

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF
YREKA HELD IN SAID CITY ON AUGUST 2, 2018

On the 2nd. day of August 2018, the City Council of the City of Yreka met in the City Council Chambers of said City in regular session, and upon roll call, the following were present: Deborah Baird, Robert Bicego, Joan Smith Freeman, Duane Kegg, and Norman Shaskey
Absent - None.

Consent Calendar: Mayor Freeman announced that all matters listed under the consent calendar are considered routine and will be enacted by one motion unless any member of the Council wishes to remove an item for discussion or a member of the audience wishes to comment on an item:

- a. Approval/ratification of payments issued from July 20 through August 2, 2018.
- b. Approval of Minutes of the meeting held July 19, 2018.
- c. Waive Full Text Reading of All Ordinances on the Agenda. Ordinances shall be introduced and adopted by title only.

Following Council discussion, Councilmember Kegg moved to approve the items on the consent calendar as submitted.

Councilmember Shaskey seconded the motion, and upon roll call, the following voted YEA: Baird, Bicego, Freeman, Kegg, and Shaskey.

Mayor Freeman thereupon declared the motion carried.

Siskiyou County Economic Development Council Annual Report.

Bethany Mueller and Nicki Brown of the Siskiyou Economic Development Council presented an update regarding the activities of the Siskiyou County Economic Development Council and the Tourism Improvement District.

Approve the Appointment of Charles Faultner to the Yreka Volunteer Fire Department.

Following Council discussion, Councilmember Shaskey moved to approve the appointment of Charles Faultner to the Yreka Volunteer Fire Department.

Councilmember Kegg seconded the motion, and upon roll call, the following voted YEA: Baird, Freeman, Kegg, and Shaskey. Abstain – Bicego.

Mayor Freeman thereupon declared the motion carried

Introduce Ordinance # 853 amending Title 16 Zoning, by adding to Chapter 16.12 Definitions Section 16.12.045 “Accessory Dwelling Unit” Section 16.12.185 “Cottage Food Operation, Cottage Food Operator, Cottage Food Products” Section 16.12.778 “Temporary Structure” Chapter 16.45 “Temporary Use Permits”; Section 16.46.170 Accessory Dwelling Units”; and Amending the following sections: Section 16.12.400 “Day-Care Center, Family Daycare Home”

Chapter 16.18 “Single Family Residential R-1”, Chapter 16.20 “Medium Density Residential R-2” Chapter 16.22 “High Density Residential R-3”, Chapter 16.24 “Residential Agriculture R-A”; Chapter 16.36 “Commercial Highway CH” Chapter 16.38 “Commercial Tourist CT”; Chapter 16.46 “Special Provisions”; and Chapter 16.54 “Off-Street Parking and Off-Street Loading Facilities” and finding that the Ordinance is exempt from CEQA.

City Manager Steve Baker reported that at the June 21, 2018 Council meeting, the Council tabled this Ordinance and requested that two (2) versions be brought back for consideration. The original (version #1) and an alternate (version #2, removing from section 16.46.70 *“E - Either the main dwelling or the ADU shall be occupied by the owner of the property. This covenant shall be recorded on the property deed for future sale purposes”*).

In addition, the Council requested the City Attorney to provide additional information regarding the optional owner occupancy requirement, which is included herein under separate memorandum, along with a proposed third version of the Ordinance.

Summary:

In June 2017, City staff initiated the work to make revisions to the City of Yreka Municipal Code (YMC) Title 16 Zoning regarding cottage food operations, large family daycare, temporary use permits, and to update the Code to include recent changes to State Law regarding accessory dwelling units. Staff prepared the proposed revisions and as required by the Government Code submitted the proposed changes to the Planning Commission for their review and recommendation. The following is a discussion of the proposed changes.

Discussion/Analysis:

Cottage Food Operations:

Assembly Bill (AB) 1616, Chapter 415, Statutes of 2012, was signed into law by Governor Brown on September 21, 2012; effective January 1, 2013. The bill allows individuals to prepare and/or package certain non-potentially hazardous foods in private-home kitchens referred to as “cottage food operations” (CFOs).

