

ORDINANCE NO. 3484

AN ORDINANCE AMENDING TITLE 8 AND TITLE 22 OF THE SAN LUIS OBISPO COUNTY CODE, THE HEALTH AND SANITATION ORDINANCE AND THE LAND USE ORDINANCE, RESCINDING ORDINANCE NO. 3483 AND RE-ENACTING AND EXTENDING THE PREVIOUSLY ADOPTED AGRICULTURAL OFFSET REQUIREMENTS ORDINANCE FOR NEW OR EXPANDED IRRIGATED CROP PRODUCTION USING WATER FROM THE PASO ROBLES GROUNDWATER BASIN

The Board of Supervisors of the County of San Luis Obispo, State of California, does ordain as follows:

SECTION I: The purpose and intent of this Ordinance is to rescind Ordinance No. 3483 and to restore the previous regulatory framework of Sections 8.40.030, 8.40.040 and 22.06.030 of Title 22 of the County Code related to new or expanded irrigated crop production within the Paso Robles Groundwater Basis. Any interpretation of this Ordinance shall be consistent with that purpose and intent.

SECTION II: That Section 8.40.030 of Title 8 of the San Luis Obispo County Code be amended as follows:

**8.40.030 – Acts Prohibited, permit required.**

- c. No person shall construct, repair, modify or destroy any well bore hole, well casing, or well packing or conduct any site grading or fill activities in conjunction with the construction, repair, modification or destruction of any well bore hole, well casing, or well packing without first satisfying all applicable provisions of Section 22.30.~~205~~204 of this code (~~Crop Production Irrigated from Groundwater Wells within the Paso Basin Land Use Management Area~~ New or Expanded Irrigated Crop Production Overlying the Paso Robles Groundwater Basin, excluding the Atascadero Sub-basin), where applicable, and Sections 22.05.030 et seq. or Sections 23.05.020 et seq. of this code (grading), which may include the necessity of obtaining a planting permit an Agricultural Offset Clearance or a grading permit from the county department of planning and building in addition to the permit required by this chapter. ~~Without limiting the foregoing, no person shall be issued a permit to construct a groundwater well located within the Paso Basin Land Use Management Area to irrigate new or expanded plantings where said plantings do not meet the requirements of Section 22.30.205 and where the necessary planting permit~~

or exemption has not first been approved.

SECTION III: That Section 8.40.040 of Title 8 of the San Luis Obispo County Code be amended as follows:

**8.40.040 - Permits.**

a. Applications. Applications for permits shall be made to the health officer and shall include the following:

2. Evidence of compliance with Section ~~22.30.205~~204 of this code (~~Crop Production Irrigated from Groundwater Wells within the Paso Basin Land Use Management Area New or Expanded Irrigated Crop Production Overlying the Paso Robles Groundwater Basin, excluding the Atascadero Sub-basin~~), where applicable;

SECTION IV: That Section 22.06.030 of Title 22 of the San Luis Obispo County Code be amended as follows:

**22.06.030 - Allowable Land Uses and Permit Requirements**

**TABLE 2-2 - ALLOWABLE LAND USES AND PERMIT REQUIREMENTS**

LAND USE (1)(2)(10)	PERMIT REQUIREMENT BY L.U.C. (3)						Specific Use Standards
	AG(8) )	RL	RR	RS	RSF	RMF	
<b>AGRICULTURE, RESOURCE, AND OPEN SPACE USES</b>							
Crop Production and Grazing	A2	A2	A2	A2	A2	A2	22.30.200, 22.30. <del>205</del> <u>204</u> , 22.30.244
Nursery Specialties	A2	A2	A2	A2			<del>22.30.205,</del> 22.30.204, 22.30.310

LAND USE (1)(2)(10)	PERMIT REQUIREMENT BY L.U.C. (3)							Specific Use Standards
	OP	CR	CS	IND	OS	REC	PF	
<b>AGRICULTURE, RESOURCE, AND OPEN SPACE USES</b>								
Crop Production and Grazing	A2	A2	A2	A2	A2	A2	A2	22.30.200, 22.30.20 5204, 22.30.244
Nursery Specialties		A2	A2	A2				<del>22.30.205,</del> 22.30.204, 22.30.310

