

ORDINANCE NO. 1104 N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES AMENDING  
SECTION 3.22.010 OF TITLE 3 OF THE PASO ROBLES MUNICIPAL CODE AND  
SETTING CANNABIS BUSINESS TAX RATES

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WHEREAS, under the California Constitution, article XIII C, section 2(b) (“Proposition 218”) and Government Code section 53723, no local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote; and,

WHEREAS, on November 6, 2018, voters approved Measure I-18, which authorized the City of El Paso de Robles (the “City”) to adopt an ordinance adding Chapter 3.22 to the Paso Robles Municipal Code and enact a tax on cannabis businesses as a general tax; and,

WHEREAS, Paso Robles Municipal Code (“Municipal Code”) section 3.22.010 establishes maximum cannabis business tax rates that the City may impose on cannabis businesses as follows: twenty dollars (\$20.00) per square foot for cultivation; ten percent (10%) of gross receipts for delivery; fifteen percent (15%) of gross receipts for manufacturing, testing and distribution; and ten percent (10%) for retailers; and,

WHEREAS, as allowed by Propositions 218 and Government Code section 53723, the City Council may impose up to the maximum tax rates approved by voters in Measure I-18 and set forth in Municipal Code section 3.22.050 without a vote of the people; and,

WHEREAS, the City Council desires to set the tax rates for cannabis businesses operating within the City.

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

Section 1. The recitals set forth above are true and correct and are incorporated into this Ordinance by this reference.

Section 2. Section 3.22.010 of the Municipal Code is hereby amended in its entirety to read:

**3.22.010 Imposition of Tax.**

A. Every person engaged in operating or otherwise conducting a cannabis business within the City of El Paso de Robles, regardless of whether such business has a license or permit pursuant to Chapters 5.04, 21.33 or any other provision of this Code, shall pay the following cannabis business tax:

1. Up to a maximum of twenty dollars per square foot of space utilized in connection with the cultivation of cannabis, subject to adjustment by the city council pursuant to Section 3.22.050.
2. Up to a maximum of ten cents for each one dollar of gross receipts, or a fractional part thereof, for cannabis delivery businesses and retailers, subject to adjustment by the city council pursuant to Section 3.22.050.
3. Up to a maximum of fifteen cents for each one dollar of gross receipts, or a fractional part thereof, for cannabis manufacturing, testing, and distribution businesses, subject to adjustment by the city council pursuant to Section 3.22.050.
4. Up to a maximum of ten cents for each one dollar of gross receipts, or a fractional part thereof, for cannabis retailers, subject to adjustment by the city council pursuant to Section 3.22.050.

B. The cannabis business tax rates are as follows:

1. Twenty dollars per square foot of space utilized in connection with the cultivation of cannabis.

2. Six cents for each one dollar of gross receipts for cannabis delivery businesses.

3. Fifteen cents for each one dollar of gross receipts for cannabis manufacturing, testing, and distribution businesses.

4. Ten cents for each one dollar of gross receipts for cannabis retailers.

C. No cannabis business shall be deemed to be exempt from the payment of the taxes identified above by any other provision of this Code, unless expressly exempted under this chapter.

Section 3. The City Council therefore finds the proposed cannabis business tax rates are not subject to environmental review under the California Environmental Quality Act (“CEQA”). First, the proposed cannabis business tax rates, in and of themselves, do not have potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and therefore are not considered a “project” under CEQA. (Pub. Resources Code, § 21065; Cal. Code Regs., tit. 14, § 15378, subd. (a).) Second, the cannabis business tax rates are covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment; here, there is no possibility that the proposed cannabis business tax rates in and of themselves, may have a significant effect on the environment. (Cal. Code Regs., tit. 14, § 15061, subd. (b)(3).) And third, the proposed cannabis business tax rates are considered a government funding mechanism that does not involve any commitment on behalf of the City to any specific project which may result in a potentially significant physical impact on the environment. (Cal. Code Regs., tit. 14, § 15378, subd. (b)(4).)

Section 4. If any section, subsection, clause or phrase in this Ordinance or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this Ordinance or the application of such provisions to other persons or circumstances shall not be affected thereby. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof to any person or circumstance be held invalid.

Section 5. The City Clerk shall certify to the adoption of this Ordinance and shall post or publish this Ordinance as required by law.

Section 6. This Ordinance shall take effect and be in full force and effect thirty (30) days from and after the date of its final passage and adoption.

INTRODUCED at a regular meeting of the City Council held on October 20, 2020, and passed and adopted by the City Council of the City of El Paso de Robles on the 3rd day of November, 2020 by the following roll call vote:

AYES: Hamon, Garcia, Gregory, Strong, Martin

NOES:

ABSTAIN:

ABSENT:

  
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Steven W. Martin, Mayor

ATTEST:

  
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Melissa Martin, City Clerk