



## Council Agenda Report

**TO:** City Council

**FROM:** Thomas Frutchey, City Manager  
Robert Burton, Police Chief  
Warren Frace, Community Development Director

**SUBJECT:** Rezone 16-001: Repeal and Replace Section 21.33. Zoning Ordinance - Regulation of Personal, Medical and Commercial Use of Marijuana

**DATE:** October 4, 2016

### Needs:

For the City Council to consider a modification to the Zoning Ordinance to regulate the personal, medical, and commercial use of marijuana, including requiring an indoor cultivation permit prior to allowing residents to cultivate six plants within ancillary structures on their properties.

### Facts:

1. On September 20, 2016 the City Council introduced and held first reading of an ordinance to amend the City's zoning Code regarding the regulation of personal, medical, recreational, and commercial use of marijuana. No substantive changes have been made since first read. Notice approved by the City Attorney of the Council's intended action has been achieved in a newspaper of general circulation.

2. The City's Municipal Code currently bans medical marijuana dispensaries and cultivation per El Paso De Robles Municipal Code Chapter 21.33; mobile dispensaries for medical marijuana deliveries are permitted. On June 28, 2016, the Secretary of State Certified Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA") for the November 8, 2016 ballot.

3. If AUMA passes, some of its provisions will take effect on November 9, 2016. AUMA would immediately legalize possession, transport, purchase, use, and transfer of recreational marijuana for individuals 21 years of age or older. Under AUMA, adults could possess up to 28.5 grams of marijuana, up to 8 grams of marijuana in the form of concentrated cannabis, which may be present in marijuana products such as edibles, and up to six living marijuana plants, and any marijuana produced by those plants. It would also legalize the cultivation of marijuana, marijuana delivery services, and recreational marijuana retail services.

4. However, AUMA allows for local control of marijuana uses. It would allow local governments to:

- Ban all marijuana-related businesses outright, including marijuana dispensaries, delivery services, and any recreational marijuana retail services.

- Ban outdoor cultivation of marijuana, unless the California Attorney General determines marijuana is no longer illegal under Federal law (if marijuana is federally legalized, outdoor cultivation could be regulated, but not prohibited).
- Reasonably regulate indoor cultivation in private residences, but not ban it outright. AUMA would allow individuals to grow up to six marijuana plants in their home, and to possess all of the marijuana those plants provide.

5. The Planning Commission held a public hearing on August 30, 2016 and is recommending the City Council adopt a draft ordinance amending the Zoning Ordinance to repeal and replace Chapter 21.33 of the El Paso De Robles Municipal Code to Regulate the Personal, Medical, and Commercial Use of Marijuana.

6. On September 6, 2016 the City Council held a public workshop to hear public testimony on use and regulation of both medical and recreation marijuana. At the meeting, Council requested that staff:

- separate out medical marijuana from the consideration of recreational and commercial uses;
- return to the Council with a recommended process for addressing potential changes to the City's medical marijuana ordinance; and
- bring a recreational and commercial ordinance back in time for consideration in concert with the November vote on Proposition 64.

7. On September 12, 2016, the League of California Cities issued a memorandum (Attachment 1) to City Managers and City Attorneys with the following recommendation:

“Cities should prioritize considering or enacting ordinances regulating personal nonmedical marijuana cultivation, because it will be legal under state law on November 9, 2016 if the AUMA passes...”<sup>1</sup>

### Options

1. Do nothing.
2. Hold second reading and adopt the proposing ordinance.
3. Hold first reading of a substantively different ordinance, requesting second reading after November 8.

### Analysis and Conclusion:

As indicated by the September 12 memo from the League of California Cities, it is important for the City to retain local control and discretion. The pattern of votes on Proposition 64 by Paso Robles voters might not be reflective of the statewide pattern. Passage and implementation of a placeholder ordinance prior to November 8 will: (1) retain local control; and (2) minimize the risk of a resident or local business making a significant investment prior to the Council deciding what is the best approach for the Paso Robles community. Staff recommends that the City Council adopt an ordinance regulating primarily personal and commercial use of marijuana so that the El Paso De Robles Municipal Code properly regulates these issues prior to the potential passage of AUMA. Adoption of

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<sup>1</sup> Page 9, Section IV. September 13, 2016 League of California Cities Memorandum - The Control, Regulate and Tax Adult Use of Marijuana Act

either Option 1 or Option 3 means that no action would be possible prior to November 8 General election.

