

TO: Thomas Frutchey, City Manager
FROM: Meg Williamson, Assistant City Manager
SUBJECT: Repeal of City Ordinance Public Museum Chapter 2.64 – Second Reading
DATE: April 19, 2016

NOTE: THE CITY COUNCIL HELD A PUBLIC HEARING ON APRIL 5, 2016. THE CITY COUNCIL THEN INTRODUCED FOR FIRST READING, AND READ BY TITLE ONLY, THE ORDINANCE REPEALING CHAPTER 2.64 OF THE MUNICIPAL CODE (ORDINANCE NO. XXX N.S.). THE PROPOSED ACTION FOR THE APRIL 19, 2016 CITY COUNCIL MEETING IS TO ADOPT THE ORDINANCE (2ND READING) BY CONSENT. THE STAFF REPORT FROM THE APRIL 5, 2016 MEETING IS REPEATED BELOW FOR INFORMATION. NO SUBSTANTIVE CHANGES HAVE BEEN MADE TO THE PROPOSED ORDINANCE SINCE FIRST READING. THE PROPOSED ORDINANCE, AFTER SECOND READING BY THE CITY COUNCIL, WILL BE PRINTED IN ITS ENTIRETY IN A NEWSPAPER OF GENERAL CIRCULATION.

NEEDS: That the City Council approve an Ordinance repealing outdated language relative to the structure and oversight of the Paso Robles Pioneer Museum.

FACTS:

1. The Pioneer Museum has historically occupied buildings that had been owned by the City and located on a portion of Pioneer Park. Over the years, the Property has also housed the historic Jeanesville Pump and has been used to store carriages and other historical items used in the annual Pioneer Day Parade and related activities.
2. In 2013, the Paso Robles Museum Foundation was established pursuant to the California non-profit corporation law for the purposes of uniting the Pioneer Museum, Pioneer Day Committee and Jeanesville Pump organizations in matters relevant to their shared occupancy of the Property.
3. On September 1, 2013, the City and Foundation entered into a long-term lease for the operation of the Pioneer Museum, Pioneer Day Committee and Jeanesville Pump and related administrative office uses. The Lease Agreement anticipated that the buildings would be sold to the Foundation, and later it was agreed that the sale would include the property on which the improvements were located.
4. Based on an appraised price of the property's continued use as a museum, the City and Foundation completed the sales transaction in October 2015.

5. The Grant Deed of sale includes a reversion clause that would return the property to the City of Paso Robles if the Museum were to cease its operations and/or non-profit status.
6. Chapter 2.64 of the Paso Roble Municipal Code establishes the structure and relationship of the Pioneer Museum to the City of Paso Robles. This language is over 40 years old and reflects a structure where the City owns the underlying property.
7. The Pioneer Museum Board has requested that Chapter 2.64 of the Municipal Code be eliminated based on the restructuring of the underlying ownership.

ANALYSIS &

CONCLUSION: The Paso Robles Museum Foundation is established as a non-profit, public benefit corporation. The Grant Deed of sale for the Museum facilities and underlying land contains reversionary language wherein the property and buildings would revert to the City of Paso Robles in the event that the Museum ceases to be used as a Museum.

The sale of the property to the Paso Robles Museum Foundation has made the terms and conditions of Municipal Code Chapter 2.64 obsolete. In its place, the reversion terms of the grant deed of sale provide the assurances to the community that the Museum use will continue to provide public benefit.

FISCAL

IMPACT: No fiscal impact would result from rescinding this Chapter of the Municipal Code.

OPTIONS: After receiving public testimony that the City Council consider the following options:

- a. Introduce and read by title only Ordinance No. XXX Repealing Chapter 2.64 of the Paso Robles Municipal Code; or
- b. Amend the foregoing options; or
- c. Refer back to staff for additional analysis or modification
- d. Take no action

Attachments:

1. Pioneer Museum Letter of Request for Rescission
2. Grant Deed with Reversion language
3. Ordinance Repealing Chapter 2.64 of the Paso Robles Municipal Code

Rec'd 21 OCT 2015

Jre

EL PASO DE ROBLES AREA
PIONEER MUSEUM

2010 Riverside Ave. • Post Office Box 461
Paso Robles, California 93447

Phone (805) 239-4556

To: Mayor Steve Martin and City Manager Jim App

October 20, 2015

Subject: Rescission of City Ordinance Chapter 2.64 - PUBLIC MUSEUM OF NATURAL AND HISTORICAL OBJECTS

Dear Mayor Martin and City Manager App,

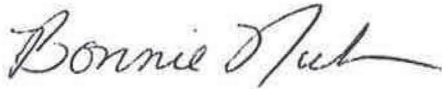
On behalf of the Pioneer Museum's Board of Directors, we are delighted that the Paso Robles Museum Foundation has purchased the land and building of the museums at Pioneer Park. This change will significantly enhance and help ensure the long-term viability of the Pioneer Museum.

