

TO: Planning Commission

FROM: 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: August 30, 2016

Needs: For the Planning Commission to hold a public hearing and consider making a recommendation to the City Council regarding Approval of a Zoning Ordinance Amendment to Chapter 21.33 of the El Paso De Robles Municipal Code to Regulate The Personal, Medical, and Commercial Use of Marijuana

Facts:

1. 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.
2. 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.
3. 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.

Analysis and

Conclusion:

Staff recommends that the Planning Commission recommend City Council adoption of an ordinance regulating personal, medical, 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.

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 and air quality, and energy consumption (refer to attachments for additional information). Marijuana uses can create nuisance activity such as loitering and criminal activity in business and residential districts. 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.

Staff recommends the Planning Commission pass a resolution recommending the City Council adopt an ordinance to regulate or ban to the extent allowable (1) personal marijuana use and cultivation, (2) medical marijuana uses, and (3) commercial marijuana uses.

Summary of Proposed Marijuana Regulation Ordinance

Use Type	Personal Recreational Use	Medical Use	Commercial Use
Consumption	Yes, if Proposition 64 passes	Yes (existing law allows)	No
Dispensaries	No	No	No
Delivery Service	No	Yes business license required	No
Cultivation Indoors	If Proposition 64 passes, 6 plants allowed	If Proposition 64, passes, 6 plants allowed	No
Cultivation Outdoors	No	No	No
Manufacturing	N/A	N/A	No
Storage	N/A	N/A	No
Advertising on-site	N/A	N/A	No
Advertising off-site	N/A	N/A	If Prop 64 passes, state regs; but no licenses issued until 1/1/18

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 Ordinance staff recommends bans all indoor cultivation entirely to the extent allowed by California law, and bans indoor cultivation in all structures that are not private residences entirely. It allows indoor cultivation in private residences or accessory structures to private residences and imposes no regulation on that form of cultivation for personal use. Alternatively, the City could regulate indoor cultivation by requiring a permit, or propose other regulations, such as:

- Indoor cultivation for commercial use with a business license
- Indoor cultivation with an alternative set of public welfare regulations imposed, but no permit required

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 looser 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 Ordinance staff recommends 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

Findings for Zoning Code Amendment:

Prior to taking an action to recommend approval of a Zoning Code amendment, the Planning Commission must make the following findings:

1. The proposed Zoning/Development Code amendment conforms with the goals, objectives and policies of the General Plan; and
2. The proposed Zoning Code amendment is necessary to implement the General Plan and to provide for public safety, convenience and/or general welfare; and
3. The proposed Zoning Code amendment conforms with the intent of the Zoning/Development Code and is consistent with all other related provisions thereof; and
4. The proposed Zoning Code amendment is reasonable and beneficial at this time.

The Zoning Code amendment conforms to the goals, objectives and policies of the General Plan, which provides for orderly, functional patterns of land uses, sensitive to the natural environment and meeting the long-term social and economic needs of the community. Paso Robles is exercising its police power granted under California Government Code Section 65800 et. seq. in regulating personal, medical, and commercial marijuana activities in the City.

The proposed Zoning Code amendment is necessary to implement the General Plan and to provide for public safety, convenience and/or general welfare. This amendment is proposed and enacted to protect and preserve the public health, safety, welfare and convenience, and to enhance the quality of life of the citizens of the City. California

cities that have permitted cultivation and marijuana dispensaries have experienced negative affects to the public health, safety and welfare of its citizens.

Cities that have permitted marijuana dispensaries have experienced an overabundance and overconcentration of such uses, burglaries and takeover robberies, robberies of customers, an increase in crime in the vicinity of the dispensaries, illegal re-selling of marijuana obtained from dispensaries, physicians issuing apparently fraudulent recommendations for the use of marijuana, dispensary staff selling marijuana to customers with obviously counterfeit patient identification cards, street dealers attempting to sell marijuana to dispensary customers, dispensary customers using marijuana and then driving under the influence of marijuana, the selling of illegal drugs other than marijuana in the dispensaries, and the selling of marijuana and marijuana products to minors.

The proposed Zoning Code amendment conforms with the intent of the Zoning Code, specifically that zones are created and land uses established to protect the physical, social and economic stability of residential, commercial, recreational and other land uses within the City to assure orderly and beneficial development; to protect existing resident and property owners from the adverse effects of incompatible uses; to reduce hazards to the public resulting from inappropriate land uses; and to establish El Paso De Robles as a safe community with a high quality of life for residents. The proposed Zoning Code amendment is consistent with provisions contained in the Zoning Code, specifically the land use regulation is being enacted to protect residential properties and dwellings from incompatible uses, light, glare, odors, visual blight and other objectionable conditions; and to protect adjacent properties from incompatible uses, light, glare, odors, visual blight, and other objectionable conditions resulting from uses having a higher intensity.

The Zoning Code amendment is reasonable and beneficial at this time. The City desires to regulate marijuana land uses within the city limits. Although the City has adopted regulations, it is recommended that the language in the Zoning Code be updated to clearly meet the City's desire to retain local control over these land uses in the event AUMA passes in November.

Policy

Reference: Paso Robles General Plan, Municipal Code Chapter 21.33

Fiscal

Impact: None

Options:

After consideration of the staff report, and public testimony, the Planning Commission may consider the following options:

- a. Recommend approval of the Zoning Code amendment to the City Council by approving Draft Resolution A that:
 - (1) Recommends that the City Council adopt an Ordinance amending Chapter 21.33 of the El Paso de Robles Municipal Code to regulate the personal, medical and commercial use of marijuana; and
 - (2) Determines that the proposed text amendments to the Municipal Code are exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15061(b)(3) of the CEQA Guidelines in that there is no possibility that the text amendments would have a potential significant effect on the environment and directs the appropriate City official to file a Notice of Exemption with the County of San Luis Obispo.
- b. Recommend additional/alternative amendments to the Ordinance.
- c. Refer the item back to staff for additional analysis.
- d. Recommend the City Council take no action on the proposed Ordinance.

Attachments:

- 1. Proposed Marijuana Regulation Ordinance Summary Table
- 2. Adult Use of Marijuana Act (AUMA) Provisions Directly Affecting City Authority
- 3. 8/20/16 - SLO County Considers Ban on Marijuana Cultivation, [The Tribune](#)
- 4. No on 64 – Key Facts
- 5. No on 64 – Marijuana Water Use
- 6. 5/19/16 – The Marijuana Industry’s War on the Poor, [Politico](#)
- 7. 7/06/2016 - Why California Should Vote Yes on Prop. 64 To Legalize the Adult Use of Marijuana, [The Huffington Post](#)
- 8. 8/22/16 - Is Pot Losing Its Buzz in Colorado? [Fortune](#)
- 9. Draft resolution A – Recommendation of approval of the Zoning Code Amendment to the City Council

Attachment 1 – Proposed Marijuana Regulation Ordinance Summary Table

Use Type	Personal Recreational Use	Medical Use	Commercial Use
Consumption	Yes, if Proposition 64 passes	Yes (existing law allows)	No
Dispensaries	No	No	No
Delivery Service	No	Yes business license required	No
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Attachment 2

ADULT USE OF MARIJUANA ACT (AUMA) PROVISIONS DIRECTLY AFFECTING CITY AUTHORITY

PERSONAL USE	NON-MEDICAL and MEDICAL
Possession of no more than 28.5 grams of marijuana or 8 grams of marijuana products	Cities cannot prohibit or regulate ¹
Cultivation of 6 plants	Cities can prohibit OUTDOOR cultivation; Cannot prohibit INDOOR cultivation but can reasonably regulate ²
No Smoking	Where smoking tobacco prohibited; within 1,000 feet of school, day care center, or youth center; driving automobile or boat; possess on school grounds, day care center, youth center ³
City Facilities	May prohibit possession and smoking in building owned, leased, or occupied by city ⁴
City as Employer	May maintain a drug and alcohol free workplace and not required to permit or accommodate the use, consumption, possession, transfer, transportation, sale, display, or growth of marijuana in the workplace ⁵