SECTION V: That Section 22.06.040 of Title 22 of the San Luis Obispo County Code be amended as follows:

**22.06.040 – Exemptions from Land Use Permit Requirements**

**E. Agricultural uses:**

**3. Crop production and grazing.** No land use permit is required for crop production, provided that industrial hemp cultivation is subject to the standards of Section 22.30.244, and ~~new and expanded crop production irrigated from groundwater wells within the Paso Basin Land Use Management Area is subject to the standards of Section 22.30.205 where an Agricultural Offset Clearance is required for New or Expanded Irrigated Crop Production using water from the Paso Robles Groundwater Basin (excluding the Atascadero Sub-basin), as shown in Figure 6-1.~~ No land use permit is required for grazing activities where allowable, provided that feedlots are subject to the standards of Section 22.30.100 (Livestock Specialties – Intensive).

SECTION VI: That Section 22.30.200 of Title 22 of the San Luis Obispo County Code be amended as follows:

**22.30.200 – Crop Production and Grazing within Urban or Village Areas.**

This Section applies to crop production and grazing activities when located within an urban or village reserve line. This Section does not apply to the keeping of animals for personal use, which is included under Section 22.30.090 (Animal

Keeping).

- A. Crop production.** The continuance or establishment of crop production activities on land within an urban or village reserve line is not limited by this Title except as provided in Section 22.30.205204.
- B. Grazing.** Grazing operations shall not be established within an urban or village area after the effective date of this Title except in an Agriculture category, or a Residential category where the keeping of animals is in compliance with Section 22.30.090 (Animal Keeping), or is on a site of 20 acres or larger.

SECTION VII: That Section 22.30.204 of Title 22 be restored and added back to the County Code as follows:

**22.30.204 New or expanded irrigated crop production using water from the Paso Robles Groundwater Basin, excluding the Atascadero Sub-basin.**

Prior to new or expanded irrigated crop production using water from the Paso Robles Groundwater Basin (PRGWB), excluding the Atascadero Sub-basin, the following requirements apply where designated by Section 22.06.030 (Allowable Land Uses and Permit Requirements) as being subject to the provisions of this section. The provisions of this chapter must be complied with prior to initiation or the establishment of new or expanded irrigated crop production and prior to the issuance of a permit pursuant to Title 8 of the County Code to construct, repair, or modify a water well (bore hole, casing, or packing) or water system proposed to serve any new or expanded irrigated crop production on land using water from the PRGWB (excluding the Atascadero Sub-basin). All new or expanded irrigated crop production using water from the PRGWB (excluding the Atascadero Sub-basin) shall be required to obtain an agricultural offset clearance. The offset clearance shall be the equivalent of a zoning clearance. The agricultural offset clearance is subject to the provisions of Chapter 22.64 that are applicable to zoning clearances except for land use permit time limits (Section 22.64.060) and extensions of time (Section 22.64.070). The purpose of the agricultural offset clearance is to allow for new or conversion of existing irrigated crop production using water from the PRGWB (excluding the Atascadero Sub-basin) while protecting the critical resource of groundwater by requiring water use to be offset at a 1:1 ratio for qualifying crops.

- A. Where Applicable.** The provisions of this chapter apply to sites using water from the PRGWB, excluding the Atascadero sub-basin, as defined by Figure 30-1. All sites shall overlie the PRGWB (excluding the Atascadero sub-basin), as shown in Figure 30-1. In no case shall a request for an agricultural offset clearance be granted for a site not using water from the PRGWB (excluding the Atascadero Sub-basin).

