

AGENDA
YREKA PLANNING COMMISSION
Yreka City Council Chamber – 701 Fourth Street, Yreka, Ca.
January 20, 2016 at 6:30 P.M.

Call to Order

Pledge of allegiance

Conflict of Interest Declaration – Planning Commissioners

PUBLIC COMMENTS: This is the time for public comments. Commissioners may ask questions but may take no action during the public comment section of the meeting, except to direct staff to prepare a report or place an item on a future agenda. If you are here to make comments on a specific agenda item, please speak at that time. If not, this is the time. Please limit your remarks to 5 minutes.

SPEAKERS: Please state your name and mailing address so that City Staff can respond to you in regard to your comments, or provide you with information, if appropriate. You are not required to state your name and address if you do not desire to do so.

1. Consent Calendar - Discussion/Possible Action – All matters listed under the consent calendar are considered routine and will be enacted by one motion unless any member of the Planning Commission wishes to remove an item for discussion or a member of the audience wishes to comment on an item. The City Manager recommends approval of the following consent calendar item:
 - a. Approval of Minutes of the meeting held December 16, 2015.
2. Discussion/Possible Action – Consideration of proposed categorical exemption and Conditional Use Permit for the establishment and operation of an outside mobile food cart and seating in conjunction with the restaurant known as Serrano’s Mexican Grill.
Property Location – 1009 S. Main Street, Yreka, California,
CH (Commercial Highway) Zone & GC (General Commercial) General Plan Designation.
Assessor’s Parcel Number 061-282-020.

Project applicant is Paula Rodriguez

Project Number: Conditional Use Permit # 2016-1

- a. Staff Report
- b. Public Hearing
- c. Decision
 - Categorical Exemption
 - Adopt Planning Commission Resolution No. 2016-1 Approval of Conditional Use Permit # 2016-1 at 1009 S. Main Street (061-282-020).

3. Discussion/Possible Action – Consideration of proposed categorical exemption and Conditional Use Permit for construction of a 30 ft. x 30 ft. (900 sq. ft.) accessory structure as a garage/storage building. Property Location – 349 N. Oregon Street, Yreka, California, R1 (Single-Family Residential) Zone & LDR (Low Density Residential) General Plan Designation. Assessor’s Parcel Number 053-191-100.

Project applicant is Charles & Jennifer Picklesimer
Project Number: Conditional Use Permit # 2016-2

- a. Staff Report
- b. Public Hearing
- c. Decision
 - Categorical Exemption
 - Adopt Planning Commission Resolution No. 2016-2 Approval of Conditional Use Permit # 2016-2 at 349 N. Oregon Street (053-191-100).

4. Discussion/Possible Action – Consideration of proposed categorical exemption and Conditional Use Permit for the establishment and operation of a Microbrewery. Property Location – 204 W. Miner Street, Yreka, California, C2 (Commercial Downtown) Zone & HD (Historic District) General Plan Designation. Assessor’s Parcel Number 053-371-080.

Project applicant is Debora Behm
Project Number: Conditional Use Permit # 2016-4

- a. Staff Report
- d. Public Hearing
- e. Decision
 - Categorical Exemption
 - Adopt Planning Commission Resolution No. 2016-4 Approval of Conditional Use Permit # 2016-4 at 204 W. Miner Street (053-371-080).

5. Discussion/Possible Action – Consideration of proposed categorical exemption and Conditional Use Permit for residential use in conjunction with the establishment and operation of a storage yard business for recreational vehicles. Property Location – 113 Bruce Street, Yreka, California, CH (Commercial Highway) Zone & GC (General Commercial) General Plan Designation. Assessor’s Parcel Number 061-351-220.

Project applicant is John Kennedy
Project Number: Conditional Use Permit # 2016-5

- a. Staff Report
- b. Public Hearing
- c. Decision
 - Categorical Exemption
 - Adopt Planning Commission Resolution No. 2016-5 Approval of Conditional Use Permit # 2016-5 at 113 Bruce Street (061-351-220).

6. **Consideration of two alternative Proposed Ordinances prohibiting/regulating Marijuana Cultivation within the City Limits.** - A city-initiated Ordinance adding Chapter 9.26 to Title 9, *Public Peace, Safety and Morals*, of the Yreka Municipal Code.

- Staff Report
- Public Hearing
- Discussion/Possible Action – Adopt Resolution recommending that the City Council determine that the Proposed Project is Exempt from further review under the California Environmental Quality Act (CEQA) Pursuant to Section 15061(B)(3); and recommend that the City Council adopt one of the following proposed Ordinances:

A. AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YREKA ENACTING CHAPTER 9.26 ENTITLED “**MARIJUANA CULTIVATION PROHIBITED**” PROHIBITING THE CULTIVATION OF MARIJUANA WITHIN THE CITY OF YREKA, AND FINDING THE ADOPTION OF THIS ORDINANCE TO BE EXEMPT FROM CEQA.”

Or

B. AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YREKA ENACTING CHAPTER 9.26 ENTITLED “**MARIJUANA CULTIVATION**” TO PROHIBIT OUTDOOR CULTIVATION OF MARIJUANA, REGULATE THE STRUCTURES WITHIN WHICH MARIJUANA MAY BE CULTIVATED, ESTABLISH A REGISTRATION PROCESS AND FINDING THE ADOPTION OF THIS ORDINANCE TO BE EXEMPT FROM CEQA.

7. City Manager Report

Commissioner’s Statements and Comments

Adjournment

Decisions of the Planning Commission may be appealed to the City Council by filing a written notice of appeal within 10 calendar days of the decision. Appeal must be submitted to the City Clerk’s office together with the appeal fee of \$150.00 plus publication fee if required.

If you challenge any action taken pursuant to the California Environmental Quality Act, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Department at, or prior to, the public hearing. (Public Resources Code Section 21177)

All documents produced by the City which are related to an open session agenda item and distributed to the Planning Commission are made available for public inspection in the City Clerk’s office during normal business hours.

In compliance with the requirements of the Brown Act, notice of this meeting has been posted in a public accessible place, 72 hours in advance of the meeting.

In compliance with the Americans with Disabilities Act, those requiring accommodations for this meeting should notify the City Clerk 48 hours prior to the meeting at (530) 841-2324 or by notifying the Clerk at casson@ci.yreka.ca.us.

NOTICE CONCERNING YOUR LEGAL RIGHTS: If you object to a decision by the City Council/Planning Commission to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.

MINUTES OF THE REGULAR MEETING OF THE
YREKA PLANNING COMMISSION HELD
ON THE 16th OF DECEMBER 2015

On the 16th day of December, 2015 at 6:30 p.m., the Planning Commission of the City of Yreka met in the City Council Chamber in said City in regular session. The meeting was called to order by Chair Osborn and present were:

Commissioners: Duane Kegg, Diane Knitter, Steve Leal, Paul McCoy, Barry Ohlund, Matt Osborn and Richard Rolzinski. Absent – N/A

Conflict of Interest Declaration – Commissioners Diane Knitter & Barry Ohlund declared a conflict of interest on Item 2, Historic District Demolition Permit/Removal of Structures (Applicants: Anthony Crovelle & Sharon Rizzo).

PUBLIC COMMENTS:

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

- a. Approval of Minutes of the regular meeting held on November 18, 2015.

Following Commission discussion, Commissioner Ohlund moved to approve the minutes of the regular meeting held November 18, 2015 as submitted.

Commissioner McCoy seconded the motion, and upon roll call, the following voted YEA: Kegg, Knitter, Leal, McCoy, Ohlund, Osborn and Rolzinski.

Chair Osborn thereupon declared the motion carried.

Discussion/Possible Action – Consideration of proposed Categorical Exemption and Historic District Permit #4268 for the demolition or removal of structures within the Yreka Historic District. Location – 209 Third Street, Assessor’s Parcel Number 053-282-040.

Planning Commissioners Knitter and Ohlund announced their recusal, stating that they have a conflict of interest by reason of property ownership within 500 foot of the proposed project, and therefore recused themselves and left the Council Chambers.

The Planning Commission reviewed Resolution No. PC 2015-10 Consideration of proposed Categorical Exemption and Historic District Permit #4268 for the demolition or removal of structures within the Yreka Historic District. Location – 209 Third Street, C-2 (Commercial Downtown) Zone & HD (Historic District) General Plan Designation. Assessor’s Parcel Number 053-282-040.

City Manager Steve Baker presented commissioners with staff report and the following background. The City has received an application for a Demolition Permit to remove/demolish an existing structure located at 209 Third Street, within the Historic District. Yreka Municipal Code (YMC) Section 17.04.060 - Demolition or removal states “No improvement, structure or building situated within a

historic district, landmark or improvement, or structure or building located upon a landmark site, shall be torn down, demolished or removed unless such improvement, building or structure is or has become so damaged or dilapidated, whether by damage from fire other elements or from natural deterioration, that it is unusable and cannot reasonably be repaired or restored.”

On November 24, 2014, City Building Inspector David H. Smith inspected the structure and submitted a letter of substandard conditions, recommending the demolition of said structure finding that it could not be reasonably repaired or restored.

In an attempt to preserve as much of the structure as possible, applicants met with City Staff and discussed options to possibly restore, repair and rebuild the parts of the existing structure. In July of 2015, applicants hired Evans Building and Excavating Inc. to begin the construction process. Upon close inspection, the contractor found the structure to be unsafe and unable to be repaired or restored, and therefore abandoned the job.

Notification of the public hearing was mailed to property owners/occupants located within 300 feet of the proposed project on December 2, 2015 and a Notice of Public Hearing was published in the Siskiyou Daily News on December 4, 2015.

City staff recommends approval subject to the proposed findings and conditions of approval, which includes a determination that the proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (I.1) Existing Facilities of the CEQA Guidelines.

Public Hearing – This being the time and date set for the public hearing, Chair Osborn opened the hearing to the audience.

Applicant Sharon Rizzo was present to answer commissioners questions along with Contractor Tyler Evans of Evans Building and Excavating Inc.

Tyler Evans explained the substandard conditions of the structure to the commissioners and answered questions in regards to his inspection that determined that the structure was unsafe and unable to be repaired or restored. Bray & Associates Civil Engineering & Land Survey of Yreka assisted Tyler Evans with above structural inspection.

Christina Cole – Property owner of 211-215 Third Street spoke in support of demolition of above project.

There being no statements or comments received, Chair Osborn closed the public hearing and discussion was opened to the Commission.

Following Commission discussion, Commissioner McCoy moved to make the finding that the proposed project is exempt from an environmental review pursuant to California Environmental Quality Act (CEQA) Section 15301 (I.1), of the CEQA Guidelines.

Commissioner Kegg seconded the motion, and upon roll call, the following voted YEA: Kegg, Leal, McCoy, Osborn and Rolzinski.

Chair Osborn thereupon declared the motion carried.

Commission McCoy moved to adopt Planning Commission Resolution #PC 2015-10 making the findings and subject to the Conditions of Approval and approve Historic District Demolition Permit # 4268 to allow the demolition or removal of structures within the Yreka Historic District located at 209 Third Street, Yreka California (APN 053-282-040):

1. The property is located within the City of Yreka Historic District. The Yreka Historic District was accepted into the National Register as Landmark Number 901 in 1976.
2. The structure existing on the project site has no known designation as a designated landmark.
 - An online search conducted June 5, 2013 through National Register of Historic Places Digital Library reflected that the structure located at 209 Third Street is not listed on the National Register of Historic Places.
 - An online search conducted November 21, 2015 through the State of California Office of Historic Preservation reflected that the structure located at 209 Third Street is not listed as a Historic Resource.
3. The demolition of existing structure will not adversely affect other existing buildings and structures on or adjacent to said site.
4. The Building Inspector has inspected the premises located at 209 Third Street and has submitted his report dated December 11, 2014, recommending the demolition of the structure, said report is attached hereto (Attachment A) and incorporated herein by reference.
5. The proposed demolition meets with the policies and objectives of the Historic District.
6. The project meets the requirements for an Exemption from further review under the provisions of the California Environmental Quality Act pursuant to Section 15301 (I.1) Existing Facilities of the CEQA Guidelines.

CONDITIONS OF APPROVAL:

Permittee is granted permission for the demolition/removal of the failing structures located at 209 Third Street, subject to the following conditions:

1. Permittee shall obtain all required permits and shall pay the necessary fees prior to any demolition of structures, including but not limited to an Asbestos Survey/Report, a building/demolition permit from the City of Yreka Building Department, an Encroachment Permit from the City of Yreka Department of Public Works, and any and all documents/permits as may be required by the State of California, and/or the County of Siskiyou.
2. Asbestos must be removed prior to any activity that may disturb it and prior to all demolitions. Asbestos surveys/reports are required prior to all renovation and demolitions from a qualified license asbestos contractor before issuance of a building permit.

3. Permittee shall obtain an encroachment permit from the Public Works Department prior to demolition for any and all requirements as determined by the Maintenance Manager including but not limited to:
 - a. Expose existing sewer and water connections to the city's main.
 - b. Cap the sewer lateral fitting or place a rubber compression plug and backfill with concrete.
 - c. Abandon existing water service by exposing service line at the water main and closing the corporation stop.
 - d. Water meter box shall be protected from demolition construction.

4. Prior to new construction on this site, permittee shall submit an application and obtain approval from the City of Yreka Planning Department in accordance with the permit procedure for the Yreka Historic District.

Commissioner Kegg seconded the motion, and upon roll call, the following voted YEA: Kegg, Leal, McCoy, Osborn and Rolzinski.

The foregoing Resolution #2015-10 was adopted by the Planning Commission on the 16th day of December, 2015 by the following vote: Ayes: 5, Nays: 0

Commissioners Knitter and Ohlund's returned to their seats at the table.

City Manager's Report

City Manager Steve Baker recapped to the commissioners that California's new medical marijuana laws will take effect on January 1, 2016. Cities and Counties that do not have ordinances regarding Marijuana Cultivation on the books by March 1, 2016 will be subject to state law only. City Council has authorized the City Manager and the City Attorney to prepare an Ordinance for Council consideration.

There being no further business before the Commission, the meeting was adjourned.

Matt Osborn
Approved by motion of the Planning
Commission on January 20, 2016



**CITY OF YREKA
PLANNING COMMISSION AGENDA MEMORANDUM**

To: Yreka Planning Commission
Prepared by: Steve Baker, City Manager
Agenda Title: Discussion/Possible Action – Consideration of proposed categorical exemption and Conditional Use Permit for the establishment and operation an outside mobile food cart and seating in conjunction with the restaurant known as Serrano’s Mexican Grill located at 1009 S. Main Street, Yreka California.
Meeting date: January 20, 2016

Discussion:

The City has received the attached application for a Conditional Use Permit for the establishment and operation of an outside food cart and additional outside seating, in conjunction with the existing Restaurant located at 1009 S. Main. Upon review of the application, staff finds that the proposed use is in conformance with the applicable policies of the City of Yreka General Plan and is consistent with the applicable zoning provisions. With the conditions of approval, attached as Attachment “C”, the proposed use meets with the intent and requirements of the CH (Commercial Highway) zoning district, and staff is recommending approval.

Background:

The subject property is zoned C-H Commercial Highway YMC Section 16.36.070 provides that sales conducted outside of the building for a permitted use, requires a conditional use permit.

Parking:

Yreka Municipal Code Section 16.54.020 (A)(5)(a) provides that adequate off-street parking facilities shall be provided as follows: One (1) space for each three seats plus one space for each employee of the maximum working shift, as set forth in Section 16.54.020 (A)(5)(a) of the Yreka Municipal Code. As submitted, the existing use of the property as a single-family residence, and separate Restaurant and the proposed new project will require a total of 15 parking spaces. (Two (2) spaces for residential parking, twelve (12) spaces for customer parking and one (1) space for each employee of the maximum working shift.) The Site Plan submitted depicts sixteen (16) parking available spaces.

Analysis:

The purpose of the Commercial Highway (CH) zoning district is intended to serve as the commercial land use zone district for areas outside of the commercial downtown district. Located along major roadways, this district provides a variety of commercial uses (YMC Chapter 16.36). A Conditional Use Permit is required to “allow sales conducted outside of the building for a permitted use”. YMC Section 16.44.040, states that a conditional use permit can be granted by the Planning Commission if the use is found to not be materially detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood; if the use is found not to be materially detrimental to property or improvements in the neighborhood; and, if the use is found not to be materially detrimental to the general welfare of the city. The proposal will not generate significant noise or lighting. The proposal will not increase traffic beyond the capacity of existing infrastructure in the area, which is sufficient to accommodate commercial uses. With the conditions of approval, attached as Attachment “C”, the request meets the intent of the C-H zoning district.

