maintained. Uses permitted in the various districts, Conditional Uses and Accessory Uses shall conform to the following standards.

B. Standards

1. Noise. Any use producing noise shall be in conformance with the minimum standards as adopted and enforced by the Minnesota Pollution Control Agency.
2. Smoke And Particulate Matter. Any use established, enlarged, or remodeled after the effective date of this Ordinance shall be so operated and maintained as to meet the minimum requirements of the Minnesota Pollution Control Agency regarding emission of smoke and particulate matter.
3. Toxic Or Noxious Matter. The discharge of toxic or noxious matter shall conform with the minimum standards as adopted by the Minnesota Pollution Control Agency.
4. Odors. The discharge of odors shall conform with the air quality standards as adopted by the Minnesota Pollution Control Agency.
5. Vibrations. Any use creating periodic earth-shaking vibrations, such as may be created from a drop forge shall be prohibited if such vibrations are perceptible beyond the log line of the site on which the use is located. The standard shall not apply to vibrations created during the process of construction.
6. Glare And Heat. Any use requiring an operation producing an intense heat or light transmission shall be performed with the necessary shielding to prevent such heat or light from being

detectable at the lot line of the site on which the use is located. Lighting in all instances shall be diffused or directed away from "R" Districts and public streets.

7. Explosives. Any use requiring the storage, utilization or manufacturing of products which could decompose by detonation shall be located not less than four hundred (400) feet from an "R" District and shall be allowed only by conditional use permit.
8. Screening. Any use in the "R" or "C" District abutting on an "R" District shall effectively screen any open storage from the eye level vision by providing and maintaining a wall, fence or thirty (30) foot wide planting stripe to screen and reduce the noise, dust and vision between the two uses. Such wall or fence shall be six (6) feet in height and at least ninety (90) percent opaque during all seasons.
9. Waste Material. Waste material resulting from or used in industrial or commercial manufacturing, fabricating, servicing, processing or trimming shall not be washed into the public storm sewer system nor the sanitary sewer system, but shall be disposed of in a manner approved by the City Engineer. The City Council may establish appropriate regulations and standards therefor.
10. Bulk Storage (Liquid). All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemical and similar liquids shall comply with the requirements of the Minnesota State Fire Marshal's and Minnesota Department of Agriculture Offices and have documents from those offices stating the use is in compliance.
11. Radiation Emission. All activities that emit radioactivity shall comply with the minimum requirements of the Atomic Energy Commission.
12. Electrical Emission. All activities which create electrical emissions shall comply with the minimum requirements of the Federal Communications Commission.
13. Maintenance Standards. In all districts, all structures, required

landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.

14. Lighting Standards. Lights for illuminating parking areas, loading areas or yards for safety and security purposes, shall be permitted if no adjacent property owner, within 150 feet of the light source, shall have his/her use or enjoyment of that property interfered with.
15. Drainage Standards. No land shall be developed and no use shall be permitted that results in water run-off causing flooding, or erosion on adjacent properties. Such run-off shall be properly channeled into a storm drain, watercourse, ponding area or other suitable facility. In no event shall drainage be allowed into a sanitary sewer.
- ~~16. Storage Standards. All material and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: recreational equipment and construction and landscaping materials and equipment currently being used on the premises.~~

~~There shall be no outside storage of either materials or products except through the issuance of a conditional use permit~~

Repealed 4-10-07 moved to Commercial 802.02

- ~~17.16.~~ Water Pollution. All uses and activities shall conform to water pollution standards controls and regulations of the Minnesota Pollution Control Agency and all other applicable governmental rules, regulations and laws relative thereto.

Adopted 10/12/93

SECTION 806 - ZONING ADMINISTRATION

806.01 - Administration Standards - Whenever, in the course of administration and enforcement of this Ordinance, it is necessary or desirable to make any administrative decision, it shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance or injurious to the surrounding neighborhood.

806.02 - Application of the Zoning Regulations - No structure shall be constructed, erected, placed or maintained and no land use commenced or continued within the City of Mendota except as specifically, or by necessary implication, authorized by Ordinance. Conditional uses are allowed only on permits granted by the City of Mendota, upon finding that the specified conditions exist. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized, except as prohibited specifically or by necessary implication.

806.03 - Enforcing Officer - The City Council of Mendota shall instruct the Planning Commission to enforce the zoning regulations and perform the following duties:

- A. Make recommendations to the City Council concerning the issuance of occupancy permits and building permits, and make and maintain records thereof. Conduct inspections of buildings and use of land to determine compliance with the terms of this Ordinance.

806.04 - Maintenance of Records - The City Council of Mendota shall instruct the City Clerk to perform the following duties;

- A. Maintain permanent and current records on all building permits and zoning transactions, including but not limited to: all maps, amendments, conditional uses, variances, appeals and applications therefore.
- B. Receive, file and forward all applications for appeals, variances, conditional uses or other matters to the designated official bodies. Proposed conditional uses, variances, and zoning amendments should be sent to the Minnesota Environmental Quality Council for review, prior to final acceptance or adoption by the City.

806.05 - Appeals and the Zoning Board of Appeals - The City Council of Mendota shall, through the passing of a resolution, provide for the establishment of a Zoning Board of Appeals. The City Council shall serve as the Zoning Board of Appeals.

The Zoning Board of Appeals shall elect a chairman and vice-chairman from among its members and shall appoint a secretary who need not be a member of

the Board. The Board shall provide a public record of its proceedings which shall include the minutes of its meetings, its findings, and the action taken on each matter heard by it, including the final order.

The Zoning Board of Appeals shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcing the Ordinance.

Hearings by the Zoning Board of Appeals shall be held within such time and upon such notice to interested parties as is provided by the City Council. The Board shall, within a reasonable time, make its order deciding the matter, and shall serve a copy of such order upon the appellant or petitioner by mail. Any party may appear at the hearing in person or by agent or attorney.

The Zoning Board of Appeals shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reasons for the Board's decision shall be stated. The decision of such Board shall be the final administrative remedy made by the City of Mendota.

806.06 - Zoning Amendments

Procedure

- A. An amendment to the text of the Ordinance or the zoning map may be initiated by the City Council, the Planning Commission or by any City resident or property owner. Individuals wishing to initiate an amendment to the zoning ordinance shall fill out and submit to the Secretary of the Planning Commission or City Clerk an application together with a fee. The amount of this fee will be set by the City Council, by Council resolution. The Planning Commission shall make its report to the City Council at the next regular meeting of the City Council following the hearing recommending approval, disapproval or modified approval the proposed amendment. All notice and hearing requirements of Minnesota Statutes shall be complied with, and the list of persons to whom notices were sent shall be made part of the record of the public hearing.

- B. A public hearing on the rezoning application shall be held by the Planning Commission within forty-five days after the request for the zoning amendment has been received. Notice of said hearing shall be published in the official newspaper designated by the City Council.
- C. The City Council must take action on the application within sixty days following referral by the Planning Commission. The person making the application shall be notified of the action taken. The City Council shall maintain records of amendments to the text and zoning map of the Ordinance.
- D. No application of a property owner for an amendment to the text of the Ordinance or the zoning map shall be considered by the Planning Commission within the one-year period following a denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

806.07 - Conditional Use Permits

A. Criteria for Granting Conditional Use Permits:

In granting a conditional use permit, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, and general welfare of occupants of surrounding lands, traffic conditions, parking, the effect of values of property and scenic views in the surrounding area, and the effect of the proposed use on the Comprehensive Plan. In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission or City Council may impose, in addition to those standards and requirements expressly specified in the Zoning Regulations, additional conditions which they consider necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to the following:

1. Increasing the required lot size or yard dimension;
2. Limiting the height, size or location of buildings;
3. Controlling the location and number of vehicle access points;
4. Increasing the street width;
5. Increasing the number of required off-street parking spaces;

6. Limiting the number, size, location or lighting of signs;
7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property; or
8. Designating sites for open space.

Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued, shall require an amended conditional use permit. All procedures shall apply as if a new permit were being issued. The City Clerk shall maintain a record of all conditional use permits issued, including information on the use, location, and conditions imposed by the City Council, time limits, review dates, and such other information as may be appropriate.

B. Procedure

1. The person applying for a conditional use permit shall fill out and submit to the Planning Commission Secretary or City Clerk, an application, together with a fee set by the City Council by resolution.
2. The application shall be referred to the Planning Commission. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the City at least ten days prior to the day of the hearing. Property owners within 100 feet of the subject property shall be notified although failure of any property owner to receive notification shall not invalidate the proceedings.
3. The Planning Commission shall hold a public hearing on the proposal.
4. The petitioner or his representative shall appear before the Planning Commission in order to answer questions concerning the proposed conditional use.
5. The report of the Planning Commission shall be placed on the agenda of the City Council at its next regular meeting following referral from the Planning Commission, but not later than sixty days after the applicant has submitted the application.
6. The City Council must take action on the application within sixty days after receiving the report of the Planning Commission. If it grants the conditional use permit, the City Council may impose conditions (including

time limits) it considers necessary to protect the public health, safety and welfare, and such conditions may include a time limit for the use to exist or operate.

7. An amended conditional use permit application shall be administered in a manner similar to that required for a new conditional use permit except that the fee shall be five dollars; amended conditional use permits shall include requests for changes in conditions, and as otherwise described in this Ordinance.
8. No application for a conditional use permit shall be resubmitted for a period of six months from the date of said order of denial.
9. If a time limit or periodic review is included as a condition by which a conditional use permit is granted, the conditional use permit may be reviewed at a public hearing with notice of said hearing published at least ten days prior to the review; it shall be the responsibility of the Clerk to schedule such public hearings and the owner of land having a conditional use permit shall not be required to pay a fee for said review. A public hearing for annual review of conditional use permit may be granted at the discretion of the City Council.

806.08 - Variances

A. Criteria for Granting Variances

A variance may be granted only in the event that all the following circumstances exist:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owner of property since enactment of this ordinance have had no control;
2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other property in the same district under the terms of the ordinance;
3. That the special conditions or circumstances do not result from the actions of the applicant;
4. That granting the variance requested will not confer on the applicant any

special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district; and

5. The variance will not allow any use that is not permitted under the zoning regulations for a property in the same zone where the affected applicants land is located.

B. Procedure

1. The person applying for a variance shall fill out and submit to the City Clerk or Planning Commission Secretary an application, together with a fee, which shall be set by the City Council.
2. The application shall be forwarded to the Zoning Board of Appeals. The Board shall hold a public hearing on the proposal.
3. Property owners within 100 feet of the property in question shall be notified, although failure of any property owner to receive such notification shall not invalidate the proceedings. Notification shall be by registered mail.
4. The petitioner or his representative shall appear before the Zoning Board in order to answer questions concerning the proposed variance.
5. The Zoning Board must take action on the application within sixty days after the public hearing. If it grants the variance, the Board may impose conditions (including the limits) it considers necessary to protect the public health, safety, and welfare, and such conditions may include a time limit for the use to exist or operate.

806.09 - Building Permits

A. Procedure

For the purposes of enforcing this Ordinance, a building permit shall be required of all persons intending to erect, alter, wreck or move any building exceeding eight (8) feet in height or 100 square feet of floor area. Any free standing building and/or addition, deck or fence over five feet in height shall also need a permit.

1. Persons requesting a building permit shall fill out a building permit form available from the City Clerk, or the Planning Commission.
2. Completed building permit forms shall be returned to the City Clerk. The

City Building Inspector, after review of the completed building permit form, shall establish a fee based upon building valuation. The individual(s) requesting the building permit can obtain the building permit upon payment of the established fee when so notified by the City Clerk. The City Building Inspector or the City Clerk may request that the building permit request be placed on the agenda of the Planning Commission. If and when such request is made, the Planning Commission Secretary shall inform the person requesting a building permit regarding the date upon which his request will be reviewed by the Planning Commission. Said person shall be present at the Planning Commission meeting to answer questions regarding the permit.

Amended 6/9/92

3. The Planning Commission shall take action regarding the permit within 45 days of the date upon which the permit request was filed. If, however, the petitioner fails to appear before the Planning Commission, or if he or she fails to adequately answer their questions, the Planning Commission may delay action on the request for an additional 30 days. At the end of this second 30-day period, the Planning Commission shall pass its recommendations to the City Council.
4. The City Council within 30 days after the Planning Commission meeting must take action to either approve, reject, or refer the building permit request back to the Planning Commission for additional information or clarification.
5. The Planning Commission shall provide any requested additional information to the City Council within 30 days.
6. The City Council must take final action on the building Permit within 30 days of receiving the requested information from the Planning Commission.

806.10 - Fees - The City Council maintains a schedule of fees and collection procedure for zoning permits, building permits, subdivision plats and conditional use permits as required by this Ordinance. The schedule of fees is available from the City Clerk, and may be altered or amended only by the City Council.

No building permit, or conditional use permit shall be issued unless or until such application fees have been paid in full by the City Clerk, nor shall any action be taken

on proceedings before the City Council, unless or until all application fees have been paid in full.

SECTION 807 - REGULATIONS OF ADULT ENTERTAINMENT

Section 1. Purpose and Intent. Studies conducted by the Minnesota Attorney General, the American Planning Association and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Alexandria, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; and Seattle, Washington have studied the impacts that adult oriented businesses have in those communities. These studies have concluded that adult oriented businesses have adverse impact on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. The City Council of the City of Mendota makes the following findings regarding the need to license adult oriented businesses. The findings are based upon the experiences of other cities where such businesses have located, as studied. (a) Adult oriented businesses adverse secondary impacts of the types set forth above. The adverse impacts caused by adult oriented businesses tend to diminish if adult oriented businesses are governed by locational requirements, licensing requirements and health requirements (c) It is not the intent of the city council to prohibit adult oriented businesses from having a reasonable opportunity to locate in the city. (d) Minnesota Statutes, Section 462.357, allows the city to adopt regulations to promote the public health, safety, morals and general welfare. (e) The public health, safety, morals and general welfare will be promoted by the city adopting regulations governing adult oriented businesses. (f) Adult oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, taxing city crime-prevention programs and law enforcement services. (g) Adult oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owner and operators of such facilities are regulated by licensing or other procedures. (h) Adult oriented businesses can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public. (i) Adult oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food drink on the same premises. (j) The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.

Subdivision 2. Purpose. It is the purpose of this Ordinance to regulate Adult Oriented Businesses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:

- (a) Prevent additional criminal activity within the City;

- (b) Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
- (c) To locate Adult Oriented Business away from residential areas, schools, churches, parks and playgrounds;
- (d) Prevent concentration of Adult Oriented Businesses within certain areas of the City.

Subdivision 3. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including Adult oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to Adult oriented materials protected by the First Amendment or to deny access by distributors and exhibitors of Adult oriented entertainment to their intended market.

Section 2. Definitions.

Subdivision 1. For purposes of this section the terms defined in this section have the meanings given them.