BUSINESS (COMMERCIAL CANNABIS) REGULATIONS ⁶	NON-MEDICAL	MEDICAL
Local Land Use Regulation	May prohibit or regulate variety of land uses ⁷	May prohibit or regulate variety of land uses (see fn. 6)
Local Bans/Regulation/Licensing	May prohibit or regulate activities licensed by state (see fn. 6)	May prohibit or regulate activities licensed by state (see fn. 6) ⁸ Person can't submit application for state license unless has received license, permit, or authorization from local government ⁹
Local Regulation of Delivery	May prohibit or regulate but can't prohibit use of city streets ¹⁰	Must explicitly prohibit ¹¹
Local Environmental; Health; Safety; Testing; Security	Cities may adopt stricter standards than state minimum standards ¹²	

TAXATION ¹³	NON-MEDICAL	MEDICAL
State /Local Sales Tax	YES	NO ¹⁴
Other Local Taxes ¹⁵	YES	YES
State excise tax (15%) on purchasers; shared with public safety agencies.	YES	YES

May 23, 2016

State cultivation tax (\$9.25 per dry-weight ounce of flowers; \$2.75 per dry-weight ounce of leaves); shared with public safety agencies.	YES	YES
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¹ H&S 11362.1(a)

² H&S 11362.2(b). AUMA requires marijuana produced by plants in excess of 28.5 grams to be kept within private residence in a locked space that is not visible from a public place.

³ H&S 11362.3. Smoking of marijuana is prohibited in all of these locations.

⁴ H&S 11362.45(g)

⁵ H&S 11362.45(f)

⁶ The AUMA establishes a licensing scheme for nonmedical marijuana businesses (B&P 26000 and following). Existing law (B&P §19320 and following) establish a licensing scheme for medical marijuana businesses. Businesses covered are delivery, transportation, manufacture, cultivation, retailer, distributor and testing service.

⁷ B&P 26200

⁸ **EXCEPTION:** Cities must explicitly prohibit delivery (B&P 19340(b)(1))

⁹ B&P 19322

¹⁰ **EXCEPTION:** Cities may not prohibit use of public streets for delivery (H&S 26090(c))

¹¹ B&P 19340(b)(1)

¹² B&P 19316; 26201

¹³ The AUMA imposes an excise tax on the purchase of marijuana and a cultivation tax on the cultivation of marijuana.

¹⁴ R&T 34011(d)

¹⁵ R&T 34021

Attachment 3



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SLO County considers ban on marijuana cultivation



BY DAVID SNEED

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With the rapid expansion of medical marijuana cultivation in San Luis Obispo County — just since the beginning of this year — county officials have raised alarms about the potentially massive water use, environmental damage and crime that could grow along with the crop.

With voters **expected to approve a statewide ballot measure** in November to **legalize recreational marijuana use**, county officials are motivated to get some regulations on the books as quickly as possible.

On Tuesday afternoon, the **county Board of Supervisors** will consider an **urgency ordinance** banning most cultivation of medical marijuana.

As proposed, the ordinance would generally prohibit marijuana cultivation except for patients and caregivers with medical marijuana prescriptions, who would be allowed to do indoor and outdoor cultivation of no more than six plants per patient, with no more than 500 square feet under cultivation.

The ordinance would be in effect for 45 days, but it could be extended for up to two years. Emergency interim ordinances are typically put in place while a permanent ordinance is drafted. Four of the five supervisors will have to vote in favor of the ordinance for it to be adopted.

County officials estimate there are more than 500 marijuana cultivation sites in the county — with more than 100 grows planted in the California Valley area since the beginning of spring.

“Over the past few years, there has been a steady increase in the number and size of these cultivations and the proximity to more populated areas,” the draft ordinance states.

All of this cannabis is intended to be for medical use, but some of it might be shipped out of state, assistant county administrative officer Guy Savage said.

One reason for this proliferation is that

marijuana can be a lucrative crop. Each marijuana plant can yield between 2 and 4 pounds in its lifetime. An ounce of high-grade marijuana can fetch \$240, and a single plant can yield up to \$15,500 in salable marijuana, according to the proposed ordinance.

The ordinance is necessary because the proliferation of grow sites is causing public health and safety problems, said Art Trinidad, county code enforcement supervisor. The explosion of marijuana plantings in the California Valley has resulted in numerous county code enforcement violations, which are misdemeanors.

“Our code enforcements in the California Valley are based primarily on unauthorized structures and unsafe living conditions,” Trinidad said.

The ordinance cites the following problems caused by marijuana cultivation:

- The large amount of water needed to grow the plants: A marijuana plant can use 1,200 gallons of water in its lifetime
- Possible violent encounters between the public and growers protecting their crops
- Strong and pungent odors emanating from pot farms
- Fertilizers, rodenticides, insecticides and other harmful chemicals often found at grow sites
- Dangerous electrical and plumbing systems at many sites
- The dumping of sewage and trash, and illegal

tents and trailers at many sites

- Documented gang members have been found at several grow sites

“Without sufficient regulations, standards, procedures and thresholds which are enforceable pursuant to an adopted ordinance, there is a current and immediate threat to the public health, safety and welfare from these marijuana cultivation facilities,” the interim ordinance concludes.

Sean Donahoe, deputy director of the [California Cannabis Industry Association](#), said the ordinance, as proposed, goes too far. He said a ban on new plantings would make more sense than an outright prohibition, particularly given the fact that it could take more than a year to write and pass a permanent ordinance.

“It is very draconian, in my opinion,” he said. “If you are a small farmer, you would not be able to grow all next year.”

Bruce Gibson, 2nd District supervisor, said he supports the idea of an urgency ordinance if it is properly crafted and enforceable.

“I see the urgency,” he said. “But I am concerned that if we do this incorrectly, we will burden the Sheriff’s Office beyond its capacity.”

The ordinance comes at a time when dramatic changes in state regulations of marijuana use are in the offing.

The most important is an initiative on the Nov. 8 ballot that would legalize the personal use of marijuana in California. The use of

marijuana for medicinal purposes has been legal in the state since 1996.

The initiative would allow adults 21 and older to possess, transport and use up to an ounce of marijuana for recreational purposes, and it would allow individuals to grow as many as six plants. Polling indicates that the initiative will pass.

“A [poll by UC Berkeley](#) showed 64 percent support among likely voters,” Donahoe said.

Several marijuana bills also are working their way through the state Legislature, Donahoe said. One of the most potentially important for San Luis Obispo County is a licensing bill that would limit the size of marijuana grows, which is intended to decentralize marijuana cultivation and keep it small-business oriented.

This rapidly changing landscape in marijuana regulation is another reason the emergency ordinance is needed, Savage said.

“The ordinance puts some rules in place until we can get our arms around what is happening on the state level,” he said. “Where this will all end up, we don’t know.”

County supervisors have used urgency ordinances several times in the past. Most recently, they enacted [urgency ordinances](#) governing the cutting of oak trees and the construction of agricultural reservoirs.

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Attachment 4



Key Facts On Prop 64

Overview

Differences between Prop 64 and Recent Legislation covering Medical Marijuana

Medical Marijuana Regulation and Safety Act (MMRSA) – AB 243, AB 266, and SB 643 would have prohibited vertical integration of licenses. Prop 64 does not prohibit vertical integration of licenses. A licensee may hold any combination of licenses: cultivator, manufacturer, retailer, and distributor. MMRSA would only allow applicants to have at most two different license types, effectively prohibiting direct farm-to-consumer sales (AB 266, B&P Code 19328).

