

ORDINANCE NO. 1059 N.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
MAKING TECHNICAL AMENDMENTS TO TITLE 1 (GENERAL PROVISIONS) OF
THE MUNICIPAL CODE AS PART OF A COMPREHENSIVE UPDATE

WHEREAS, the Municipal Code of the City of El Paso de Robles was published as a comprehensive document in 1963 and since that time has been regularly augmented with new ordinances expanding its volume and complexity; and

WHEREAS, the City requested that its code publisher, Municode, conduct a technical review of the City's Code with the purpose of identifying citation conflicts and inconsistencies with state law as well as obsolete provisions, and recommend amendatory actions; and

WHEREAS, staff has simultaneously undertaken a review of the Code to identify provisions that no longer reflect current practice or needs; and

WHEREAS, in response to the analysis and recommendations of Municode and staff, the City is amending its Code on an iterative basis; and

WHEREAS, the amendments contained in this Ordinance relating to Title 1, *General Provisions* include adding standard terms and definitions that were lacking in the Code, recitation of additional administrative fines that are authorized by state law, and some wording adjustments.

NOW, THEREFORE, the City Council of the City of El Paso de Robles does ordain as follows:

SECTION 1. Recitals. The above recitals are incorporated as though set forth in this section.

SECTION 2. Editorial guidance. The following non-substantive editorial style is used. Words that are underlined are additions, words with a ~~line through~~ are deleted; and words in [brackets] are editorial direction for the Code publisher and which instructions are not to be published in the City's Code.

However, in Section 3 herein, there is an entirely new chapter and this addition is purposely not underlined because it is an unnecessary distraction and best reserved for calling attention to additions within the context of an existing provision.

In addition, the Code publisher will insert definitions and other changes alphabetically or numerically to conform to the Code's style and will, as needed, re-order numbering and lettering changes caused by these amendments.

SECTION 3. New Chapter Added. New Chapter 1.01, Citation, Rules of Construction and Definitions, is added to Title 1, *General Provisions* to read, as follows:

Chapter 1

Citation, Definitions and Terms, and Rules of Construction

- Section 1.01.010 Citation
- Section 1.01.020 Definitions and terms
- Section 1.01.030 Rules of construction
- Section 1.01.031 General provisions
- Section 1.01.032 Computation of time
- Section 1.01.033 Delegation of authority
- Section 1.01.034 Catchlines, editorial notes, and references
- Section 1.01.035 Effect of repeal
- Section 1.01.036 Officers, employees – title changes
- Section 1.01.037 Severability of parts of code
- Section 1.01.038 Supplementation, recodification, republication, and amendment.

1.01.010 Citation

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "El Paso de Robles Municipal Code". Such code may also be cited as the "El Paso de Robles City Code," "Paso Robles Municipal Code," and "Code of Ordinances, City of El Paso de Robles," or variants thereof.

1.01.020 Definitions and Terms

“California Codes” mean any reference to the codified statutes of the state, such as the Government Code or Civil Code, and such references are to such codes as adopted and now or hereafter amended. Any reference to a state law or state act by title is to such law or act as now or hereafter amended.

“City” means the City of El Paso de Robles, California.

“Code, the Code, this Code” mean the Code of Ordinances, City of El Paso de Robles, California.”

“City council, council” mean the city council of El Paso de Robles, California.

“County, this County” refer to San Luis Obispo County, California.

“Day” is the period of time between any midnight and the midnight following.

“Gender.” The words “he, his” and similar words importing the masculine gender shall extend and be applied to females, non-binary persons and to firms, partnerships, and corporations as well as to males.

“May” shall be construed as being permissive.

“Month” means calendar month, unless otherwise provided.

“Must” shall be construed as being mandatory.

“Number.” The singular number shall include the plural, and the plural includes the singular number.

“Oath” shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the terms “affirm” and “affirmed” shall be equivalent to the words “swear” and “sworn.”