Subdivision 2. Adult Oriented Business. (a) "Adult-Oriented Business" means any business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise, or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from, items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas; or (b) any activity or business described below.

Subdivision 3. Adult Book and/or Media Store. An establishment which excludes minors and which has a substantial portion of its stock in trade or stock on display books, magazines, films, videotape, or other media which are characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

Subdivision 4. Adult Cabaret. An establishment which provides dancing or other live entertainment, if such establishment excludes minors by virtue of age from all or part of the establishment and if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Subdivision 5. Adult Establishment. Any business which offers its patrons services, entertainment, or the sale of merchandise characterized by an emphasis on matter depicting, exposing, describing, discussion, or relating to specified sexual activities or specified anatomical areas. Specifically included in the term, but without limitation, are adult book and media stores, adult

cabarets, adult hotels or motels, adult mini-motion picture theaters, adult modeling studios, adult motion picture arcades, adult motion picture theaters, adult novelty businesses and other establishments.

Subdivision 6. Adult Hotel or Motel. Adult Hotel or Motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Subdivision 7. Adult Mini-Motion Picture Theater.

- (a) A theater in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity for less than 50 persons used for presenting motion pictures, including but not limited to film and videotape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
- (b) Any business which presents motion pictures, from which minors are excluded from all or part of the establishment, including films and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or reliant on Specified Sexual Activities or Specified Anatomical Areas, for viewing on the premises, including but not limited to private booths, viewing by means of coin operated or other mechanical devices, and the viewing of excerpt of motion pictures offered for sale or rent.

Subdivision 8. Adult Modeling Studio. An establishment, which excludes minors from all or part of the establishment, whose major business is the provision, to customers, or figure models who are so provided with the intent of providing sexual stimulation to sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Subdivision 9. Adult Motion Picture Arcade. Any place which excludes minors from all or part of the establishment wherein coin or token operated or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.

Subdivision 10. Adult Motion Picture Theater. A theater in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity of 50 or more

persons used regularly and routinely for presenting live entertainment or motion pictures, including but not limited to film and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas for observation by patrons.

Subdivision 11. Adult Novelty Business. A business, from which minors are excluded from all or part of the establishment, which sells, offers to sell, or displays devices which simulate human genitals or devices which are designed for sexual stimulation.

Subdivision 12. Specified Anatomical Areas are any of the following conditions:

- (a) Less than completely and opaquely covered;
 - 1) human genitals, pubic region, or pubic hair;
 - 2) buttock, anus; and
 - 3) female breast below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernible turgid state, completely and opaquely covered.

Subdivision 13. Specified Sexual Activities are any of the following conditions:

- (a) An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal.
- (b) Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed.
- (c) Masturbation or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ clothed or unclothed.
- (d) Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or breasts of a female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

Section 3. Application of this Ordinance.

Subdivision 1. In general. (a) Except as in this Ordinance specifically provided, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose nor in any manner, which is not in conformity with this Ordinance.

(b) No Adult Oriented Business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City of Mendota, the laws of the State of Minnesota, or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct which prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to minors.

Subdivision 2. Existing Adult Oriented Businesses. Within 12 months of the effective date of this Ordinance, any existing adult oriented business shall be in compliance with all requirements of this Ordinance, as authorized pursuant to Minnesota Statute 462.357, subd.1(c).

Section 4. Location.

Adult Oriented Businesses are permitted uses in the Commercial District, subject to the following requirements:

- a) An adult oriented business shall not be allowed within 500 feet measured in a straight line from the building or edge of leased building space to another existing adult use.
- b) An adult oriented business shall not be located within 200 feet measured in a straight line from the building or edge of leased building space to the property line of any residentially zoned property.
- c) An adult oriented business shall not be located within 500 feet measured in a straight line from the building or edge of leased building space to the property line of any existing school, place of worship, library, daycare facility, park, historic site or playground.
- d) An adult oriented business shall not be located within 500 feet measured in a straight line from the building or edge of leased building space to the property line of any City owned park and recreational property.

Section 5. Hours of Operation.

No Adult Oriented Business site shall be open to the public from the hours of 10:00 p.m. to 10:00 a.m.

Section 6. Operation.

Subdivision 1. Off-site Viewing. An establishment operating as an Adult Oriented Business shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of Minnesota Statutes Chapter 617 or other applicable Federal or State Statutes or local ordinances.

Subdivision 2. Entrances. All entrances to the business, with the exception of emergency fire exits, which are not useable by patrons to enter the business, shall be visible from a public right-of-way.

Subdivision 3. Layout. The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video tapes, or any other material, or any live dancers or entertainers.

Subdivision 4. Illumination. Illumination of the premises exterior shall be adequate to observe the location and activities of all person on the exterior premises.

Subdivision 5. Signs. Signs for Adult Oriented Businesses shall comply with the City's Ordinance for signs addressed in Ordinance 805-10, and in addition, signs for Adult Oriented Businesses shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.

Subdivision 6. Access by Minors. No minor shall be permitted on the licensed premises. Adult goods or materials may not be offered, sold, transferred, conveyed, given or bartered to a minor, or displayed in a fashion that allows such goods or materials to be viewed by a minor, whether the minor is on the licensed premises or outside.

Subdivision 7. Additional Conditions for Adult Cabarets. The following additional conditions apply to adult cabarets:

- a) No dancer, live entertainer or performer shall be under 18 years of age.
- b) All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two feet from the level of the floor.

- c) No dancer or performer shall perform any dance or live entertainment closer than 3 (three) feet measured in a direct line to a patron.
- d) No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
- e) No patron shall pay or give any gratuity to any dancer or performer.
- f) No dancer shall solicit, receive or accept any pay or gratuity from any patron.

Section 7. License Required.

On or after May 11, 2004 No person or entity shall own, lease, rent, manage or operate an Adult Oriented Business, including any Adult Oriented Business operating at the time this Ordinance becomes effective, unless such person is currently licensed under this Ordinance. Any person or entity is in violation of this Ordinance if the person or entity operates an Adult Oriented Business without a valid license, issued by the City Council ("Issuing Authority").

Section 8. License Application.

This application for a license under this Ordinance shall be made on a form supplied by Issuing Authority and shall require the following information:

Subdivision 1. All Applicants. For all applicants:

- (a) Where the applicant is a natural person, corporation, partnership, or other form of organization.
- (b) The legal description of the premises to be licensed, along with a floor plan of the premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The floor plan need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimension of the interior of the premises to an accuracy of plus or minus six (6) inches.

- (c) The name and street address of the business. If the business is to be conducted under a designated name, or style other than the name of the applicant, a certified copy of the certificate required by Minnesota Statutes, Section 333.01 shall be submitted.

Subdivision 2. Applicants Who Are Natural Persons. If the applicant is a natural person:

- (a) The name, place, and date of birth, street and city address, and phone number of the applicant.
- (b) Where the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used.
- (c) The street and city addresses at which the Applicant has lived during the preceding two (2) years.
- (d) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding two (2) years and name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two (2) years.
- (e) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a petty misdemeanor traffic ordinance. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had.

Subdivision 3. Applicants That Are Partnerships. If the applicant is a partnership:

- (a) The name(s) and address(s) of all general partners and all of the information concerning each general partner that is required of applicants in subpart (2) of this Section.
- (b) The name(s) of the managing partner(s) and the interest of each partner in the business.
- (c) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minnesota Statutes, Section 333.01, a certified copy of such certificate shall be attached to the application.