We request that the City Council rescind Ordinance 350 from 1973 codified as Chapter 2.64 – Public Museum of Natural and Historical Objects. The ordinance establishes the El Paso de Robles Area Pioneer Museum and specifies operations, organization, reporting, and financial requirements upon the Museum. It also specifies that the Museum shall be free to “inhabitants and non-residents taxpayers” of Paso Robles. We believe this ordinance is no longer required.

You may be assured that there are no plans to change the Museum, its operations, or its organization. In addition, we have no plans at this time to charge for entry, although we believe we should have the flexibility to impose a fee, if needed, to support Museum operations.

Please contact Bonnie Nelson (238-1848) or Al Garcia (226-9262 or cell 975-5165) if you have questions.

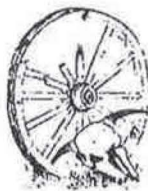
Respectfully yours,



Bonnie Nelson
President, Board of Directors

Attachment – Chapter 2.64 – Public Museum of Natural and Historical Objects

Open:
Thursday – Sunday
1:00 p.m. to 4:00 p.m.



*Preserving Yesterday
for Tomorrow
Since 1971*

- **Chapter 2.64 - PUBLIC MUSEUM OF NATURAL AND HISTORICAL OBJECTS**

Sections:

- **2.64.010 - Established—Name.**

A public museum of natural and historical objects is established as the El Paso de Robles Area Pioneer Museum, Inc., hereinafter called museum.

(Ord. 350 N.S. § 1, 1973)

- **2.64.020 - Board of trustees—Appointment—Term—Vacancies.**

(a)

The city council shall appoint a board of nine museum trustees to manage the museum. The trustees shall hold office for two-year terms and shall serve without compensation. Not less than thirty days prior to expiration of the term of a trustee, the board of trustees shall submit for the approval of the city council the name(s) of the person(s) recommended to serve for the ensuing two years. Thereupon notice of appointment shall be given in writing and an acceptance in writing shall be filed with the office of the city clerk.

(b)

When a vacancy occurs in an unexpired term, the board of trustees may fill the vacancy by interim appointment upon approval of the majority of the board of trustees and shall in writing within sixty days of the interim appointment submit for the approval of the city council the name of the person recommended to serve for the remainder of any unexpired term.

(Ord. 542 N.S. § 2, 1988)

- **2.64.030 - Board of trustees—Honorary members.**

The mayor, with the approval of the council, may appoint persons who are students of early California history, authorities on the customs, mores or habiliments of the early Californians or are particularly interested in preserving, collecting and collating historical objects of early California history, particularly those relating to early pioneers of the Paso Robles area. These appointees shall serve as honorary members of the board of museum trustees of the city of El Paso de Robles. Notice of such appointments shall be given in writing and an acceptance in writing shall be filed with the city clerk.

(Ord. 350 N.S. § 3, 1973)

- **2.64.040 - Board of trustees—Meetings.**

The board of museum trustees shall meet at least semiannually and at the first meeting in July of each year shall elect officers for the ensuing year. The board shall have the secretary thereof file copies of their minutes for special and regular meetings with the city clerk. A majority of the board shall constitute a quorum for the transaction of business. The board shall appoint one of its members president. He shall serve for one year and until his successor is appointed. The board shall also select a vice president who shall act as president pro tem to act in his absence. The board shall cause an accurate record of its proceedings to be kept.

(Ord. 350 N.S. § 4, 1973)

- **2.64.050 - Board of trustees—Rules and regulations.**

The board of museum trustees shall, subject to the approval of the council of the city, adopt rules and regulations necessary for the administration and protection of the museum and museum property. Violations of such regulations are punishable by fine or exclusion from privileges of the museum.

(Ord. 350 N.S. § 5, 1973)

- **2.64.060 - Personnel.**

The museum board shall prescribe the duties and powers of the curator, secretary and other museum personnel. No compensation shall be paid to such museum personnel by city.

The city manager, with prior approval of the city council, by resolution shall have the right to employ personnel for museum purposes or designate city employees to assist in museum operations. No compensation shall be paid by city without such appointment by the city manager and prior council approval by resolution.

(Ord. 350 N.S. § 6, 1973)

- **2.64.070 - Acquisition of property.**

The city holds certain real property for museum purposes and the acquisition or purchase of real or personal property for the public museum shall be done and made in accordance with the provisions of the ordinances of the city.