All CFOs have to meet specified requirements pursuant to the California Health and Safety Code related to:

- Preparing foods that are on the approved food list
- Completing a food processor training course within three months of registering
- Implementing sanitary operations
- Establishing state and federal compliant labels
- Operating within established gross annual sales limits

The bill was codified as California Health and Safety Code Chapter 11.5 Cottage Food Operations [114365 - 114365.6].

Currently, the City’s Municipal Code does not directly address CFOs. Staff is proposing a revision to the zoning ordinance to include the definition for CFOs in compliance with State law.

Staff also requested a revision to YMC §16.46.020 - Home Occupations to add direct sales for CFOs as an allowed use. The following is the suggested definition for CFOs to be added to Chapter 16.12 – Definitions:

16.12.185 - Cottage Food Operation, Cottage Food Operator, Cottage food products

"Cottage food operation" means an enterprise that is operated by a cottage food operator within the permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct, indirect, or direct and indirect sale to consumers pursuant Health and Safety Code Section 113758. A self-certification checklist as described in Health and Safety Code §114365 shall be required and verified by the City, of all cottage food operations in the City. Per State law, Health and Safety Code Section 113758, commencing in 2015, and each subsequent year thereafter, the enterprise shall not have more than fifty thousand dollars (\$50,000) in gross annual sales in the calendar year.

A cottage food operation is subject to the rules and regulations of a "Home Occupation" pursuant to Yreka Municipal Code §16.46.020. A cottage food operation includes both of the following:

- A. A "Class A" cottage food operation, which is a cottage food operation that may engage only in direct sales of cottage food products to the consumer. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers' markets, or through community-supported agriculture subscriptions, and transactions occurring in person in the cottage food operation.
- B. A "Class B" cottage food operation, which is a cottage food operation that may engage in both direct sales and indirect sales of cottage food products to the consumer. Whereas direct sales are described in subdivision (A) above, indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises.

"Cottage food operator" means an individual who operates a cottage food operation in his or her private home and is the owner of the cottage food operation.

"Cottage food products" means non-potentially hazardous foods, as identified in Health and Safety Code § 114365.5(b) that are prepared for sale in the kitchen of a cottage food operation.

Additionally, the suggested revision to §16.46.020(A)(3) - Home Occupations is as follows:

- 3. No commodity shall be sold upon the premises, with the exception of direct sales for cottage food operations, as allowed by state law;

Large Family Daycare:

Staff requested a revision to the City's Title 16 Zoning to allow for large family daycare as a permitted use in the R-1, R-2, R-3, and RA zoning districts. Currently, large family daycare requires a conditional use permit in these districts. Large family daycare is defined by Chapter 16.12 - Definitions as:

"Large family day-care home" means a daycare center in the home of the person operating the facility, and providing care for not more than fourteen (14) children, including children who are members of the provider's family"; (Health & Safety Code § 1597.46)

Staff suggested revisions include the addition of large family daycare as a permitted use in the R-1, R-2, R-3, and RA zoning districts and deletion of large family daycare under the Conditional Use category in these districts.

Temporary Use Permits:

Currently, temporary uses in the city have to acquire from the City a conditional use permit, which can be time consuming, costly and not considered necessary for a temporary use. City staff

requested a modification of this issue and suggested the addition of temporary use permits (TUP) to be approved by the Planning Director or his/her designee to the zoning ordinance. Currently, temporary use permits are not discussed in the City's Municipal Code and as such a new chapter of Title 16 Zoning, Chapter 16.45, is proposed.

These types of permits are generally used for, as the title suggest, the temporary permitting of short term uses such as carnivals, farmers markets, flea markets, parking lot sales, seasonal sales lots (e.g. pumpkin and Christmas tree lots), construction storage containers, and the like. TUPs are used by cities to remove the need for a conditional use permit, which has to be approved by the Planning Commission and/or City Council for proposed temporary uses. Usually TUPs are approved by the Planning Director or his/her designee. These types of permits shorten the processing time, as the permits do not require hearings by the Planning Commission and/or City Council.