Environmental Determination:

The Planning Department believes that the proposed project meets the requirements for an exemption from further review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Existing Facilities. Class 1 exemptions consist of the operation, maintenance, permitting, or licensing of existing public or private structures or facilities involving negligible or no expansion of the use beyond what existed at the time of the lead agency's determination.

The Planning Commission must consider the proposed CEQA exemption together with any comments received during the public review process. Further, the exemption can only be approved if the Commission finds, based on the whole record before it, that there is not substantial evidence that the project will have a significant effect on the environment.

Staff Recommendation:

Staff recommends that the Planning Commission utilize the following process for the consideration of this matter:

1. Accept a presentation of the project by staff
2. Open the public hearing and take public testimony
3. Close the public hearing and initiate consideration of the project by the Planning Commission; and
4. Motion and vote by the Planning Commission.

Recommended Motion:

If the Planning Commission determines that it intends to approve the proposed project as requested in the application for CUP #2016-1, staff presents the following motions for consideration

1. Categorical exemption:

I move that the Planning Commission determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Existing Facilities of the CEQA Guideline.

2. Conditional Use Permit #2016-1:

I move that the Planning Commission adopt Planning Commission Resolution #PC 2016-1 making the findings and subject to the Conditions of Approval presented as Attachment C, and approve Conditional Use Permit #2016-1, to allow the establishment and operation of a mobile food cart.

Attachments: Attachment A - Conditional Use Permit Application
Attachment B – Site Plan
Attachment C – Findings and Conditions of Approval for CUP #2016-1
Attachment D – Planning Commission Resolution # PC 2016-1

Approved by: _____


Steven Baker, City Manager

Attachment A

December 17, 2015

City of Yreka Planning Commission:

1009 S. Main Street # AP# 061-282-020

I Paula Rodriguez owner of Serrano's Mexican Grill would like to have permission to sell tacos in front of my building in the afternoons. I would place my hot dog cart, barbeque grill & four outside seats on the paved area in front of 1009 S. Main Street. I have 32 inside seats. One employee per working shift. I have 15 parking spaces & 1 ADA parking space available for my customers.

A handwritten signature in black ink, appearing to read 'P. Rodriguez', with a large, sweeping flourish extending to the right.

Paula Rodriguez
1009 S. Main Street.
Yreka, CA 96097
(530) 905-0844

CITY OF YREKA
PLANNING DEPARTMENT APPLICATION

CITY OF YREKA

CITY FEES:

- Use Permit - Administrative approval.....\$ 75.00
- Minor Conditional Use Permit - P.C. approval..... \$150.00
- Moderate Conditional Use Permit - P.C. approval.....\$200.00
Plus site Plan Review if applicable
- Major Conditional Use Permit - P.C. approval...\$500.00 deposit/cost
- Public Hearing.....\$ 75.00 (Minimum fee) deposit/cost
- P.H. - Project notice circulation, 1-20 notices.....\$ 25.00
- P.H. - 21 or more notices.....\$25.00 plus 1.00/parcel over 20
- E.R. - Preliminary review.....\$ 50.00
- E.R. - Negative Declaration.....\$ 200.00 deposit/cost
- E.R. - Mitigated Negative Declaration..... Actual cost
- Environmental Impact Report..... Actual cost
- Site Plan Review - (No Use permit required)...\$ 200.00 deposit/cost
- Site Plan Review - (Use permit required).....\$ 200.00 deposit/cost
- Lot Line Adjustment (BLA) - Administrative approval.....\$ 200.00

- Annexation.....\$ 750.00 deposit/cost
- Appeals - Planning Commission.....\$ 100.00
- Appeals - City Council.....\$ 150.00 plus publication
- Certificates of Compliance.....\$250.00 deposit/cost
- Reversion to Acreage.....\$ 500.00 deposit/cost
- General Plan Amendment.....\$ 750.00 deposit/cost
- Rezone.....\$ 750.00 deposit/cost
- Planned Unit Development\$ 750.00 deposit/ cost
- Variance.....\$250.00 deposit/cost
- Other \$ _____

STATE FISH AND WILDLIFE FEES*:

- County Clerk Processing Fee\$ 50.00 actual cost
- Fish and Wildlife fee * \$ _____
- Other \$ _____

DATE: 12-10-15

ASSESSOR'S PARCEL NUMBER: 061-282-020

APPLICANT: Paula Rodriguez

TELEPHONE NUMBER: 905-0844

APPLICANT ADDRESS: 1009 S. Main St

IF OTHER THAN APPLICANT, NAME OF PROPERTY OWNER: Paula Rodriguez

PROPERTY OWNER ADDRESS: 1009 S. Main St

PROJECT LOCATION: 1009 S. Main St

DESCRIPTION OF PROPOSED PROJECT: Permitting to sale Tacos in front of my restaurant. 32 seats and 20 parking spaces. w/ 4 outside seats See Attached letter

I agree to abide by all of the ordinances of the City of Yreka, state law, and federal law; and I authorize city representatives to enter upon the above mentioned property for inspection purposes, and to record any notice of code violation pursuant to Y.M.C. Ch. 11.40 and/or Ch. 16.08 with the office of the Siskiyou County Recorder.

I certify that I have read this application and state that the above information is correct. I agree to comply with any terms or conditions of any entitlement issued or permitted by the City pursuant to this application.

*In the event the project's effect on natural resources or wildlife is other than negligible, State Fish and Wildlife requires an additional fee of \$3,069.75 if an Environmental Impact Report is prepared or \$2,210.00 for a Negative Declaration. These fees are subject to change and the applicant is responsible for payment of the fees in full. If required, the permit cannot be issued until such time as the fee is paid. A project that is Statutorily or Categorically exempt requires no further fees.

APPLICANT SIGNATURE: [Signature]

PROPERTY OWNER'S SIGNATURE: (REQUIRED) [Signature]

Property Owner's Acknowledgement of application submittal

***TO BE COMPLETED BY CITY STAFF:

*** DATE APPLICATION RECEIVED AS COMPLETE: _____

*** ZONE: CH

*** GENERAL PLAN DESIGNATION: LC

*** PERMIT NUMBER: 2016-01-CWP

1/5/2016

Attachment B - Site Plan

1009 S. Main Street,
Yreka, California
Serrano's Mexican Grill



The proposed mobile food cart will be placed
in the paved area in front of the restaurant

**CONDITIONAL USE PERMIT NO. # 2016-1 CUP
FINDINGS & CONDITIONS OF APPROVAL**

1. The proposal will not be materially detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use.

The proposal to continue the operation of the business of a restaurant with residential use and the addition of sales conducted outside of the building (mobile taco food cart) would not be materially detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood. Subject to the issuance of a Conditional Use Permit by the Planning Commission and subject to the Conditions of Approval, use of the site would remain consistent with the intent of the General Plan designation and zone district. As such, the project will not be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood.

2. The proposal will not be materially detrimental to property or improvements in the neighborhood.

The proposal will not be materially detrimental to property or improvements in the neighborhood. Conditions of Approval will provide for commercial use compatibility between the proposed commercial use and the existing commercial neighborhood and adjacent streets.

3. The proposal will not be materially detrimental to the general welfare of the city.

The use is compatible with the policies and objectives of the zoning ordinance for a CH, Commercial Highway zone which allows a commercial use of sales conducted outside of the building for a permitted use upon approval and validation of a conditional use permit as set forth in Section 16.36.070 (U) of the Yreka Municipal Code. This commercial business keeps with the character of the surrounding area, and is found to be consistent with the General Plan. The proposal will not generate significant noise or lighting. The proposal will not increase traffic beyond the capacity of existing infrastructure in an area which is sufficient to accommodate commercial uses.

4. The Planning Commission has determined that the project is exempt from environmental review pursuant to the provisions of the California Environmental Quality Act (CEQA) Section 15301 Existing Facilities of the CEQA Guidelines.

The following conditions shall be complied with at all times while the use permitted by this permit occupies the premises:

1. Permittee granted a permit to continue the operation of the business of a restaurant with the seating capacity of 32 along with residential use and the addition of sales conducted outside of the building (mobile taco food cart) and the seating capacity of 4 - located at 1009 S. Main Street, APN: 061-282-020.
2. Adequate off-street parking facilities shall be provided as follows: One (1) space for each three seats plus one space for each employee of the maximum working shift, as set forth in Section 16.54.020 (A)(5)(a) of the Yreka Municipal Code. As submitted, the project requires a total of 15 parking spaces - 2 spaces for residential parking, 12 spaces for customer parking and 1 space for each employee of the maximum working shift. The Site Plan submitted by the applicant depicts sixteen (16) parking spaces are available.

3. The off-street parking plan and facilities approved by the Planning Commission shall not be deviated from unless prior approval of the Planning Commission is secured, and all loading, customer, access drives and aisles shall be paved and striped and bumper rails or other barriers shall be provided in accordance with Section 16.54.090 of the Yreka Municipal Code.
4. Parking required for disabled persons shall be marked, posted, and maintained in accordance with provisions of the Motor Vehicles Code, California Building Code and any other law or regulation now or hereinafter enacted relating to parking for disabled persons. A minimum of one (1) accessible parking space is required for a parking lot with 1 to 25 parking spaces.
5. Use shall be conducted in accordance with the application as submitted for the property located at 1009 S. Main Street, as approved by the Planning Commission on January 20, 2016.
6. Improvements for Outdoor Sales. The outdoor sales areas shall be paved with a minimum six-inch (6") base and double chip sealed, dustless surface in accordance with Section 16.36.080 of the Yreka Municipal Code.
7. Permittee shall comply at all times with the zoning district regulations for a *CH, Commercial Highway* zone as set forth in section 16.36 of the Yreka Municipal Code.
8. Permittee shall obtain a building permit and shall pay the necessary fees prior to making any building, electrical, mechanical, or plumbing installations and/or improvements to the structure. Public infrastructure improvements such as curb, gutter, sidewalk, curb ramps, driveway approaches, street lights and asphalt concrete street pavement may be required upon issuance of a building permit in accordance with Yreka Municipal Code Section 11.24.030. If such improvements already exist, damaged public improvements shall be repaired and/or replaced to restore the improvements to a condition satisfactory to the Director of Public Works in accordance with Yreka Municipal Code Section 11.24.030.
9. No signs shall be placed on the premises without first obtaining a sign permit.
10. No portable pop up canopy/gazebo quick shade accessory cover permitted in this outside sales area.
11. Permittee shall provide the city with verification of compliance with Siskiyou County Public Health Department requirements.
12. Permittee shall maintain an annual City business license to carry on the business of a restaurant business.
13. The use permit granted in accordance with the terms of this title may be revoked if any of the conditions or terms of such permit are violated or if any law or ordinance is violated in connection therewith, or if the Planning Commission finds, with the concurrence of the City Council, that the continuance of the use permit will endanger the public health, safety, or welfare.

**PLANNING COMMISSION RESOLUTION PC 2016-1
APPROVING CONDITIONAL USE PERMIT # 2016-1 CUP
AT 1009 S. MAIN STREET – ASSESSOR’S PARCEL NO. 061-282-020
APPLICANT: PAULA RODRIGUEZ**

WHEREAS, Paula Rodriguez (applicant) has requested a Conditional Use Permit for the establishment and operation of a mobile food cart at 1009 S. Main Street, Yreka California, APN 061-282-020; and

WHEREAS, the Planning Commission held a duly noticed public hearing to accept public comments and to review and consider the application on January 20, 2016; and

WHEREAS, the Planning Commission has determined that, subject to approval of the Conditional Use Permit and the project Conditions of Approval, the request is consistent with the Yreka General Plan and the standards of Yreka Municipal Code; and

WHEREAS, the Planning finds that the proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Existing Facilities. Class 1 exemptions consist of the operation, maintenance, permitting, or licensing of existing public or private structures or facilities involving negligible or no expansion of the use beyond what existed at the time of the lead agency’s determination; and

WHEREAS, the Planning Commission has made the following findings with respect to the requested Conditional Use Permit:

1. The proposal will not be materially detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the proposed use.
2. The proposal will not be materially detrimental to property or improvements in the neighborhood.
3. The proposal will not be materially detrimental to the general welfare of the city.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Yreka does hereby approve Conditional Use Permit #2016-1 CUP, subject to the following conditions:

General Conditions of Approval:

1. Permittee granted a permit to continue the operation of the business of a restaurant with the seating capacity of 32 along with residential use and the addition of sales conducted outside of the building (mobile taco food cart) with the additional seating capacity of 4 - located at 1009 S. Main Street, APN: 061-282-020.

2. Adequate off-street parking facilities shall be provided as follows: One (1) space for each three seats plus one space for each employee of the maximum working shift, as set forth in Section 16.54.020 (A)(5)(a) of the Yreka Municipal Code. As submitted, the project requires a total of 15 parking spaces, - 2 spaces for residential parking, 12 spaces for customer parking and 1 space for each employee of the maximum working shift. The Site Plan submitted by applicant depicts sixteen (16) parking spaces are available.
3. The off-street parking plan and facilities approved by the Planning Commission shall not be deviated from unless prior approval of the Planning Commission is secured, and all loading, customer, access drives and aisles shall be paved and striped and bumper rails or other barriers shall be provided in accordance with Section 16.54.090 of the Yreka Municipal Code.
4. Parking required for disabled persons shall be marked, posted, and maintained in accordance with provisions of the Motor Vehicles Code, California Building Code and any other law or regulation now or hereinafter enacted relating to parking for disabled persons. A minimum of one (1) accessible parking space is required for a parking lot with 1 to 25 parking spaces.
5. Use shall be conducted in accordance with the application as submitted for the property located at 1009 S. Main Street, as approved by the Planning Commission on January 20, 2016.
6. Improvements for Outdoor Sales. The outdoor sales areas shall be paved with a minimum six-inch (6") base and double chip sealed, dustless surface in accordance with Section 16.36.080 of the Yreka Municipal Code.
7. Permittee shall comply at all times with the zoning district regulations for a *CH, Commercial Highway* zone as set forth in section 16.36 of the Yreka Municipal Code.
8. Permittee shall obtain a building permit and shall pay the necessary fees prior to making any building, electrical, mechanical, or plumbing installations and/or improvements to the structure. Public infrastructure improvements such as curb, gutter, sidewalk, curb ramps, driveway approaches, streetlights and asphalt concrete street pavement may be required upon issuance of a building permit in accordance with Yreka Municipal Code Section 11.24.030. If such improvements already exist, damaged public improvements shall be repaired and/or replaced to restore the improvements to a condition satisfactory to the Director of Public Works in accordance with Yreka Municipal Code Section 11.24.030.
9. No signs shall be placed on the premises without first obtaining a sign permit.
10. No portable pop up canopy/gazebo quick shade accessory cover permitted in this outside sales area.

11. Permittee shall provide the city with verification of compliance with Siskiyou County Public Health Department requirements.
12. Permittee shall maintain an annual City business license to carry on the business of a restaurant business.
13. The use permit granted in accordance with the terms of this title may be revoked if any of the conditions or terms of such permit are violated or if any law or ordinance is violated in connection therewith, or if the Planning Commission finds, with the concurrence of the City Council, that the continuance of the use permit will endanger the public health, safety, or welfare.

The foregoing Resolution was adopted by the Planning Commission on the 20th day of January 2016 by the following vote:

Ayes:
Nays:
Absent:

Matt Osborn, Chair

Attest:

Elizabeth Casson, City Clerk



CITY OF YREKA
PLANNING COMMISSION AGENDA MEMORANDUM

To: Yreka Planning Commission
Prepared by: Steve Baker, City Manager
Agenda Title: Discussion/Possible Action – Consideration of categorical exemption and Conditional Use Permit for the construction of a 30' X 30' (900 sq. ft.) accessory building.
Meeting date: January 20, 2016

Discussion:

The City has received an application for a Conditional Use Permit (Attachment A) for the construction of an accessory building 30' x 30' (900 sq. ft.) to be located in the rear of the property at 349 N. Oregon Street as depicted on the Site Plan (Attachment B).

Upon review of the application, staff finds that the proposed use is in conformance with the applicable policies of the City of Yreka General Plan and is consistent with the applicable zoning provisions. With the conditions of approval, attached as Attachment "C", the proposed use meets with the intent and requirements of the R-1 (Residential) zoning district, and staff is recommending approval.