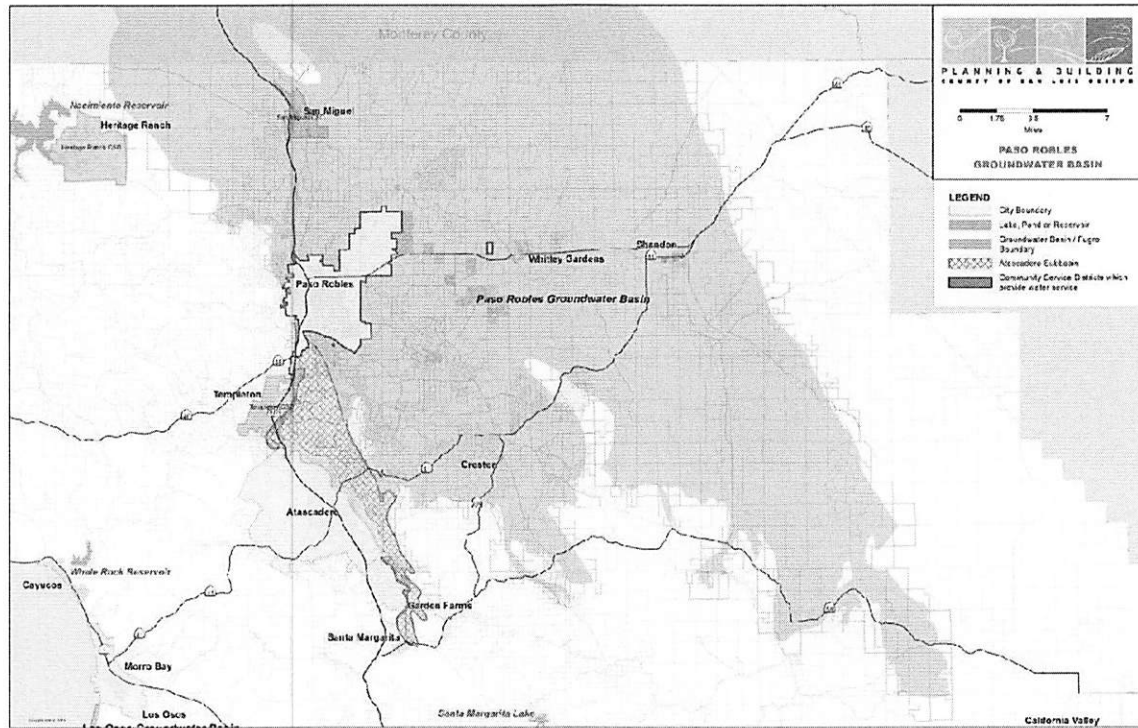


Figure 30-1: Paso Robles Groundwater Basin (Excluding the Atascadero Sub-basin)

**B. Exemptions.** Consideration of an exemption is subject to section 22.30.204 F (Application Contents). The agricultural offset clearance requirements as outlined in this section do not apply to the following activities, unless specified below:

1. Sites with existing irrigated annual or rotational crop production, where satisfactory evidence is shown that those crops have been planted within the last five years.
2. Replanting of a site with the same crop type, as identified in Tables 2 and 3 below, where satisfactory evidence is shown that those crops have been planted within the last five years. Replanting must not exceed the acreage of the crop production being replaced.
3. Expanded irrigated crop production on sites with crop types that involve implementation of new water efficiency technologies, where satisfactory evidence, as defined by resolution adopted by board of supervisors, is shown that crops have been planted within the last five years, and shall not exceed the average water use of the existing crop production, as identified in Tables 2 and 3.
4. Sites that were granted a vested right to plant new or expanded irrigated crop production under the provisions of the Paso Robles Groundwater Basin Urgency Ordinance, where satisfactory evidence is shown that the vested crops have been planted within 2 years from the date of the expiration of the

Paso Robles Groundwater Basin Urgency Ordinance (Ordinance Nos. 3246 and 3247).

