



## City of Paso Robles Planning Commission Agenda Report

From: Susan DeCarli, City Planner  
Subject: Rezone 18-001 - Medical Cannabis Delivery Services Ordinance  
Recommendation to City Council

Date: February 13, 2018

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### Facts

1. Chapter 21.33 Cannabis Regulations of the City Zoning Ordinance in the Municipal Code, includes regulations on personal (recreational), medical and commercial cannabis uses.
2. The ordinance currently prohibits recreational or medical cannabis (brick and mortar) establishments including, but not limited to, retail sales, manufacturing, testing, packaging, storing, or cultivation. The City's regulations allow for indoor personal cannabis cultivation in compliance with State provisions.
3. The City does not currently regulate medical cannabis delivery services. However, delivery service business licenses have been issued if the business meets one of the following conditions: (1) the business is based in the City; or (2) the business is based outside of the City and provides delivery services to local residents.
4. Pursuant to Business and Professions Code section 26070(a)(1), effective January 1, 2018, State law requires all cannabis retailers, including non-storefront retailers/delivery services operate from a commercial location licensed by the State and local authority. The commercial location may not be located within a residence. Additionally, all cannabis business owners must obtain a license from the State Bureau of Cannabis Control (BCC), in order to legally operate.
5. Currently, the City's regulations do not permit commercial locations for cannabis businesses, therefore, the City cannot assure the BCC that medical marijuana delivery service businesses applying for a BCC license comply with local requirements. Thus, existing cannabis delivery services cannot legally operate in the City without enacting changes to City medical cannabis regulations.
6. Local land use compatibility implications are anticipated; therefore, it is recommended that future policy decisions be thoughtfully analyzed with public input (which may take a significant amount of time and resources). In the interim, the City has prepared a short-term option to allow existing businesses to comply with local provisions and BCC licensing regulations.
7. The proposed amendments to Sections 21.33.020 and 21.33.040 of the Zoning Ordinance/Municipal Code would authorize the issuance of a one-year Temporary Use Permit (TUP), while the City continues to analyze potential long-term policy solutions. Under this amendment, only businesses that (i) had a valid City business license issued by the City; and (ii) were physically located in the City prior to January 1, 2018 would qualify for a TUP. Currently, five (5) existing medical cannabis delivery businesses appear to meet these proposed TUP requirements. All TUPs will be approved administratively, at a staff level.
8. As this involves a change to the Zoning Code, the Planning Commission is requested to make a recommendation to the City Council on the proposed ordinance to allow issuance of TUPs to existing medical cannabis delivery services based within the City, possessing a valid City business license issued prior to January 1, 2018. See Attachment 1 for Draft Ordinance.

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9. Per Section 15061(b)(3) of the State California Environmental Quality Act (CEQA) Guidelines, this ordinance would be exempt from environmental review, since it can be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant effect on the environment.

### Options

#### Option 1

Recommend to the City Council approval of Ordinance No. XXX (Attachment 1) to require approval of a TUP, effective for up to one-year, to permit establishment of non-storefront, medical cannabis delivery services to local residents, to permit existing businesses to be in compliance with State licensing requirements.

#### Option 2

Recommend to the City Council approval of Ordinance No. XXX (Attachment 1), with modifications suggested to the ordinance.

#### Option 3

Continue this item and provide direction to staff for additional analysis.

#### Option 4

Recommend denial of the proposed ordinance, with specific Findings for denial from the Planning Commission.

### Analysis and Conclusions

The City's Zoning Code provisions are currently not consistent with new State regulations, that preclude City licensed medical cannabis delivery service businesses to legally operate within the City of Paso Robles. The City would like to take the time necessary to involve the community in preparing long-term solutions to address this type of use in the City in compliance with State law. The proposed draft ordinance (attached) would require approval of a TUP that would be effective for up to one year while the City works on preparing an ordinance to address this issue for the long-term.

### CEQA Analysis

As noted in the Facts above, per Section 15061(b)(3) of the State CEQA Guidelines, this proposed ordinance is exempt from CEQA review.

### Fiscal Impact

This ordinance would allow businesses to obtain a business license, which would generate tax certificate revenue that would positively affect the City's General Fund.

### Recommendation

Staff recommends the Planning Commission recommend to the City Council approval of Ordinance No. XXX (Attachment 1), authorizing issuance of Temporary Use Permits, effective for up to one-year, permitting City based non-storefront retailers of medical cannabis to operate within the City.