“Officers, departments, boards, commissions and employees” refer to officers, departments, boards, commissions and employees of the City of El Paso de Robles, California, unless the context clearly indicates otherwise.

“Or, and.” The word “or” may be read as “and,” and the word “and” may be read as “or” if the context requires it.

“Owner” when applied to buildings or land, shall include any part owner, joint owner, tenant in common, joint tenant, or tenant by the entirety, of the whole or part of such building or land or is entitled to possession and/or control of the property.

“Person” includes firms, partnerships, associations, organizations, corporations, and bodies politic, or any combination thereof, as well as to natural persons.

“Signature,” “subscription,” or “subscription by mark” includes a mark when the signer or subscriber cannot write, such signer’s or subscriber’s name being written near the mark by a witness who writes his or her own name near the signer’s or subscriber’s name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

“State, the state, this state” refer to the State of California.

“Street” includes all streets, roads, highways, avenues, lanes, alleys, courts, places, squares, sidewalks, parkways, curbs, or designated rights-of-way, and other public ways in the city that have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

“Week” shall mean seven consecutive days.

“Year” shall mean calendar year, unless otherwise provided.

1.01.030 Rules of construction

1.01.031 General

In the construction of this code and all ordinances of the city, the rules in this chapter shall be observed unless such construction would be inconsistent with the manifest intent of the city council, or the context clearly requires otherwise.

In the enforcement and application of this code and all other city ordinances, such code and ordinances shall be construed, read, applied, harmonized, and reconciled so as to constitute, in effect, a single enactment. All remedies and penalties therein set forth shall be deemed cumulative and independent.

The rules of construction and definitions set out herein shall not be applied to any section of this Code that shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public, health, safety, comfort, convenience and general welfare.

Where any provision of the Code imposes greater restrictions upon the subject matter than another more general provision imposed by the Code or other law, the provision imposing the greater restriction or regulation shall be controlling.

1.01.032 Computation of time.

The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or holiday and then it is also excluded.

1.01.033 Delegation of authority.

Whenever a provision requires or authorizes the head of a department or an official of the city to do some act or perform some function, it shall be construed to authorize the head of such department or the official to designate, delegate, and authorize subordinates to do the required act or perform the required function, unless the terms of the provisions designate otherwise.

1.01.034 Catchlines, editorial notes, references.

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b) The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. Cross references and state law references that appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

(c) All references to chapters, articles, or sections are to the chapters, articles, and sections of this Code unless otherwise specified.

1.01.035 Effect of repeal of ordinances. The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(a) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, or any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

1.01.036 Officers, employees

From time to time, the titles of officers and employees within the City organization change. It is the allocation of responsibilities and not the title that determines who performs or is authorized to perform allocated functions.

1.01.037 Severability of parts of Code.

The provisions of this Code are severable, and if any provision or item of this Code or the application thereof is judicially held to be invalid, such invalidity shall not affect other provisions, items or applications of this Code, which can be given effect without the invalid provision, item or application.

1.01.038 Supplementation, recodification, republication, and amendment of Code.

When amending, supplementing, recodifying, and/or republishing this code, the codifier, meaning the city attorney or the person, agency, or organization authorized to do so, may make formal, non-substantive changes in ordinances and parts of ordinances, insofar as it necessary to do so to embody them into a unified code. In addition, the codifier may make other non-substantive changes such as spelling and grammatical corrections to preserve the original meaning of the ordinance sections inserted into the code, but in no case shall the codifier make any change in the meaning or effect of ordinance material already embodied in this code. Such changes include but are not limited to organizing the material into appropriate subdivisions, providing appropriate catchlines, assigning appropriate numbering, and making minor non-substantive changes such as "this title" instead of "this ordinance" or "this chapter," or "their" instead of "there."

SECTION 4. Section 1.02.010(A) (Violations, penalties and enforcement) of Chapter 1 (Penalties) of Title 1 (General Provisions) is replaced in its entirety, as follows:

1.020.010 – Violations, penalties, and enforcement.