Background:

The subject property is zoned R-1 Single Family Residential. The Single Family Residential Zone district is intended to provide areas for conventional single-family homes, and accessory structures not exceeding six hundred and fifty (650) sq. ft. are permitted by right. However, Yreka Municipal Code Section 16.18.070 E. provides that garages and accessory structures larger than six hundred fifty square feet of floor area require a Conditional Use Permit.

Analysis:

YMC Section 16.44.040, states that a conditional use permit can be granted by the Planning Commission if the use is found to not be materially detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood; if the use is found not to be materially detrimental to property or improvements in the neighborhood; and, if the use is found not to be materially detrimental to the general welfare of the city.

The proposal will not generate significant noise or lighting. The proposal will not increase traffic beyond the capacity of existing infrastructure in the area. With the proposed conditions of approval, (Attachment "C") the accessory structure meets the requirements of the R-1 zoning district.

Environmental Determination:

The staff believes proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (e) "Accessory (appurtenant) structures including carports, patios, swimming pools, and fences".

The Planning Commission must consider the proposed CEQA exemption together with any comments received during the public review process. Further, the exemption can only be approved if the Commission finds, based on the whole record before it, that there is not substantial evidence that the project will have a significant effect on the environment. A public hearing notice was published in the Siskiyou Daily News and mailed to the property owners within a 300-foot radius of the proposed project to give notice of the proposed project and invite public comment.

Recommendation:

Staff recommends that the Planning Commission utilize the following process for the consideration of this matter:

1. Accept a presentation of the project by staff
2. Open the public hearing and take public testimony
3. Close the public hearing and initiate consideration of the project by the Planning Commission; and
4. Motion and vote by the Planning Commission.

Recommended Motion:

If the Planning Commission determines that it intends to approve the proposed project as requested in the application, staff presents the following motions for consideration:

1. Categorical exemption:

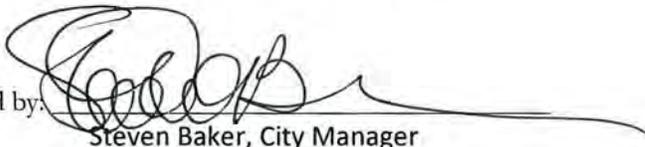
I move that the Planning Commission determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15303 (E), of the CEQA Guidelines.

2. Conditional Use Permit #2016-2:

I move that the Planning Commission adopt Planning Commission Resolution #PC 2016-2 making the findings and subject to the Conditions of Approval presented as Attachment C, and approve Conditional Use Permit #2016-2, to allow the construction of the accessory building.

Attachments: Attachment A - Conditional Use Permit Application
Attachment B – Site Plan
Attachment C – Findings and Conditions of Approval for CUP #2016-2
Attachment D – Planning Commission Resolution # PC 2016-2

Approved by:



Steven Baker, City Manager

CITY OF YREKA PLANNING DEPARTMENT APPLICATION

CITY FEES:

- Use Permit - Administrative approval.....\$ 75.00
- Minor Conditional Use Permit - P.C. approval.....\$150.00
- Moderate Conditional Use Permit - P.C. approval.....\$200.00
Plus site Plan Review if applicable
- Major Conditional Use Permit - P.C. approval...\$500.00 deposit/cost
- Public Hearing.....\$ 75.00 (Minimum fee) deposit/cost
- P.H. - Project notice circulation, 1-20 notices.....\$ 25.00
- P.H. - 21 or more notices.....\$25.00 plus 1.00/parcel over 20
- E.R. - Preliminary review.....\$ 50.00
- E.R. - Negative Declaration.....\$ 200.00 deposit/cost
- E.R. - Mitigated Negative Declaration..... Actual cost

- Annexation.....\$ 750.00 deposit/cost
- Appeals - Planning Commission.....\$ 100.00
- Appeals - City Council.....\$ 150.00 plus publication
- Certificates of Compliance.....\$250.00 deposit/cost
- Reversion to Acreage.....\$ 500.00 deposit/cost
- General Plan Amendment.....\$ 750.00 deposit/cost
- Rezone.....\$ 750.00 deposit/cost
- Planned Unit Development\$ 750.00 deposit/ cost
- Variance.....\$250.00 deposit/cost
- Other \$ _____

STATE FISH AND WILDLIFE FEES*:

- Environmental Impact Report..... Actual cost
- Site Plan Review - (No Use permit required)...\$ 200.00 deposit/cost
- Site Plan Review - (Use permit required).....\$ 200.00 deposit/cost
- Lot Line Adjustment (BLA) - Administrative approval.....\$ 200.00
See separate application form for Lot Line Adjustment (BLA)

- County Clerk Processing Fee\$ 50.00 actual cost
- Fish and Wildlife fee * \$ _____
- Other \$ _____

DATE: Dec 30 2015 ASSESSOR'S PARCEL NUMBER: 05-191-1010

APPLICANT: Charles E. Dicklosimer
Jennifer J. Dicklosimer TELEPHONE NUMBER: 209.1018.0050

APPLICANT ADDRESS: 349 N. Oregon St Yreka, CA 96097

IF OTHER THAN APPLICANT, NAME OF PROPERTY OWNER: Charles E. & Jennifer J. Dicklosimer

PROPERTY OWNER ADDRESS: 349 N. Oregon St Yreka, CA 96097

PROJECT LOCATION: 349 N. Oregon Yreka, CA 96097

DESCRIPTION OF PROPOSED PROJECT: 30' x 30' Garage with access off of
Howard St (ALLEY)

Ben Beal 530 340-5810

I agree to abide by all of the ordinances of the City of Yreka, state law, and federal law; and I authorize city representatives to enter upon the above mentioned property for inspection purposes, and to record any notice of code violation pursuant to Y.M.C. Ch. 11.40 and/or Ch. 16.08 with the office of the Siskiyou County Recorder.

I certify that I have read this application and state that the above information is correct. I agree to comply with any terms or conditions of any entitlement issued or permitted by the City pursuant to this application.

*In the event the project's effect on natural resources or wildlife is other than negligible, State Fish and Wildlife requires an additional fee of \$3,070.00 if an Environmental Impact Report is prepared or \$2,210.25 for a Negative Declaration. These fees are subject to change and the applicant is responsible for payment of the fees in full. If required, the permit cannot be issued until such time as the fee is paid. A project that is Statutorily or Categorically exempt requires no further fees.

APPLICANT SIGNATURE: [Signature]

PROPERTY OWNER'S SIGNATURE: (REQUIRED) [Signature]

Property Owner's Acknowledgement of application submittal
*** DATE APPLICATION RECEIVED AS COMPLETE: 12/30/15 102 CR # 781
*** PERMIT NUMBER: 2016 2 #215

Attachment A

TO CITY OF YREKA

12/31/15

I propose to build a 30x30 garage at 349 north Oregon st. The purpose of garage is to give my cars a safe and secure place to park them. The building will be constructed with 2x4 walls 8 foot tall with hardi plank slap siding 7inch reveal. The roof will be hip stile to match existing house with a 6 and 12 pitch ,from the ground level the peak of roof should be no higher than 16 foot tall. This building will fit perfect in the blank area west of existing building thank you for your consideration.

Access to the proposed new garage will be from Howard Alley.
see attached site plan.
Jennifer and Charlie Picklesimer

Jon Bear

contractor on behalf of Jennifer and
Charlie Picklesimer.



Attachment B Site Plan

349 N. Oregon Street

APN 053-191-100

see larger site plan included with apl



**CONDITIONAL USE PERMIT # 2016-2 CUP
FINDINGS & CONDITIONS OF APPROVAL**

The following findings of fact have been determined by the Planning Commission.

1. The construction of a 30 ft. x 30 ft. (900 sq. ft.) accessory structure for use as a garage /storage building will not.
 - a. be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood, and will not be detrimental to the harmonious and orderly growth of the City of Yreka because the project is located in a residential zoned area and it complies with the City setback requirements.
 - b. be detrimental to property or improvements in the neighborhood and the residential use will not impair the desirability of investment or occupation in the vicinity because the project site is surrounded by residential uses.
 - c. cause unreasonable vehicular traffic, parking congestion, noise, nuisance, or odors because the use of a 900 sq. ft. accessory structure for a garage/storage building will not significantly increase the traffic beyond what is existing.
 - d. adversely affect matters regarding police protection, crime prevention, and security.
 - e. adversely affect circulation or traffic patterns in the neighborhood or constitute a nuisance because the construction of a 900 sq. ft. accessory structure for a garage /storage building will allow parking of vehicles off the street and on the project site.
2. The use is compatible with the policies and objectives of the zoning ordinance subject to this Permit approval.
3. The Planning Commission has determined that the project is exempt from environmental review pursuant to the provisions of the California Environmental Quality Act (CEQA) Section 15303(E) Accessory Structure of the CEQA Guidelines.

The following conditions shall be complied with at all times that the use permitted by this permit occupies the premises:

1. Permittee granted a permit to construct a 900 square foot accessory building for a garage/storage building on the location set forth in the application, subject to full compliance with applicable city and state codes. **The premises shall not be occupied until all**

conditions hereinafter set forth have been complied with by the Permittee.

2. The accessory structure shall be for personal residential use only. The accessory structure shall not be utilized for any commercial activity.
3. Use shall be conducted in accordance with the site plan as submitted and no alterations shall be made without prior approval of the Planning Commission; provided, however, upon request of the Permittee and showing of good cause, the City Manager is authorized to permit minor modifications of the site plan without resubmission to the Planning Commission.
4. Permittee shall comply at all times with the zoning district regulations for an R-1 zone as set forth in section 16.18 of the Yreka Municipal Code.
5. Permittee shall secure approval of the Building Official and Fire Marshal that structure meets building standards and fire regulations of the Uniform Building and Fire Codes prior to use of subject accessory structure for use as a hobby shop/storage building.
6. Permittee shall obtain a building permit and shall pay the necessary fees therefor prior to making any building, electrical, mechanical, or plumbing alterations/improvements to the structures. Public infrastructure improvements such as curb, gutter, sidewalk, driveway approaches and asphalt concrete street pavement may be required upon issuance of a building permit in accordance with Yreka Municipal Code Section 11.24.030.
7. The use permit granted in accordance with the terms of this title may be revoked if any of the conditions or terms of such permit are violated or if any law or ordinance is violated in connection therewith, or if the Planning Commission finds, with the concurrence of the City Council, that the continuance of the use permit will endanger the public health, safety, or welfare.

ATTACHMENT D

PLANNING COMMISSION RESOLUTION PC 2016-2
APPROVING CONDITIONAL USE PERMIT # 2016-2 CUP
AT 349 N. OREGON STREET, APN: 053-191-100
APPLICANT: Charles & Jennifer Picklesimer

WHEREAS, Charles and Jennifer Picklesimer (applicant) have requested a Conditional Use Permit to construct a 30 ft. x 30 ft. (900 sq. ft.) Assessors Structure (garage) for use as a garage/storage building to be located at 349 N. Oregon Street; and

WHEREAS, the Planning Commission held a duly noticed public hearing to accept public comments and to review and consider the application on January 20, 2016; and

WHEREAS, the Planning Commission has determined that, subject to approval of the Conditional Use Permit and the project Conditions of Approval, the request is consistent with the Yreka General Plan and the standards of Yreka Municipal Code; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (e). Class 3 exemptions consist of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure; and

WHEREAS, the Planning Commission has made the following findings with respect to the requested Conditional Use Permit:

1. The proposal will not be materially detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the proposed use.
2. The proposal will not be materially detrimental to property or improvements in the neighborhood.
3. The proposal will not be materially detrimental to the general welfare of the city.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Yreka does hereby approve Conditional Use Permit #2016-2, subject to the following conditions:

Permittee granted a permit to construct a 900 square foot accessory building for a garage/storage building on the location set forth in the application, subject to full compliance

with applicable city and state codes. **The premises shall not be occupied until all conditions hereinafter set forth have been complied with by the Permittee.**

2. The accessory structure shall be for personal residential use only. The accessory structure shall not be utilized for any commercial activity.
3. Use shall be conducted in accordance with the site plan as submitted and no alterations shall be made without prior approval of the Planning Commission; provided, however, upon request of the Permittee and showing of good cause, the City Manager is authorized to permit minor modifications of the site plan without resubmission to the Planning Commission.
4. Permittee shall comply at all times with the zoning district regulations for an R-1 zone as set forth in section 16.18 of the Yreka Municipal Code.
5. Permittee shall secure approval of the Building Official and Fire Marshal that structure meets building standards and fire regulations of the Uniform Building and Fire Codes prior to use of subject accessory structure for use as a hobby shop/storage building.
6. Permittee shall obtain a building permit and shall pay the necessary fees therefor prior to making any building, electrical, mechanical, or plumbing alterations/improvements to the structures. Public infrastructure improvements such as curb, gutter, sidewalk, driveway approaches and asphalt concrete street pavement may be required upon issuance of a building permit in accordance with Yreka Municipal Code Section 11.24.030.
7. The use permit granted in accordance with the terms of this title may be revoked if any of the conditions or terms of such permit are violated or if any law or ordinance is violated in connection therewith, or if the Planning Commission finds, with the concurrence of the City Council, that the continuance of the use permit will endanger the public health, safety, or welfare.

The foregoing Resolution was adopted by the Planning Commission on the 20th day of January 2016 by the following vote:

Ayes:
Nays:
Absent:

Matt Osborn, Chair

Attest:

Elizabeth E. Casson, City Clerk



CITY OF YREKA
PLANNING COMMISSION AGENDA MEMORANDUM

To: Yreka Planning Commission
Prepared by: Steve Baker, City Manager
Agenda Title: Discussion/Possible Action – Consideration of proposed categorical exemption and Conditional Use Permit for the establishment and operation of a Microbrewery.
Meeting date: January 20, 2016

Discussion:

The City has received the attached application for a Conditional Use Permit for the establishment and operation of a Microbrewery, to be located in an existing facility located at 204 W. Miner Street.

Upon review of the application, staff finds that the proposed use is in conformance with the applicable policies of the City of Yreka General Plan and is consistent with the applicable zoning provisions. With the conditions of approval, attached as Attachment “C”, the proposed use meets with the intent and requirements of the C-2 (Downtown Commercial) zoning district, and staff is recommending approval.

Background:

The subject property is zoned C-2 Downtown Commercial and is located within the Downtown Historic District. YMC Section 16.34.050 provides that various retail establishments and personal service establishments are a permitted by right in the C-2 Downtown zoning district. However, the use such as a Microbrewery requires a Conditional Use Permit, pursuant to YMC Section 16.34.070.

YMC Title 17 “Historic District” provides regulations for property located within said district, with emphasis on the exterior appearance, and states in part “Permits are not required for alteration, rehabilitation, restoration or remodeling which does not alter any improvement, building, structure, landmark or landmark site as to its exterior appearance”. A Historic District permit will be required for the installation of the sign for the business, and for any proposed change to the exterior appearance. These permits can be administratively approved.

Parking:

The business will be located in an existing facility and can be served by existing municipal parking facilities.

Analysis:

The purpose of the Downtown Commercial (C-2) zoning district is ‘intended to provide for a specialized commercial zone for the downtown commercial district’ and provides for a variety of commercial uses (YMC Chapter 16.34). A Conditional Use Permit is required for the establishment and operation of a Microbrewery. YMC Section 16.44.040, states that a conditional use permit can be granted by the Planning Commission if the use is found to not be materially detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood; if the use is found not to be materially detrimental to property or improvements in the neighborhood; and, if the use is found not to be materially detrimental to the general welfare of the city.

The proposal will not generate significant noise or lighting. The proposal will not increase traffic beyond the capacity of existing infrastructure in the area, which is sufficient to accommodate commercial uses.

Environmental Determination:

Staff believes that the proposed project meets the requirements for an exemption from further review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Existing Facilities. Class 1 exemptions consist of the operation, maintenance, permitting, or licensing of existing public or private structures or facilities involving negligible or no expansion of the use beyond what existed at the time of the lead agency's determination.

The Planning Commission must consider the proposed CEQA exemption together with any comments received during the public review process. Further, the exemption can only be approved if the Commission finds, based on the whole record before it, that there is not substantial evidence that the project will have a significant effect on the environment. A public hearing notice was published in the Siskiyou Daily News and mailed to the property owners within a 300-foot radius of the proposed project to give notice of the proposed project and invite public comment.

Staff Recommendation:

Staff recommends that the Planning Commission utilize the following process for the consideration of this matter:

1. Accept a presentation of the project by staff
2. Open the public hearing and take public testimony
3. Close the public hearing and initiate consideration of the project by the Planning Commission; and
4. Motion and vote by the Planning Commission.