Less testing and inspection under Prop 64

Unlike MMRSA, Prop 64 does not require that cultivators send their product to independent "distributors" (Type 11 licensees). MMRSA would have required that the distribution system put in place would have added testing requirements and increased inspection. This means that Prop 64 does not require a third party to ensure testing compliance and destruction of unhealthy, contaminated product.

Permits marijuana advertising on television

The measure rolls back the prohibition of smoking advertisements on television and allows for marijuana advertisement on tv, radio, digital and print where "at least 71.6% of the audience is expected to be 21 years of age or older." This so-called restriction will allow for advertising on most prime-time and family viewing television shows, radio programs and digital platforms

Prior Convictions for Controlled Substances

Licenses may be denied for convictions of offenses "substantially related" to the business, including serious and violent felonies, felonies involving fraud or deceit, felonies for employment of a minor in controlled substance offenses. Except in rare cases, a prior conviction for a controlled substance offense may not in itself be the sole grounds for

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rejecting a license (26057(b)5). This is a departure from MMRSA, which makes past controlled substance offenses valid grounds for license denial.

Driving under the influence of marijuana

The initiative does not include any DUI standard for marijuana. In both Washington and Colorado incidence of driving under influence of marijuana have increased. The AAA Foundation for Traffic Safety reporting that DUI fatalities involving those under the influence of marijuana have doubled since recreational legalization.

Unlimited Marijuana Grows would be allowed in CA

Five years after Prop 64 takes effect it would create a new category of Type 5 "Large" cultivation license. This creates farms over the MMRSA limit of ½ acre indoors or 1 acre outdoors. No limit is set on the size of these grows.

Local Control

Prop 64 prohibits local governments from banning indoor cultivation intended for personal use. It allows for six plants, but it is not practical to assume that law enforcement will come to count your plants. Nearly every city and county has experienced problems with growers buying homes, gutting them, and turning them into grow houses. Many cities and counties in California have already put bans in place. Taking away the right of local government to ban this activity sets up a loophole by which bad actors can continue to exploit the system.

MMRSA also requires a system of dual-licensing, meaning an applicant needs a local license or permit before applying for a state license. Prop 64 does not require local licenses and permits, and authorizes the state to be the sole licensing entity for jurisdictions without an ordinance regulating recreational marijuana.

Uber for Pot?

Prop 64 calls for the establishment of standards for types of vehicles and qualifications for drivers eligible to transport commercial marijuana (26070(b)), but does not allow local government to stop delivery of marijuana on public roads by licensees in compliance with the initiative and local law (27080(b)).

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Impact on Neighborhoods

We have seen the impacts of marijuana dispensaries clustered in poor communities. (See article on Denver - <http://www.politico.com/magazine/story/2016/05/what-works-colorado-denver-marijuana-pot-industry-legalization-neighborhoods-dispensaries-negative-213906>)

Prop 64 does not set up any regulation to stop the concentration in one area. The language in the initiative is vague and allows for an exception made for denying applications would "unduly limit the development of the legal market." The burden will be on each local government to try to deal with this and will create another patchwork of confusing regulations.

Does not mandate money for environmental clean up and DUI programs

After requiring that the initiative reimburse the various agencies for cost to administer, implementing and enforcing Prop 64 that act calls for money to spent on the following:

- \$10 million per year from 2018 thru 2028 for California public universities to study and evaluate the implementation of the act
- \$3 million per year from 2018 thru 2022 to the California Highway Patrol to establish protocols to determine whether drivers are impaired.
- \$10 million per year beginning in 2018, increasing by \$10 million per year to \$50 million in 2022-23 to the Governor's Office of Business and Economic Development for a community reinvestment program, at least 50% of which in grants to community nonprofits, for job placement, mental health and substance abuse treatment.
- \$2 million per year to the California Center for Medicinal Cannabis Research for research on efficacy and safety of medical marijuana.

Of the remaining revenues – unclear what that amount might be...

- 60% are allocated to a Youth Education, Prevention, Early Intervention and Treatment Account for youth programs to prevent drug abuse.
- 20% to an Environmental Restoration and Protection Account for environmental cleanup and restoration.
- 20% to a State and Local Government Law Enforcement Account for CHP DUI programs and grants to local governments relating to

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enforcement of the Act (although no money is available for any local government that has a ban on cultivation).

Appeals Board for Losers

Prop 64 allows the Governor to appoint an independent, three-member Appeals Board to adjudicate appeals subject to standard procedures (26040).

Unreasonably Impracticable?

Prop 64 defines that there will be regulations covering the legalization of marijuana in California, but it leaves an out for those investing in the business by defining "unreasonably impracticable" (Chapter 1. General Provisions and Definitions 26001.)

"Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset, that the operation of a marijuana establishment is not worthy of being carried out in practice by a **reasonably prudent business person**.

(c) Regulations issued under this division shall be necessary to achieve the purposes of this division, based on best available evidence, and shall mandate only commercially feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall such regulations make compliance **unreasonably impracticable**.

26014.

(a) The bureau shall convene an advisory committee to advise the bureau and licensing authorities on the development of standards and regulations pursuant to this division, including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial marijuana activity that does not impose such **unreasonably impracticable** barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for marijuana.

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Attachment 5



Marijuana/Cannabis and Water, and the California Drought

Did you know?

1. *The Santa Rosa Press Democrat* story "Marijuana's thirst depleting North Coast watersheds" noted a report from the California Department of Fish & Wildlife that, "Researchers estimate each plant consumes 6 gallons of water a day."¹
2. "The average marijuana plant needs about 6 gallons of water a day, depending on its size and whether it's grown inside or outside..."² Source: <http://www.cnbc.com/2014/07/07/western-drought-pot-plants-slurp-up-california-water-supply.html>
3. The Nature Conservancy wrote in 2015, "The problem is exacerbated by the fact that marijuana plants are two times thirstier than the region's staple crop, grapes."³
4. While they call the California Department of Fish & Wildlife numbers high, even California NORML (a pro-cannabis legalization organization) still estimates the usage at 3.5 gallons per plant.⁴
5. The bottom line is that as an agricultural commodity, marijuana plants require a significant amount of irrigation and water supply.
6. California is not yet out of its multi-year drought and still has unresolved significant water storage and supply.

What about Prop 64?

- Makes no provision for drought or off-setting the impact to California's water supply.
- Does not allocate any funding for increasing California water storage capability or delivery improvements.
- Allows an adult to cultivate up to 6 plants and possess the marijuana for personal use. Local governments cannot restrict this.
- Five years after Prop 64 takes effect it would create a new category of Type 5 "Large" cultivation license. No limit is set on the size of these grows.

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Sources:

¹<http://www.pressdemocrat.com/csp/mediapool/sites/PressDemocrat/News/story.csp?cid=1860712&sid=555&fid=181&gallery=4133794&artslide=0>

² <http://www.cnbc.com/2014/07/07/western-drought-pot-plants-slurp-up-california-water-supply.html>

³ <http://www.conserveca.org/our-stories/all/2-blog/211-marijuana-farming-and-california-drought>

⁴http://www.canorml.org/news/Cal_NORML_Challenges_Fish_and_Wildlife_Figures_on_Marijuana_Water_Consumption.html

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WHAT WORKS

The Marijuana Industry's War on the Poor

Denver's booming pot industry may be trendy, but it's giving poorer neighborhoods a headache.