Subdivision 4. Corporate or Other Applicants. If the applicant is a corporation or other organization:

- (a) The name of the corporation or business form, and if incorporated, the state of incorporation.
- (b) A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement and By-laws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minnesota Statutes, Section 303.06, shall be attached. If the entity is a limited liability company, then true and accurate copies of the Articles of Organization and any Membership Agreements shall be attached to the application.
- (c) The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all of the information concerning each manager, proprietor or agent that is required of the applicants in subpart (2) of this Section.
- (d) Accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, managers, and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business and, in the case of a corporation or limited liability company, the names, addresses, and dates of birth of all officers, members, general managers, members of the board of directors or board of governors.

Subdivision 5. Disqualifications. The City will issue a license to an applicant within 30 days of the application unless one of more of the following conditions exist:

- (a) The applicant is under age 21;
- (b) The applicant failed to supply all of the information requested on the license application;
- (c) The applicant gives any false, fraudulent, or otherwise untruthful information on the license application;
- (d) The applicant has been convicted of a misdemeanor, gross misdemeanor, or felony, if such conviction relates to sex offenses, obscenity offenses, or adult oriented businesses;
- (e) The adult oriented business is not in full compliance with this Code and all provisions of state and federal law;
- (f) The applicant has not paid the required license and investigative fees;

- (g) The applicant has been denied a license by the City or any other Minnesota municipal corporation to operate an adult oriented business, or such license has been suspended or revoked within the preceding twelve (12) months;
- (h) The applicant is not the proprietor of the business of the establishment for which the license is issued;

Subdivision 6. Re qualification. An applicant may qualify for an adult oriented business license:

- (a) After one year has elapsed in the case of a prior license revocation;
- (b) After two years have elapsed since the date of conviction or the date of release from confinement in the case of a misdemeanor conviction;
- (c) After five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is later, in the case of a felony offense.

Subdivision 7. Posting. The license, if granted, shall state on its face the name of the person or entity to whom it is granted, the expiration date, and the address of the Adult Oriented Business. The license shall be posted in a conspicuous place at or near the entrance to the Adult Oriented Business so that it may be easily read at any time.

Section 9. License Application Execution.

If the application is that of a natural person, the application shall be signed and sworn to by that person; if of a corporation, by an officer thereof; if of a partnership, by one of the general partners; if of an unincorporated association, by the manager or managing officer thereof.

Section 10. License Procedures:

Subdivision 1. Applications of licenses under this Ordinance shall be submitted to the City Council (hereinafter referred to as the "Issuing Authority"). Within thirty (30) calendar days of receipt of a complete application and payment of all license application fees, agents and/or employees of the Issuing Authority shall verify any and all of the information requested of the applicant in the application, including the ordering of criminal background checks, and conduct any necessary investigation to assure compliance with this Ordinance.

Subdivision 2. If the application is for renewal, the applicant will be allowed to continue business until the Issuing Authority has determined whether the applicant meets the criteria of this Ordinance for a renewal license.

Subdivision 3. If, after the investigation, it appears that the applicant and the place proposed for the business are eligible for a license, the license must be issued by the Issuing Authority within 30 days after the investigation is completed. If the Issuing Authority fails to act within 30 days after the investigation is completed, the application will be deemed approved.

Subdivision 4. If the Issuing Authority does not grant a license to an applicant, then the applicant may commence an action in state or federal court within 15 days for the purpose of determining whether the City acted properly. The applicant may not commence business unless the court action concludes in its favor.

Section 11. License Fees.

Subdivision 1. Application Fee.

- (a) The annual license application fee shall be set by the City Council in their adoption of the annual Resolution Setting License Fees.
- (b) The application license fee shall be paid in full before the application for a license is considered. All fees shall be paid to the Issuing Authority for deposit into the general fund of the City, and shall be delivered to the City Clerk, or City Administrator. Upon rejection of any application for a license or upon withdrawal of application before approval of the Issuing Authority, the license fee shall be refunded to the applicant. The investigative fees are nonrefundable.
- (c) When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee of the initial license period shall be ninety (90) days after approval of the license by the Issuing Authority or upon the date an occupancy permit is issued for the building, whichever comes first.
- (d) Licenses will expire on December 31 in each year. Each license will be issued for a period of one year, except that if a portion of the license year has elapsed when application is made, a license may be issued for the remainder of the year, based on a per diem, pro-rated fee based upon a 365 calendar day year.
- (e) No part of any fee paid will be refunded, except that a pro rata portion of the fee shall be refunded upon application made to the city council, in writing within thirty (30) days from the happening of one of the following events:

1. Destruction or damage of the licensed premises by fire or other catastrophe; or
 2. The licensee's death.
- (f) Any change in information provided on the application or provided during the investigation must be brought to the attention of the city council, in writing, and presented to the City Clerk/Treasurer or City Administrator by the applicant or licensee within five (5) calendar days of the change.

Subdivision 2. Investigation Fee.

- (a) An applicant for any license under this Division shall deposit with the Issuing Authority, at the time an original application is submitted, \$500.00 to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Ordinance. The investigation fee shall be nonrefundable.

Section 12. License Restrictions.

Subdivision 1. Effect of License. A license issued under this Ordinance is only effective for the compact and contiguous space specified in the approved license application.

Subdivision 2. Maintenance of Order. A licensee under this Ordinance shall be responsible for the conduct of the business being operated and shall not allow any illegal activity to take place on or near the licensed premises including but not limited to prostitution, public indecency, indecent exposure, disorderly conduct, or the sale or use of illegal drugs. Every act or omission by an employee or independent contractor of the licensee constituting a violation of this Ordinance shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee or as a result of the licensee's negligent failure to supervise the employee's or independent contractor's conduct.

Subdivision 3. Adult Car Wash Requirements. Adult oriented businesses that are adult car washes shall meet all of the requirements of this Ordinance.

Section 13. Restrictions regarding License Transfer.

Subdivision 1. The license granted under this Ordinance is for the person and the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.

Subdivision 2. When an adult oriented business licensed under this Ordinance is sold or transferred, the existing licensee shall immediately notify the Issuing Authority of the sale or transfer. If the new owner or operator is to continue operating the Adult Oriented Business, the new owner or operator must immediately apply for a license under this Ordinance.

Section 14. Inspection.

Subdivision 1. Access. An applicant or licensee shall permit health officials, representatives of the police department, fire department, and building inspection division, to inspect the premises of an Adult Oriented Business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

Subdivision 2. Refusal to Permit Inspections. A person who operates an Adult Oriented Business or his/her agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department, and building inspection division at any time it is occupied or open for business. Refusal to permit inspections may result in the suspension or revocation of the license as provided in this Ordinance.

Subdivision 3. Exceptions. The provisions of this section do not apply to areas of an adult motel, which are currently being rented by a customer for use as a permanent or temporary habitation. Temporary habitation is defined as a period of time of at least 12 hours.

Subdivision 4. Records. The licensee must keep itemized written records of all transactions involving the sale of all items or merchandise for at least one calendar year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase price or rental price, and a detailed description of the item or merchandise purchased or rented. Those written records must be made available to the City immediately upon request.

Section 15. Expiration and Renewal.

Subdivision 1. Expiration. Each license shall expire at the end of the calendar year and may be renewed only by making application as provided herein. Application for renewal must be made at least 60 days before the expiration date

Subdivision 2. Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

Section 16. Suspension.