5. For the purpose of new crop production irrigated with water from the Paso Robles Groundwater Basin (excluding the Atascadero Sub-basin), as defined by Figure 30-1, sites that do not have any existing crop production and are not served by wells located within the area of severe decline (50 feet or greater Spring Groundwater Elevation Change 1997-2013 AND 1997-2017) as shown in Figure 30-2, may be eligible for a one-time only exemption. The one-time only exemption is limited to the establishment of crop production representing a new total of no more than 5.0 AF per year per site. If a one-time only exemption is granted, the resulting crop production cannot be used as a source of Agricultural Offset Clearance credits in any future application.

**C. Agricultural Offset Clearance Fees.** Fees for an agricultural offset clearance are set forth in the county fee ordinance.

**D. Permit Requirements.**

1. An Agricultural offset clearance shall be issued upon satisfactory compliance with section 22.30.204 F, and G.
2. Metering and Monitoring. All new or existing wells that serve sites associated with an agricultural offset clearance application must have a well meter installed and verified prior to final inspection. No new or expanded irrigated agriculture shall occur until final inspection has been completed. The following requirements apply to all issued agricultural offset clearances:
  - a. Within 30 days of installation of a well for which a permit has been issued pursuant to Chapter 8.40 of the County Code, or prior to final inspection, whichever is applicable, meter installation must be verified by the county public works department. The configuration of the installation shall conform to the water well metering standards and installation guidelines set forth by the department of public works and incorporated into the public improvement standards.
  - b. Property owners or a person designated by the property owner must read the water meter and record the water usage on or near the first day of the month. These records must be maintained by the property owner and may be subject to inspection only by code enforcement pursuant to a violation investigation.

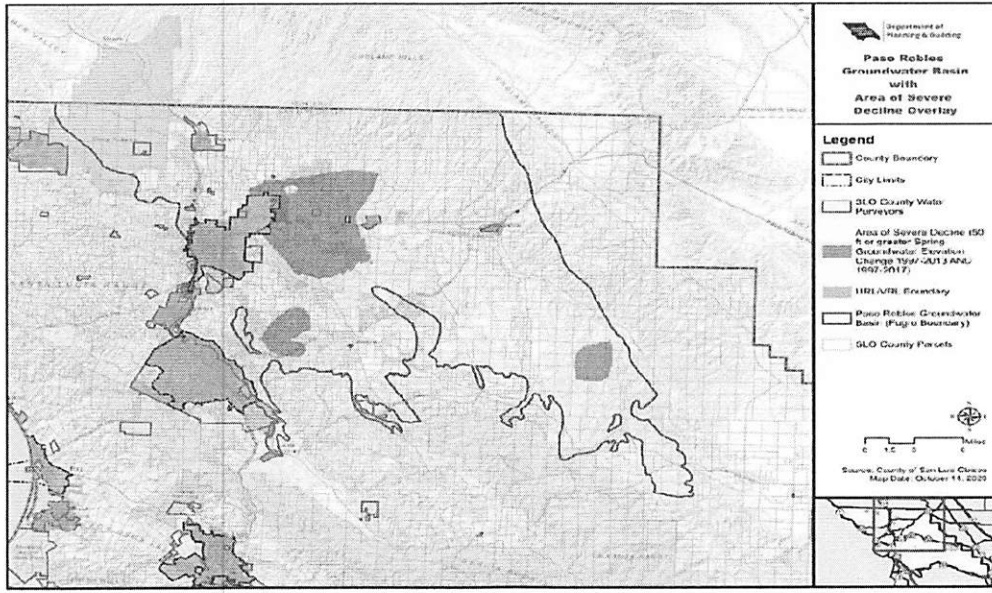


Figure 30-2

**E. Eligible Sites for Participation.** For the purpose of an agricultural offset clearance, a site is as defined in section 22.80.030 (Definitions of Land Use). Owners of sites that use water from the PRGWB (excluding the Atascadero Sub-basin) may be granted an agricultural offset clearance, as described below and referenced in Table 1:

1. On-site offset clearance means conversion of existing irrigated crop production on the same site. An expansion to the definition of a "site" under Section 22.80.030 may be granted where contiguous parcels are commonly owned or collectively operated.