As stated previously, the City does not have a TUP in its Municipal Code. As such, staff suggests the TUP be added as Chapter 16.45 of Title 16 – Zoning. Staff suggest the following temporary uses would require a TUP:

§16.45.010

- A. Model homes or apartments and related real estate sales activities, located within a subdivision or residential development;
- B. Contractor's office, storage yard, and equipment parking and servicing on the site of an active construction project;
- C. Circus, carnival, rodeo, fair or similar transient amusement or recreational activities;
- D. Christmas tree sales lots not directly associated with an established and permitted retail services land use and subject to the business license regulations of Chapter 5.04 of the Yreka Municipal Code;
- E. Residential occupancy of a mobile home or travel trailer by supervisory or security personnel on the site of an active construction project;
- F. Outdoor special sales, outdoor art and craft shows or exhibits, swap meets, farmers markets, flea markets, parking lot sales, or similar sales activities, limited to sites in C-1, C-H, or C-T zoning districts and in operation for not more than three (3) consecutive days or more than a total of twenty-one (21) days in the same year: permitted and subject to the business licenses regulations of Chapter 5.04 of the Yreka Municipal Code
- G. The temporary use of a mobile home or similar portable structure for residential use when located in a residential zoning district, while a permanent dwelling (including mobile homes) is under construction:
 - 1. A temporary use permit authorizing a temporary residence may be granted or denied only after a sewage disposal permit has been issued and a building permit has been issued for the permanent structure.
 - 2. The temporary dwelling must be removed from the site after one year from the date of the approval of the temporary dwelling, if the building permit for construction of the permanent dwelling is not renewed. In addition, the temporary use permit shall be effective for the same length of time as the building permit for the permanent dwelling;
- H. Seasonal retail sale of agricultural or horticultural products raised off the premises and limited to sites in C-2, C-H, or C-T zoning districts: permitted and subject to the business licenses regulations of Chapter 5.04 of the Yreka Municipal Code.

I. Storage containers for construction equipment storage. Storage containers may be allowed as a temporary use on construction sites in any zone within the city subject to first obtaining a temporary use permit. The Planning Director or his/her designee shall determine appropriate siting, time limits, and other conditions as may be necessary to assure minimal impact to adjacent properties. Such temporary use shall be allowed only in conjunction with a valid building permit, and the use shall be terminated prior to issuance of a final occupancy permit.

J. Temporary structures, travel trailers, recreational vehicles or mobile homes may be used for the provision of emergency services for the duration of the emergency;

K. Any other temporary land use determined by the planning director to be similar to the foregoing.

The following determination must be met in order to approve a TUP:

The planning director or his/her designee may authorize a temporary use only when in their judgment, the following determinations can be made:

1. The temporary use will not adversely impact the public health, safety, or convenience or create undue traffic hazards or congestion.
2. The temporary use will not adversely interfere with the normal conduct of other land uses and activities on the site or in the general vicinity.
3. The temporary use will be conducted in a manner compatible with the land uses in the general vicinity.

The TUP zoning amendment also includes language regarding time limits, screening, operating hours, fees, and revocation of the TUP. In addition, deletion of §16.46.010 is proposed removing existing text about temporary structures, which are now included as part of Chapter 16.45 and §16.46.140(b) deleting the conditional use permit requirements for construction site storage containers which are now discussed in Chapter 16.45 requiring a TUP for these uses.

Accessory Dwelling Units:

The Zoning Ordinance is being revised to comply with new California statues regarding Accessory Dwelling Units (ADUs) based on the requirements of SB 1069 and AB 2299.

S.B. 1069 (Chapter 720, Statutes of 2016) made several changes to address barriers to the development of ADUs and expanded capacity for their development. These changes include reduced parking requirements, fees, utility connections, fire protection requirements, and the approval process.