By JON MURRAY | May 19, 2016



Getty Images

Take a stroll past the gray stucco-clad building in northeast Denver and it's not hard to figure out what's going on behind the bright green doors. On a recent afternoon, outside Green Fields Cannabis Co., a sweetly pungent, slightly skunky odor filled the air before a light rain began to rinse it away. Just a block south on Brighton Boulevard, past a salvage yard and a Mexican grocery, the smell of what's growing inside Starbuds is sometimes noticeable before you arrive in front of the medical and recreational marijuana chain's original location. Even drivers whizzing by on Interstate 70 catch a heady whiff of Denver's hottest new product as they zip across town.

But they don't have to live here.

In working-class neighborhoods like Elyria-Swansea, Globeville and Northeast Park Hill there's a growing sense among residents that they have been overrun by a new drug trade, legal but noxious all the same. These communities once offered plentiful jobs in the city's smelters, meatpacking houses, brickyards and stockyards, but those industries are mostly gone now, along with Denver's cow town image. In the past few years, the city's newest growth industry has moved in—and not in a subtle way. In Elyria-Swansea alone, more than three dozen businesses are licensed to grow and sell marijuana and another dozen companies manufacture edible pot products. To the people living in the modest homes near the grow operations that supply the dispensaries and shops in better-off parts of town, the smell is not only an inconvenience but a reminder of their lack of political clout.

“One of the things that we thought was going to happen when [recreational] marijuana was legalized was that drugs would be taken out of our community,” said Candi CdeBaca, an education and community activist whose longtime family home is steps from a commercial grow operation in Elyria-Swansea. “What happened was that the drugs stayed—and the drug dealers changed.”

Two years after legal sales of recreational marijuana began in Colorado, the biggest fears that once preoccupied Denver city officials—higher crime, more drug use among teens and a drag on tourism—have not come to pass. Instead, the expanded industry, with 21-and-over recreational sales joining a longer-sanctioned medical marijuana trade, has pumped millions of dollars into government coffers. It's swathed the city in a trendy glow that likely attracts as many outsiders as it repels. But in lower-income neighborhoods of Denver, the explosion of smelly commercial cultivation operations, which crank out tons of high-priced weed for sometimes-chic, sometimes-earthly dispensaries in more fashionable parts of town, has rekindled long-standing grievances about being ignored by City Hall. And residents are beginning to demand big changes.

Earlier this year, they identified a point of leverage they hoped would help them extract meaningful concessions from city officials. When temporary restrictions limiting entry to the city's recreational marijuana market came up for review, CdeBaca was among an army of residents who pushed back loudly against granting new licenses to the numerous pot entrepreneurs who were lining up to jump into the market. They were asking for relief—and even a rollback—from what they see as oversaturation near residences and schools. Citywide, 210 stores sell medical or recreational marijuana (or both), including 63 that grow marijuana on site. Another 211 standalone grow operations are clustered in mostly poorer and heavily minority sections of the city.

Colorado, whose voters legalized recreational marijuana sales in the 2012 election, now has one of the most thriving legal marijuana industries in the world. Sellers of both medical and recreational marijuana reported just shy of \$1 billion in sales statewide last year, up 42 percent over their haul during 2014's recreational rollout. Denver businesses hold nearly half of state licenses, generating \$29 million last year in marijuana sales tax and licensing proceeds for the city, including \$7.7 million from a special 3.5 percent sales tax on recreational marijuana. The state capital has become, in the eyes of legalization advocates, a testing ground for innovation and smart regulation.

"It's created what I consider to be the most robust economy in the country in terms of product, in terms of thought leaders, in terms of regulatory design," said Christian Sederberg, an attorney who helped campaign for 2012's Amendment 64. "We are so much further developed than any of the other states."

But the neighborhood activists' outcry has forced a reckoning that jolted city officials, industry representatives and business owners, resulting in a wave of new restrictions that were borne out of a fierce debate—and left both neighborhood advocates and some industry players dissatisfied. A new local law, approved last month by the City Council, aims to limit industry growth by capping the number of locations of stores and grow operations, parceling out any licenses that become available via an annual lottery. The city also will stop licensing new medical grow facilities and dispensaries, which have continued to thrive in the recreational age.

Mayor Michael Hancock views the neighborhood outcry as unsurprising. City rules required grow operations—which favor warehouse-like structures—to locate in industrial-zoned areas. "Certainly, nobody wants to live under the clouds of those odors everyday," Hancock said, adding that it's incumbent on the marijuana industry to work with communities to reduce the negative effects of their operations.

In recent weeks, Hancock signed off on an ordinance change that will require businesses seeking new licenses or renewals to submit "good neighbor" outreach plans. And next year, grow operations, which take widely varying approaches to reduce the smells they emit, will have to present odor-control plans to the city.

Some City Council members had pressed for more severe restrictions on the industry's size. As it stands, the number of grow operations will be ratcheted back slightly in coming years as some go out of business. And future grow operations can't open within 1,000 feet of a residential zone—a rule, it's worth noting, that would have prevented the opening of roughly 60 percent of existing grow operations had it been in place from the start.

But among neighborhood activists, the new ordinances are greeted with skepticism or outright dismissal, in part because the new industry caps allow in the near term for the opening of more than three dozen new stores and grows that already were awaiting license decisions, including a couple in Elyria-Swansea.

"They screwed it up when they rolled out the recreational marijuana rules and now they're trying to correct it," said Drew Dutcher, an architect and activist who lives two blocks from the Starbuds pot shop. "It's too little, too late."

For years, city and state leaders have navigated without a playbook. Indeed, in many ways they have written the playbook.

The ragtag local medical marijuana market had developed largely unfettered since Colorado voters passed a constitutional amendment legalizing pot for medicinal purposes in 2000. But the city began licensing businesses in 2009 to rein in the industry, and the state quickly followed suit, creating Colorado's dual licensing scheme.

These laws allowed for commercial cultivation operations, brought about rules such as keeping new storefronts 1,000 feet from schools and day care centers, and instituted heavy state oversight, including barcode tags on each marijuana plant and surveillance cameras inside each grow facility.

That level of oversight gave Colorado voters confidence when they approved the recreational marijuana amendment in 2012, despite opposition from prominent elected officials, including Hancock and Governor John Hickenlooper. The then-new mayor worried publicly about detrimental social and economic effects should Denver become nationally synonymous with pot. City voters approved Amendment 64 with 66 percent support—11 percentage points higher than statewide.

Hancock and City Council members took that margin as a mandate, even as most of the city's suburban neighbors have decided against allowing recreational sales. For the first two years after sales began in January 2014, the city allowed only medical marijuana licensees who were in good standing as of late 2013 to jump into the recreational market.

Still, the rollout was rapid. Two months into 2014, the city and the state had licensed 47 recreational shops in Denver, according to the city's alt-weekly, *Westword*. By April 2014, the total was 65. The growth continued, and as of the start of this year, city figures showed 143 Denver shops were licensed for recreational sales.

Other states have watched the Colorado experience with apprehension. In Washington state, which began allowing legal recreational marijuana sales in mid-2014, state leaders opted for a slower, state-controlled rollout. That was in large part because that state's unruly medical-marijuana market was largely unregulated. Even now, Seattle has just a few dozen recreational stores within its boundaries.

"Washington was interested in having a more structured and cautious approach," said Sam Méndez, executive director of the Cannabis Law & Policy Project at the University of Washington School of Law. Within his office, some consider Colorado—and Denver—a cautionary tale most places would be foolish to follow. "I don't think this industry should move too quickly," Méndez said. "If you do, there's potential for backlash, and this whole grand experiment could fail."

But in Denver, city officials are more confident in their track record, though still sensitive about the extent to which legal marijuana molds outsiders' perceptions of the city. "In terms of the things we were all concerned about—in terms of increased crime and increased use among our young people—we have not seen those things materialize," Hancock said.