Recommended Motion:

If the Planning Commission determines that it intends to approve the proposed project as requested in the application for CUP #2016-4, staff presents the following motions for consideration

1. Categorical exemption:

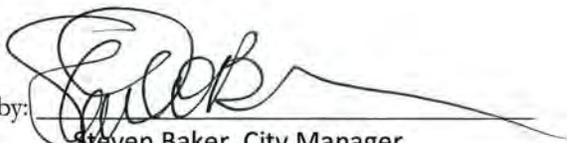
I move that the Planning Commission determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Existing Facilities of the CEQA Guideline.

2. Conditional Use Permit #2016-4:

I move that the Planning Commission adopt Planning Commission Resolution #PC 2016-4 making the findings and subject to the Conditions of Approval presented as Attachment C, and approve Conditional Use Permit #2016-4, to allow the establishment and operation of a Microbrewery.

Attachments: Attachment A - Conditional Use Permit Application
Attachment B – Site Plan
Attachment C – Findings and Conditions of Approval for CUP #2016-4
Attachment D – Planning Commission Resolution # PC 2016-4

Approved by:



Steven Baker, City Manager

RECEIVED

JAN U 4 2016

PAcket# 218
4250
KAS

CITY OF YREKA
PLANNING DEPARTMENT APPLICATION

CITY OF YREKA

CITY FEES:

- Use Permit - Administrative approval.....\$ 75.00
- Minor Conditional Use Permit - P.C. approval..... \$150.00
- Moderate Conditional Use Permit - P.C. approval.....\$200.00
Plus site Plan Review if applicable
- Major Conditional Use Permit - P.C. approval...\$500.00 deposit/cost
- Public Hearing.....\$ 75.00 (Minimum fee) deposit/cost
- P.H. - Project notice circulation, 1-20 notices.....\$ 25.00
- P.H. - 21 or more notices.....\$25.00 plus 1.00/parcel over 20
- E.R. - Preliminary review.....\$ 50.00
- E.R. - Negative Declaration.....\$ 200.00 deposit/cost
- E.R. - Mitigated Negative Declaration..... Actual cost
- Annexation.....\$ 750.00 deposit/cost
- Appeals - Planning Commission.....\$ 100.00
- Appeals - City Council.....\$ 150.00 plus publication
- Certificates of Compliance.....\$250.00 deposit/cost
- Reversion to Acreage.....\$ 500.00 deposit/cost
- General Plan Amendment..... \$ 750.00 deposit/cost
- Rezone..... \$ 750.00 deposit/cost
- Planned Unit Development\$ 750.00 deposit/ cost
- Variance.....\$250.00 deposit/cost
- Other \$ _____
- Environmental Impact Report..... Actual cost
- Site Plan Review - (No Use permit required)...\$ 200.00 deposit/cost
- Site Plan Review - (Use permit required).....\$ 200.00 deposit/cost
- Lot Line Adjustment (BLA) - Administrative approval.....\$ 200.00

STATE FISH AND WILDLIFE FEES*:

- County Clerk Processing Fee\$ 50.00 actual cost
- Fish and Wildlife fee * \$ _____
- Other \$ _____

DATE: 01-04-2016 ASSESSOR'S PARCEL NUMBER: 053-371-080-000

APPLICANT: Deborah C. Behm TELEPHONE NUMBER: (530)643-1642

APPLICANT ADDRESS: 35724 Hwy 96, Klamath River, CA 96050

IF OTHER THAN APPLICANT, NAME OF PROPERTY OWNER: Barry Jalund

PROPERTY OWNER ADDRESS: 813 Silva Ct Yreka, CA

PROJECT LOCATION: 204 West Miner Street, Yreka CA

DESCRIPTION OF PROPOSED PROJECT: Microbrewery

I agree to abide by all of the ordinances of the City of Yreka, state law, and federal law; and I authorize city representatives to enter upon the above mentioned property for inspection purposes, and to record any notice of code violation pursuant to Y.M.C. Ch. 11.40 and/or Ch. 16.08 with the office of the Siskiyou County Recorder.

I certify that I have read this application and state that the above information is correct. I agree to comply with any terms or conditions of any entitlement issued or permitted by the City pursuant to this application.

*In the event the project's effect on natural resources or wildlife is other than negligible, State Fish and Wildlife requires an additional fee of \$3,069.75 if an Environmental Impact Report is prepared or \$2,210.00 for a Negative Declaration. These fees are subject to change and the applicant is responsible for payment of the fees in full. If required, the permit cannot be issued until such time as the fee is paid. A project that is Statutorily or Categorically exempt requires no further fees.

APPLICANT SIGNATURE: Deborah C. Behm

PROPERTY OWNER'S SIGNATURE: (REQUIRED) [Signature]

Property Owner's Acknowledgement of application submittal

*** TO BE COMPLETED BY CITY STAFF: *** DATE APPLICATION RECEIVED AS COMPLETE: 1-5-16
*** ZONE: C2 *** GENERAL PLAN DESIGNATION: HD *** PERMIT NUMBER: 2016-7 CAP

Paystreak Brewing

A brewery of excellence, backed by years of expertise

Debora Behm, founding owner of Paystreak Brewing, has six years professional brewing experience with a professional background in marketing, management, and culinary arts. Debora has three solo brewing awards.

William Behm is an award winning Brewmaster, having brewed the craft beers that won top awards in National, International, and State Competitions. He has twenty years of brewing excellence in the Craft Brewing Industry.

Together, the Behm's are an award winning brew team that has been published, twice, in Northwest Brewing News. They intend to bring their notoriety for great beer to Yreka's historic Miner Street.

This project located in a C-2 zone at 204 West Miner Street, formerly Ohlund's Office Supply, will include a ten barrel microbrewery and Pub, dedicated to bring World Class Craft Beer to Siskiyou County and beyond. We will operate under a Federal and State Manufacturing License and be bonded. We propose a 17 seat bar with an ADA compliant seat. 8 movable 30x30 inch, four seat tables. To accommodate larger groups we are able to adjoin tables. 2 bistro style tables for patrons to enjoy the friendly atmosphere on Miner Street with its historic charm. The brewing area will be segregated from patrons with a glass wall for them to enjoy the brewing process. We will provide "To-Go" menus from local establishments, serve Pub snacks- peanuts, popcorn and pretzels, during our first year of operations. We will be adding an ADA restroom. Our business office will be in the upstairs area of the building. Paystreak Brewing will employ approximately 4 full time, 10 part time, with a maximum per shift of seven

employees. We will operate from 7am to 10pm, five to six days a week. We will be open to the public, five to six days a week from 11am to 9pm, with the possibility of 11pm for special events. A 1am closing time is requested for December 31st of each year.

Paystreak Brewing would be a draw for the public which will benefit all the businesses on Miner Street and surrounding area. We foresee no adverse effect to the neighborhood, being a Pub, not a bar, with a demographic of Men and Women, 34 to 54 years of age. Paystreak Brewing is a perfect fit to the rich gold history of Yreka.

It is our hopes that the city will get increased notoriety in the Craft Beer Community, having their own local microbrewery, when our conditional use permit is granted.

“Making people happy, one pint at a time.”

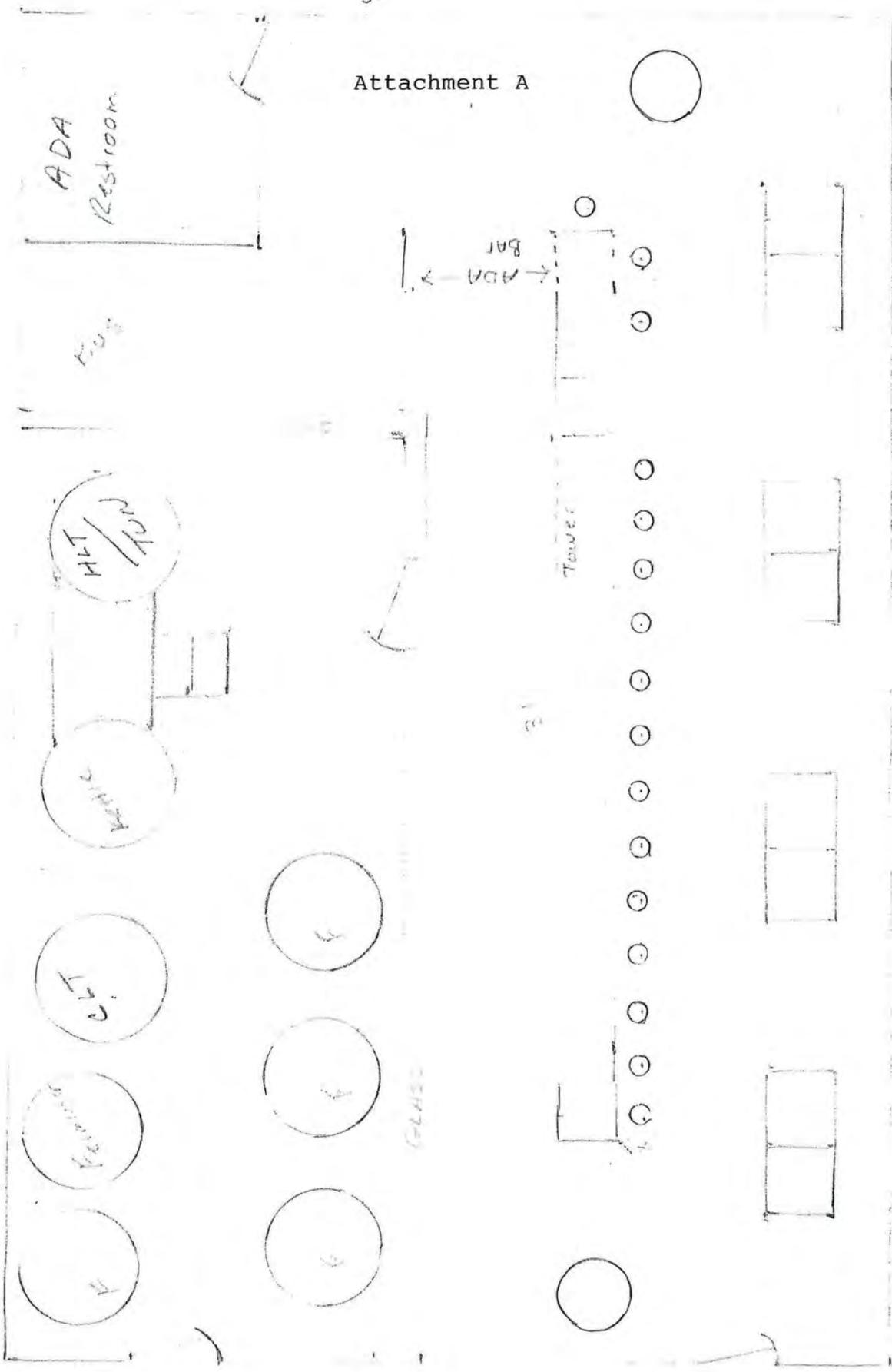
Debora Behm

Paystreak Brewing

(530) 643-1642

31'

Attachment A

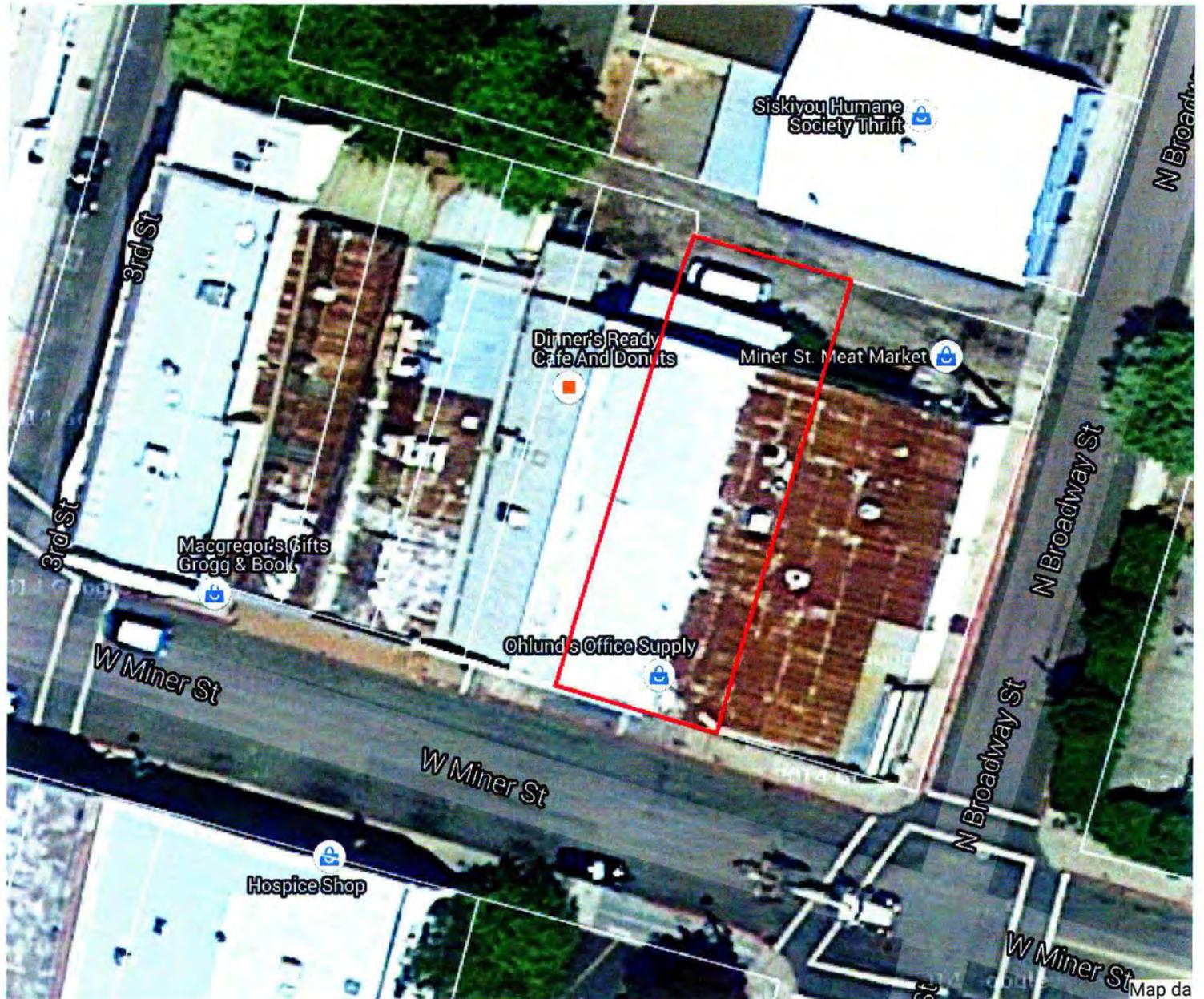


46' 4"

Scale
1" = 5'

West Main Street

Attachment B
204 W. Miner Street



ATTACHMENT C

CONDITIONAL USE PERMIT No. 2016-4 CUP FINDINGS AND CONDITIONS OF APPROVAL

The following findings of fact have been determined by the Planning Department for the establishment and operation of the business of a Microbrewery located at 204 W. Miner Street.
APN: 053-371-080:

Findings of Approval:

1. The proposal will not be materially detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use.

The proposal to establish and operate a Microbrewery would not be materially detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood. Subject to the issuance of a Conditional Use Permit by the Planning Commission and subject to the Conditions of Approval, use of the site would remain consistent with the intent of the General Plan designation and zone district. As such, the project will not be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood.

2. The proposal will not be materially detrimental to property or improvements in the neighborhood.

The proposal will not be materially detrimental to property or improvements in the neighborhood. Conditions of Approval will provide for commercial use compatibility between the proposed commercial use and the existing commercial neighborhood and adjacent streets.

3. The proposal will not be materially detrimental to the general welfare of the city.

The use is compatible with the policies and objectives of the zoning ordinance for a C2, Commercial Downtown zone which allows a Microbrewery upon approval and validation of a conditional use permit as set forth in Section 16.34.070 (F) of the Yreka Municipal Code. This commercial business keeps with the character of the surrounding area, and is found to be consistent with the General Plan. The proposal will not generate significant noise or lighting. The proposal will not increase traffic beyond the capacity of existing infrastructure in an area which is sufficient to accommodate commercial uses.

4. The Planning Commission has determined that the project is exempt from environmental review pursuant to the provisions of the California Environmental Quality Act (CEQA) Section 15301 Existing Facilities of the CEQA Guidelines.