If AUMA passes, it would allow for the development of many new marijuana-related businesses, including recreational dispensaries, recreational retail services, recreational delivery, and large-scale cultivation operations. However, AUMA also gives local governments the authority to regulate these uses. While AUMA indicates a local government cannot prevent transportation of marijuana or marijuana products on public roads, AUMA authorizes cities to “reasonably regulate” indoor cultivation of marijuana in private residences, ban outdoor cultivation of marijuana entirely unless it is federally legalized, and prohibit any marijuana-related business entirely.

If AUMA becomes law, recreational use of marijuana will be legalized, as will recreational possession of marijuana and some level of indoor cultivation. The cultivation, transportation, and distribution of marijuana can create problems relating to public health and safety, crime, water, air quality, and energy consumption, if not regulated properly (refer to attachments for additional information). Specifically, mobile delivery can create issues relating to responsibility and resources to monitor and enforce State law, questions of patient qualification, and risks relating to the high use of large sums of cash for mobile transactions. Cultivation can create air quality, energy, and water quality damage and impair building maintenance and safety. For example, the increased moisture necessary to grow indoors can create excessive mold growth and structural damage. Additionally, the equipment utilized to grow indoors can pose a risk of fire and electrical hazards due to dangerous electrical alterations and use. Further, inadequate ventilation combined with the use of pesticides and fertilizers in an enclosed space can lead to chemical contamination within structures.

Local government’s ability to regulate the content of signage is extremely limited due to the constitutional protections of free speech under the First Amendment. While a city can impose reasonable time, place, and manner restrictions on signs, it cannot impose different regulations for signs based on their content. Therefore, the City cannot regulate the message content on existing billboards in town. Proposition 64, if it does pass, includes a provision for the state to adopt regulations regarding advertising to protect consumers against, for example, false claims. Because the State will not be issuing licenses for commercial marijuana uses until 2018, if the proposition passes, advertising for such businesses should not be a near-term concern. However, the City may wish to evaluate its sign regulations in general to determine if they should be amended or modified.

Similarly, the City does not have a smoking ordinance. Research indicates that smoking marijuana has the same cancer risks as does smoking cigarettes, both for the smoker and for those exposed to second-hand smoke. The City may wish to evaluate current state-level smoking regulations and decide if a local ordinance is desired.

California is unlike other states. California can go to school, however, on the experiences of other states that passed measures similar to Proposition 64. The primary examples are Colorado, Washington, and Oregon. Experts in each of those states have issued comprehensive reports detailing the full range of positive and negative impacts of the measures. Two of the most useful reports follow:

- The Legalization of Marijuana in Colorado: the Impact; Volume 4, September 2016  
<https://drive.google.com/file/d/0Bxs3xMLjUamANHhRRkluWkRobXM/view>
- Washington State Marijuana Impact Report: March 2016  
<https://drive.google.com/file/d/0Bxs3xMLjUamANHhRRkluWkRobXM/view>

Given the significant impacts reported in these other states, it is prudent for the City to take a measured approach to the legalization of marijuana in California. Much additional information will become available as other cities also consider their options. This additional information will inform the public process that the City will undertake after the new year.

### 1) Regulation of Personal Marijuana Uses

As indicated above, passage of AUMA would legalize recreational use of marijuana. However, the ordinance staff recommends includes a provision banning personal recreational use of marijuana to the extent such use is illegal under California law. If AUMA fails, the proposed ordinance would continue to ban all personal recreational use of marijuana in the City. If AUMA passes, the ordinance would allow personal recreational use as the measure provides.

The City is also allowed to ban outdoor cultivation of marijuana entirely. Alternatively, some cities are allowing outdoor cultivation with regulations such as:

- Outdoor, residential cultivation so long as plants are enclosed
- Property owner must approve of cultivation on the property; and
- Limiting the number of plants

If AUMA passes, the City cannot ban indoor cultivation of marijuana in private residences outright, but it may “reasonably regulate” such cultivation. The draft ordinance allows indoor cultivation in accessory structures to private residences, with a permit.