(Ord. 350 N.S. § 7, 1973)

- **2.64.080 - Trust fund.**

All gifts, bequests or grants received for the support or use of the museum shall be placed in a fund to be designated the El Paso de Robles Area Pioneer Museum, Inc. trust fund, and expenditures from the fund shall be for such museum purposes as are requested by the board of museum trustees and as are in conformity with the conditions of any gifts, bequests or grants.

(Ord. 350 N.S. § 8, 1973)

- **2.64.090 - Board of trustees—Annual report.**

On or before July 31st of each year the board shall report to the city council on the condition of the museum on June 30th preceding with a statement of the proceedings for the year. The board shall forward a copy of such report to the State Board of Education for filing upon publication of the report.

(Ord. 350 N.S. § 10, 1973)

- **2.64.100 - Free use.**

Subject to the rules and regulations of the board the museum shall be free to the inhabitants and nonresident taxpayers of the city of El Paso de Robles.

Recorded at the request of
First American Title Company

WHEN RECORDED MAIL TO, AND
MAIL TAX STATEMENTS TO:

City of Paso Robles
1000 Spring Street
Paso Robles, CA
Attention: City Clerk

DOC#: 2015051113



Titles: 1 Pages: 7

Fees	32.00
Taxes	36.85
Others	0.00
PAID	<u>\$68.85</u>

500444-SLM

Exempt from recording fees pursuant
to Government Code Section 27383

(Space Above Line for Recorder's Use Only)

APN: 008-254-001



GRANT DEED
WITH POWER OF TERMINATION AND RIGHT OF REVERTER

The undersigned Grantor(s) declare(s): City of El Paso de Robles is exempt from property taxes
Documentary transfer tax is \$ 36.85.

- Computed on full value of property conveyed, or
- Computed on full value less value of liens and encumbrances remaining at time of sale.
- Unincorporated area City of El Paso de Robles

FOR VALUE RECEIVED, the CITY OF EL PASO DE ROBLES, a municipal corporation and political subdivision of the State of California ("**Grantor**"), grants to PASO ROBLES MUSEUM FOUNDATION, a private non-profit corporation of the State of California ("**Grantee**"), all that certain real property situated in the City of El Paso de Robles, County of San Luis Obispo, State of California, described on Schedule 1 attached hereto and by this reference incorporated herein (the "**Property**").

1. Use Covenant. Grantee hereby covenants and agrees, for itself and its successors and assigns, that the Property shall be used solely for the continued operation of the Pioneer Museum, Pioneer Day Committee and Jeanesville Pump, related administrative office uses or other related activities directly in support of the non-profit purposes of Grantee, and at no time for any for-profit or private benefit use (the "**Use Covenant**").

2. Operating Covenant. Grantee further covenants and agrees, for itself and its successors and assigns, that the Property shall be used for the continuous and uninterrupted use of the Property in accordance with the Use Covenant and maintenance of the Property and all improvements thereon in good, working and sanitary order, condition and repair (the "**Operating Covenant**").

3. Power of Termination; Reverter. Grantor shall have the right, at its option, to terminate the estate conveyed to Grantee, to reenter and take possession of the Property, with all

improvements thereon, and to revest in Grantor the estate theretofore conveyed to Grantee, if at any time after conveyance of title to Grantee, any of the following shall occur:

(a) Grantee, at any time and for any reason, shall abandon the Property or for any reason fail to comply with the Use Covenant or the Operating Covenant, and such abandonment or failure has not been cured within one hundred eighty (180) days after notice thereof from Grantor; provided, however, if Grantee has begun to cure such abandonment or failure within such one hundred eighty (180) day period and diligently pursues to cure such abandonment or failure to completion, Grantor shall not have the right to terminate such estate; or

(b) Grantee shall fail to maintain or reinstate its tax-exempt, non-profit status within one hundred eighty (180) days following notification from the Federal government or State of California that its tax-exempt, non-profit status is in jeopardy; or

(c) Upon commencement of any foreclosure proceedings under any encumbrance or lien affecting the Property or any portion thereof provided, however, if Grantee cures such foreclosure proceedings, Grantor's rights shall not vest; or

(d) Without the express prior written approval of Grantor, Grantee shall, directly or indirectly, voluntarily sell, transfer, dispose of or agree to sell, transfer or dispose of any portion of or any interest in the Property or any portion thereof. For the purpose of this paragraph, the terms "sell" and "transfer" shall include, in addition to the common and ordinary meaning of those terms and without limiting their generality, transfers made to any subsidiary or affiliated entities, and any "change in ownership" as that term is used from time to time in California real property taxation law, irrespective of the fact that the Property may be exempt from such taxation during the period when owned by Grantor or Grantee; or

The interest created pursuant to this Section 3 shall be a "Power of Termination" as defined in California Civil Code Section 885.010, and shall be separate and distinct from any other right of Grantee herein or under law. Grantor's Power of Termination, and any such revestment of title to the Property to Grantor shall be free and clear of any liens or encumbrances, and shall not be limited by or be subject to any mortgage, deed of trust or other security instrument, or any rights or interest that may be provided for the protection of the holder of such mortgages, deeds of trust or other security instruments.