That confidence in Denver's regulatory efforts isn't shared in areas that feel overrun by marijuana. Elyria-Swansea was among a few neighborhoods identified by the *Denver Post* early this year as having roughly one marijuana business for every 91 residents—a clustering that intensifies problems like smell, but that also claims precious real estate.

"We have people who have tried to start businesses, and they weren't able to lease the spaces because the marijuana industry came in and could make a higher offer—and do it instantly," said CdeBaca, the neighborhood activist, at a news conference by activists in April. "We've borne the burden of the state and city's growth at the cost of our residents."

The weed explosion, paradoxically, happened just as the city had begun paying more attention to improving the downtrodden neighborhood. An upcoming \$1.1 billion city-led project aims to transform the grounds that host the annual National Western Stock Show and Rodeo into a year-round event, education and agricultural innovation center. In two years, a commuter rail line will connect the neighborhood to downtown. "We went through a neighborhood plan that has all these great visions of nice neighborhoods," said Dutcher, the architect who lives two blocks from a marijuana shop. But he fears the marijuana influence will undercut any improvements.

Then there's that smell—only the latest industrial byproduct to cloud the neighborhood over the decades. On a clear day, the odor jockeys for attention with the odor from a nearby pet food plant. "When you can't smell Purina, it's the 'headache' marijuana smell that gets you more than anything," said Albus Brooks, the city councilman who represents Elyria-Swansea and neighboring Globeville, during a tour of the biggest offenders in both areas. Until recently, Brooks' own home in another nearby neighborhood was about 800 feet from a grow operation.

Channeling his district's frustrations, he joined the minority in the council's 7-5 vote last month on the new industry location caps, arguing they didn't go nearly far enough.

Meg Sanders is among business owners who say the industry has a responsibility to step up. She is the CEO of a company called Mindful, which has a grow facility in northeast Denver and a store selling medical and recreational product on the city's resurgent East Colfax Avenue. It has three other stores across Colorado, two more on the way and a dispensary soon to open in Illinois. Mindful holds job fairs at a nearby recreation center, and several times a year, its employees hand out vegetables grown on a 3,000-square-foot plot outside its grow facility. It's also testing new odor-suppression technology. She says she wants her businesses to help build communities, not detract from them. She was among industry representatives who suggested the new city requirement that marijuana licensees submit community engagement or "good neighbor" plans.

But Sanders, a believer in the good that marijuana can do for those who are suffering, still resists the idea that the city should restrain the industry's growth. "We don't limit Walgreens going up on every other corner or other pharmacies," she said. "So why would we here?"

Attachment 7

Why California Should Vote Yes on Prop. 64 To Legalize the Adult Use of Marijuana

By Joy Haviland, Esq. 7/06/2016 , the Huffington Post



David McNew / Reuters

This past week the California Adult Use of Marijuana Act (“AUMA”) officially takes its place on the November ballot as Proposition 64. The measure qualified for the ballot earlier this week. Prop. 64 will allow adults 21 and older to possess, transport and use up to an ounce of marijuana for recreational purposes.

Californians around the state have been crying out for change this year. There is more [public support](#) for reform than ever before with polls showing a majority of the state, and the rest of the country, in favor of legalizing marijuana. More than 10 voter initiatives related to marijuana were filed with the Attorney General for this election year, but only Prop. 64 will be on the ballot this November.

The pressing need for marijuana reform and legalization in California brings together a [broad and diverse coalition](#) of politicians, public health organizations, businesses, community leaders, and civil rights organizations to advocate for smart policy. Lt. Gov. Gavin Newsom, the California Medical Association, the California NAACP, the California Democratic Party, and the ACLU of California, among others, have come together to urge Californians to vote Yes on Prop. 64.

The wide-reaching desire for marijuana reform in California makes sense. Despite decades of prohibition and aggressive enforcement of criminal laws, marijuana remains widely consumed and universally available. The prohibition of marijuana and the war on drugs are both widely recognized as failures.

Devastation has followed these failures—black and Latino communities are disproportionately targeted, incarcerated and damaged by [discriminatory enforcement](#) of marijuana laws; state lands, rivers, and streams are ravaged by illegal and unregulated marijuana grow operations;

responsible adult users of marijuana risk exposure to possible chemicals, toxins, and unknown potency from unregulated products; law enforcement wastes scarce resources better spent on ensuring public safety; and employees in an unregulated and illegal industry are exploited.

Regulating marijuana through the smart policies of Prop. 64 will bring this booming and unregulated market under the rule of law to protect the most vulnerable in the state. Moving marijuana purchases into a system with strict packaging, labeling, and advertising standards protects consumers and youth. Statewide regulations mandating environmental regulation, enforcement, and restoration protects the state's natural resources. And reducing and eliminating criminal penalties for marijuana offenses reduces the detrimental impact of discriminatory criminalization.

New tax revenue from the retail sales of marijuana, estimated to be up to one billion dollars each year, will be allocated to pay for the enforcement of the new law and will fund substance use treatment for youth, environmental restoration, research on implementation and medical marijuana, local governments, and reentry programs in communities harmed by the war on drugs.

Californians have had the opportunity to learn from Colorado, Oregon, Washington, and Alaska, which have already legalized the responsible adult use of marijuana. Prop. 64 builds on the [successes of those states](#) using the lessons learned, but also paving a thoughtful and bold new way forward.

A victory on Prop. 64 will be a huge triumph for California. Smart policy, hundreds of millions in new revenue, and protection for the state's youth, environment, and communities of color will follow.

Joy Haviland is a staff attorney at the Drug Policy Action.

http://www.huffingtonpost.com/joy-haviland/california-prop-64_b_10830226.html



Attachment 8

By Jennifer Alsever

Photograph by Ryan David Brown for Fortune Magazine

Is Pot Losing Its Buzz in Colorado?

A backlash is growing in a state where marijuana has quickly become a \$1 billion legal business.

For months, Paula McPheeters and a handful of like-minded volunteers have spent their weekends in grocery-store parking lots, even in 95° F heat. Sitting around a folding table draped with an American flag, they asked passing shoppers to sign a petition. Inevitably a few sign-wielding young protesters

would show up to argue that McPheeters's group was dead wrong. With the two sides often just yards away from each other, shouting matches erupted. "We're peaceful people," one woman yelled. "You're drugged out," countered an angry man. Threats and phone calls to police became the norm.

The wedge dividing the people of this small blue-collar city of Pueblo, Colo.? Legal marijuana.

Colorado gave the green light to recreational marijuana back in 2012, when it passed a law to make nonmedical pot sales legal starting Jan. 1, 2014. But now opposition is rising in communities across the state. Colorado has become a great social experiment, the results of which are still not clear. "The jury is still out as to whether this was a good idea," says Colorado attorney general Cynthia Coffman.

What's undeniable is this: Legal marijuana is in high demand in Colorado. Only three other states—Alaska, Washington, and Oregon—plus the District of Columbia currently permit recreational adult use of cannabis. (It's legal for medical use in another 19 states.) Of that group, Colorado led the way in 2015 with \$996.5 million in licensed pot sales—a 41.7% jump over 2014 and nearly three times the figure in Washington State. Recreational sales made up nearly two-thirds of the total.

Now, as citizen groups attempt to put the brakes on the growing industry, a heated debate has emerged about the drug's societal impact. Doctors report a spike in pot-related emergency room visits—mostly due to people accidentally consuming too much of potent edible pot products. Police face new cartel-related drug operations. Parents worry about marijuana being sold near their homes and schools. And less affluent communities like Pueblo struggle with the unintended consequences of becoming home to this emerging and controversial industry.