### 2) Regulation of Medical Marijuana Uses

The Medical Marijuana Regulation and Safety Act (“MMRSA”) is left largely intact by AUMA, and so the potential for medical marijuana uses, including qualified patient or primary caregiver cultivation, still exists. The recommended ordinance would impose the same regulations on medical marijuana cultivation as on recreational cultivation and would ban all collectives, cooperatives, dispensaries, operators, establishments, and providers. The proposed ordinance would continue to allow medical marijuana delivery services. Alternatively, the City could:

- Adopt less restrictive regulations for those who have a verified medical need to cultivate marijuana indoors or outdoors
- Allow dispensaries but limit the number allowed in the jurisdiction
- Allow dispensaries but impose separation requirements from parks, schools, churches, and other dispensaries
- Limit dispensaries to a specified zoning designation
- Impose security requirements including limiting the hours of operation of any dispensaries and prohibiting loitering.

### **3) Regulation of Commercial Marijuana Uses**

If AUMA becomes law, it will likely lead to the creation of a variety of new commercial marijuana ventures, including recreational retail services. The proposed ordinance bans most commercial marijuana activity, including commercial cultivation, commercial manufacturing, commercial testing, and any commercial dispensaries or recreational retailers. The proposed ordinance would allow recreational marijuana delivery services. Alternatively, the City could allow some or all of these uses, with whatever regulations the City sees fit. Some other options include:

- Allowing commercial cultivation with a local tax imposed on growth
- Allowing some retailers with zoning limitations on location or number
- Allowing delivery to originate or terminate in the City
- Banning commercial delivery services

**Policy Reference:** Paso Robles General Plan; Municipal Code Chapter 21.33

**Fiscal Impact:** None

#### **Environmental Review**

This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (“CEQA”) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council has further found, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance was nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directed on September 20 that a Notice of Exemption be filed with the County Clerk of the County of San Luis Obispo in accordance with CEQA Guidelines.

#### **Recommendation**

Hold second reading by title only and approve Ordinance 16-XXX amending Chapter 21.33 of the El Paso de Robles Municipal Code to regulate the personal, medical, and commercial use of marijuana.

#### **Attachments:**

1. Ordinance 16-XXX amending Chapter 21.33 of the El Paso de Robles Municipal Code

## ORDINANCE NO. 16-XXXX

## AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES, CALIFORNIA AMENDING CHAPTER 21.33 OF THE EL PASO DE ROBLES MUNICIPAL CODE TO REGULATE THE PERSONAL, MEDICAL, AND COMMERCIAL USE OF MARIJUANA

WHEREAS, the City of El Paso De Robles, California (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, California Government Code section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

WHEREAS, the City passed Ordinance No. 1023 on January 19, 2016; and

WHEREAS, the City desires to continue to ban all marijuana dispensaries and cultivation land uses within City Limits to the extent allowed by California law. This Ordinance updates the Municipal Code to effectuate that aim; and

WHEREAS, on June 28, 2016, the Secretary of State certified Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA"), for the November 8, 2016 ballot; and

WHEREAS, the AUMA would become law if a majority of the electorate votes "Yes" on the proposition; and

WHEREAS, the AUMA would regulate, among other items, the use of marijuana for personal and commercial purposes, including the recreational use of marijuana by adults over 21 years of age; and

WHEREAS, to regulate personal use of marijuana the AUMA would add Section 11362.1 to the Health and Safety Code, which makes it "lawful under state and local law" for persons 21 years of age or older to "possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever" up to 28.5 grams of marijuana in the form of concentrated cannabis or not more than eight grams of marijuana in the form of concentrated cannabis contained in marijuana products; and

WHEREAS, the AUMA would make it lawful for those individuals to "possess, plant, cultivate, harvest, dry, or process not more than six living marijuana plants and possess the marijuana produced by the plants; and

WHEREAS, the AUMA would make it lawful for those individuals to smoke or ingest marijuana or marijuana products; and

WHEREAS, should the AUMA pass, many of its provisions would take effect on November 9, 2016; and

WHEREAS, to regulate commercial use of marijuana, the AUMA would add Division 10 (Marijuana) to the Business & Professions Code, which grants state agencies "the exclusive authority to create, issue, renew, discipline, suspend, or revoke" licenses for businesses including the transportation, storage, distribution, sale, cultivation, manufacturing, and testing of marijuana; and

WHEREAS, the AUMA provides that the above state agencies shall promulgate rules and regulations and shall begin issuing licenses under Division 10 by January 1, 2018; and