The following conditions shall be complied with at all times while the use permitted by this permit occupies the premises:

1. Permittee granted a permit to establish and operate a Microbrewery with 17 fixed seats at the location set forth in the application, subject to full compliance with applicable city and state codes. **The premises shall not be occupied or opened to the public until all conditions hereinafter set forth have been complied with by the permittee.**
2. The business will be located in an existing facility in the C2 (Downtown Commercial) zone and can be served by existing municipal parking facilities.
3. Use shall be conducted in accordance with the application as submitted for the property located at 204 W. Miner Street, as approved by the Planning Commission on January 20, 2016.
4. Permittee shall comply at all times with the zoning district regulations for a C2, *Commercial Downtown* zone, as set forth in section 16.34 of the Yreka Municipal Code. HD (Historic Downtown) General Plan designation and Title 17, Historic District of the Yreka Municipal Code.
5. Permittee shall obtain a building permit and shall pay the necessary fees prior to making any building, electrical, mechanical, or plumbing installations and/or improvements to the structure.
6. Installation of grease traps/interceptor shall be required for a food businesses as determined by the Building Official in accordance with the California Plumbing Code and shall comply at all times with the requirements for the Fats, Oils and Grease (FOG) Source Control Program.
7. Permittee shall provide the city with verification of compliance with Siskiyou County Public Health Department approval to establish and operate a Microbrewery.
8. Permittee shall secure a Certificate of Occupancy and approval of the Building Official and Fire Marshal that the structure meets the building standards and fire regulations of the California Building Code, California Fire Codes and the California Historical Building Code standards prior to commercial use.
9. No signs shall be placed on the premises without first obtaining a sign permit. Signs shall be Installed in accordance with Title 13, Signs and Title 17, Historic District of Yreka Municipal Code.
10. Permittee shall maintain an annual City business license to carry on the business of a Microbrewery.

11. The use permit granted in accordance with the terms of this title may be revoked if any of the conditions or terms of such permit are violated or if any law or ordinance is violated in connection therewith, or if the Planning Commission finds, with the concurrence of the City Council, that the continuance of the use permit will endanger the public health, safety, or welfare.

Date: January 20, 2016

ATTACHMENT D

**PLANNING COMMISSION RESOLUTION PC 2016-4
APPROVING CONDITIONAL USE PERMIT # 2016-4 CUP
AT 204 W. MINER STREET – ASSESSOR’S PARCEL NO. 053-371-080
APPLICANT: DEBORA BEHM**

WHEREAS, Debora Behm (applicant) has requested a Conditional Use Permit for the establishment and operation of a Microbrewery at 204 W. Miner Street, Yreka California, APN 053-371-080; and

WHEREAS, the Planning Commission held a duly noticed public hearing to accept public comments and to review and consider the application on January 20, 2016; and

WHEREAS, the Planning Commission has determined that, subject to approval of the Conditional Use Permit and the project Conditions of Approval, the request is consistent with the Yreka General Plan and the standards of Yreka Municipal Code; and

WHEREAS, the Planning finds that the proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Existing Facilities. Class 1 exemptions consist of the operation, maintenance, permitting, or licensing of existing public or private structures or facilities involving negligible or no expansion of the use beyond what existed at the time of the lead agency’s determination; and

WHEREAS, the Planning Commission has made the following findings with respect to the requested Conditional Use Permit:

1. The proposal will not be materially detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the proposed use.
2. The proposal will not be materially detrimental to property or improvements in the neighborhood.
3. The proposal will not be materially detrimental to the general welfare of the city.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Yreka does hereby approve Conditional Use Permit #2016-4 CUP, subject to the following conditions:

1. Permittee granted a permit to establish and operate a Microbrewery with 17 fixed seats at the location set forth in the application, subject to full compliance with applicable city and state codes. The premises shall not be occupied or opened to the public until all conditions hereinafter set forth have been complied with by the permittee.

2. The business will be located in an existing facility in the C2 (Downtown Commercial) zone and can be served by existing municipal parking facilities.
3. Use shall be conducted in accordance with the application as submitted for the property located at 204 W. Miner Street, as approved by the Planning Commission on January 20, 2016.
4. Permittee shall comply at all times with the zoning district regulations for a C2, *Commercial Downtown* zone, as set forth in section 16.34 of the Yreka Municipal Code. HD (Historic Downtown) General Plan designation and Title 17, Historic District of the Yreka Municipal Code.
5. Permittee shall obtain a building permit and shall pay the necessary fees prior to making any building, electrical, mechanical, or plumbing installations and/or improvements to the structure.
6. Installation of grease traps/interceptor shall be required for a food businesses as determined by the Building Official in accordance with the California Plumbing Code and shall comply at all times with the requirements for the Fats, Oils and Grease (FOG) Source Control Program.
7. Permittee shall provide the city with verification of compliance with Siskiyou County Public Health Department approval to establish and operate a Microbrewery.
8. Permittee shall secure a Certificate of Occupancy and approval of the Building Official and Fire Marshal that the structure meets the building standards and fire regulations of the California Building Code, California Fire Codes and the California Historical Building Code standards prior to commercial use.
9. No signs shall be placed on the premises without first obtaining a sign permit. Signs shall be installed in accordance with Title 13, Signs and Title 17, Historic District of Yreka Municipal Code.
10. Permittee shall maintain an annual City business license to carry on the business of a Microbrewery.
11. The use permit granted in accordance with the terms of this title may be revoked if any of the conditions or terms of such permit are violated or if any law or ordinance is violated in connection therewith, or if the Planning Commission finds, with the concurrence of the City Council that the continuance of the use permit will endanger the public health, safety or welfare.



CITY OF YREKA
PLANNING COMMISSION AGENDA MEMORANDUM

To: Yreka Planning Commission

Prepared by: Steve Baker, City Manager

Agenda Title: Discussion/Possible Action – Consideration of proposed categorical exemption and Conditional Use Permit for the establishment and operation of an RV Storage Yard Facility and Residential Use of Commercial property.

Meeting date: January 20, 2016

Discussion:

The City has received the attached application for a Conditional Use Permit (Attachment A) for the establishment and operation of an RV Storage Yard Facility and Residential Use of Commercial property in conjunction with their existing landscape business located at 113 Bruce Street, Yreka.

Upon review of the application, staff finds that the proposed use is in conformance with the applicable policies of the City of Yreka General Plan and is consistent with the applicable zoning provisions. With the conditions of approval, attached as Attachment “C”, the proposed use as a Storage Yard Facility, with a portion of the property being used for residential purposes meets with the intent and requirements of the CH (Commercial Highway) zoning district, and staff is recommending approval.

Background:

The subject property is zoned CH – Commercial Highway. Yreka Municipal Code (YMC) Section 16.36.070 (b) and (k) provides that a mixed use such as an RV Storage Yard Facility and residential use of commercial property are both permitted uses in the CH Zone upon approval of a conditional use permit.

Parking:

The proposed use is for an RV storage facility and residential use of commercial property. Off-street parking facilities are not required for an RV Storage facility, however, the area to be used for the RV Storage has been improved with asphalt for parking.

Parking for residential use is only specified in the Residential Zone districts. YMC Section 16.54.020 (9) gives authority to the Planning Commission to determine the number of parking spaces required for a use that is not specified in the parking schedule, further stating, “the same number of parking spaces shall be provided, as are required for the most similar specified use”.

Our past practice has been to require two (2) parking spaces per family unit, with at least one space being covered by garage or carport for a property that is converted from Commercial Use to Residential Use, and used solely for residential use. However, this request is for residential use in conjunction with the commercial use. In similar cases, the Planning Commission has waived the requirement to construct a garage or carport. YMC 16.54.020 (h) requires two (2) spaces for an onsite caretaker, plus one space for each two hundred (200) square feet of office space, with no requirement for covered parking because of the mix of residential and commercial use.

The applicant is requesting the Planning Commission waive the requirement for construction of a carport or garage for the proposed residence. Based on the mixed use of commercial and

residential, staff is recommending the Planning Commission approve the request to waive the requirement for the construction of a two (2) car garage or carport.

Analysis:

The CH Zone is intended to serve as the commercial land use zone district for areas outside of the commercial downtown district. Located along major roadways, this district provides a variety of commercial uses. The proposed use will not generate significant noise or lighting; and will not increase traffic beyond the capacity of existing infrastructure in the area, which is sufficient to accommodate commercial uses.

In accordance with YMC Section 16.44.040, a conditional use permit may be granted by the Planning Commission if the use is found to not be materially detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood; if the use is found not to be materially detrimental to property or improvements in the neighborhood; and, if the use is found not to be materially detrimental to the general welfare of the city.

Environmental Determination:

The staff believes that the proposed project meets the requirements for an exemption from further review under the California Environmental Quality Act (CEQA) pursuant to Section 15301, Existing Facilities, and Section 15061 (b)(3) that it is not a project which has the potential for causing a significant effect on the environment.

The Planning Commission must consider the proposed CEQA exemption together with any comments received during the public review process. Further, the exemption can only be approved if the Commission finds, based on the whole record before it, that there is not substantial evidence that the project will have a significant effect on the environment. A public hearing notice was published in the Siskiyou Daily News and mailed to the property owners within a 300-foot radius of the proposed project to give notice of the proposed project and invite public comment.

Staff Recommendation:

Staff recommends that the Planning Commission utilize the following process for the consideration of this matter:

1. Accept a presentation of the project by staff.
2. Open the public hearing and take public testimony.
3. Close the public hearing and initiate consideration of the project by the Planning Commission; and
4. Motion and vote by the Planning Commission.

Recommended Motion:

If the Planning Commission determines that it intends to approve the proposed project as requested in the application for CUP #2016-5, staff presents the following motions for consideration

1. Categorical exemption:

I move that the Planning Commission determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15301 of the CEQA Guidelines.

2. Conditional Use Permit #2016-5:

I move that the Planning Commission adopt Planning Commission Resolution #PC 2016-5 making the findings and subject to the Conditions of Approval presented as Attachment C, and approve Conditional Use Permit #2016-5, to allow the establishment and operation of a storage yard facility.

Attachments: Attachment A - Conditional Use Permit Application and project description.
Attachment B – Site Plan.
Attachment C – Findings and Conditions of Approval for CUP #2016-5.
Attachment D – Planning Commission Resolution # PC 2016-5.

Approved by:

A handwritten signature in black ink, appearing to read 'S. Baker', with a long horizontal flourish extending to the right.

Steven Baker, City Manager

JAN 04 2016

\$250
paid 1/14/16
1/15/16

CITY OF YREKA
PLANNING DEPARTMENT APPLICATION

CITY OF YREKA

CITY FEES:

- Use Permit - Administrative approval.....\$ 75.00
- Minor Conditional Use Permit - P.C. approval..... \$150.00
- Moderate Conditional Use Permit - P.C. approval.....\$200.00
Plus site Plan Review if applicable
- Major Conditional Use Permit - P.C. approval...\$500.00 deposit/cost
- Public Hearing.....\$ 75.00 (Minimum fee) deposit/cost
- P.H. - Project notice circulation, 1-20 notices.....\$ 25.00
- P.H. - 21 or more notices.....\$25.00 plus 1.00/parcel over 20
- E.R. - Preliminary review.....\$ 50.00
- E.R. - Negative Declaration.....\$ 200.00 deposit/cost
- E.R. - Mitigated Negative Declaration..... Actual cost
- Environmental Impact Report..... Actual cost
- Site Plan Review - (No Use permit required)...\$ 200.00 deposit/cost
- Site Plan Review - (Use permit required).....\$ 200.00 deposit/cost
- Lot Line Adjustment (BLA) - Administrative approval.....\$ 200.00
See separate application form for Lot Line Adjustment (BLA)

- Annexation.....\$ 750.00 deposit/cost
- Appeals - Planning Commission.....\$ 100.00
- Appeals - City Council.....\$ 150.00 plus publication
- Certificates of Compliance.....\$250.00 deposit/cost
- Reversion to Acreage.....\$ 500.00 deposit/cost
- General Plan Amendment.....\$ 750.00 deposit/cost
- Rezone.....\$ 750.00 deposit/cost
- Planned Unit Development\$ 750.00 deposit/ cost
- Variance.....\$250.00 deposit/cost
- Other \$ _____

STATE FISH AND WILDLIFE FEES*:

- County Clerk Processing Fee\$ 50.00 actual cost
- Fish and Wildlife fee * \$ _____
- Other \$ _____

DATE: 12-27-15

ASSESSOR'S PARCEL NUMBER: 061-357-220-000

APPLICANT: John Kennedy III

TELEPHONE NUMBER: 340-0158 - 4000

APPLICANT ADDRESS: 113 Bruce St

IF OTHER THAN APPLICANT,
NAME OF PROPERTY OWNER: same n/a

PROPERTY OWNER ADDRESS: _____

PROJECT LOCATION: 113 Bruce Street Yreka, CA

DESCRIPTION OF PROPOSED PROJECT: convert commercial property to residential

Use Permit to establish and operate an RV Storage Yard use of property as personal residence see attached letter

I agree to abide by all of the ordinances of the City of Yreka, state law, and federal law; and I authorize city representatives to enter upon the above mentioned property for inspection purposes, and to record any notice of code violation pursuant to Y.M.C. Ch. 11.40 and/or Ch. 16.08 with the office of the Siskiyou County Recorder.

I certify that I have read this application and state that the above information is correct. I agree to comply with any terms or conditions of any entitlement issued or permitted by the City pursuant to this application.

*In the event the project's effect on natural resources or wildlife is other than negligible, State Fish and Wildlife requires an additional fee of \$3,070.00 if an Environmental Impact Report is prepared or \$2,210.25 for a Negative Declaration. These fees are subject to change and the applicant is responsible for payment of the fees in full. If required, the permit cannot be issued until such time as the fee is paid. A project that is Statutorily or Categoricaly exempt requires no further fees.

APPLICANT SIGNATURE: John Kennedy III

PROPERTY OWNER'S SIGNATURE: (REQUIRED) same n/a

Property Owner's Acknowledgement of application submittal

***TO BE COMPLETED BY CITY STAFF:

*** DATE APPLICATION RECEIVED AS COMPLETE: 1-5-16

*** ZONE: CH

*** GENERAL PLAN DESIGNATION: GC

*** PERMIT NUMBER: 2016-504P

12/20/2015

Attachment A

Yreka Planning Commission
701 Fourth Street
Yreka, CA 96097

Re: Application for Condition Use Permit for an RV Storage Yard and residential use of commercial property – 113 Bruce Street Yreka, CA

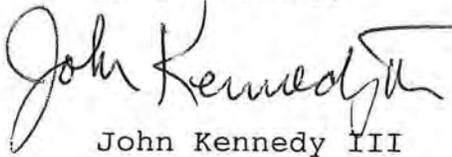
In addition to my Landscape Business, I am requesting permission to operate an RV Storage Yard and to use the property as my personal residence in conjunction with the RV Storage Yard. The current use of the Landscape business and Material yard was approved by the Yreka Planning Commission in 2005.

The businesses are not retail, so there will be no employees on site. The days and hours of operation of the RV Storage Yard will be 9am – 6pm, 7 days a week, with availability to customers by phone for any after hour needs. The RV Storage Yard and use of the property as a residence will not adversely generate additional traffic and will be a benefit to the business and the surrounding neighborhood to have someone onsite to prevent theft and vandalism.

We have discussed this proposal project with the Building Department and we are fully aware of the requirements for converting the commercial building for residential use, as well as the requirements that must be made to the lot for the RV Storage Yard.

In addition to the Use Permit, I am also requesting a waiver to the requirement of the construction of a two (2) car garage or carport next to the proposed residence.

Respectfully,



John Kennedy III

Attachment B Site Plan
113 Bruce Street



CONDITIONAL USE PERMIT NO. 2016-5 CUP
FINDINGS & CONDITIONS OF APPROVAL

1. The proposal will not be materially detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use.

The proposal for residential use in conjunction with the establishment and operation of a proposed storage yard for recreational vehicles would not be materially detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood. Subject to the issuance of a Conditional Use Permit by the Planning Commission and subject to the Conditions of Approval, use of the site would remain consistent with the intent of the General Plan designation and zone district. As such, the project will not be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood.

2. The proposal will not be materially detrimental to property or improvements in the neighborhood.

The proposal will not be materially detrimental to property or improvements in the neighborhood. Conditions of Approval will provide for residential and commercial use compatibility between the proposed residential and commercial use and the existing neighborhood and adjacent streets.