Amendment 64 decriminalized marijuana statewide, but Colorado's cities and counties still decide if the drug can be grown and sold locally. At least 70% of the municipalities in the state have banned commercial operations, either by popular vote or board decisions.

Many other communities have begun pushing back. Last fall, controversy arose in the small western Colorado town of Parachute when an antipot group attempted to recall members of the town council who had welcomed pot shops. (Voters defeated the recall 3 to 1.) Debate has since emerged in Aspen, Carbondale, Glenwood Springs, Grand Junction, Littleton, and Rifle over the number, location, smell, and mere existence of retail and cultivation facilities. Citizens in the San Luis Valley, in the southern part of the state, say their schools and social services have been overwhelmed by a flood of newcomers coming to grow cannabis on cheap land, despite limited water. And just this spring officials in Colorado Springs and Englewood opted to ban pot social clubs, which are akin to lounges in which people can legally smoke weed in public.



Workers planting marijuana on June 17, 2016, at Los Sueños Farms, in Pueblo, Colo., the largest outdoor legal grow facility in the U.S.

Photograph by Ryan David Brown for Fortune Magazine

“I’m getting calls now from people who voted for legalization thinking it wouldn’t affect them,” says Kevin Sabet, co-founder of national antimarijuana legalization group Smart Approaches to Marijuana. “They’re surprised to see these are sophisticated businesses opening up next to their schools selling things like marijuana gummy bears. And they’re angry.”

Officials in Denver, which is home to one-third of the state's cannabis market, moved this spring to rein in pot capitalism. The city passed an ordinance capping the number of dispensaries and grow facilities at the present level. But discontent continues to fester in poorer communities, where many of these operations inevitably land. "We were told that legalization would take drugs out of our community," says Candi CdeBaca, a community activist who grew up in the mostly Latino and poor Denver neighborhood of Elyria-Swansea. "The drugs stayed—and the drug dealers changed."

CdeBaca points to, for example, an increase in school suspensions related to marijuana. And unlike the meatpacking plants and refineries that once dotted the area, CdeBaca says, this new industry hasn't brought her neighbors jobs. Instead, the money is flowing to outsiders.

"It's the Wild West, and the well-funded marijuana industry has dominated the regulatory process, and people are finally speaking up," says Frank McNulty, a lawyer for Healthy Colorado, which plans to put a measure on the November state ballot—an easier task in Colorado than in many other states—that would limit the active drug ingredient THC in cannabis candy and concentrates and require health warnings on packaging. The marijuana industry has objected to the proposal, and the issue is now before the Colorado Supreme Court.

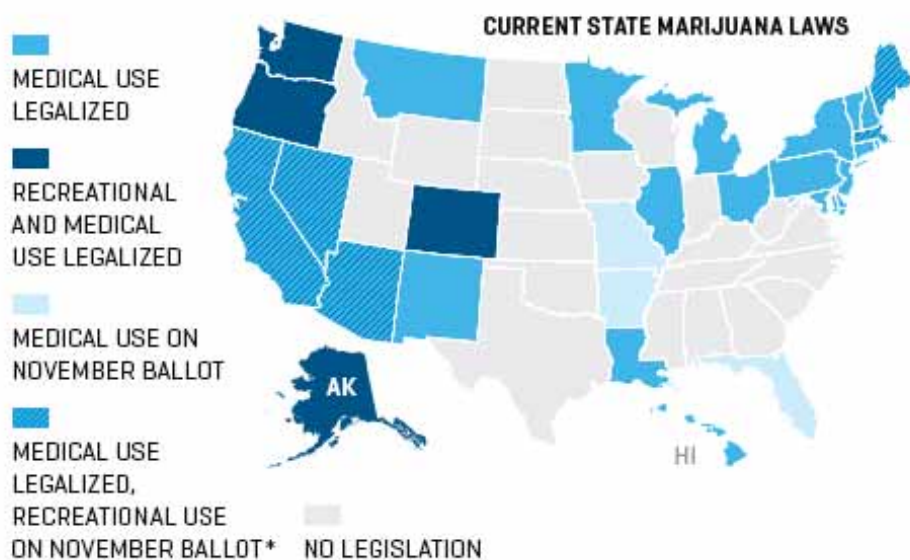
Cannabis backers bristle at the pushback, calling it a back-door effort by prohibitionists who simply disagree with the legalization of the drug. Mason Tvert, director of the Marijuana Policy Project, which leads legalization efforts nationwide, cites studies showing minimal impact on society and no harm to Colorado's growing economy. Says Tvert: "Anyone who says it's caused an increase in this or that [problem] is full of shit."

What plays out in Colorado may influence what happens across the nation. Pot remains illegal under federal law. But legalization of recreational marijuana for adult use will be on the November ballot in California, Massachusetts, and Nevada, and likely in Arizona and Maine too. Voters in Arkansas, Florida, and Missouri will be voting on whether to approve it for medical use. The growth of the cannabis industry has begun to attract the interest of big companies. **Microsoft** announced in mid-June that it has developed a software product to help states track marijuana growth and sales.

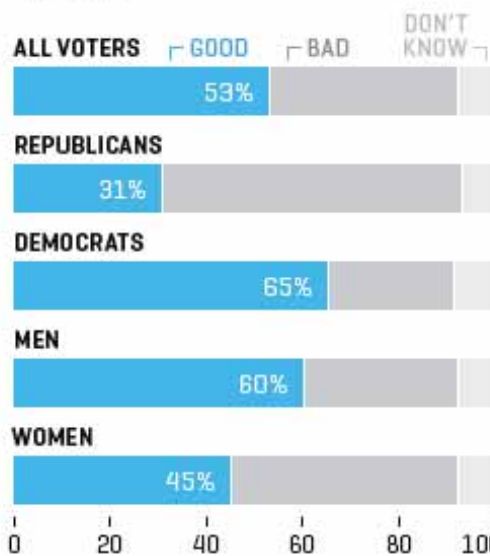
THE POT THICKENS

Marijuana remains illegal under federal law, but a growing number of states are decriminalizing it. Voters in Colorado are divided.

Source: Marijuana Policy Project



OPINION OF COLORADO VOTERS ON WHETHER LEGALIZING MARIJUANA HAS BEEN GOOD FOR THE STATE



* Expected to be on the ballot. There's also a possibility in Michigan, but it's unclear whether it will be able to qualify for the ballot.

In a recent appearance on CNBC, Colorado Gov. John Hickenlooper offered this advice to other states considering legalization: "I would suggest wait a year or two and see how it goes."

Nowhere has the impact of legalization in Colorado been felt more powerfully than in the small community of Pueblo, located 114 miles south of Denver. At least 20 dispensaries and 100 growing facilities with 4 million square feet of cultivation now dot the highways near this town of 160,000, which has aggressively embraced the budding industry, making it the top cultivation spot in the state. "We're sort of like the Napa Valley of cannabis," says Pueblo County commissioner Sal Pace.

Pueblo has struggled for decades, ever since the 1983 recession, when most of the jobs at the local CF&I steel mill disappeared. Today the community is dealing with failing schools, rising gang activity, and increased crime. With a total of 26 homicides in 2014 and 2015, Pueblo earned the highest per capita murder rate in the state.

When the county's three commissioners approved licenses for marijuana operations in 2014, Pueblo's problems got worse, argues McPheeters, a Pueblo mom and community-college budget manager who

is the driving force behind a group called Citizens for a Healthy Pueblo. “The promises of marijuana have not come true,” she argues. After weeks of contentious petition drives, McPheeters’s group believes it has gathered enough signatures to put a measure on the November ballot to revoke all the recreational marijuana licenses in the county. Marijuana industry groups, however, have sued, arguing that the number of signatures falls short under a new state law. A judge is set to decide in July.