Subdivision 1. Causes of Suspension. The City may suspend a license for a period not to exceed 30 days if it determines that licensee or an employee of a licensee has:

- (a) Violated or is not in compliance with any provision of this Ordinance.
- (b) Refused to allow an inspection of the Adult Oriented Business premises as authorized by this chapter.
- (c) Demonstrated inability to operate or manage an Adult Oriented Business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

Subdivision 2. Notice. A suspension by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof, or by mailing notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

Section 17. Revocation.

Subdivision 1. Suspended Licenses. The City may revoke a license if a cause of suspension in Section 16 occurs and the license has been suspended within the preceding 12 months.

Subdivision 2. Causes of Revocation. The City shall revoke a license if it determines that:

- (a) A licensee gave false or misleading information in the material submitted to the City during the application process;
- (b) A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- (c) A licensee or an employee has knowingly allowed prostitution on the premises;

- (d) A licensee or an employee knowingly operated the Adult Oriented Business during a period of time when the licensee's license was suspended;
- (e) A licensee has been convicted of an offense prohibited within this Ordinance as listed in Section 8, Subdivision 5 for which the time period required by Section 8, Subdivision 6 has not elapsed;
- (f) On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 8, Subdivision 5 for which a conviction has been obtained, and the person or person were employees of the Adult Oriented Business at the time the offenses were committed.
- (g) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.

Subdivision 3. Appeals. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

Subdivision 4. Exceptions. Section 17, Subdivision 2(g), does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

Subdivision 5. Granting a License After Revocation. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Oriented Business license for one year from the date revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under Section 17, Subdivision 2(e), an applicant may not be granted another license until the appropriate number of years required elapsed.

Subdivision 6. Notice. A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof or by mailing notice to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

Section 18. Procedures for appeal.

Subdivision 1. Suspensions, revocations, and non-renewals of Adult Oriented Business licenses are governed by the following provisions:

a) In the event that the city council proposes not to renew, to revoke, or to suspend the license, the licensee must be notified in writing of the basis for such proposed revocation or suspension. The council will hold a hearing for the purpose of determining whether to revoke or suspend or not renew the license. The hearing must be within 30 days of the date of the notice. The city council must determine whether to suspend or revoke a license within 30 days after the close of the hearing or within 60 days of the date of notice, whichever is sooner. The council must notify the licensee, in writing of its decision within that period.

b) If the council determines to suspend or revoke a license, the suspension or revocation is not effective until 15 days after written notice of the decision to the licensee is given. If, within those 15 days, the licensee files and serves an action in state or federal court challenging the council's decision, then the suspension or revocation is stayed, pending the conclusion of such court action.

c) If the city council determines not to renew a license, the licensee may continue to operate its business for 15 days after receipt of notice of non-renewal. If the licensee files and serves an action in state or federal court within that 15-day period, the licensee may continue in business pending the conclusion of the court action.

Section 19. Severability.

Every section, provision, or part of this Ordinance or any permit issued to this ordinance is declared severable from every other section, provision, or part thereof, to the extent that if any section, provision, or part of this Ordinance or any permit issued pursuant to this ordinance shall be held invalid by a court of competent jurisdiction it shall not invalidate any other section, provision, or part thereof.

Section 20. Applicability of Minnesota Statutes.

Minnesota Statutes §617.242 shall not apply to this Ordinance.

SECTION 808 - BLANK

SECTION 809 - STORM WATER MANAGEMENT

809.01 STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to Minnesota Statutes Section §462.351

809.02 FINDINGS

The City of Mendota hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, natural habitat areas, areas subject to soil erosion and areas containing restrictive soils adversely affects the public health, safety and general welfare by impacting water quality and contributing to other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the City of Mendota to provide adequate water, sewage, flood control, and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in such areas and in areas which may be affected by unplanned land usage.

809.03 PURPOSE

The purpose of this ordinance is to promote, preserve and enhance the natural resources within the City of Mendota and protect them from adverse effects occasioned by poorly sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique and fragile environmentally sensitive land; by minimizing conflicts and encouraging compatibility between land disturbing and development activities and water quality and environmentally sensitive lands; and by requiring detailed review standards and procedures for land disturbing or development activities proposed for such areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas.

809.04 DEFINITIONS

For the purposes of this ordinance, the following terms, phrases, words, and their derivatives shall have the meaning stated below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directive.

- 4.1 Applicant. Any person who wishes to obtain a building permit, zoning or subdivision approval.
- 4.2 Control measure. A practice or combination of practices to control erosion and attendant pollution.
- 4.3 Detention facility. A permanent natural or man-made structure, including wetlands, for the temporary storage of runoff which contains a permanent pool of water.
- 4.4 Flood fringe. The portion of the floodplain outside of the floodway.
- 4.5 Floodplain. The areas adjoining a watercourse or water basin that have been or may be covered by a regional flood.
- 4.6 Floodway. The channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplains that are reasonably required to carry and discharge floodwater and provide water storage during a regional flood.
- 4.7 Hydric soils. Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.
- 4.8 Hydrophytic vegetation. Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.
- 4.9 Land disturbing or development activities. Any change of the land surface including removing vegetative cover, excavating, filling, grading, and the construction of any structure.
- 4.10 Person. Any individual, firm, corporation, partnership, franchise, association, or governmental entity.
- 4.11 Public waters. Waters of the state as defined in Minnesota Statutes, section 103G.005, subdivision 15.
- 4.12 Regional flood. A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a 100-year recurrence interval.
- 4.13 Retention facility. A permanent natural or man made structure that provides for the storage of storm water runoff by means of a permanent pool of water.
- 4.14 Sediment. Solid matter carried by water, sewage, or other liquids.
- 4.15 Structure. Anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

4.16 Wetlands. Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

- a) Have a predominance of hydric soils;
- b) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- c) Under normal circumstances support a prevalence of such vegetation.

809.05 SCOPE AND EFFECT

5.1 Applicability. Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities must submit a storm water management plan to the City Clerk who shall forward it on to the City Engineer. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the storm water management plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this ordinance. The provisions of section 809.09 of this ordinance apply to all land, public or private, located within the City of Mendota.

5.2 Exemptions. The provisions of this ordinance do not apply to:

- a) Any part of a subdivision if a plat for the subdivision has been approved by the City of Mendota on or before the effective date of this ordinance;
- b) Any land disturbing activity for which plans have been approved by the watershed management organization within six months prior to the effective date of this, ordinance;
- c) A lot for which a building permit has been approved on or before the effective date of this ordinance;
- d) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles; or
- e) Emergency work to protect life, limb, or property.

5.3 Waiver. The City of Mendota, upon recommendation of the Planning Commission, may waive any requirement of this ordinance upon making a finding that compliance

with the requirement will involve an unnecessary hardship and the waiver of such requirement will not adversely affect the standards and requirements set forth in Section 809.06. The City Council may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct as may be necessary to adequately meet said standards and requirements.

809.06 STORM WATER MANAGEMENT PLAN APPROVAL PROCEDURES

6.1 Application. A written application for storm water management plan approval, along with the proposed storm water management plan, shall be filed with the City Clerk and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this ordinance. Prior to applying for approval of a storm water management plan, an applicant may have the storm water management plans reviewed by the City Engineer at his or her own cost.

Two sets of clearly legible blue or black lined copies of drawings and required information shall be submitted to the City Clerk and shall be accompanied by a receipt from the Clerk evidencing the payment of all required fees for processing and approval as set forth in Section 809.07-5, and a bond when required by Section 809.07-4 in the amount to be calculated in accordance with that section. Drawings shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed. At a minimum the scale shall be 1 inch equals 100 feet.