**Table 1 - Agricultural Offset Clearance Requirements**

<u>Agricultural Offset Clearance Requirements</u>
<ul style="list-style-type: none"> <li>• <u>New crop production on site of crop being replaced</u></li> <li>• <u>New crop production cannot exceed water demand of previous crop(s)</u></li> <li>• <u>New crop production may exceed acreage of previous crop</u></li> <li>• <u>Existing and proposed commodities of crop production must be declared</u></li> <li>• <u>Recorded Disclosure Form</u></li> <li>• <u>Site inspections</u></li> <li>• <u>Well meter installation prior to final inspection</u></li> </ul>

**F. Application Contents.** In addition to meeting the application contents of section 22.62.030 (Zoning Clearance), a request for an agricultural offset clearance shall include all of the following:

1. Vicinity of site(s) participating in the requested agricultural offset clearance, including all parcels currently under crop production, and adjacent parcels with same ownership.
2. Identification of specific locations and acreage of current crop type(s).
3. Identification of specific locations and acreage of proposed crop type(s). The applicant may indicate that they are voluntarily fallowing the land or not planting irrigated crops to receive conditional approval to submit a proposed planting plan at a later date. The conditional approval expires with the termination of this ordinance.
4. A current title report or lot book guarantee for all parcels participating in the requested agricultural offset clearance.

**G. Agricultural Offset Clearance Review and Approval.** The criteria of this subsection shall be used in determining if a site is eligible for participation in an agricultural offset clearance. An agricultural offset clearance may be granted only when the following criteria have been met:

1. Proposed sites included in the request for an agricultural offset clearance use water from the PRGWB (excluding the Atascadero Sub-basin).
2. Proposed sites will maintain an eligible use in compliance with the provisions of any existing Williamson Act contract for the property and County of San Luis Obispo Rules of Procedure to Implement the California Land Conservation Act of 1965.
3. Water demand shall be determined based on the crop type as follows:
  - a. Crops shown in Table 2 and Table 3. Water demand for the proposed irrigated crop production is equal to or less than the crop production it is replacing, such that an offset at a 1:1 ratio is achieved. Water demand shall be derived from the crop-specific applied water figures as specified in Table 2 and Table 3 below.
  - b. Crops not shown in Table 2 and Table 3. Water duty factors for existing and new irrigated crops that do not fall into one of the crop groups listed in Table 2 and Table 3 will be assigned a water duty factor by a joint committee of representatives from the department of planning and building, department of public works, and the department of agriculture/weights and measures, in consultation with UC Cooperative Extension.
  - c. Supplementally Irrigated Dry Cropland. The following criteria shall be used to determine a water duty factor:
    - (1) A minimum water duty factor of 0.1 AF/Ac/Yr will be granted upon validation of the use of supplemental irrigation of an



average of 0.1 AF/Ac/Yr over the five-year period preceding the application date. To qualify for a water duty factor of 0.1 AF/Ac/Yr, the applicant shall validate the practice of supplemental irrigation of dry cropland by providing aerial imagery showing planting and irrigation patterns and provide proof of the presence of infrastructure capable of supporting regular supplemental irrigation, and provide annual estimates of water usage with substantiating and verifiable water usage data including, but not limited to, monthly utility bills for irrigation wells during the irrigation period and pump test reports for each agricultural well for the 5 years preceding the application date.

(2) Applications claiming greater historic supplemental irrigation of dry cropland will be evaluated on a case-by-case basis for a water duty factor greater than 0.1 AF/Ac/Yr. This factor will be established based on the 5-year average water use for the 5 years preceding the application date. The applicant shall submit annual estimates of water usage with substantiating and verifiable water usage data including, but not limited to, monthly utility bills for irrigation wells during the irrigation period and pump test reports for each agricultural well. Based on review and confirmation of the submitted information and other sources of available information such as aerial imagery, dry cropland water duty factors will be assigned a water duty factor by a joint committee of representatives from the department of planning and building, department of public works, and the department of agriculture/weights and measures, in consultation with UC Cooperative Extension.

