

ORDINANCE NO. 1063 N.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
TO TITLE 3 (REVENUE AND FINANCE) 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 3 (Revenue and Finance) include deleting chapters that are obsolete, updating citations, and clarifying meaning with updated definitions.

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a ~~line through~~ are deleted; words [standard square brackets] are editorial direction for the Code publisher and are not to be published in the Code; and words in {fancy brackets, or braces} are advisories to the reader and are meant to be published in the Code. In addition, the Code publisher will insert definitions and other changes alphabetically to conform to the Code's current style and will, as needed, re-order numbering and lettering changes caused by these amendments.

SECTION 3. Amendments to Chapter 3.01. Chapter 3.01 (Assessment, Levy and Collection of Taxes by County) of Title 3 (Revenue and Finance) of the El Paso de Robles Municipal Code

{Editor's Note: This chapter effectuated a transfer of duties previously performed by city personnel to county personnel pertaining to the collection of certain taxes and assessments levied for municipal purposes and also abolishes the city offices of city assessor and tax collector. While this chapter could be deleted, it is retained for historical reference and purpose.}

SECTION 4. Chapter 3.04 (Assessment, Levy and Collection of Taxes—General) of Title 3 (Revenue and Finance) is hereby deleted in its entirety.

SECTION 5. Chapter 3.08 (Uniform Sales and Use Tax)

{Editor's Note: even though the City no longer collects sales taxes, this language is state-required language that comports with the state contract to collect certain of these monies.}

SECTION 6. Chapter 3.10 (Transactions and Use)

[No change needed.]

SECTION 7. Chapter 3.12 (Special Gas Tax Street Improvement Fund) is amended to read as follows:

Chapter 3.12 - SPECIAL GAS TAX STREET IMPROVEMENT FUND

3.12.010 - Created.

To comply with the provisions of ~~Article 5 of Chapter 4 of Division I of the Streets and Highways Code,~~ with particular reference to the amendments made thereto by Chapter 642, Statutes of 1935, Cal. Streets & Highways Code Section 2113 (Apportionment of money to cities having special gas tax street improvement

~~fund; immunity of state officers and employees; interest on investment of fund).~~ there is hereby created in the city treasury a special fund to be known as the "Special Gas Tax Street Improvement Fund."

3.12.020 - Moneys to be deposited.

All moneys received by the city from the State of California under the provisions of the Streets and Highways Code for the acquisition of real property or interests therein for, or the construction, maintenance, or improvements of, streets or highways other than state highways, shall be paid into said fund.

3.12.030 - Expending moneys.

All moneys in said fund shall be expended exclusively for the purposes authorized by, and subject to all of the provisions of ~~Article 5, Chapter 1, Division I of the Streets and Highways Code.~~ Cal. Streets & Highways Code Section 2113.

SECTION 8. Chapter 3.16 (Capital Outlay Fund) of Title 3 (Revenue and Finance) is hereby repealed and deleted in its entirety.

SECTION 9. Chapter 3.20 (Real Property Transfer Tax) of Title 3 (Revenue and Finance) is hereby amended, as follows:

[All sections other than those included below remain unchanged.]

3.20.060 - Reorganization or adjustment exempt

Any tax imposed pursuant to this chapter shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Federal Bankruptcy Act, as amended; n

(b) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in ~~subdivision (m) of Section 205 of Title 11 of the United States Code, as amended; Section 101 (Definitions) of Title 11 (Bankruptcy) of the United States Code, as amended;~~ n

(c) Approved in an equity receivership proceeding in a court involving a corporation, as defined in ~~subdivision (3) of Section 506 of Title 11 of the United States Code, as amended; or Section 101 (Definitions) of Title 11 (Bankruptcy) of the United States Code, as amended;~~ n

(d) Whereby a mere change in identity, form or place of organization is effected. n

Subdivisions (a) to (d), inclusive, of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five years from the date of such confirmation, approval or change.

3.20.080 - Partnerships exempt.

(a) In the case of any realty held by a partnership or other entity treated as a partnership for federal income tax purposes, no levy shall be imposed pursuant to this due to any transfer of an interest in a partnership or other entity or otherwise, if both of the following occur: n

(1) Such partnership (or another partnership) or other entity treated as a partnership is considered an continuing partnership within the meaning of Section 708 of the Internal Revenue Code of ~~1954~~ 1986; and n

(2) Such continuing partnership ~~or other entity treated as a partnership~~ continues to hold the realty concerned. n

(b) If there is a termination of any partnership or other entity treated as a partnership for federal income tax purposes within the meaning of Section 708 of the Internal Revenue Code of ~~1954, 1986~~, for the purposes of this ~~ordinance~~ chapter, such partnership or other entity shall be treated as having executed an instrument n

whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereof), all realty held by such partnership or other entity at the time of such termination.

(c) Not more than one tax shall be imposed pursuant to this ~~ordinance~~ chapter due to a termination described in subdivision (b), and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.

(d) No levy shall be imposed pursuant to this part by reason of any transfer between an individual or individuals and a legal entity or between legal entities that results solely in a change in the method of holding title to the realty and in which proportional ownership interests in the realty, whether represented by stock, membership interest, partnership interest, co-tenancy interest, or otherwise, directly or indirectly, remain the same immediately after the transfer.

3.20.120 – Filing:

~~Upon its adoption the city clerk shall file two copies of this chapter with the county recorder of San Luis Obispo County:~~

SECTION 10. Chapter 3.21, Art in Public Places.

[This section is currently not in effect, per Council policy. No change is recommended, however, as the Council may, in the future, bring it back into effect.]

SECTION 11. 3.22, Tourism and Lodging Promotions Business Improvement District.

[This chapter was removed from the code last year, upon the creation of the Travel Paso not-for-profit. No action needed.]

SECTION 12. 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 13. 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 which 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 14. Effective Date. The City Clerk shall certify to the adoption of this ordinance and shall cause a summary thereof to be published in a newspaper of general circulation at least five (5) days prior to the meeting at which the proposed ordinance is to be adopted and shall post a certified copy of the proposed ordinance in the office of the City Clerk, and within fifteen (15) days of its adoption, shall cause a summary of it to be published, including the vote for and against the same, and shall post a certified copy of the adopted ordinance in the office of the City Clerk, in accordance with California Government Code Section 36933.

INTRODUCED on the 2nd day of October, 2018, and PASSED AND ADOPTED by the City Council of the City of El Paso de Robles on this 16th day of October, 2018, by the following vote:

AYES: Gregory, Hamon, Strong, Reed, Martin
NOES:
ABSTAIN:
ABSENT:


Steven W. Martin, Mayor

ATTEST:


Kristen L. Buxkemper, Deputy City Clerk