Groups serving the poor in Pueblo report a flood of homeless people arriving from other states. Local homeless shelter Posada, for instance, has witnessed a 47% jump in demand since 2014, including 1,200 people who reported to shelter workers that they came to smoke pot or get jobs in the industry, says Posada’s director, Anne Stattelmann. She says her funding is tapped out. “It’s changed the culture of our community,” she says.



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Pueblo County commissioner Sal Pace, visiting a grow facility, likens the region to “the Napa Valley of cannabis.”

Photograph by Ryan David Brown for Fortune Magazine

The city’s three hospitals officially threw their support behind the antipot ballot measure after reporting a 50% spike in marijuana-related ER visits among youth under age 18 and more newborns with marijuana in their system. A number of local businesses are also backing the ban after struggling to find sober employees.

Commissioner Pace, in particular, has emerged as a target of criticism for citizens hoping to rid Pueblo of legal marijuana.

As a state legislator he drafted early pot regulations and then as commissioner led local efforts to launch the industry in Pueblo County after 56% of voters in the city approved Amendment 64. “It will take time to change some people’s opinions that pot is bad,” he says.

The pro-marijuana contingent in Pueblo say critics are misplacing blame for the area’s problems. They argue that the pot business has generated jobs and taxes as well as a college scholarship and a local playground. Revoking the licenses of cannabis shops, they say, will only fuel the black market. Says Chris Jones, an employee at a local dispensary clad in a Bob Marley T-shirt: “We already voted on this one time. Let it stand.”

Both antipot groups and marijuana advocates tend to cherry-pick data to support their claims. However, Larry Wolk, chief medical officer for the state department of health, says it’s too early to draw conclusions about the true social and health impacts on Colorado.

Marijuana-related hospitalizations have tripled in Colorado since legalization, and emergency room visits have climbed 30%, according to a state report released this spring. And pot-related calls to poison control have jumped from 20 to 100 a year, says Wolk. Drug-related school suspensions have also climbed. Yet teen usage hasn’t shot up dramatically, and crime has remained fairly stable. Marijuana-related DUIs increased 3%, and traffic fatalities involving THC increased 44%—but the absolute numbers were small in comparison to those that involved alcohol, according to the report.

The data is tricky, Wolk says, because Colorado didn’t track these numbers the same way prior to legalization. Are there more suspensions, he asks, because teachers are more aware? Are doctors now

asking about marijuana at hospitals when they didn't previously? "It may be a year or two before we'll really have good answers," says Wolk.

Marijuana legalization has delivered some surprises statewide to regulators, police, and citizens alike. For instance, many people thought legalization would quash the black market for the drug. "That's been a fallacy," says Coffman, Colorado's attorney general. Legalization of cannabis stores and grow operations has drawn more drug-related crime, she says, including cartels that grow the plant in Colorado and then illegally move it and sell it out of state. "They use the law," she says, "to break the law."



Field Manager of Los Suenos Farms lays Marijuana plants in place awaiting following field workers to plant them.

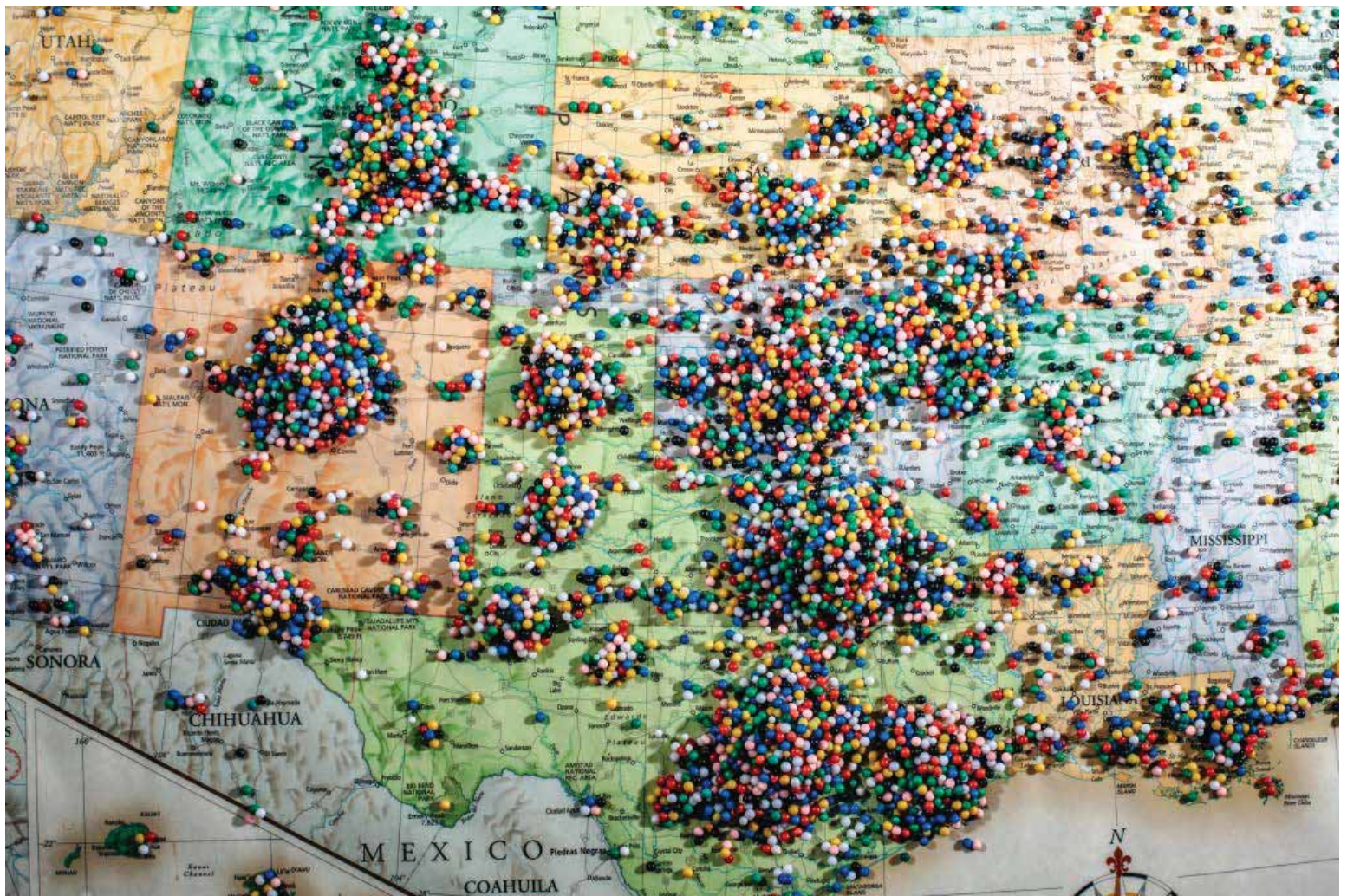
Photograph by Ryan David Brown for Fortune Magazine

Since 2013, law officials say, they have busted 88 drug cartel operations across the state, and just last year law-enforcement made a bust that recovered \$12 million in illegal marijuana. Adds Coffman: “That’s crime we hadn’t previously had in Colorado.”

The state legislature is trying to play catch-up. Last year it passed 81 bills enacting changes to drug laws, prompting state law-enforcement groups to request a two-year moratorium on new laws so that they could have time to adjust. Lawsuits are also flying—including one from Colorado’s neighbors. Nebraska and Oklahoma have sued Colorado, claiming that it is violating federal drug statutes and contributing to the illegal drug trade in their states.