6.2 Storm water management plan. At a minimum, the storm water management plan shall contain the following information.

- a) Existing site map. A map of existing site conditions showing the site and immediately adjacent areas, including:
 - 1) The name and address of the applicant, the section, township and range, north point, date and scale of drawing and number of sheets;
 - 2) Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns and districts or other landmarks;
 - 3) Existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than 2 feet;
 - 4) A delineation of all streams, rivers, public waters and wetlands located on and immediately adjacent to the site, including depth of water, a description of all vegetation

which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, and/or the United States Army Corps of Engineers;

- 5) Location and dimensions of existing storm water drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate storm water is conveyed from the site, identifying the receiving stream, river, public water, or wetland, and setting forth those areas of the unaltered site where storm water collects;
 - 6) A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed and describing any remedial steps to be taken by the developer to render the soils suitable;
 - 7) Vegetative cover and clearly delineating any vegetation proposed for removal; and
 - 8) 100-year floodplains, flood fringes and floodways.
- b) Site construction plan. A site construction plan including:
- 1) Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;
 - 2) Locations and dimensions of all temporary soil or dirt stockpiles;
 - 3) Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this ordinance;
 - 4) Schedule of anticipated starting and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this ordinance; and
 - 5) Provisions for maintenance of the construction site erosion control measures during construction.

- c) Plan of final site conditions. A plan of final site conditions on the same scale as the existing site map showing the site changes including:
- 1) Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;
 - 2) A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of all proposed landscape materials which will be added to the site as part of the development;
 - 3) A drainage plan of the developed site delineating in which direction and at what rate storm water will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect;
 - 4) The proposed size, alignment and intended use of any structures to be erected on the site;
 - 5) A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and
 - 6) Any other information pertinent to the particular project which in the opinion of the applicant is necessary for the review of the project.

809.07 PLAN REVIEW PROCEDURE

- 7.1 Process. Storm water management plans meeting the requirements of Section 809.06 shall be submitted by the City Clerk to the Planning Commission for review in accordance with the standards of Section 809.08. The Commission shall recommend approval, recommend approval with conditions, or recommend denial of the storm water management plan. Following Planning Commission action, the storm water management plan shall be submitted to the City Council at its next available meeting. City Council action on the storm water management plan must be accomplished within 120 days following the date the application for approval is filed with the City Clerk.
- 7.2 Duration. Approval of a plan submitted under the provisions of this ordinance shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval, the applicant makes a written request to the City Clerk for an extension of time to commence construction setting forth the reasons for the requested extension, the planning department may grant one extension of not greater than one single year. Receipt of any request for an extension shall be acknowledged by the City Clerk

within 15 days. The City Clerk and or City Engineer shall make a decision on the extension within 30 days of receipt. Any plan may be revised in the same manner as originally approved.

- 7.3 Conditions. A storm water management plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this ordinance are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, and require the conveyance to the City of Mendota or other public entity of certain lands or interests therein.
- 7.4 Performance bond. Prior to approval of any storm water management plan, the applicant shall submit an agreement to construct such required physical improvements, to dedicate property or easements, or to comply with such conditions as may have been agreed to. Such agreement shall be accompanied by a bond to cover the amount of the established cost of complying with the agreement. The agreement and bond shall guarantee completion and compliance with conditions within a specific time, which time may be extended in accordance with Section 7.2.

The adequacy, conditions and acceptability of any agreement and bond shall be determined by the Mendota City Council or any official of the City of Mendota as may be designated by resolution of the Mendota City Council.

- 7.5 Fees. All applications for storm water management plan approval shall be accompanied by a processing and approval fee of \$150.00.

809.08 APPROVAL STANDARDS

- 8.1 No storm water management plan which fails to meet the standards contained in this section shall be approved by the Mendota City Council.
- 8.2 Site dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators or other appropriate controls as appropriate. Water may not be discharged in a manner that causes erosion or flooding of the site or receiving channels or a wetland.
- 8.3 Waste and material disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or storm sewer system.
- 8.4 Tracking. Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.

- 8.5 Drain inlet protection. All storm drain inlets shall be protected during construction until control measures are in place with a straw bale, silt fence or equivalent barrier meeting accepted design criteria, standards and specifications contained in the MPCA publication "Protecting Water Quality in Urban Areas."
- 8.6 Site erosion control. The following criteria (a. through d.) apply only to construction activities that result in runoff leaving the site.
- a) Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below. Sheetflow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas, unless shown to have resultant runoff rates of less than 0.5 ft./sec. across the disturbed area for the one year storm. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.
 - b) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.
 - c) Runoff from the entire disturbed area on the site shall be controlled by meeting either subsections 1 and 2 or 1 and 3.
 - 1) All disturbed ground left inactive for fourteen or more days shall be stabilized by seeding or sodding (only available prior to September 15) or by mulching or covering or other equivalent control measure.
 - 2) For sites with more than ten acres disturbed at one time, or if a channel originates in the disturbed area, one or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one percent of the area draining to the basin and at least three feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three feet. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.
 - 3) For sites with less than ten acres disturbed at one time, silt fences, straw bales, or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce sediment reaching the channel. The use of silt fences, straw bales, or equivalent control measures must include a maintenance and inspection schedule.

- d) Any soil or dirt storage piles containing more than ten cubic yards of material should not be located with a downslope drainage length of less than 25 feet from the toe of the pile to a roadway or drainage channel. If remaining for more than seven days, they shall be stabilized by mulching, vegetative cover, tarps, or other means. Erosion from piles which will be in existence for less than seven days shall be controlled by placing straw bales or silt fence barriers around the pile. In-street utility repair or construction soil or dirt storage piles located closer than 25 feet of a roadway or drainage channel must be covered with tarps or suitable alternative control, if exposed for more than seven days, and the stormdrain inlets must be protected with straw bale or other appropriate filtering barriers.

8.7 Storm water management criteria for permanent facilities

- a) An applicant shall install or construct, on or for the proposed land disturbing or development activity, all storm water management facilities necessary to manage increased runoff so that the two-year, ten-year, and 100-year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity. An applicant may also make an in-kind or monetary contribution to the development and maintenance of community storm water management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.
- b) The applicant shall give consideration to reducing the need for storm water management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.
- c) The following storm water management practices shall be investigated in developing a storm water management plan in the following descending order of preference:
 - 1) Natural infiltration of precipitation on-site;
 - 2) Flow attenuation by use of open vegetated swales and natural depressions;
 - 3) Storm water retention facilities; and

4) Storm water detention facilities.

d) A combination of successive practices may be used to achieve the applicable minimum control requirements specified in subsection (a) above. Justification shall be provided by the applicant for the method selected.

8.8 Design standards. Storm water detention facilities constructed in the City of Mendota shall be designed according to the most current technology as reflected in the MPCA publication "Protecting Water Quality in Urban Areas", and shall contain, at a minimum, the following design factors:

- a) A permanent pond surface area equal to two percent of the impervious area draining to the pond or one percent of the entire area draining to the pond, whichever amount is greater;
- b) An average permanent pool depth of four to ten feet;
- c) A permanent pool length – to – width ratio of 3:1 or greater;
- d) A minimum protective shelf extending ten feet into the permanent pool with a slope of 10:1, beyond which slopes should not exceed 3:1;
- e) A protective buffer strip of vegetation surrounding the permanent pool at a minimum width of one rod (16.5 feet) ;
- f) All storm water detention facilities shall have a device to keep oil, grease, and other floatable material from moving downstream as a result of normal operations;
- g) Storm water detention facilities for new development must be sufficient to limit peak flows in each subwatershed to those that existed before the development for the 10 year storm event. All calculations and hydrologic models/information used in determining peak flows shall be submitted along with the storm water management plan;
- h) All storm water detention facilities must have a forebay to remove coarse-grained particles prior to discharge into a watercourse or storage basin.