Generally, AB 2299 (Chapter 735, Statutes of 2016) requires a local government (beginning January 1, 2017) to ministerially approve ADUs if the unit complies with certain parking requirements, the maximum allowable size of an attached ADU, and setback requirements,

The suggested revision to the Zoning Ordinance includes revisions that will bring the Zoning Ordinance into compliance with State law. A new section (§16.46.170 – Accessory Dwelling Unit) has been added to Chapter 16.46 - Special Provisions to address ADUs in the Zoning Ordinance. In order to remove inconsistencies in the Zoning Ordinance, “Second Units in Residential Zones” has been deleted from Chapter 16.18 - Single-Family Residential, Chapter 16.20 - Medium Density Residential, Chapter 16.22 - High Density Residential, Chapter 16.24 - Residential Agriculture. Additionally, Chapter 16.12 – Definitions has been revised to include ADUs. Finally, §16.54.050 - Conversion of Residential Garages has been revised to only apply

to non-ADUs conversions, such as the conversion of the garage to a game room, additional bedroom or additional bathroom, etc.

Environmental Analysis and Determination:

Staff recommends that the City Council determine that the proposed Municipal Code Amendment(s) to be categorically exempt pursuant to CEQA Guidelines Section 15061(b)(3) known as the "General Rule" as it can be seen with certainty that there is no possibility that the proposed revisions to the City of Yreka Municipal Code would have a significant effect on the environment, and therefore the proposed revision is not subject to CEQA.

Planning Commission Recommendation:

The Planning Commission held a public hearing on April 18, 2018 to consider the proposed revisions to the Municipal Code, and Adopted Resolution No. PC 2018-4 recommending that the City Council adopt the Ordinance as submitted, determining that the proposed Municipal Code Amendment is exempt from CEQA.

City Attorney Dohn Henion reported that at the City Council meeting held June 21, 2018 the Council was divided on whether or not to permit second residences on residential single and multiple family lots without the requirement that one of the residences be occupied by the owner of the property.

An "Accessory Dwelling Unit" (ADU) as it is currently referred to in the City's zoning code, is a separate dwelling unit, either attached or detached from the primary home, and constructed on a lot zoned for single family or multi-family residential use. When this concept was first introduced in state law several years ago, the idea was to be able to provide a separate, independent living environment for grandparents or other family members, while still residing on the same property.

This provided a cost effective-way to allow older family members or young adults to stay close to the rest of the family yet be able to retain a certain amount of privacy and independence. In addition, the concept was intended to retain the single-family nature of the neighborhood and required the property owner to reside in the original, primary home so that it did not become a rental property.

With the high cost of housing statewide in California, the State legislature considered accessory dwelling units an essential element in addressing housing needs in California and, therefore, recently adopted several statutory changes to further reduce barriers, streamline the approval process, and expand the opportunity for their development (collectively SB 1069, AB 2299, and AB 2406). The League of Cities opposed the adoption of the statute loosening up the criteria. Internet research reveals that even AARP opposed the legislation without requiring owner-occupancy of one of the units.

Most large cities have amended their ordinances to retain the requirement that one of the residences remain owner-occupied while a number of smaller cities have amended their ordinances to permit both residences to be rental units.

At the Council meeting one member of the public commented that the definition of owner was too limited and that it should allow the presence of extended family members to qualify.

Accordingly, I have drafted three versions of the ordinance for the Council's consideration. The version passed by a majority of the Council members will pass on to a second reading and possible adoption. Each version has a watermark across it so that it is clear which version you are reviewing. The three versions are as follows:

1. Version 1 continues to require owner-occupancy but has been revised to allow specified extended family members to qualify for the owner occupant requirement. (See 16.46.170(E))
2. Version 2 permits both residences to be rental units without the requirement that the owner reside on the property. (Deletes formerly proposed section 16.46.170(E) in its entirety and the remaining paragraphs are renumbered.)
3. Version 3 permits both residences to be rental units without the requirement that the owner reside on the property. However, it attempts to mitigate the consequences of multiple rental unit impacts of the residences on the neighborhood. It prohibits: a) excessive noise; b) an unusual amount of traffic; c) limits the number of persons who can reside in the unit and the number of times overnight guests can reside overnight; and it deems violations of these criteria to be public nuisances so that the violations are subject to penalties and enforcement.