The city council of the city of El Paso de Robles intends to secure compliance with the provisions of this code. To the extent that such compliance may be achieved by less drastic methods of enforcement, the following alternate, separate, and distinct methods may be utilized. Each method set forth herein is intended to be mutually exclusive and does not prevent concurrent or consecutive methods being used to achieve compliance against continuing violations. Each and every day any such violations exist constitutes a separate offense. Notwithstanding any other provision of this code, each violation of the provisions of this code may be enforced alternatively as follows:

A. ~~Infraction. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code may be prosecuted for any infraction. Written citations for infractions may be issued by police officers or nonsafety employees designated by Paso Robles Municipal Code Chapter 1.06. Each and every infraction violation under the provisions of this code is punishable by:~~

1. A fine not exceeding one hundred dollars (~~\$100~~) for a first violation.
2. A fine not exceeding two hundred dollars (~~\$200~~) for a second violation of the same ordinance within one year.
3. A fine not exceeding five hundred dollars (~~\$500~~) for each additional violation of the same ordinance within one year.

Notwithstanding any other provision of law, a violation of local building and safety codes determined to be an infraction is punishable by:

1. A fine not exceeding one hundred dollars (\$100) for a first violation.
2. A fine not exceeding five hundred dollars (\$500) for a second violation of the same ordinance within one year.
3. A fine not exceeding one thousand dollars (\$1,000) for each additional violation of the same ordinance within one year of the first violation.

B. ~~Misdemeanor. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code may be prosecuted for a misdemeanor. Whenever in this code or in any other ordinance of the city or in any rule or regulation promulgated pursuant thereto any act is prohibited or is made or declared to be unlawful, or the doing of any act is required or the failure to do any act is declared to be unlawful, any person violating such provisions or failing to comply with the requirements of this code shall be guilty of a misdemeanor, unless such violation is specifically designated in this code as constituting an infraction. Notwithstanding the foregoing, where the city attorney or other prosecutor determines that such action would be in the interests of justice, the city attorney or other prosecutor may prosecute and/or cite any such offense as an infraction. In the event a notice to appear is prepared as a misdemeanor, the city attorney or other prosecutor may nonetheless prosecute any such offense as an infraction.~~ Written citations for misdemeanors may be issued by police officers or by trained nonsafety employees designated by Paso Robles Municipal Code Chapter 1.06 and meeting the requirements of the pertinent California Penal Code sections. Each and every misdemeanor violation is punishable by a fine not exceeding one thousand dollars or imprisonment for a term not exceeding six months, or by both such fine and imprisonment.

C. ~~Civil Action. The city attorney, by and at the request of the city council, may institute an action in any court of competent jurisdiction to restrain, enjoin, or abate the condition(s) found to be in violation of the provisions of this code, as provided by law.~~

D. ~~Administrative Citation. Upon a finding by the city official vested with the authority to enforce the various provisions of this code that a violation exists, he or she may issue an administrative citation under the provisions of Chapter 1.03.~~

E. Every day a violation of this code or any other ordinance of the city or any such rule or regulation occurs shall constitute a separate offense.

F. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this code shall be deemed a public nuisance and shall be deemed a new and separate offense for each day such condition continues.

G. Whenever in this code any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

SECTION 5. California Environmental Quality Act (CEQA). This ordinance is not a “project” pursuant to Section 21065 of the Public Resource Code because it does not change the existing regulatory scheme.

SECTION 6. Severability. If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this chapter that can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are declared to be severable.

SECTION 7. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption and, within fifteen (15) days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the City.

INTRODUCED on the 7th day of August, 2018, and PASSED AND ADOPTED by the City Council of the City of El Paso de Robles on this 21st day of August, 2018, by the following vote:

AYES: Gregory, Hamon, Reed, Strong, Martin

NOES:

ABSTAIN:

ABSENT:



Steven W. Martin
Mayor of the City of El Paso de Robles

ATTEST:



Kristen L. Buxkemper
Deputy City Clerk