3. The proposal will not be materially detrimental to the general welfare of the city.

The use is compatible with the policies and objectives of the zoning ordinance for a CH, Commercial Highway zone which allows residential use and storage buildings and yards upon approval and validation of a conditional use permit as set forth in Section 16.36.070 (B) & (K) of the Yreka Municipal Code. This residential use in conjunction with a commercial business keeps with the character of the surrounding area, and is found to be consistent with the General Plan. The proposal will not generate significant noise or lighting. The proposal will not increase traffic beyond the capacity of existing infrastructure in an area which is sufficient to accommodate commercial uses.

4. The Planning Commission has determined that the project is exempt from environmental review pursuant to the provisions of the California Environmental Quality Act (CEQA) Section 15301 Existing Facilities & Section 15061 (b) (3) in that it is not a project which has the potential for causing a significant effect on the environment of the CEQA Guidelines.

The following conditions shall be complied with at all times that the use permitted by this permit occupies the premises:

1. Permittee granted a permit for residential use in conjunction with the establishment and operation of a storage yard business for recreational vehicles at the location set forth in the application, subject to full compliance with applicable city and state codes. The premises shall not be occupied or opened to the public until all conditions hereinafter set forth have been complied with by the Permittee.

2. All elements of the project application including site plan as approved shall be complied with.
3. Off-street parking facilities:
 - a. Residential Use – Two (2) improved parking spaces.
 - b. R.V. Storage – parking facilities are not required for this use, however, parking facilities would be required if an office was built on site. At such time, Permittee will be required to comply with Yreka Municipal Code Section 16.54.090 (Standards for off-street parking facilities), including but not limited to: The parking area, aisles and access drives shall be constructed with a minimum six-inch base and double chip seal so as to provide a durable, dustless surface and shall be so graded and drained to dispose of surface water, with the design and specifications of such work subject to the approval of the City Engineer and Building Official.
4. Aesthetics:
 - a. Storage area to be improved with compacted ¾” – (4” deep) porous base rock over prepared subgrade with filter fabric in accordance with approved site plan. Permittee shall implement regular weed control of the storage area to prevent weeds from growing up through the gravel.
 - b. Only manufactured vehicle covers with snaps or fitted non-degradable covers are allowed on stored vehicles. No tarps that require tarp bungee cords to tie down a tarp are allowed.
 - c. Landscaping shall be installed to screen the property.
5. Permittee shall obtain approval of all required public improvements through the Department of Public Works and its encroachment permit process.
6. Use shall be conducted in accordance with the site plan for the property located at 113 Bruce Street, as approved by the Planning Commission on January 20, 2016, and the site plan shall not be changed or deviated from without approval of the Planning Commission; provided, however, upon request of the Permittee and showing of good cause, the City Manager is authorized to permit minor modifications of the site plan without resubmission to the Planning Commission.
7. Permittee shall comply at all times with the zoning district regulations for a CH zone as set forth in Section 16.38 of the Yreka Municipal Code.
8. All landscaping shall be installed, maintained, and replaced as necessary. Water efficient irrigation system shall be installed for the landscaping per Yreka Municipal Code Section 16.52.030 (E).
9. Permittee shall submit a grading plan for review and approval by the Building Official prior to construction or any on-site grading.
10. Permittee shall submit a storm water detention analysis for review and approval of the Director of Public Works and/or Building Official prior to start of construction or any on-site grading. On-site detention or storm drain extension may be required.
11. Permittee shall obtain a building permit and shall pay the necessary fees therefor prior to making any building, electrical, mechanical, or plumbing installations and/or improvements to the

structure. Public infrastructure improvements such as curb, gutter, sidewalk, curb ramps, driveway approaches, street lights and asphalt concrete street pavement may be required upon issuance of a building permit in accordance with Yreka Municipal Code Section 11.24.030. If such improvements already exist, damaged public improvements shall be repaired and/or replaced to restore the improvements to a condition satisfactory to the Director of Public Works in accordance with Yreka Municipal Code Section 11.24.030.

12. Permittee shall secure a Certificate of Occupancy and approval of the Building Official and Fire Marshal that structure meets building standards and fire regulations of the Uniform Building and Fire Codes prior to use of subject business of a storage business for recreational vehicles.

13. Permittee shall secure and maintain an annual City business license to operate a storage yard business for recreational vehicles.

14. Permittee shall pave all driveway accesses from the project site onto Bruce Street a minimum of 20 feet back from the back of the sidewalk.

15. No signs shall be placed on the premises without first obtaining a sign permit.

16. Fences shall comply with the Yreka Municipal Code Section 16.46.050.

17. Use permit granted in accordance with the terms of this title may be revoked if any of the conditions or terms of such permit are violated or if any law or ordinance is violated in connection therewith, or if the Planning Commission finds, with the concurrence of the City Council, that the continuance of the use permit will endanger the public health, safety, or welfare.

18. The site plan approval shall expire and terminate if not used within one (1) year from the date of approval unless, prior to the expiration of one year, a building permit is issued and construction is commenced. Approval may be extended upon written application to the Planning Commission before expiration of the first approval.

ATTACHMENT D

PLANNING COMMISSION RESOLUTION PC 2016-5
APPROVING CONDITIONAL USE PERMIT # 2016-5 CUP
AT 113 BRUCE STREET – ASSESSOR’S PARCEL NO. 061-351-220
APPLICANT: JOHN KENNEDY

WHEREAS, John Kennedy (applicant) has requested a Conditional Use Permit for residential use in conjunction with the establishment and operation of a storage yard for recreational vehicles at 113 Bruce Street, Yreka California, APN 061-351-220; and

WHEREAS, the Planning Commission held a duly noticed public hearing to accept public comments and to review and consider the application on January 20, 2016; and

WHEREAS, the Planning Commission has determined that, subject to approval of the Conditional Use Permit and the project Conditions of Approval, the request is consistent with the Yreka General Plan and the standards of Yreka Municipal Code; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Existing Facilities and Section 15061 (b) (3) in that it is not a project which has the potential for causing a significant effect on the environment; and

WHEREAS, the Planning Commission has made the following findings with respect to the requested Conditional Use Permit:

1. The proposal will not be materially detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the proposed use.
2. The proposal will not be materially detrimental to property or improvements in the neighborhood.
3. The proposal will not be materially detrimental to the general welfare of the city.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Yreka does hereby approve Conditional Use Permit #2016-5 CUP, subject to the following conditions:

1. Permittee granted a permit for residential use in conjunction with the establishment and operation of a storage yard business for recreational vehicles at the location set forth in the application, subject to full compliance with applicable city and state codes. The premises shall not be occupied or opened to the public until all conditions hereinafter set forth have been complied with by the Permittee.

2. All elements of the project application including site plan as approved shall be complied with.
3. Off-street parking facilities:
 - a. Residential Use – Two (2) improved parking spaces.
 - b. R.V. Storage – parking facilities are not required for this use, however, parking facilities would be required if an office was built on site. At such time, Permittee will be required to comply with Yreka Municipal Code Section 16.54.090 (Standards for off-street parking facilities), including but not limited to: The parking area, aisles and access drives shall be constructed with a minimum six-inch base and double chip seal so as to provide a durable, dustless surface and shall be so graded and drained to dispose of surface water, with the design and specifications of such work subject to the approval of the City Engineer and Building Official.
4. Aesthetics:
 - a. Storage area to be improved with compacted $\frac{3}{4}$ " – (4" deep) porous base rock over prepared subgrade with filter fabric in accordance with approved site plan. Permittee shall implement regular weed control of the storage area to prevent weeds from growing up through the gravel.
 - b. Only manufactured vehicle covers with snaps or fitted non-degradable covers are allowed on stored vehicles. No tarps that require tarp bungee cords to tie down a tarp are allowed.
 - c. Landscaping shall be installed to screen the property.
5. Permittee shall obtain approval of all required public improvements through the Department of Public Works and its encroachment permit process.
6. Use shall be conducted in accordance with the site plan for the property located at 113 Bruce Street, as approved by the Planning Commission on January 20, 2016, and the site plan shall not be changed or deviated from without approval of the Planning Commission; provided, however, upon request of the Permittee and showing of good cause, the City Manager is authorized to permit minor modifications of the site plan without resubmission to the Planning Commission.
7. Permittee shall comply at all times with the zoning district regulations for a CH zone as set forth in Section 16.38 of the Yreka Municipal Code.
8. All landscaping shall be installed, maintained, and replaced as necessary. Water efficient irrigation system shall be installed for the landscaping per Yreka Municipal Code Section 16.52.030 (E).

9. Permittee shall submit a grading plan for review and approval by the Building Official prior to construction or any on-site grading.
10. Permittee shall submit a storm water detention analysis for review and approval of the Director of Public Works and/or Building Official prior to start of construction or any on-site grading. On-site detention or storm drain extension may be required.
11. Permittee shall obtain a building permit and shall pay the necessary fees therefor prior to making any building, electrical, mechanical, or plumbing installations and/or improvements to the structure. Public infrastructure improvements such as curb, gutter, sidewalk, curb ramps, driveway approaches, streetlights and asphalt concrete street pavement may be required upon issuance of a building permit in accordance with Yreka Municipal Code Section 11.24.030. If such improvements already exist, damaged public improvements shall be repaired and/or replaced to restore the improvements to a condition satisfactory to the Director of Public Works in accordance with Yreka Municipal Code Section 11.24.030.
12. Permittee shall secure a Certificate of Occupancy and approval of the Building Official and Fire Marshal that structure meets building standards and fire regulations of the Uniform Building and Fire Codes prior to use of subject business of a storage business for recreational vehicles.
13. Permittee shall secure and maintain an annual City business license to operate a storage yard business for recreational vehicles.
14. Permittee shall pave all driveway accesses from the project site onto Bruce Street a minimum of 20 feet back from the back of the sidewalk.
15. No signs shall be placed on the premises without first obtaining a sign permit.
16. Fences shall comply with the Yreka Municipal Code Section 16.46.050.
17. Use permit granted in accordance with the terms of this title may be revoked if any of the conditions or terms of such permit are violated or if any law or ordinance is violated in connection therewith, or if the Planning Commission finds, with the concurrence of the City Council, that the continuance of the use permit will endanger the public health, safety, or welfare.
18. The site plan approval shall expire and terminate if not used within one (1) year from the date of approval unless, prior to the expiration of one year, a building permit is issued and construction is commenced. Approval may be extended upon written application to the Planning Commission before expiration of the first approval.



CITY OF YREKA
PLANNING COMMISSION AGENDA MEMORANDUM

To: Yreka Planning Commission
Prepared by: Steve Baker, City Manager
Agenda Title: Discussion/Possible Action – Consideration of the following alternate Resolutions:

1. RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF YREKA RECOMMENDING THE CITY COUNCIL ADOPT AN URGENCY ORDINANCE ENACTING CHAPTER 9.26 ENTITLED “**MARIJUANA CULTIVATION PROHIBITED**” PROHIBITING THE CULTIVATION OF MARIJUANA WITHIN THE CITY OF YREKA, AND FINDING THE ADOPTION OF THIS ORDINANCE TO BE EXEMPT FROM CEQA.

2. AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YREKA ENACTING CHAPTER 9.26 ENTITLED “**MARIJUANA CULTIVATION**” TO PROHIBIT OUTDOOR CULTIVATION OF MARIJUANA, REGULATE THE STRUCTURES WITHIN WHICH MARIJUANA MAY BE CULTIVATED, ESTABLISH A REGISTRATION PROCESS AND FINDING THE ADOPTION OF THIS ORDINANCE TO BE EXEMPT FROM CEQA.

Meeting date: January 20, 2016

Summary:

On October 9, 2015, Governor Brown signed Assembly Bills (AB) 243 and 266 and Senate Bill (SB) 643 implementing the Medical Marijuana Regulation and Safety Act. According to the new laws, the state will become the sole licensing authority for medical marijuana cultivation if the City does not have land use regulations or ordinances regulating or prohibiting medical marijuana cultivation in effect by March 1, 2016. Staff recommends that the City retain local control by immediately adopting a new ordinance (Alternate ordinances are Attachments D and E) to prohibit medical marijuana cultivation within the City of Yreka, or if the alternative ordinance is adopted, with a limited exemption for marijuana cultivation for personal medical use. The City may reconsider this decision after additional information is available, including new state regulations for licensing medical marijuana cultivation.

Further discussion of the Medical Marijuana Regulation and Safety Act and how it affects the City has been provided by the League of California Cities and has been included as Attachment A to this report.

This report presents to the Planning Commission, for recommendation to the City Council, two Alternative proposed Ordinances prohibiting/regulating Marijuana Cultivation within the city limits. Attachment B depicts the findings relating to the adoption of each Ordinance.

Background

The Medical Marijuana Regulation and Safety Act establishes the new Bureau of Medical Marijuana Regulation within the California State Department of Consumer Affairs to administer and enforce certain provisions of AB 243, AB 266, and SB 643.

AB 243

In part, AB 243 makes the State Department of Food and Agriculture responsible for licensing and regulating medical marijuana cultivation. AB 243 allows the state to become the sole licensing authority for medical marijuana cultivation in cities and counties that do not have land use regulations or ordinances regulating or prohibiting medical marijuana cultivation in effect by March 1, 2016.

AB 243 also addresses marijuana cultivation for personal medical use. It exempts qualified patients and primary caregivers from the requirements to obtain a state license for medical marijuana cultivation if the area for cultivation by a qualified patient does not exceed 100 square feet and the area for cultivation by a primary caregiver does not exceed 500 square feet for five qualified patients.

AB 266

AB 266 creates a dual licensing structure between the state, cities, and counties in which both a state license and a local government permit or license will be required for medical marijuana activities. AB 266 also allows dispensaries to deliver medical marijuana to qualified patients. However, cities and counties may prohibit such deliveries within their jurisdictions. According to AB 266, the state will develop regulations for licensing medical marijuana activities. Several provisions in AB 266 imply that the Bureau of Medical Marijuana Regulation may begin issuing licenses for dispensaries and other medical marijuana activities in January 2018.

SB 643

SB 643 requires the Medical Board of California to develop criteria for regulating physicians and administration and use of medical marijuana. SB 643 also contains provisions regarding the transportation, tracking, and taxation of medical marijuana.

Discussion and Staff Recommendations

The new laws allow the state to license medical marijuana cultivation and delivery, as discussed above. Several California cities and counties have reported negative impacts of marijuana cultivation, processing, and distribution activities, including illegal sales and distribution of marijuana, trespassing, and theft. Additionally, marijuana plants can produce strong odors that may be offensive to some people and detectable beyond property boundaries. In part, the new laws aim to address these negative impacts. However, state regulations and state licensing are not anticipated until July 1, 2017 and January 2018, respectively.

According to AB 243, the City must act immediately if it wishes to retain authority to prohibit or regulate medical marijuana cultivation. Specifically, the state will become the sole licensing authority for medical marijuana cultivation unless the City has an ordinance prohibiting or regulating medical marijuana cultivation in effect by March 1, 2016. Furthermore, the state is anticipated to begin licensing medical marijuana dispensaries in January 2018.

To regulate medical marijuana cultivation, the City would need to develop regulations to address potential impacts on the environment, public health, safety, and welfare. However, the short statutory timeframe in the new laws does not provide sufficient time to fully analyze issues, allow public review, or fully develop necessary ordinances or regulations. In addition, great uncertainty exists regarding future state regulations for medical marijuana cultivation.

Staff recommends that the City retain local control over medical marijuana cultivation. To this end, the Yreka Planning Commission should immediately adopt a recommendation to add a new Chapter 9.26, titled "Marijuana Cultivation," to the City of Yreka City Code, to prohibit most or all cultivation of medical marijuana within the City of Yreka. The proposed ordinances include a number of definitions, including definitions for cultivation of medical marijuana. Cultivation includes the processing of marijuana for medical purposes.

AB 243 contains exemptions allowing qualified patients and their caregivers to cultivate up to 100 and 500 square feet, respectively, of marijuana for personal medical use, as discussed above. Cultivation of more than 100 square feet of medical marijuana would likely occur on property not owned, rented, or otherwise associated with qualified patients and would result in significant negative impacts. Therefore, larger scale cultivation warrants careful consideration and appropriate regulations, if permitted in the City. However, the City does not have time to develop such regulations before March 1, 2016. Therefore, staff plans to submit two alternatives to the City Council; one version that completely prohibits the cultivation of medical marijuana and another that permits a limited exemption allowing qualified patients and their caregivers to cultivate up to 100 square feet of marijuana for personal medical use per household no matter how many patients and caregivers reside at the residence.

More specifically, one alternative of Chapter 9.26 provides an exemption for a qualified patient or primary caregiver to allow marijuana cultivation for personal medical use provided (1) the cultivation occurs on the lot that contains the lawful residential structure occupied by the qualified patient or person with an identification card; (2) the cultivation occurs on a single cultivation site that does not exceed 100 square feet; (3) the cultivation conforms to all applicable zoning regulations and current California and City building codes.