8.9 Wetlands.

- a) Runoff shall not be discharged directly into wetlands without presettlement of the runoff.
- b) A protective buffer strip of natural vegetation at least one rod (16.5 feet) in width shall surround all wetlands.

- c) Wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value. Replacement must be guided by the following principles in descending order of priority.
 - 1) Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;
 - 2) Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;
 - 3) Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;
 - 4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity, and
 - 5) Compensating for the impact by replacing or providing substitute wetland resources or environments.
- 8.10 Steep slopes. No land disturbing or development activities shall be allowed on slopes of 18 per cent or more.
- 8.11 Catch basins. All newly installed and rehabilitated catch basins shall be provided with a sump area for the collection of coarse-grained material. Such basins shall be cleaned when they are half filled with material.
- 8.12 Drain leaders. All newly constructed and reconstructed buildings will route drain leaders to pervious areas wherein the runoff can be allowed to infiltrate. The flow rate of water exiting the leaders shall be controlled so no erosion occurs in the pervious areas.
- 8.13 Inspection and maintenance. All storm water management facilities shall be designed to minimize the need of maintenance, to provide access for maintenance purposes and to be structurally sound. All storm water management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in storm water runoff. The director of public works, or designated representative, shall inspect all storm water management facilities during construction, during the first year of operation, and at least once every five years thereafter. The inspection records will be kept on file at the public works department for a period of 6 years. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the storm water management facilities for inspection and maintenance purposes.
- 8.14 Models/methodologies/computations. Hydrologic models and design methodologies used for the determination of runoff and analysis of storm water management structures shall be approved by the director of public works. Plans, specification and computations for storm water management facilities submitted for review shall be sealed and signed by a registered professional engineer. All computations shall

appear on the plans submitted for review, unless otherwise approved by the director of public works.

- 8.15 Watershed management plans/Groundwater management plans. Storm water management plans shall be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with Minnesota Statutes section 103B.231 and 103B.255 respectively, and as approved by the Minnesota Board of Water and Soil Resources in accordance with state law.
- 8.16 Easements. If a storm water management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

809.09 LAWN FERTILIZER REGULATIONS

- 9.1 Use of impervious surfaces. No person shall apply fertilizer to or deposit grass clippings, leaves, or other vegetative materials on impervious surfaces, or within storm water drainage systems, natural drainage ways, or within wetland buffer areas.
- 9.2 Unimproved land area. Except for driveways, sidewalks, patios, areas occupied by structures or areas which have been improved by landscaping, all areas shall be covered by plants or vegetative growth.
- 9.3 Fertilizer content. Except for the first growing season for newly established turf areas, no person shall apply liquid fertilizer which contains more than one-half percent by weight of phosphorus, or granular fertilizer which contains more than three percent by weight of phosphorus, unless the single application is less than or equal to one-tenth pound of phosphorus per one thousand square feet. Annual application amount shall not exceed one half pound of phosphorus per one thousand square feet of lawn area.

IX. Buffer zone. Fertilizer applications shall not be made within one rod (16.5 feet) of any wetland or water resource.

809.10 PENALTY

Violation of any provision of this ordinance shall be a misdemeanor for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

809.11 OTHER CONTROLS

In the event of any conflict between the provisions of this ordinance and the provisions of an erosion control or shoreland protection ordinance adopted by the City Council, the more restrictive standard prevails.

809.12 SEVERABILITY

The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application

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CHAPTER IX: DEFINITIONS

SECTION 901 - LIST OF DEFINITIONS

The following words and terms, whenever they occur in this Ordinance, are defined as follows:

- (1) Accessory Use or Structure - A use or structure or portion of a structure subordinate to and serving the principal use structure on the same lot and customarily incidental thereto.
- (2) Agricultural Use - The management of land for production of farm crops such as vegetables, fruit trees, grain and other crops, and their storage on the area, as well as for the raising thereon of domestic and non-domestic farm animals, including but not limited to horses, cattle, sheep, swine and poultry, in enclosed buildings, pastures or feedlots.
- (3) Alley - A public right-of-way which affords a secondary means of access to abutting property.
- (4) Basement - A portion of a building located partly underground but having half or more of its floor to ceiling height below the average grade of the adjoining ground.
- (5) Berm - A shelf or raised flat area that breaks the continuity of the slope of the land.
- (6) Bluffline - A line along the top of a slope connecting the points at which the slope becomes less than 18°. This applies to those slopes within the land use district which are beyond the setback provisions from the ordinary high water mark.
- (7) Building - Any structure having a roof which may provide shelter or enclosure of persons, animals, chattel, or property of any kind and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.
- (8) Building Line - A line parallel to the street right-of-way line at any story level of a building and representing the minimum distance which all or any part of the building is set back from said right-of-way line.
- (9) City Council - The duly elected City Council of the City of Mendota.
- (10) Club and Lodge - A public or private hall or building used primarily as a meeting place by one or more public or private organizations
- (11) Commercial Use - See "Retail Commercial" and "Wholesale Commercial".

- (12) Community Water and Sewer Systems - Utilities systems serving a group of buildings, lots, or any area of the community, with the design and construction of such utility systems, as approved by the community and the State of Minnesota.
- (13) Conditional Use - A use classified as conditional, generally may be appropriate or desirable in a specified zone, but requires special approval because if not carefully located or designed, it may create special problems such as excessive height or bulk or abnormal traffic congestion.
- (14) Curb Level - The grade elevation established by the governing body of the curb in front of the center of the building. Where no curb level has been established, the engineering staff shall determine a curb level or its equivalent for the purpose of this Ordinance.
- (15) Drainage System - Any natural or artificial means used to drain or store water, including but not limited to streams, rivers, creeks, and ditches, and including structures such as culverts, drainage tiles, and dams, and water storage basins such as lakes or ponds, either natural or man-made.
- (16) Dwelling Unit - A residential building or portion thereof intended for occupancy by a single-family but not including hotels, motels, boarding or rooming houses or tourist homes.
- (17) Duplex - A detached dwelling unit designed or modified for occupancy by two families.
- (18) Exterior Storage (Includes Open Storage) - The storage of goods, materials, equipment, manufactured products and similar items, not fully enclosed by a building.
- (19) Family - An individual, or two or more persons related by blood, marriage or adoption living together, or a group of not more than five persons who need not be related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit, exclusive of usual servants.
- (20) Floor Area - The sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use; including accessory storage areas located within selling or working space and including any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the floor "area shall not include: basement floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices.