WHEREAS, the AUMA states that a local jurisdiction shall not prevent transportation of marijuana or marijuana products on public roads by a licensee transporting marijuana or marijuana products in compliance with Division 10; and

WHEREAS, the AUMA would authorize cities to “reasonably regulate” without completely prohibiting cultivation of marijuana inside a private residence or inside an “accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure”; and

WHEREAS, the AUMA would authorize cities to completely prohibit outdoor cultivation on the grounds of a private residence, up to and until a “determination by the California Attorney General that nonmedical use of marijuana is lawful in the State of California under federal law”; and

WHEREAS, the AUMA would authorize cities to completely prohibit the establishment or operation of any marijuana business licensed under Division 10 within its jurisdiction, including marijuana dispensaries, marijuana retailers, and marijuana delivery services; and

WHEREAS, absent appropriate local regulation authorized by the AUMA, state regulations will control; and

WHEREAS, the “Medical Marijuana Regulation and Safety Act” (“MMRSA”), which took effect January 1, 2016, regulates use of marijuana for medical purposes; and

WHEREAS, the MMRSA contains a provision which provides that the State shall become the sole authority for regulation under certain parts of the Act unless local governments pass their own regulations; and

WHEREAS, in May 2013, the California Supreme Court held in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal. 4th 729 (2013) that cities have the authority to regulate or ban outright medical marijuana land uses; and

WHEREAS, the California Attorney General’s August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognizes that the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, under the Federal Controlled Substances Act, the use, possession, and cultivation of marijuana are unlawful and subject to federal prosecution without regard to a claimed medical need; and

WHEREAS, the indoor cultivation of marijuana has potential adverse effects to the health and safety of the occupants; including structural damage to the building due to increased moisture and excessive mold growth which can occur and can pose a risk of fire and electrocution; additionally, the use of pesticides and fertilizers can lead to chemical contamination within the structure; and

WHEREAS, based on the experiences of other cities, these negative effects on the public health, safety, and welfare are likely to occur, and continue to occur, in the City due to the establishment and operation of marijuana cultivation, processing, and distribution uses; and

WHEREAS, the subject Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3) and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; the activity is not a project as defined in Section 15378, and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, this Ordinance would amend Chapter 21.33 to clarify the substantive objectives of the Municipal Code regarding the City’s regulation of marijuana within its City limits and to preemptively address some proposed changes to California law in the event AUMA passes on November 8, 2016.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES ORDAIN AS FOLLOWS:

SECTION 1: The City Council of the City of El Paso De Robles hereby finds and determines that all of the above Recitals are true and correct and incorporates such Recitals into this Ordinance as if fully set forth herein.

SECTION 2. The City Council of the City of El Paso De Robles hereby amends Chapter 21.33 to read in its entirety as follows:

#### Chapter 21.33 - MARIJUANA REGULATIONS

##### 21.33.010 Purpose.

The purpose of this Chapter is to regulate personal, medical, and commercial marijuana uses. Nothing in this Chapter shall preempt or make inapplicable any provision of state or federal law.

##### 21.33.020 Definitions.

For purposes of this Chapter, the following definitions shall apply:

A. "Commercial marijuana activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, or sale of marijuana and marijuana products.

B. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

C. "Delivery" means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under California law, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

D. "Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities for commercial use purposes.

E. "Licensee" means the holder of any state issued license related to marijuana activities, including but not limited to licenses issued under Division 10 of the Business & Professions Code.

F. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

G. "Marijuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include:

1. Industrial hemp, as defined in Section 11018.5 of the California Health & Safety Code; or
2. The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.



H. "Marijuana accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

I. "Marijuana products" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

J. "Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

K. "Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.

L. "Sale" includes any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.

M. Any term defined in this Section also means the very term as defined in the California Business & Professions Code or the California Health & Safety Code, unless otherwise specified.

#### 21.33.030 Personal Recreational Use.

A. For purposes of this subsection, personal recreational use, possession, purchase, transport, or dissemination of marijuana shall be considered unlawful in all areas of the City to the extent it is unlawful under California law.

B. Outdoor Cultivation. A person may not plant, cultivate, harvest, dry, or process marijuana plants outdoors in any zoning district of the City. No use permit, building permit, variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved or issued for any such use or activity.