4. A disclosure notice has been recorded in the office of the county clerk recorder on all parcels associated with an agricultural offset clearance prior to any planting authorized under an Ag Offset Clearance.
5. Any plantings approved under an agricultural offset clearance will be completed prior to the termination of this ordinance.

**Table 2 - Crop Group and Commodities Used for the Agricultural Demand Analysis**

<b><u>Crop Group</u></b>	<b><u>Primary Commodities</u></b>
<u>Alfalfa</u>	<u>Alfalfa</u>
<u>Nursery</u>	<u>Christmas trees, miscellaneous nursery plants, flowers</u>
<u>Pasture</u>	<u>Miscellaneous grasses, mixed pastures</u>

<u>Citrus</u>	<u>Avocados, grapefruits, lemons, oranges, olives, kiwis, pomegranates (non-deciduous)</u>
<u>Deciduous</u>	<u>Apples, apricots, berries, peaches, nectarines, plums, figs, pistachios, persimmons, pears, quinces</u>
<u>Strawberries</u>	<u>Strawberries</u>
<u>Vegetables</u>	<u>Artichokes, beans, miscellaneous vegetables, mushrooms, onions, peas, peppers, tomatoes</u>
<u>CBD Hemp</u>	<u>Field Grown CBD Hemp</u>
<u>Wine grapes</u>	<u>Wine grapes</u>
<u>Table grapes</u>	<u>Table grapes</u>
<u>Supplementally Irrigated Dry Cropland*</u>	<u>Barley, wheat, oat, grain/forage hay, safflower</u>

Source: Table 3 of the Agricultural Water Offset Program, Paso Robles Groundwater Basin, October 2014.

\*San Luis Obispo County General Plan Agriculture Element

**Table 3 - Existing Crop-Specific Applied Water by Crop Type**

<b><u>Crop Group</u></b>	<b><u>Applied Water (AF/Ac/Yr)</u></b>
<u>Alfalfa</u>	<u>4.5</u>
<u>Citrus</u>	<u>2.3</u>
<u>Deciduous</u>	<u>3.5</u>
<u>Strawberries</u>	<u>2.3<sup>(1)</sup></u>
<u>Nursery</u>	<u>2.5</u>
<u>Pasture</u>	<u>4.8</u>
<u>Vegetables</u>	<u>1.9</u>
<u>CBD Hemp</u>	<u>1.5<sup>(2)</sup></u>
<u>Wine grapes</u>	<u>1.25<sup>(1)</sup></u>
<u>Table grapes</u>	<u>3.0<sup>(4)</sup></u>
<u>Supplementally Irrigated Dry Cropland</u>	<u>0.1<sup>(3)</sup></u>

1. Information obtained from RCD Program, UCCE, UC Davis (Strawberries 2011 data)
2. Information obtained from UCCE, San Luis Obispo County Cooperative Extension, April 2019
3. Supplementally irrigated dry cropland application requirements outlined per Section G.3.C above.

4. Information obtained from UCCE, San Luis Obispo County Cooperative Extension, April 2021.

Source: Table 9 of the Agricultural Water Offset Program, Paso Robles Groundwater Basin, October 2014.

**H. Termination.** The provisions of this section for the Paso Robles Groundwater Basin (excluding the Atascadero Sub-basin) shall expire on January 1, 2028, unless extended or sooner terminated.

SECTION VIII: That Section 22.30.205 of Title 22 of the San Luis Obispo County Code which was added by Ordinance 3483 be deleted in its entirety.

SECTION IX: That Section 22.30.310 of Title 22 of the San Luis Obispo County Code be amended as follows:

#### **22.30.310 – Nursery Specialties**

**F. Establishment or Expansion of Nurseries using ~~Groundwater Wells within the Paso Basin Land Use Management Area Overlying the Paso Robles Groundwater Basin, Excluding the Atascadero Sub-Basin.~~** The establishment or expansion of any nursery use ~~using Groundwater Wells within the Paso Basin Land Use Management Area overlying the Paso Robles Groundwater Basin (excluding the Atascadero Sub-basin)~~ is subject to the standards set forth in section 22.30.205204.