Another surprise to many Coloradans is that a promised huge tax windfall to benefit schools hasn’t materialized. Of the \$135 million generated in 2015, for example, \$20 million goes to regulatory and public-safety efforts related to cannabis, \$40 million funds small rural school construction projects, and the rest goes to youth drug prevention and abuse programs. That’s a drop in the bucket for a \$6.2 billion education budget.

A third revelation to parents in particular is the potency of today’s pot, says Diane Carlson, a mother of five who started Smart Colorado to protect teens from the drug. The weed, edibles, and concentrates sold in stores have THC levels that average 62% and sometimes as high as 95%, according to a 2015 state report. That compares with levels of 2% to 8% in the 1990s. “We passed this thinking it was benign, that it was the stuff from college,” says Carlson. “The industry is just moving too fast, and we’re playing catch-up while the industry is innovating.”



A map in the lobby of The Spot, a popular recreational dispensary, located in Pueblo West displays where customers have traveled from.

Photograph by Ryan David Brown for Fortune Magazine

Sitting in a Denver café, Carlson compares marketing by the marijuana industry to that of Big Tobacco in the 1950s, portraying the product as a harmless cure-all for everything from ADHD to anxiety. Yet research shows that marijuana is harmful to the developing brain. She supports Healthy Colorado's ballot initiative to limit the active drug ingredient in THC in marijuana edibles, candy, and concentrates to 17%.

The backlash worries Mike Stettler, the founder of Marisol, one of Pueblo County's largest dispensaries, which has been endorsed by comedian and weed smokers' icon Tommy Chong. The onetime construction worker fears that Pueblo's pushback against pot will shut down his entire recreational dispensary and its 10-acre grow operation, which generated \$4.5 million in revenue last year. "I'm hoping and praying this thing doesn't go through, but you don't know," he says.

He says he has invested millions in his business and has more plans for growth. In May he flew to Las Vegas to discuss a partnership with famed guitarist Carlos Santana to create a Santana brand of weed

called Smooth, named after the artist's hit song.

Inside, Marisol is a veritable wonderland for cannabis enthusiasts. Customers can consult a "budtender" for advice on the right weed for energy, sleep, or relaxation. They can also choose from a seemingly boundless variety of marijuana merchandise—from vegan "dabbing" concentrates for water pipes to pot-infused bottled beverages to peanut-butter-and-jelly-flavored THC candies. There are even liquid products designed to alleviate marijuana overdoses.

Giving a tour of the store, employee Santana O'Dell, clad in green tights with tiny marijuana leaves on them, sighs as a beatific smile appears on her face. "This is freedom," she says.

For a growing number of her neighbors, however, legalized marijuana is starting to feel like a really bad high.

A version of this article appears in the July 1, 2016 issue of Fortune.

Attachment 9

DRAFT RESOLUTION A

RESOLUTION No. 16-XXX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EL PASO DE ROBLES, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE AN ORDINANCE 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, and Ordinance No. [INSERT NUMBER] 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, AUMA will become law if a majority of the electorate votes "Yes" on the proposition; and

WHEREAS, 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 AUMA would add Section 11362.1 to the Health and Safety Code, making 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, 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, AUMA would make it lawful for those individuals to smoke or ingest marijuana or marijuana products; and

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

WHEREAS, to regulate commercial use of marijuana, 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, 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, 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, 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, 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, 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 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 that 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 on the health and safety of the occupants, including structural damage to the building due to increased moisture and excessive mold growth that can occur and pose a risk of fire and electrocution, as well as chemical contamination within the structure from the use of pesticides and fertilizers; 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”) under CEQA Guidelines (14 Cal. Code Regs.) 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 activities that 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, all legal prerequisites to the adoption of this Resolution have occurred, and

WHEREAS, the Planning Commission held a public hearing on August 30, 2016 to consider a recommendation to the City Council regarding the proposed Zoning Ordinance amendment.

NOW, THEREFORE, the Planning Commission of the City of El Paso De Robles hereby resolves as follows:

Section 1: Incorporation of Recitals.

The Planning Commission hereby specifically finds that all of the facts set forth in the Recitals are true and correct and are hereby incorporated and adopted as findings of the Planning Commission as if fully set forth herein.

Section 2: Zoning Amendment Findings.

The following findings are made regarding the proposed amendments to the Zoning Ordinance:

- A. The proposed amendments are consistent with the General Plan, since they implement General Plan objectives and policies that promote the establishment and operation of land uses that maintain or enhance quality of life; that are compatible with surrounding uses; and that protect and maintain public health, safety, and welfare. The proposed amendments prohibit land uses that are contrary to such objectives and policies; and
- B. The proposed amendments will not adversely impact the public health, safety, and welfare, since they prohibit land uses to protect the public health, safety, and welfare from potentially negative impacts of marijuana cultivation, manufacturing, testing, and dispensaries to the extent allowed under California law. Several California cities have reported negative impacts of such land uses, including offensive odors, illegal sales and distribution of marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests.

Section 3: Based on the entire record before the Planning Commission, all written and oral evidence presented to the Planning Commission, and the findings made and evidence discussed in the staff report and this Resolution, the Planning

Commission hereby recommends that the City Council adopt an ordinance entitled: "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," which is attached as Exhibit B to the resolution and which is incorporated here by reference.

Section 4: CEQA.

The proposed ordinance is not a project within the meaning of section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change in the environment, directly or indirectly. The Planning Commission further finds, under section 15061(b)(3), that the proposed ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to activities that 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.

Section 5: The Secretary of the Planning Commission shall certify to the adoption of this Resolution.

PASSED AND ADOPTED by the Planning Commission of the City of Paso Robles this 30th day of August 2016 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Bob Rollins, Chairman

ATTEST:

Warren Frace, Planning Commission Secretary

Exhibit A – Notice of Exemption
Exhibit B – Draft Ordinance

Exhibit A

NOTICE OF EXEMPTION

TO: County Clerk Recorder
County of San Luis Obispo
1055 Monterey Street
San Luis Obispo, CA

FROM: Planning Division
1000 Spring Street
Paso Robles, CA 93446

Project Title:

Resolution [INSERT NUMBER], recommending an Ordinance amending Chapter 21.33 of the Municipal Code to regulate the establishment of marijuana dispensaries, cultivation of marijuana and delivery of marijuana in all zones of the City.

Project Location - Specific: City-wide

Description of Project:

This project is adoption of an Ordinance amending Chapter 21.33 of the Municipal Code to regulate the establishment of marijuana dispensaries, cultivation of marijuana and delivery of marijuana in all zones of the City.

Name of Public Agency Approving Project:

Planning Division, City of El Paso De Robles

Exempt Status: (check one) (State type and section number)

XX Statutory Exemption. Sections: 15060(c)(2), 15060(c)(3) and 15061(b)(3)

Reasons why project is exempt:

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.

Lead Agency or Contact Person:

Warren Frace Community Development Director

Area Code/Telephone/Extension

805-237-3970

Date:

Signature: _____

Exhibit B

ORDINANCE NO. _____

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. Ordinance No. [INSERT NUMBER] 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, the Planning Commission held a public hearing on August 30, 2016 and recommended approval of the Zoning Ordinance amendment with findings of General Plan consistency, 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 any enclosed structure within any zoning district of the City which is not either a private residence or an accessory structure to a private residence located upon the grounds of a private residence. Cultivation inside a private residence or an accessory structure to a private residence is limited to the amounts allowed under California law.

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.

End of Zoning Ordinance Text Amendment

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 _____ day of _____, 2016 by the following vote:

Steven W. Martin, Mayor

ATTEST:

Dennis Fansler, City Clerk

CERTIFICATION

I, Dennis Fansler, 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:

Dennis Fansler
City Clerk