City staff will continue to monitor this issue and future state regulations. The City may reconsider its decision to prohibit or limit medical marijuana cultivation when additional information is available, including new state regulations for licensing medical marijuana cultivation.

To have an ordinance in effect by March 1, 2016, staff must present the City Planning Commission's recommendation to the City Council on February 4, 2016. The new ordinance would take effect on February 18, 2016 as an urgency ordinance allowing the City to retain authority over medical marijuana cultivation and preserve its ability to adopt regulations in the future.

CEQA

Staff recommends that the project be determined exempt from environmental review pursuant to Section 15061(b) (3) of the California Guidelines for Implementation of the California Environmental Quality Act (CEQA). Section 15061(b) (3) states that 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. As explained further in Attachment C, no significant environmental impacts would occur as a result of the proposed ordinance

Recommended Action: Staff recommends that the Planning Commission recommend approval of one of the proposed ordinances by adopting the appropriate resolution below. Staff also recommends that the Planning Commission make a recommendation to the City Council that the proposed action is exempt from CEQA review under Public Resources Code Section 15061(b)(3), commonly described

as the “general rule” exemption. The Planning Commission Resolutions are with the proposed Ordinances as attachments D and E. Staff proposes the following process for the consideration of this matter:

1. Accept report by staff
2. Open the public hearing and take public testimony
3. Close the public hearing and initiate consideration of the project by the Commission, and
4. Motion and vote by the Commission making a recommendation on the draft ordinance to the City Council.

If the Planning Commission determines that it is appropriate to take action on the amendment as presented or amended, staff recommends that the commission make the following motion:

1. CEQA exemption:

I move that the Planning Commission determine that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b) (3) of the CEQA Guidelines.

2. Adopt Resolution:

I move that the Planning Commission adopt Planning Commission (Choose one - Resolution No. 2016-3 or Resolution 2016-3a and read title from below)

1. **RESOLUTION # 2016-3** OF THE PLANNING COMMISSION OF THE CITY OF YREKA RECOMMENDING THE CITY COUNCIL ADOPT AN URGENCY ORDINANCE ENACTING CHAPTER 9.26 ENTITLED “MARIJUANA CULTIVATION PROHIBITED” PROHIBITING THE CULTIVATION OF MARIJUANA WITHIN THE CITY OF YREKA, AND FINDING THE ADOPTION OF THIS ORDINANCE TO BE EXEMPT FROM CEQA.
2. **RESOLUTION 3 2016-3A** OF THE PLANNING COMMISSION OF THE CITY OF YREKA RECOMMENDING THE CITY COUNCIL ADOPT AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YREKA ENACTING CHAPTER 9.26 ENTITLED “**MARIJUANA CULTIVATION**” TO PROHIBIT OUTDOOR CULTIVATION OF MARIJUANA, REGULATE THE STRUCTURES WITHIN WHICH MARIJUANA MAY BE CULTIVATED, ESTABLISH A REGISTRATION PROCESS AND FINDING THE ADOPTION OF THIS ORDINANCE TO BE EXEMPT FROM CEQA.

Attachments: Attachment A – Information from the League of California Cities.
Attachment B – Findings
Attachment C – CEQA Determination – Notice of Exemption
Attachment D – Planning Commission Resolution # PC 2016-3 & Proposed Ordinance
Attachment E - Planning Commission Resolution # PC 2016-3a & Proposed Ordinance

Approved by: 
Steven Baker, City Manager

MEDICAL MARIJUANA REGULATION AND SAFETY ACT¹

What Cities Need to Know About the New Law and Cultivation

OVERVIEW

Here's what you need to know:

- **Local prohibition or regulation:** Cities may prohibit or regulate medical marijuana businesses within their jurisdictions. **Local authority remains intact under the new law.**
- **State license required:** All medical marijuana businesses – dispensary sales, delivery service, cultivation, transport or distribution – must have a State license².
- **State license not enough:** A medical marijuana business in any city may only operate if it has permission from the State and permission from the city (“dual licensing”).
- **Enforcement:** Revocation of local permission to operate means a medical marijuana business must terminate operation because the new law requires dual licensing. Upon approval of the State, a city may enforce State law.
- **State law penalties for unlicensed activity:** There are civil penalties and criminal penalties for operating without a State license.

CULTIVATION

Here's what you need to know:

If your city does **not** have a land use ordinance in place regulating or prohibiting the cultivation of marijuana, *either expressly or otherwise under the principles of permissive zoning*, or chooses not to administer a conditional permit program, then commencing **March 1, 2016**, the State Department of Food and Agriculture will be the sole licensing authority for medical marijuana cultivation applicants.

1 AB 266 (Bonta, Cooley, Jones-Sawyer, Lack, Wood); AB 243 (Wood); and SB 643 (McGuire). Effective 1/1/2016.

2 The Department of Consumer Affairs estimates it will begin issuing State licenses in January 2018. The Department of Food and Agriculture and the Department of Public Health also have licensing authority under the new law. Businesses operating in compliance with local ordinances will get priority in the State licensing application process.

October 27, 2015

CULTIVATION

Here's what you need to do:

Determine if your city fits within City #1 or City #2 as described below:

- **City #1:** Municipal Code that does not expressly prohibit nor expressly regulate cultivation of medical marijuana and is not a “permissive zoning” code. **Need to take action.**

ACTION REQUIRED: Adopt a land use ordinance regulating or prohibiting the cultivation of medical marijuana. The ordinance must be effective by February 28, 2016. The ordinance may be adopted as an “urgency ordinance,” or second reading must occur on or before January 29, 2016.

- **City #2:** Municipal Code that is a “permissive zoning” code and does not enumerate cultivation of medical marijuana as a permitted or conditional use. **Need to take action.**

ACTION REQUIRED: (1) Check and confirm that your city’s zoning code is adopted and implemented under the principles of permissive zoning. If not, take action recommended for City #1. (2) If confirmed, adopt a resolution that includes the following provisions:

- States that Health & Safety Code section 11362.777(b)(3) provides that the Department of Food and Agriculture may not issue a State license to cultivate medical marijuana within a city that prohibits cultivation under principles of permissive zoning;
- Re-affirms and confirms that the Zoning Code is adopted and operates under the principles of permissive zoning;
- States this means that cultivation of marijuana is not allowed within City #2 because it is not expressly permitted; and
- Therefore, the State is not allowed to issue a license for the cultivation of medical marijuana within City #2.

Be sure to consult with your city attorney before taking any of the actions recommended in this document.



ATTACHMENT B: FINDINGS

CASE NO. 15ORD-00000-00018

1.0. CEQA FINDINGS

1.1 CEQA Guidelines Exemption Findings

1.1.1 The Yreka Planning Commission finds and recommends that the City Council find that the proposed project, two Medical Marijuana Ordinances, are exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section, (15061)(b)(3), 15060(c)(2), 15060(c)(3) and 15305.

2.0 ADMINISTRATIVE FINDINGS

Government Code Section 65855 requires that "...the planning commission shall render its decision in the form of a written recommendation to the legislative body. Such recommendation shall include the reasons for the recommendation, the relationship of the proposed ordinance to applicable general and specific plans, and shall be transmitted to the legislative body in such form and manner as may be specified by the legislative body." The following findings address Government Code Section 65855 and shall be made by the Yreka Planning Commission in order to recommend approval of the proposed ordinance, and the City Council shall adopt the following findings in order to approve the proposed ordinance:

2.1 The request is in the interests of the general community welfare.

The Medical Marijuana Regulation and Safety Act (Assembly Bills 243 and 266 and Senate Bill 643; signed October 9, 2015) addresses medical marijuana cultivation, processing, testing, and distribution throughout California, including licensing by the state. In part, the Act provides that the state will be the sole licensing authority for medical marijuana cultivation unless a city or county enacts an ordinance to prohibit or regulate this activity within its jurisdiction by March 1, 2016.

Medical marijuana cultivation has negative impacts on the physical environment and general community welfare as discussed in this Yreka Planning Commission staff report, for the meeting of January 20, 2016, and incorporated herein by reference. The Yreka Municipal Code does not explicitly address medical marijuana cultivation. The Yreka lacks sufficient time to prepare a comprehensive ordinance to regulate medical marijuana cultivation in order to minimize negative impacts by March 1, 2016. Therefore, the proposed ordinance is in the interest of the general community welfare since it revises the Yreka Code to generally completely prohibit medical marijuana cultivation completely or to permit it in a limited form as follows:

As to Attachment D, which completely prohibits cultivation:

- The indoor Cultivation of Marijuana within a Residence or Accessory Structure used or intended for human occupancy presents potential health and safety risks to those living in the Residence or otherwise occupying the structure, especially to children, including, but not limited to, increased risk of

fire from grow light systems, exposure to fertilizers, pesticides, anti-fungus/mold agents, and exposure to potential property crimes.

- Prohibiting the Cultivation of Marijuana within a Residence or Accessory Structure used is proper and necessary to avoid the aforementioned harms, and to protect the health, safety, and welfare of the residents and businesses within the incorporated area of the City of Yreka.

As to Attachment E which regulates cultivation:

- Prohibit medical marijuana cultivation in all zones within the City of Yreka, except for a limited exemption for personal medical use.
- Allow a qualified patient or person with an identification card or that patient's or person's primary caregiver to engage in marijuana cultivation for personal medical use subject to specified conditions.

2.2 The request is consistent with the Yreka General Plan, the requirements of state planning and zoning laws, and the Yreka zoning ordinances.

The Medical Marijuana Regulation and Safety Act contains provisions that allow a city or county to enact ordinances to prohibit or regulate medical marijuana cultivation, processing, and delivery. The proposed ordinance will prohibit medical marijuana cultivation within the City of Yreka either completely or within certain limited circumstances. The proposed ordinance includes a number of definitions, including definitions for cultivation of medical marijuana. Cultivation is defined to include the processing of marijuana for medical purposes. Therefore, adoption of the proposed ordinance will not conflict with, and may be found consistent with, state laws, including the Medical Marijuana Regulation and Safety Act.

The Yreka Municipal Code prohibits medical marijuana dispensaries in all zones within the City of Yreka, except at certain medical facilities as defined in Section 9.25.010 of the Yreka Municipal Code. However, the policies and development standards of the Yreka General Plan and Yreka zoning ordinances do not explicitly address medical marijuana cultivation. The proposed ordinance will clearly address medical marijuana cultivation within the City of Yreka. Therefore, adoption of the proposed ordinance will not conflict with, and may be found consistent with, the Yreka Comprehensive Plan and zoning ordinances.

- Allow a qualified patient or person with an identification card or that patient's or person's primary caregiver to engage in marijuana cultivation for personal medical use subject to specified conditions, (see attachment E).

2.3 The request is consistent with good zoning and planning practices.

The proposed ordinance clearly and specifically addresses medical marijuana cultivation within the City of Yreka. It also prohibits activities (i.e., all or most cultivation) that could have significant negative impacts on the physical environment and general community welfare. As stated in Finding 2.2, above, the ordinance is consistent with state laws regarding medical marijuana, including the Medical Marijuana Regulation and Safety Act. As also discussed in Finding 2.2, above, the ordinance is consistent with the Yreka General Plan, and the Yreka Municipal Code. Therefore, adoption of the proposed ordinance is consistent with sound zoning and planning practices to regulate land uses.

NOTICE OF EXEMPTION

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County guidelines for the implementation of CEQA.

Project Description: Two alternative proposed alternate ordinances related to Medical Marijuana Cultivation Article 9, titled "**MARIJUANA CULTIVATION PROHIBITED**," or "**MARIJUANA CULTIVATION**" to Chapter 9.26 of the City of Yreka Municipal Code, to implement regulations to prohibit medical marijuana cultivation or regulate marijuana cultivation for personal medical use within a one hundred square feet area with specific health and safety regulations.

Location: The proposed ordinance would apply to all of the City of Yreka.

Project Title: Medical Marijuana Regulations

Project Description:

Each of the proposed ordinances adds Chapter 9.26 to Title 9 of the Yreka Municipal Code. One ordinance completely prohibits the cultivation of Medical Marijuana and the other prohibits the cultivation of medical marijuana in all zones, districts, properties, and areas within the incorporated areas of Yreka with a limited exemption for qualified patients, persons with an identification card, and primary caregivers within a 100 square feet area.

Name of Public Agency Approving Project: City of Yreka

Name of Person or Agency Carrying Out Project: City of Yreka

Exempt Status:

- Ministerial
- Statutory Exemption
- Categorical Exemption
- Emergency Project
- No Possibility of Significant Effect

Cite specific CEQA Guideline Section:

Each of the ordinances are not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the approval of this ordinance is not a project under CEQA Regulation Section 15061(b) (3) because it has no potential for causing a significant effect on the environment. In addition, the ordinance is exempt from environmental review pursuant to the general rule of the California Environmental Quality Act, which exempts minor

alterations to land use limitations that do not result in changes in land use or density pursuant to CEQA Guidelines Section 15305. Finally, this Ordinance is exempt because it is an urgency Ordinance necessary to protect the City from a current and immediate threat to the public health, safety and welfare. Based on the information contained in the staff report and accompanying attachments and exhibits, the City Council hereby finds:

1. The proposed project will not result in a significant adverse effect on the environment and will support the public health, safety, and welfare
2. The Ordinance and its provisions are consistent with the goals and policies of the General Plan.
3. The Ordinance provides regulations for Marijuana Cultivation and this minor alteration to land use limitations that do not result in changes in land use or density pursuant to CEQA Guidelines Section 15305.
4. This is an urgency Ordinance necessary to protect the City from a current and immediate threat to the public health, safety and welfare.

Reasons to support exemption findings: As discussed further below, there is no substantial evidence that the proposed project involves unusual circumstances, including future activities, resulting in or which might reasonably result in significant impacts, which threaten the environment; therefore, the project is not subject to CEQA. The proposed ordinance will add a new Chapter 9.26 to Title 9 of the Yreka Municipal Code to prohibit medical marijuana cultivation, either completely or with a limited exception for personal cultivation by a qualified patient, a person with an identification card, or that patient's or person's primary caregiver. The "medical marijuana cultivation for personal medical use exemption" will allow outdoor marijuana cultivation provided all of the following occur:

1. The cultivation occurs on the lot that contains the lawful residential structure occupied by the qualified patient or person with an identification card;
2. The cultivation occurs on a single cultivation site that does not exceed 100 square feet;
3. The cultivation conforms to all applicable zoning regulations and current California and County building codes;

Of note, no commercial activities would occur. Thus, the proposed ordinance would not result in traffic generation, associated air quality impacts, or noise impacts. Areas of potential cultivation would be of small size (100 square feet) and located such that no other adverse impacts would occur. As a result, there is no potential for a physical change to the environment directly or indirectly. Therefore, it can be seen with certainty that there is no possibility that the project would have a significant adverse effect on the environment.

Lead Agency Contact Person: Liz Casson

Resolution No. PC 2016-3

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF YREKA
RECOMMENDING THE CITY COUNCIL ADOPT AN URGENCY ORDINANCE
ENACTING CHAPTER 9.26 ENTITLED "MARIJUANA CULTIVATION PROHIBITED"
PROHIBITING THE CULTIVATION OF MARIJUANA WITHIN THE CITY OF YREKA,
AND FINDING THE ADOPTION OF THIS ORDINANCE TO BE EXEMPT FROM CEQA.

WHEREAS, the members of the Planning Commission, with the assistance of City staff, have reviewed the proposed Ordinance enacting Chapter 9.26 entitled "Marijuana Cultivation Prohibited" prohibiting the cultivation of Marijuana within the City of Yreka, and

WHEREAS, the Planning Commission has determined the this proposed Ordinance is consistent with the Yreka General Plan and the standards of Yreka Municipal Code; and

WHEREAS, the proposed amendment to the Yreka Municipal Code has been determined to be *exempt* from California Environmental Quality Act (CEQA) review pursuant to Public Resources Code Section 15061(b)(3), commonly described as the 'general rule' exemption, because the proposed action would not permit new development at a density or intensity in excess of what is permitted at the current time and under current regulations and would not allow for new development methods, techniques or applications that would physically impact the environment, and

WHEREAS, the City has noticed a public hearing for the proposed Ordinance as required by Government Code Section 65090; and

WHEREAS, on January 20, 2016, the Planning Commission conducted a public hearing on the proposed Ordinance adding Chapter 9.26 to the Yreka Municipal Code.

