

ORDINANCE NO. 926 N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES  
AMENDING TITLE 21, ZONING, OF THE MUNICIPAL CODE  
ADDING A DEFINITION OF MEDICAL MARIJUANA DISPENSARIES TO CHAPTER 21.08  
DEFINITIONS, AND TO AMEND  
ARTICLE II A, SPECIAL REGULATIONS ADDING CHAPTER 21.33  
PROHIBITION OF MEDICAL MARIJUANA DISPENSARIES

WHEREAS, in 1996 the voters of the State of California passed the “Compassionate Use of Marijuana Law” which allows for the use of marijuana for medical purposes; and

WHEREAS, the Federal Government through its Controlled Substances Act, prohibits the use and distribution of marijuana; and; and

WHEREAS, the United States Supreme Court in *Gonzales v Raich*, confirmed that the Controlled Substances Act does not contain a “compassionate use” exemption and therefore it is a violation of Federal law to possess or distribute marijuana even for medical purposes; and

WHEREAS, there are also known to be increased incidences of crime-related secondary impacts associated with the locations of medical marijuana dispensaries, which is contrary to policies that are intended to promote and maintain the public’s health, safety, and welfare; and

WHEREAS, medical marijuana dispensaries are permitted to be established in other jurisdictions in reasonably close proximity to the City of Paso Robles, in San Luis Obispo County; and

WHEREAS, the City Council previously adopted Ordinance No.896, adopted on March 15, 2005, as amended by Ordinance No. 899, adopted on April 19, 2005, which imposed a moratorium on the establishment of medical marijuana dispensaries within the City until March 15, 2007; and

WHEREAS, at its meeting of January 9, 2007, the Planning Commission took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this project;
- b. Conducted a public hearing to obtain public testimony on the proposed ordinance;
- c. Recommended that the City Council approve the proposed ordinance defining and prohibiting medical marijuana dispensaries; and

WHEREAS, based on consideration of information received at its meeting of January 16, 2007, the City Council took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this project;
- b. Conducted a public hearing to obtain public testimony on the proposed ordinance;
- c. Considered the Commission’s recommendation from the Planning Commission’s January 9, 2006 public meeting;
- d. Introduced said ordinance for the first reading; and

WHEREAS, on February 6, 2007, the City Council held second reading of said ordinance.

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

SECTION 1. Based on the staff report and other written and oral testimony presented at the public hearing, the City Council hereby finds that:

- a. The impacts associated with medical marijuana dispensaries are detrimental to the health, safety and welfare of the citizens such that no area of the City is an acceptable area in which to introduce those types of impacts; and
- b. The prohibition of medical marijuana dispensaries in the City is consistent with federal law.

Section 2. Municipal Code, Title 21, Zoning Code is amended as provided in the attached Exhibit A.

SECTION 3. Upon the effective date of this Ordinance, Ordinance No. 899 shall be deemed repealed and of no further force or effect.

SECTION 4. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

SECTION 5. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this Ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 6. Inconsistency. To the extent that the terms or provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof, such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

Introduced at a regular meeting of the City Council held on January 16, 2007, and passed and adopted by the City Council of the City of El Paso de Robles on the 6th day of February, 2007  
by the following vote:

AYES:                   Hamon, Nemeth, Picanco, Strong, and Mecham  
NOES:  
ABSTAIN:  
ABSENT:

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Frank R. Mecham, Mayor

ATTEST:

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Deborah Robinson, City Clerk

EXHIBIT A

Article IIA Special Regulations

Chapter 21.33

MEDICAL MARIJUANA DISPENSARIES

Sections:

- 21.33.010 Purpose.
- 21.33.020 Definition.
- 21.33.030 Prohibited within the City of Paso Robles.
  
- 21.33.010 Purpose.

The purpose and intent of this chapter is to prohibit medical marijuana dispensaries within the City. It is recognized that it is a Federal violation under the Controlled Substances Act to possess or distribute marijuana even if for medical purposes. Additionally, there is evidence of an increased incidence of crime-related secondary impacts in locations associated with medical marijuana dispensaries, which is contrary to policies that are intended to promote and maintain the public's health, safety, and welfare.

- 21.33.020 Definitions.

“Medical Marijuana Dispensary” (land use), means a facility or location which provides, makes available or distributes medical marijuana to a primary caregiver, a qualified patient, or a person with an identification card issued in accordance with California Health and Safety Code Sections 11362.5, et seq.

- 21.33.030 Prohibited within the City of Paso Robles.

The establishment or operation of a medical marijuana dispensary as defined in this Chapter shall be prohibited within the City limits.