Following the reading of the title of the Ordinance and Council discussion, Councilmember Shaskey moved to introduce Ordinance Version #3 as submitted.

Councilmember Kegg seconded the motion, and upon roll call, the following voted YEA: Baird, Kegg, and Shaskey. Nays: Bicego & Freeman.

Mayor Freeman thereupon declared the motion carried

Adopt Resolution # 2018-33 Pursuant to Government Code Section 21156 Determining the Industrial Disability of Employee Nicholas Friden.

Following Council discussion, Councilmember Bicego moved to adopt the Resolution as submitted.

Councilmember Kegg seconded the motion, and upon roll call, the following voted YEA: Baird, Bicego, Freeman, Kegg, and Shaskey.

Mayor Freeman thereupon declared the motion carried

Addition to the Agenda-

Immediately prior to the Mayor adjourning the open session of the meeting, City Attorney Dohn Henion reported that there is a need to add an item to the closed session portion of the agenda which came to the staff's attention after the preparation and posting of the agenda. To add this item to the agenda a 2/3 affirmative vote of City Council is required. City Attorney Henion requested that the Chair entertain a motion that there is a need to take immediate action and that the need for action came to the attention of the agency subsequent to the agenda being posted.

The item to add to the agenda is:

Consultation with Legal Counsel under the authority of Government Code section 54956.9(d) in the matter of Diane Tiche versus the City of Yreka, Siskiyou Superior Court number CVCV18-00557.

Following Council discussion, Councilmember Bicego moved to add the item to the Closed Session Agenda.

Councilmember Kegg seconded the motion, and upon roll call, the following voted YEA: Baird, Bicego, Freeman, Kegg, and Shaskey.

Mayor Freeman thereupon declared the motion carried

CLOSED SESSION:

1. CONFERENCE WITH LEGAL COUNSEL—INTERVENTION IN LITIGATION
The City Council will consult with legal counsel as to whether to authorize or ratify the intervention or initiation litigation/administrative proceeding pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (one case)
2. Conference with Legal Counsel - Anticipated Litigation
Initiation of litigation pursuant to Subdivision (c) of Section 54956.9 of the Government Code: (Number of cases to be discussed – 1 - The names of the parties are not disclosed, as it is believed that that to do so would jeopardize the City's ability to serve process or to conclude existing settlement negotiations to the City's advantage).

3. Consultation with Legal Counsel under the authority of Government Code Section 54956.9(d) in the matter of Diane Tiche versus the City of Yreka, Siskiyou Superior Court number CVCV18-00557.

RETURN TO OPEN SESSION: At the conclusion of the closed session at 9:00 PM, the City Council reconvened into open session. City Attorney Dohn Henion reported out the following City Council actions:

1. Councilmember Shaskey moved to authorize the City of Yreka to file a petition requesting intervention in the two matters before the United States of America Federal Energy Regulatory Commission, project number 2082 – 062 and project number 14803 – 000. The motion was seconded by Council member Kegg and was unanimously passed.
2. Councilmember Bicego moved to authorize the City of Yreka to respond to a complaint for personal injury filed on behalf of plaintiff, Diane Tiche, Siskiyou County Superior Court number CVC VA 18 – 00557. The motion was seconded by councilmember Kegg and unanimously passed.
3. Councilmember Kegg moved to authorize the City of Yreka to file a creditor’s petition with the Siskiyou County court to create an entity against which a receivership code enforcement action could be pursued in the Siskiyou County Superior Court, since the owner of the real property located at 1407 Oakview Circle Yreka, CA, Katherine Hall, has passed away. The motion was seconded by councilmember Bicego and unanimously passed.

ADJOURNMENT There being no further business before the Council the meeting was adjourned.

Attest:

Joan Smith Freeman, Mayor
Minutes approved by Council
Motion August 16, 2018

Elizabeth E. Casson, City Clerk