SECTION X: That Section 22.62.030 of Title 22 of the San Luis Obispo County Code be amended as follows:

#### **22.62.030 – Zoning Clearance**

##### **A. Zoning Clearance application.**

1. Zoning Clearance content.

- h. Additional information

- (10) New or expanded irrigated crop production overlying the Paso Robles Groundwater Basin (excluding the Atascadero Sub-basin). As required by Section 22.30.204.

SECTION XI: That Section 22.80.030 of Title 22 of the San Luis Obispo

County Code be amended as follows:

**Chapter 22.80.030 – Definitions of Land Uses, and Specialized Terms and**

**Phrases**

**Agricultural Offset Clearance** means a ministerial permit, equivalent to a Zoning Clearance, that may be granted pursuant to Section 22.30.204 (New or Expanded Crop Production Overlying the Paso Robles Groundwater Basin, Excluding the Atascadero Sub-Basin).

**Crop Production.** Encompasses the following overall crop types and activities (included in the Land Use Element under the definition of "Crop Production and Grazing"), and further defined as indicated:

**New or Expanded Irrigated Crop Production** means the development, new plantings, or other improvements that utilize ground water of a property for the purposes of farming irrigated crops as defined in Tables 2 and 3 of Section 22.030.204.

SECTION XII: If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION XIII: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, a summary shall be published once in a newspaper of general circulation in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

SECTION XIV: The Board of Supervisors hereby finds that the adoption of this ordinance is exempt from review under the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15061(b)(3), in that it can be seen with certainty that the adoption of the ordinance is not a project that may have a significant effect on the environment. This ordinance merely rescinds the provisions of Ordinance No. 3483 and restores the previous regulatory scheme governing new or expanded irrigated crop within the Paso Robles Groundwater Basin. Accordingly, this action would maintain the status quo. Further, the Environmental Impact Report that was prepared for Ordinance No. 3483

determined that there would be class I, significant and unavoidable environmental impacts, specifically with respect to additional pumping of water from the Paso Robles Groundwater Basin. Because this ordinance rescinds Ordinance No. 3483 and restores the previous regulatory framework around new or expanded irrigated agriculture within the Paso Robles Groundwater Basin, the Board further finds that this ordinance is exempt from CEQA per California Code of Regulations, title 14, Section 15307 and 15308 (actions to protect natural resources and the environment).

SECTION XV: In accordance with Government Code Section 25131, after reading the title of this Ordinance, further reading of the Ordinance in full is waived.

INTRODUCED at a regular meeting of the Board of Supervisors held on the 29<sup>th</sup> day of January, 2023, and PASSED and ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 7<sup>th</sup> day of February, 2023, by the following roll call vote, to wit:

AYES: Supervisors Bruce S. Gibson, Dawn Ortiz-Legg and Jimmy Paulding

NOES: Supervisor Debbie Arnold and Chairperson John Pescong

ABSENT: None

ABSTAINING: None

John Peschong  
Chairperson of the Board of Supervisors  
of the County of San Luis Obispo  
State of California

ATTEST:

WADE HORTON  
Ex-Officio Clerk of the Board of Supervisors

By: Niki Martin  
Deputy Clerk

[SEAL]

Approved as to Legal Form and Effect:  
RITA L. NEAL  
County Counsel

By: /s/ Benjamin Dore  
Deputy County Counsel

Dated: January 25, 2023

STATE OF CALIFORNIA            )  
COUNTY OF SAN LUIS OBISPO)    ss.

I, **WADE HORTON**, Ex-Officio Clerk of the Board of Supervisors thereof, do hereby certify the foregoing to be a full, true and correct copy of an order entered in the minutes of said Board of Supervisors, and now remaining of record in my office.

Witness, my hand and seal of said Board of Supervisors on February 14, 2023.

**WADE HORTON,**  
Ex-Officio Clerk of the Board of Supervisors

By: *Niki Moran*  
Deputy Clerk