- (21) Garage, Private - An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident upon the premises.
- (22) Historic Site - Structure or body of land or water of historic, archeological, paleontological, or architectural content or value which has been designated as a historic site in the Federal Register of Historical Landmarks or by the Minnesota Historical Society or by resolution of a local governmental unit.
- (23) Home Occupation - An occupation carried on in a dwelling by the resident thereof, not involving the conduct of a retail business or manufacturing business, and provided that the use is incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. Such a home occupation shall include office of professionals, home beauty shops, and such other occupations which by custom are considered as a use accessory to a dwelling. Such a home occupation shall be conducted entirely within the dwelling, shall be conducted by no more than two (2) persons, and such persons shall reside within the dwelling. Services such as a home beauty shop shall serve no more than one customer at a time. No structural alterations or enlargements shall be made for the sole purpose of conducting the home occupation. There shall be no detriments to the residential character of the neighborhood due to the emission of noise, odor, smoke, dust, gas, heat, glare, vibration, electrical interference, traffic congestion or any other annoyance resulting from the home occupation. There shall be no exterior storage of products or materials, and no display or advertising sign on the premises of a home occupation, provided that a name plate no larger than one square foot in area, stating the name of the proprietor, may be attached to the wall of the dwelling.
- (24) Industry - All manufacturing, compounding, processing, packaging, treatment or assembly of products and materials.
- (25) Junk Yard - An open area where waste, used, or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to: scrap iron and other metals, paper, rags, rubber, tires, and bottles. A junk yard includes uses established entirely within enclosed buildings. This definition does not include sanitary landfills.
- (26) Local Government Buildings - Public structures housing public facilities or services including city hall, police station, fire station, libraries, highway maintenance facilities, etc. This does not include schools.
- (27) Lot - A parcel of land, subdivided or otherwise, capable of legal description, and having a principal frontage along a public road.

- (28) Lot of Record - Any lot which is one unit of a plat heretofore duly approved and filed, or one unit of an Auditor's Subdivision or a Registered Land Survey that has been recorded in the Recorder's Office of Dakota County, Minnesota, prior to the effective date of this Ordinance.
- (29) Lot Area - The area of a lot in a horizontal plane bounded by the lot lines.
- (30) Lot, Corner - A lot situated at the junction of, and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty-five degrees.
- (31) Lot Depth - The mean horizontal distance between the front lot line and the rear lot line of a lot.
- (32) Lot Line - The property line bounding a lot, except that where any portion of a lot extends into the public right-of-way, the line of such public right-of-way shall be the lot line for applying this Ordinance.
- (33) Lot Line, Front - That boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner and filed with the designated local official.
- (34) Lot Line, Rear - That boundary of a lot which is opposite the front lot line. If the rear line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and, at the maximum distance from the front lot line.
- (35) Lot Line, Side - Any boundary of a lot which is not a front lot line or a rear lot line.
- (36) Lot, Substandard - A lot or parcel of land for which a deed has been recorded in the Office of the Dakota County Recorder, upon or prior to the effective date of this Ordinance, which does not meet the minimum lot area, structure setbacks or other dimensional standards of this Ordinance.
- (37) Lot, Through - A lot which has a pair of opposite lot lines abutting two substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lot lines for applying this Ordinance.
- (38) Lot Width - The maximum horizontal distance between the side lot lines of a lot measured within the first thirty feet of the lot depth.

- (39) Landscaping - Plantings such as trees, grass and shrubs.
- (40) Mining Operation - Means the removal from the land of stone, sand and gravel, coal, salt, iron, copper, nickel, granite, petroleum products or other material for commercial, industrial, or governmental purposes.
- (41) Mobile Home - A housing unit designed for transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connections to utilities and the like.
- (42) Mobile Home Park - Any premises larger than ten acres on which lots are rented for the placement of at least ten non-transient occupied mobile homes.
- (43) Modular Home - A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site. A modular home shall be considered as a single-family dwelling.
- (44) Hotel/motel - A structure or group of structures used primarily for the temporary residence of motorists or travelers.
- (45) Multiple Family Dwelling (Apartment Building) - Three or more dwelling units in one structure.
- (46) Office & Medical - Those commercial activities that take place in office buildings, where goods are not produced, sold or repaired. These include banks, general offices, insurance offices, real estate offices, travel agency, telephone exchange, utility office, radio broadcasting and similar uses.
- (47) Open Sales Lot (Exterior Storage) - Any land used or occupied for the purpose of buying and selling any goods, materials, or merchandise, and for the storing of same under the open sky prior to sale.
- (48) Planning Commission - The Planning Commission of Mendota.
- (49) Prefabricated Home - A non-mobile housing unit, the walls, floors and ceilings of which are constructed at a central factory and transported to a building site where final construction is completed, permanently affixing the unit to the site. A prefabricated home shall be considered as a single-family dwelling.
- (50) Principal Structure or Use - The purpose or activity for which the land structure or building thereon is designed, arranged or intended or for which it is occupied or

maintained.

- (51) Public Land - Land owned or operated by municipal, school district, county, state, or other governmental units.
- (52) Public Utility Buildings - A structure or facility designed for the operation of public utilities, including power stations, substations, pumping stations and reservoirs, communications equipment buildings, gas regulation stations, and transmission lines.
- (53) Recreation, Commercial - A privately owned business offering recreational facilities, services, or equipment for a fee, including but not limited to private golf courses, theaters, bowling alleys, boat launches, etc. Also includes the sale and service of recreational equipment such as snowmobiles, boats, campers, etc.
- (54) Recreation, Public - A public parcel of land (which may include water bodies) and buildings incidental thereto maintained for recreation, including but not limited to parks, golf courses, preserves, ski and snowmobile trails, ball parks, swimming pools (except privately owned residential pools) skating arenas, etc.
- (55) Retail Commercial - Structures under 10,000 square feet in floor area used for the display and sale of goods and services (including eating and drinking establishments).
- (56) Road - A public thoroughfare supporting access by pedestrians and vehicles to abutting properties, including without limitation, streets, highways, freeways, parkways, thoroughfares, roads, avenues, boulevard lanes, or places, however described; however, not including privately owned driveways and access routes.
- (57) Setback - The minimum horizontal distance between a structure and a road, highway, or lot line as established in this Ordinance. Setback regulations shall apply only to principal structures.
- (58) Single-Family Dwelling - A free-standing (detached) permanent structure designed for habitation by human beings, designed for and occupied by one family only, including manufactured homes.
- (59) Structural Alteration - Any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders-or foundations.
- (60) Structure - Anything constructed, the use of which requires more or less permanent location on the ground; or attached to something having a permanent location on the ground.

- (61) Use, Non-Conforming - A use of land, building or structure lawfully existing at the time of adoption of this Ordinance which does not comply with all the regulations of this Ordinance or any use of land, building or structure lawfully existing prior to the adoption of an amendment which would not comply with all of the regulations.
- (62) Use, Permitted - A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards of such district.
- (63) Variance - A modification or variation of the provisions of this Ordinance where it is determined that, by reason of special and unusual circumstances relating to a specific lot, strict application of the Ordinance would cause an undue or unnecessary hardship, or that strict conformity with the provisions of this Ordinance would be unreasonable, impractical or unfeasible under the circumstances.
- (64) Warehouse - An enclosed building used principally for the storage of equipment and materials and including packing and crating.
- (65) Wholesale, Commercial Use - Structures used for selling goods, equipment or materials by bulk to another business that in turn sells through retail outlets.
- (66) Yard - A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky, except as permitted in this Ordinance. The yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located.
- (67) Yard, Front - A yard extending along the full width of the front lot line, between side lot lines and extending from the abutting street right-of-way line to depth required in the setback regulations for the zoning district in which such lot is located.
- (68) Yard, Rear - The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line, and extending for the full width of the lot.
- (69) Yard, Side - The yard extending along the side lot line between the front and rear yards to a depth or width required by setback regulations for the zoning district in which such lot is located.
- (70) Zoning Administrator - That individual designated by the City to administer this

Ordinance or the Planning Commission as a body.

- (71) Zoning Amendment - A change authorized by the City Council in the allowed uses within a district, in the boundaries of a district, or within the text of the Ordinance.
- (72) Zoning District - An area or areas within the limits of the Community for which the regulations and requirements governing use are uniform.