

**RESOLUTION NO. 3257-16**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR  
REAFFIRMING AND CONFIRMING THAT TITLE XVII, ZONING, OF THE TOWN  
OF WINDSOR CODE IS ADOPTED AND OPERATES UNDER PRINCIPLES OF  
PERMISSIVE ZONING, AND MARIJUANA CULTIVATION IS PROHIBITED  
WITHIN THE TOWN BECAUSE IT IS NOT EXPRESSLY ALLOWED**

**WHEREAS**, California law currently authorizes the personal use of marijuana for medical purposes; and

**WHEREAS**, the Legislature recently passed, and the Governor signed, new legislation which requires certain state agencies to promulgate regulations relating to medical marijuana cultivation; and

**WHEREAS**, under the new legislation an individual or entity wishing to cultivate medical marijuana must receive a license from the California Department of Food and Agriculture (“DFA”), which may only provide a license to an individual or entity that has also received a permit, license or entitlement from the city or town in which the cultivation is to occur; and

**WHEREAS**, a city or town with a prohibition or regulations regarding the cultivation of medical marijuana retains the authority to later modify that prohibition or those regulations; and

**WHEREAS**, Health and Safety Code section 11362.777(b)(3) provides that the DFA may not issue a State license to cultivate medical marijuana within a city or town that prohibits cultivation within its boundaries under principles of permissive zoning; and

**WHEREAS**, the Zoning Ordinance of the Town of Windsor Code is adopted and operates under the principles of permissive zoning, and any use that is not expressly permitted is prohibited; and

**WHEREAS**, the Zoning Ordinance of the Town of Windsor Code currently prohibits medical marijuana dispensaries in all zones throughout the City, and marijuana cultivation is not a permitted use in any zoning district; and

**WHEREAS**, although the Zoning Ordinance of the Town of Windsor Code currently does allow “crop production and horticulture” under certain terms and conditions in Residential, Industrial and Special Purpose Zoning Districts, the term “crop production and horticulture” is not defined, and the Windsor Town Council desires to reaffirm and confirm that the term “crop production and horticulture” does not include the cultivation of marijuana; and

**WHEREAS**, the Windsor Town Council desires to reaffirm and confirm that the cultivation of marijuana is not expressly permitted under the Town of Windsor Code, and is therefore prohibited throughout the Town; and

**WHEREAS**, because the cultivation of marijuana is prohibited throughout the Town, the DFA

may not issue a license for the cultivation of medical marijuana within the Town.

**NOW THEREFORE, BE IT RESOLVED** that the Town Council of the Town of Windsor hereby declares as follows:

1. The above recitals are true and are hereby incorporated by this reference.
2. Health and Safety Code section 11362.777(b)(3) provides that the California Department of Food and Agriculture may not issue a State license to cultivate medical marijuana within a city or town that prohibits cultivation within its boundaries under principles of permissive zoning.
3. The Zoning Ordinance of the Town of Windsor Code is adopted and operates under the principles of permissive zoning, and any use that is not expressly permitted is prohibited.
4. The cultivation of marijuana is not expressly allowed under the Zoning Ordinance of the Town of Windsor Code, and is therefore prohibited throughout the Town.
5. Because the cultivation of marijuana is prohibited throughout the Town, the California Department of Food and Agriculture may not issue a license for the cultivation of medical marijuana within the Town of Windsor.
6. This resolution is exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3), in that CEQA does not apply when it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, and because the action herein will not result in a change to existing regulations. Therefore, this resolution has no potential for impact on the physical environment and no further environmental analysis is required.

**BE IT FURTHER RESOLVED** that this Resolution shall become effective immediately upon passage and adoption.

**PASSED, APPROVED AND ADOPTED** this 17th day of February 2016, by the following vote:

<b>AYES:</b>	<b>COUNCILMEMBERS FOPPOLI, OKREPKIE SALMON, VICE MAYOR FUDGE, AND MAYOR MILLAN</b>
<b>NOES:</b>	<b>NONE</b>
<b>ABSTAIN:</b>	<b>NONE</b>
<b>ABSENT:</b>	<b>NONE</b>

  
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**MARK MILLAN, MAYOR**

**ATTEST:**

  
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**MARIA DE LA O, TOWN CLERK**