### Attachments

- 1 – Draft Ordinance No. Amendment
- 2 – Mail Affidavit
- 3 – Legal Affidavit

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES AMENDING SECTIONS 21.33.020 and 21.33.040 OF THE PASO ROBLES MUNICIPAL CODE AND AUTHORIZING THE ISSUANCE OF TEMPORARY USE PERMITS FOR DELIVERY-ONLY MEDICAL MARIJUANA RETAIL BUSINESSES**

**WHEREAS**, Section 21.33.040 of the Paso Robles Municipal Code prohibits the establishment of a medical marijuana dispensary, but allows for the operation of medical marijuana delivery service businesses; and

**WHEREAS**, Section 21.33.050 of the Paso Robles Municipal Code prohibits the establishment or operation of any business of commercial marijuana activity; and

**WHEREAS**, pursuant to Business and Professions Code section 26070(a)(1), state law requires that all cannabis retailers, including marijuana retailers that will not be open to the public and that conduct sales exclusively by delivery, must operate from a physical location licensed by the State; and

**WHEREAS**, such non-storefront, delivery-only cannabis businesses may not obtain a temporary State license to operate without demonstrating proof of compliance with local ordinances, including obtaining all necessary local land use approvals; and

**WHEREAS**, non-storefront, delivery-only cannabis businesses that had obtained City business licenses prior to January 1, 2018 and that are located in the City are therefore currently prohibited from conducting any deliveries of cannabis until they obtain the applicable State license to operate; and

**WHEREAS**, this has created an unintended and substantial hardship for local medical cannabis patients and caregivers, who cannot receive medically prescribed marijuana pursuant to a physician recommendation from their customary delivery service of choice if that delivery service has not been able to obtain a state license; and

**WHEREAS**, several Paso Robles residents have expressed concern, hardship and urgency over the current inability to receive medical marijuana from a patient's historic and/or current customary delivery service necessary for the treatment of existing medical conditions because of the licensing requirements adopted by the State and the regulations adopted by the City; and

**WHEREAS**, this Ordinance is intended only to provide a short-term limited allowance of delivery-only, non-storefront medical marijuana businesses that were both licensed to do business in Paso Robles and were physically located within the City limits as of January 1, 2018, in order for the City to more comprehensively consider the land use issues related to the location of such businesses and related matters; and

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

**Section 1. Recitals are True and Correct.** The City Council hereby findings that the recitals above are true and correct and incorporated herein.

**Section 2. Amendment to Section 21.33.020**

The following definition is added at the end of Section 21.33.020 to read as follows:

“O. “Medical marijuana” means marijuana or cannabis used for medical purposes in accordance with the Compassionate Use Act (California Health and Safety Code Section 11362.5 et seq.) and the Medical Cannabis Program Act (California Health and Safety Code Section 11362.7 et seq.), as they may be amended from time to time.”

**Section 3. Amendment to Section 21.33.040**

The following paragraph D. is hereby added to Section 21.33.040 to read as follows:

“D. The Community Development Director is authorized to issue certain temporary use permits for the delivery of medical marijuana to qualified patients in the City, subject to all of the following rules and requirements:

1. The temporary use permits shall be limited to authorize only delivery of medical marijuana to qualified patients from the subject site location identified in the permit. The temporary use permit shall not authorize any public storefront or other retail sale or distribution of marijuana.
2. In order to obtain a temporary use permit for medical marijuana deliveries, eligible applicants shall apply on or before April 1, 2018 for a temporary use permit for a medical marijuana delivery-only retail business to operate at the proposed location. Failure to timely submit applications for a temporary use permit and maintain a valid City Business License shall be grounds for denial of a temporary use permit. No medical marijuana delivery services shall be conducted in the City unless and until a temporary use permit and Business License have been issued by the City for the subject location and a license from the California Bueau of Cannabis Control has been issued for the business.
3. Applicants for a temporary use permit shall provide proof, to the satisfaction of the Community Development Director, that (i) the applicant had a valid Business License issued by the City of Paso Robles prior to January 1, 2018 to deliver medical marijuana to qualified patients in the City of Paso Robles; (ii) the address listed on the Business License is located within the City of Paso Robles; and (iii) the applicant has applied for a non-retail storefront license to operate from the California Bureau of Cannabis Control.

4. Prior to taking action on a temporary use permit application, the Community Development Director shall comply with the existing temporary use permit procedures set forth in Paso Robles Municipal Code Chapter 21.23C.
5. Deliveries of medical marijuana pursuant to the temporary use permit shall be subject to the delivery requirements set forth in Paso Robles Municipal Code paragraph C. of section 21.33.040, in addition to all applicable State law requirements.
6. The temporary use permit shall be valid for a term of no more than one (1) year from the date of adoption of the ordinance enacting this paragraph D. of section 21.33.040, and shall be expressly terminated, revoked, and invalid upon such expiration. Failure to obtain a license from the California Bureau of Cannabis Control by April 30, 2018 shall be grounds for revocation of the temporary use permit. The temporary use permit shall be understood and acknowledged by the applicant as conditioned upon it being temporary, and that it does not confer any right, entitlement or guarantee to future use(s) or property, nor shall the temporary use permit operate as any guarantee or entitlement to issuance of a conditional use permit or other permit for the operation of the business at that or any other location. Applicants for a temporary use permit shall expressly waive any right, title or claim to any vested right to continue conducting medical marijuana deliveries from a location in the City beyond the term of the temporary use permit.