C. Indoor Cultivation.

1. A person may not plant, cultivate, harvest, dry, or process marijuana plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence, or inside any other enclosed structure within any zoning district of the City. No use permit, building permit, variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved or issued for any such use or activity.

2. To the extent a complete prohibition on indoor cultivation is not permitted under California law, a person may not plant, cultivate, harvest, dry, or process marijuana plants inside a private residence; however, a person may plant, cultivate, harvest, dry, or process marijuana plants inside an accessory structure to a private residence located upon the grounds of a private residence, but only if the person is first issued an indoor cultivation permit by the Community Development Department. A person may not plant, cultivate, harvest, dry, or process marijuana plants inside any enclosed structure within any zoning district of the City that is not an accessory structure to a private residence located upon the grounds of a private residence.

3. The Community Development Department will issue application and processing guidelines for the indoor cultivation permit. No indoor cultivation permit shall be issued prior to the release of these guidelines, and no permit shall be granted which has not complied fully with the application and processing requirements. The City Council may institute a fee for the indoor cultivation permit by resolution.

21.33.040 Medical Use.

A. Cultivation of medical marijuana pursuant to Section 11362.77 of the California Health & Safety Code is subject to the cultivation requirements laid out in Section 21.33.030 of this Chapter.

B. The establishment or operation of any medical marijuana collective, cooperative, dispensary, operator, establishment, or provider shall be considered a prohibited use in all zoning districts of the City. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment of any collective, cooperative, dispensary, operator, establishment, or provider in any zoning district, and no person shall otherwise establish such businesses or operations in any zoning district.

C. Exception. The establishment or operation of a medical marijuana delivery service is permitted in the City, provided a use permit, variance, building permit, business license, and all other entitlements or permits have been approved pursuant to this Code.

21.33.050 Commercial Use.

A. The establishment or operation of any business of commercial marijuana activity is prohibited. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment or operation of any such business or operation. Such prohibited businesses or operations may include, but are not limited to:

1. The transportation, storage, distribution, or sale of marijuana, marijuana products, or marijuana accessories;
2. The cultivation of marijuana;
3. The manufacturing or testing of marijuana, marijuana products, or marijuana accessories; or
4. Any other business licensed by the state or other government entity under Division 10 of the California Business & Professions Code, as it may be amended from time to time.

21.33.060 Penalty for Violations.

No person, whether as principal, agent, employee or otherwise, shall violate, cause the violation of, or otherwise fail to comply with any of the requirements of this section. Every act prohibited or declared unlawful, and every failure to perform an act made mandatory by this section, shall be a misdemeanor or an infraction, at the discretion of the City Attorney or the District Attorney. In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of this section is declared a public nuisance and may be abated as provided Chapters 1.02 and 1.03 of this Municipal Code and/or under state law.

SECTION 3: CEQA. This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of San Luis Obispo in accordance with CEQA Guidelines.

SECTION 4: Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council

hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 1000 Spring Street, Paso Robles, CA 93446. The custodian of these records is the City Clerk.

SECTION 6. Restatement of Existing Law. Neither the adoption of this ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof. The provisions of this ordinance, insofar as they are substantially the same as ordinance provisions previously adopted by the City relating to the same subject matter or relating to the enumeration of permitted uses under the City's zoning code, shall be construed as restatements and continuations, and not as new enactments.

SECTION 7. This Ordinance shall take effect thirty (30) days after its final passage and adoption. A summary of this Ordinance shall be published and a certified copy of the full text of this proposed Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the City Council meeting at which this proposed Ordinance is to be adopted. Within fifteen (15) days after adoption of this Ordinance, the City Clerk is instructed to publish a summary of this Ordinance with the names of those City Council members voting for and against this Ordinance and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of the adopted Ordinance along with the names of those City Council members voting for and against this Ordinance or amendment at least until the day of such publication.

PASSED AND ADOPTED this 4<sup>th</sup> day of October, 2016 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Steven W. Martin, Mayor

ATTEST:

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Kristen L. Buxkemper, Deputy City Clerk

CERTIFICATION

I, Kristen L. Buxkemper, hereby certify that the foregoing Ordinance was passed and adopted by the City Council of the City of El Paso De Robles at a regular meeting on the \_\_\_\_ day of \_\_\_\_\_, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

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Kristen L. Buxkemper  
Deputy City Clerk