As set forth above, this Section is intended to create and reserve in the Grantor a "Power of termination" under California law, and not a forfeiture prohibited by California law. To the extent that a court of competent jurisdiction determines that this Section does involve a forfeiture, however, the terms and provisions of this Section shall be strictly construed to minimize or eliminate any such forfeiture in light of the fact that Grantor is conveying the Property to Grantee for the specific purpose of the continuous and uninterrupted operation of the Pioneer Museum, Pioneer Day Committee and Jeanesville Pump, related administrative office uses and other related activities in compliance with the Use Covenant and Operating Covenant.

4. Obligation to Refrain from Discrimination. Grantee covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property, or any part thereof, that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Grantee or any person claiming under or through Grantee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Property. The foregoing covenants shall run with the land.

5. The covenants contained in this Grant Deed shall be binding for the benefit of the Grantor, its successors and assigns, and any successor in interest to the Property or any part thereof, and such covenants shall run in favor of the Grantor and such aforementioned parties without regard to whether the Grantor is or remains an owner of any land or interest therein to which such covenants relate. The Grantor and such aforementioned parties, in the event of any breach of any such covenants, shall have the right to exercise all of the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach. The covenants contained in this Grant Deed shall be for the benefit of and shall be enforceable only by the Grantor, its successors and such aforementioned parties.

6. Further Assurances. Grantor and Grantee agree to take any actions or execute any documents as may be reasonably necessary to finalize and execute the rights and covenants contained in this Grant Deed.

7. Notices. All notices required to be provided under this Grant Deed shall be provided in writing.

IN WITNESS WHEREOF, the Grantor and Grantee have caused this instrument to be executed on their behalf by their respective and duly-authorized officers this 25th day of September, 2015.

GRANTOR:

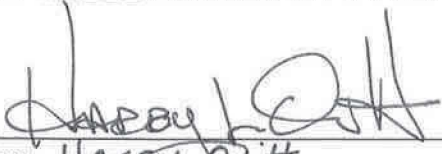
CITY OF EL PASO DE ROBLES, a municipal corporation and political division of the State of California

By: [Signature]
Name: James Leo App
Its: City manager

The provisions of this Grant Deed are hereby approved and accepted.

GRANTEE:

PASO ROBLES MUSEUM FOUNDATION, a California nonprofit, public benefit corporation,

By: 
Name: Harry Quitt
Its: President

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
REPEALING ORDINANCE NO. 350 N.S., CODIFIED AS CHAPTER 2.64
OF THE EL PASO DE ROBLES MUNICIPAL CODE**

WHEREAS, the City Council of the City of El Paso de Robles (“City”) adopted Ordinance No. 350 N.S. on June 4th, 1973, codified as Chapter 2.64 of Title II of the El Paso de Robles Municipal Code, establishing the El Paso de Robles Area Pioneer Museum (“Museum”); and

WHEREAS, Ordinance No. 350 N.S. specifies the operations, organization, reporting, and financial requirements of the Museum; and

WHEREAS, in 2013, the Paso Robles Museum Foundation (“Foundation”) was established as a private, non-profit corporation, representing the Pioneer Museum, Pioneer Day Committee and Jeanesville Pump; and

WHEREAS, the Foundation leased certain City property in Pioneer Park to operate the Museum, and subsequently purchased such property from the City in October 2015 for the Museum’s continued operation; and

WHEREAS, the City Council wishes to repeal Ordinance No. 350 N.S. to ensure the long-term viability and success of the Museum by providing flexibility to the Foundation to modify the Museum’s operations and organization.

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

Section 1. Recitals. The recitals set forth above are true and correct and are incorporated as though fully set forth herein.

Section 2. Repeal. Ordinance No. 350 N.S., codified as Chapter 2.64 of Title II of the El Paso de Robles Municipal Code, is hereby repealed and rescinded in its entirety and is of no further force or effect.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The People of the City of El Paso de Robles hereby declare that they would have adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 4. Effective Date. This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code section 36937.

Section 5. Publication. The City Clerk will certify to the passage of this Ordinance by the City Council of the City of El Paso de Robles, California and cause the same to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Government Code section 36933.

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this 19th day of April, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Steven W. Martin, Mayor

ATTEST:

Kristen L. Buxkemper, Deputy City Clerk

APPROVED AS TO FORM:

Iris P. Yang, City Attorney