The Community Development Director or his or her designee is authorized to develop an appropriate application form and to administer reasonable guidelines and policies necessary to carry out the purposes and intent of this paragraph D. of Section 21.33.040.”

### **Section 3. Existing Prohibitions Not Affected.**

All marijuana uses already permitted or prohibited by the City’s Code shall remain permitted and prohibited and shall not be affected or modified by this Ordinance.

### **Section 4. CEQA Finding.**

The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption of this Ordinance will have a significant effect on the environment because this Ordinance is narrowly tailored to mitigate unintended disruption in the ability of medical marijuana patients to receive medical marijuana on a short-term, non-permanent basis subject to existing locational restrictions and regulatory requirements already set forth in the City’s Municipal Code for marijuana businesses already permitted to operate in the City. This Ordinance is therefore exempt from any California Environmental Quality Act (CEQA) review pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

**Section 5. Publication.** The City Clerk shall certify to the passage of this Ordinance by the City Council of the City of El Paso de Robles, California, and cause the Ordinance to be

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published once within 15 days after passage in a newspaper of general circulation published and circulated in the City in accordance with Government Code section 36933.

**INTRODUCED** at a regular meeting of the City Council held on \_\_\_\_\_, 2018, for first reading by the City Council of the City of El Paso de Robles, and adopted on the \_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Steven W. Martin, Mayor

Attest:

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Dennis Fansler, City Clerk

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**CITY OF EL PASO DE ROBLES**

*"The Pass of the Oaks"*

**AFFIDAVIT**

**OF MAIL NOTICES**

**PLANNING COMMISSION/CITY COUNCIL PROJECT NOTICING**

I, Monica Hollenbeck, employee of the City of El Paso de Robles, California, do hereby certify that the mail notices have been processed as required for Zoning Code Amendment 18-002, on this 30<sup>th</sup> day of January, 2018.

City of El Paso de Robles  
Community Development Department  
Planning Division

Signed: *Monica C Hollenbeck*  
Monica Hollenbeck

RECEIVED

FEB 05 2018

City of Paso Robles  
Community Development Dept

**THE** *Newspaper of the Central Coast*  
**TRIBUNE**

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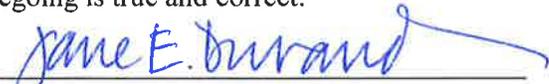
In The Superior Court of The State of California  
In and for the County of San Luis Obispo

AD #3503089  
CITY OF PASO ROBLES

STATE OF CALIFORNIA  
ss.  
County of San Luis Obispo

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen and not interested in the above entitled matter; I am now, and at all times embraced in the publication herein mentioned was, the principal clerk of the printers and publishers of THE TRIBUNE, a newspaper of general Circulation, printed and published daily at the City of San Luis Obispo in the above named county and state; that notice at which the annexed clippings is a true copy, was published in the above-named newspaper and not in any supplement thereof – on the following dates to wit;; FEBRUARY 1, 2018 that said newspaper was duly and regularly ascertained and established a newspaper of general circulation by Decree entered in the Superior Court of San Luis Obispo County, State of California, on June 9, 1952, Case #19139 under the Government Code of the State of California.

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

  
(Signature of Principal Clerk)

DATE: FEBRUARY 1, 2018  
AD COST: \$232.32

**NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Planning Commission will hold a Public Hearing to consider the following project:

**APPLICATION:** Zoning Code Amendment: RZ 18-002/Medical Marijuana Delivery Service Regulations

The purpose of the proposed ordinance is to allow delivery-only medical marijuana retail businesses that, as of January 1, 2018, had a valid City business license and were operating from a location in Paso Robles, to obtain a temporary use permit that would allow them to continue operating at the locations identified in their City Business Licenses. The holder of a temporary use permit would also be required to obtain a license from the California Bureau of Cannabis Control.

**APPLICANT:** City of Paso Robles

**LOCATION:** Citywide

**ENVIRONMENTAL DETERMINATION:** This application is exempt from review under the California Environmental Quality Act (CEQA), per CEQA Guidelines Section 15061(b)(3).

**HEARING:** The Planning Commission will hold a Public Hearing on February 13, 2018, at 6:30 p.m. at the Library Conference Center, 1000 Spring Street, Paso Robles, California.

Questions about this application may be directed to the Community Development Department at (805) 237-3970 or via email at [planning@prcity.com](mailto:planning@prcity.com). Comments on the proposed application may be mailed to the Community Development Department, or emailed to [planning@prcity.com](mailto:planning@prcity.com) provided that such comments are received prior to the time of the hearings.

If you challenge the application in court, you may be limited to raising only those issues you or someone else raised at the public hearings described in this notice, or in written correspondence delivered to the Planning Commission or City Council at, or prior to, the public hearings.

Copies of the staff report pertaining to this project will be available for review at the Community Development Department on the Thursday preceding each hearing (copies are available for purchase for the cost of reproduction). If you have any questions, please contact the Community Development Department at (805) 237-3970.

Susan DeCarli  
City Planner  
February 1, 2018

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