

## **RESOLUTION NO. 16-049**

### **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. 1036 N.S. 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 30<sup>th</sup> day of August 2016 by the following vote:

AYES: Commissioners Donaldson, Agredano, Davis and Chairman Rollins  
NOES: Commissioners Barth, Brennan and Burgett  
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 16-049, 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**

**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**

**[ATTACHED BEHIND THIS PAGE]**

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:

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## **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.

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## 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