NOW THEREFORE, THE YREKA PLANNING COMMISSION DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. The Planning Commission hereby finds and determines that the foregoing recitals are true and correct.

Section 2. The Planning Commission recommends the Yreka City Council adopt an Urgency Ordinance of the City Council of the City of Yreka enacting Chapter 9.26 entitled "Marijuana Cultivation Prohibited" prohibiting the cultivation of marijuana within the city of Yreka, and finding the adoption of this ordinance to be exempt from CEQA, attached hereto and made a part herein by reference.

Passed and adopted this 20th day of January 2016, by the following vote:

Ayes:

Nays:

Absent:

Matt Osborn, Chair



ORDINANCE NO.

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YREKA ENACTING CHAPTER 9.26 ENTITLED "MARIJUANA CULTIVATION PROHIBITED" PROHIBITING THE CULTIVATION OF MARIJUANA WITHIN THE CITY OF YREKA, AND FINDING THE ADOPTION OF THIS ORDINANCE TO BE EXEMPT FROM CEQA

THE CITY COUNCIL OF THE CITY OF YREKA FINDS AND ORDAINS AS FOLLOWS:

Section 1. The City Council of the City of Yreka, by four-fifths vote, makes the following urgency findings and declares the following:

A. Chapter 9.26 of the City of Yreka Code is intended to implement state law by providing a means for regulating the Cultivation of medical Marijuana in a manner that is consistent with state law and which balances the needs of medical patients and their caregivers and promotes the health, safety, and welfare of the residents and businesses within the incorporated area of the City of Yreka, as from time to time annexed and expanded.

B. The Cultivation of Marijuana outdoors, where it is often readily observable by neighbors and the general public, increases the risk of trespassing and burglary, and acts of violence in connection with the commission of such crimes or the occupants' attempts to prevent such crimes. Outdoor Cultivation further makes the premises more prone to act as an attractive nuisance for children, and increases the likelihood of offensive odors traveling off the premises. Additionally, experience in the City of Yreka, and elsewhere, demonstrates that outdoor Cultivation of Marijuana is often associated with violations of local, state, and federal environmental laws and pesticide regulations, threatening harm to local waterways and groundwater quality, and endangering the public health and safety.

C. The indoor Cultivation of Marijuana within a Residence or Accessory Structure used or intended for human occupancy presents potential health and safety risks to those living in the Residence or otherwise occupying the structure, especially to children, including, but not limited to, increased risk of fire from grow light systems, exposure to fertilizers, pesticides, anti-fungus/mold agents, and exposure to potential property crimes.

D. Prohibiting the Cultivation of Marijuana outdoors and within a Residence or Accessory Structure used is proper and necessary to avoid the aforementioned harms, and to protect the health, safety, and welfare of the residents and businesses within the incorporated area of the City of Yreka.

42 E. The City Council has heard substantial evidence that because Yreka lacks a
43 Marijuana Cultivation ordinance, it has become an attractive location for out-of-city
44 and out-of state for-profit cultivators to come to for the purpose of large-scale
45 Marijuana grows. Recently many counties and cities in Northern California have
46 adopted restrictive or prohibitive Marijuana Cultivation ordinances, making Yreka
47 an attractive option for Marijuana cultivators. The Council finds that immediate
48 action, in the form of urgency ordinance is necessary to curb the potential influx of
49 large-scale Marijuana Cultivation into the City.

50 F. The City Council has previously found that a statewide water shortage
51 emergency exists, under the authority of Executive Order B-29-15; California Code
52 of Regulations, Title 23, Sections 863, 864, 865 and 868; the State mandated that all
53 urban water suppliers implement water waste control measures; as well as State
54 Urban Water Supplier Conservation Tiers requiring City water users to decrease
55 their water usage by thirty-two (32) percent; and pursuant to its authority under
56 Water Code Section 350, 356 and 375, the City of Yreka prohibited the wastage of
57 water and ordered that the water conservation measures and water use restrictions
58 are necessary and appropriate to prevent the waste of water and to protect the health
59 and safety of water users.

60 G. Because Yreka residents have not yet decreased water usage to the mandated
61 levels and are presently 17.7% over their allowed water consumption limit, the State
62 Water Resources Board has served a Conservation Order on the City mandating the
63 City to identify areas of potential water usage. The Chapter of Marijuana is one
64 area where water may be conserved by restricting the area of Cultivation resulting
65 in less water being used as compared to a larger area Cultivations.

66 H. Adoption of this Ordinance under urgency is necessary for the immediate
67 preservation of the public peace, health, and safety, as set forth in Government Code
68 section 25123, subdivision (d), in order to prevent further Cultivation of Marijuana
69 outdoors and to restrict Cultivation within Residences or Accessory Structures used
70 or intended for human occupancy in the City of Yreka, which would threaten
71 significant impacts on the public peace, health, and safety if permitted to occur.

72 I. The Medical Marijuana Regulation and Safety Act provides that the State of
73 California will be the sole licensing authority for the commercial Cultivation of
74 medical Marijuana unless a city adopts a land use regulation or ordinance regulating
75 or prohibiting the Cultivation of Marijuana under the principles of permissive
76 zoning. Yreka has no such land use ordinance and the State of California has
77 mandated that any land use regulation or ordinance must take effect before March 1,
78 2016. Since due process requires proper notice, hearing and recommendation by the
79 Planning Commission before the City Council consider a zoning ordinance; this
80 Ordinance could not become effective prior to March 1, 2016 if the usual 30-day
81 post-adoption time period for it to become effective were applied. As Yreka's health
82 and safety requires that the dangerous conditions that arise from the Cultivation of
83 Marijuana should be mitigated through local land use controls and that local right
84 will be lost if not exercised before March 1, 2016, the adoption and effectiveness of

85 this ordinance is urgent and necessary for the immediate preservation of the public
86 peace, health, and safety.

87 J. Adoption of this ordinance immediately will further ensure that the
88 prohibition of outdoor Marijuana Cultivation becomes effective early enough
89 in the outdoor growing season to allow any Marijuana plants previously
90 planted outdoors to be transplanted to a permitted indoor structure by the
91 grower, without undue hardship to medical patients and their caregivers
92 eligible to cultivate Marijuana in accordance with applicable law.

93 **Section 2. Effective Date.**

94 This ordinance shall take effect immediately upon its passage, and after
95 its passage shall be published according to law with the names of the members
96 voting for and against the same, once in a local newspaper of general
97 circulation in the City of Yreka, State of California.

98 **Section 3. Enactment.**

99 Chapter 9.26 of Title 9 of the City of Yreka Municipal Code is hereby
100 enacted and added as a codified ordinance to read as follows:

101 **CHAPTER 9.26**

102 **MARIJUANA CULTIVATION PROHIBITED**

103 **Sections**

104 **9.26.100 Authority**

105 **9.26.120 Findings**

106 **9.26.130 Scope**

107 **9.26.140 Responsibilities**

108 **9.26.150 Private Right of Action**

109 **9.26.200 Definitions**

110 **9.26.300 Cultivation Prohibited**

111 **9.26.400 Public Nuisance**

112 **9.26.500 Enforcement Authority**

113 **9.26.510 Right of Entry/Inspection**

114 **9.26.520 Violations**

115 **9.26.530 Remedies**

116 **9.26.540 Notice and Order to Abate**

117 **9.26.550 Violation Penalties**

118 **9.26.560 Enforcement Costs**

119 **9.26.570 Record of Abatement Cost-Hearing and Proceedings**

120 **9.26.575 Nuisance Abatement Lien.**

121 **9.26.600 Relief and Reconsideration**

122 **9.26.610 Decision - Time Limitation for Judicial Filing**
123 **9.26.620 Severability**

124 **ARTICLE I**
125 **GENERAL PROVISIONS**

126 **9.26.100 Authority**

127 Pursuant to authority granted by Article XI Section 7 of the California
128 Constitution, Section 372 of the California Penal Code, California Code
129 of Civil Procedure § 731 and California Civil Code §3491 the City
130 Council of the City of Yreka does hereby enact this Chapter.

131 **9.26.110 Purpose & Intent**

132 The purpose and intent in adopting this Chapter is to acknowledge State
133 law as it relates to medical Marijuana and to reduce conditions that create
134 public nuisances through enacting these regulations including without
135 limitation, the prohibition of Marijuana Cultivation in order to effectively
136 control the adverse impacts associated with Marijuana Cultivation as stated
137 herein, while considering the desires of Qualified Patients Qualified Patients
138 and Primary Caregivers, in furtherance of the public necessity, health, safety,
139 convenience, and general welfare within the City's jurisdictional limits. While
140 in 1996, the voters of the State of California approved Proposition 215
141 (codified as Health & Safety Code Section 11362.5 et seq. and entitled "The
142 Compassionate Use Act of 1996" referred to herein as the "CUA"). In 2003, the
143 California Legislature adopted SB 420, the Medical Marijuana Program
144 ("MMP"), codified as Health and Safety Code Section 11362.7 et seq., which
145 permits qualified patients and their primary caregivers to associate collectively
146 or cooperatively to cultivate marijuana for medical purposes without being
147 subject to criminal prosecution under the California Penal Code. Neither the
148 CUA nor the MMP require or impose an affirmative duty or mandate upon a
149 local government to allow, authorize, or sanction the establishment of facilities
150 that cultivate or process medical marijuana within its jurisdiction. Nothing in
151 this Chapter shall be construed to authorize any use, possession, Cultivation, or
152 distribution of Marijuana for non-medical purposes or that is in violation of
153 state or federal law.

154 **9.26.120 Findings**

155 A. The Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies
156 Marijuana as a Schedule I Drug, which is defined as a drug or other
157 substance that has a high potential for abuse, that has no currently accepted
158 medical use in treatment in the United States, and that has not been
159 accepted as safe for use under medical supervision.

- 161 B. The Federal Controlled Substances Act makes it unlawful, under federal
162 law, for any person to cultivate, manufacture, distribute or dispense, or
163 possess with intent to manufacture, distribute or dispense, Marijuana. The
164 Federal Controlled Substances Act contains no exemption for the
165 Cultivation, manufacture, distribution, dispensation, or possession of
166 Marijuana for medical purposes.
- 167 C. In 1996, the voters of the State of California approved Proposition 215,
168 “The Compassionate Use Act,” (codified as Health and Safety Code
169 Section 11362.5) which was intended to decriminalize Cultivation and
170 possession of medical Marijuana by a seriously ill patient, or the patient's
171 primary caregiver, for the patient's personal use, and to create a limited
172 defense to the crimes of possessing or cultivating Marijuana. The Act
173 further provided that nothing in this section shall be construed to supersede
174 legislation prohibiting persons from engaging in conduct that endangers
175 others, or to condone the diversion of Marijuana for non-medical purposes.
- 176 D. In May 2013, the California Supreme Court issued its decision in *City of*
177 *Riverside v. Inland Empire Patients Health and Wellness Center, Inc., et*
178 *al.*, holding that cities have the authority to ban medical marijuana land
179 uses.
- 180 E. Under the Federal Controlled Substances Act, codified in 21 U.S.C.
181 Section 801 et seq., the use, possession, and cultivation of marijuana are
182 unlawful and subject to federal prosecution without regard to a claimed
183 medical need.
- 184 F. On October 9, 2015, Governor Jerry Brown signed the “Medical Marijuana
185 Regulation and Safety Act” (“Act”), which is comprised of the state
186 legislative bills known as AB 243, AB 266, and SB 643, into law. The Act
187 becomes effective January 1, 2016 and contains provisions that govern the
188 cultivating, processing, transporting, testing, and distributing of medical
189 cannabis to qualified patients. The Act also contains new statutory
190 provisions that:
- 191 • Allow local governments to enact ordinances expressing their
192 intent to prohibit the cultivation of marijuana and their intent not
193 to administer a conditional permit program pursuant to Health &
194 Safety Code Section 11362.777 for the cultivation of marijuana
195 (Health & Safety Code § 11362.777(c)(4))
 - 196 • Expressly provide that the Act does not supersede or limit local
197 authority for local law enforcement activity, enforcement of
198 local ordinances, or enforcement of local permit or licensing
199 requirements regarding marijuana (Business & Professions Code
200 § 19315(a)); and
 - 201 • Expressly provide that the Act does not limit the authority or
202 remedies of a local government under any provision of law
203 regarding marijuana, including but not limited to a local
204 government’s right to make and enforce within its limits all

- 205 police regulations not in conflict with general laws (Business &
206 Professions Code § 19316(c)).
- 207 G. The City's geographic and climatic conditions provide conditions that are
208 favorable to outdoor Marijuana Cultivation, thus growers can achieve a
209 high per-plant yield. The Federal Drug Enforcement Administration reports
210 that various types of Marijuana plants under various planting conditions
211 may yield averages of 236 grams, or about one-half (1/2) pound, to 846
212 grams, or nearly two (2) pounds.
- 213 H. The strong distinctive odor of Marijuana plants creates an attractive
214 nuisance, alerting persons to the location of the valuable plants, and has
215 resulted in burglary, robbery and armed robbery.
- 216 I. The strong and distinctive odor of Marijuana plants creates a need to
217 ensure that smells that disrupt the use of adjacent properties are minimized,
218 much in the same way that many Cities have ordinances currently in place
219 to minimize the smells associated with raising livestock.
- 220 J. Children (minors under the age of 18) are particularly vulnerable to the
221 effects of Marijuana use and the presence of Marijuana plants is an
222 attractive nuisance for children, creating an unreasonable hazard in areas
223 frequented by children (including schools, parks, and other similar
224 locations).
- 225 K. The unregulated Cultivation of Marijuana in the incorporated area of the
226 City of Yreka can adversely affect the health, safety, and well being of the
227 City, its residents and environment. Comprehensive civil regulation of
228 premises used for Marijuana Cultivation is proper and necessary to avoid
229 the risks of criminal activity, degradation of the natural environment,
230 malodorous smells, and indoor electrical fire hazards that may result from
231 unregulated Marijuana Cultivation, and that are especially significant if the
232 amount of Marijuana cultivated on a single premises is not regulated and
233 substantial amounts of Marijuana are thereby allowed to be concentrated in
234 one place.
- 235 L. The indoor Cultivation of substantial amounts of Marijuana within a
236 residence presents potential health and safety risks to those living in the
237 residence, especially to children, including, but not limited to, increased
238 risk of fire from grow light systems, exposure to fertilizers, pesticides,
239 anti-fungus/mold agents, and exposure to potential property crimes
240 targeting the residence.
- 241 M. Comprehensive restriction of premises used for Marijuana Cultivation is
242 proper and necessary to address the risks and adverse impacts as stated
243 herein, that are especially significant if the amount of Marijuana cultivated
244 on a single premises is not regulated and substantial amounts of Marijuana
245 are thereby allowed to be concentrated in one place.
- 246 N. Outdoor Marijuana Cultivation is creating devastating impacts to
247 California's surface and groundwater resources and environmental damage.

248 The State Water Resources Control Board, the Central Valley Regional
249 Water Quality Control Board and the Department of Fish and Wildlife have
250 seen a dramatic increase in the number of Marijuana gardens, and
251 corresponding increases in impacts to water supply and water quality,
252 including the discharge of sediments, pesticides, fertilizers, petroleum
253 hydrocarbons, trash and human waste. The sources of these impacts result
254 from unpermitted and unregulated timber clearing, road development,
255 stream diversion for irrigation, land grading, erosion of disturbed surfaces
256 and stream banks, and temporary human occupancy without proper sanitary
257 facilities.

258 O. The immunities from certain prosecution provided to Qualified Patients and
259 their Primary Caregivers under State law to cultivate Marijuana plants for
260 medical purposes does not confer the right to create or maintain a public
261 nuisance. By adopting the regulations contained in this Chapter, the City
262 will achieve a significant reduction in the complaints of odor and the risks
263 of fire, crime and pollution caused or threatened by the unregulated
264 Cultivation of Marijuana in the City of Yreka.

265 P. Nothing in this Chapter shall be construed to allow the use of Marijuana
266 for non-medical purposes, or allow any activity relating to the Cultivation,
267 distribution, or consumption of Marijuana that is otherwise illegal under
268 State law. No provision of this Chapter shall be deemed a defense or
269 immunity to any action brought against any person by the City of Yreka,
270 the Yreka City Attorney, the Siskiyou District Attorney, the Attorney
271 General of State of California, or the United States of America.

272 Q. The indoor Cultivation of Marijuana has potential adverse effects to the
273 structural integrity of the building, and the use of high wattage grow lights
274 and excessive use of electricity increases the risk of fire, which presents a
275 clear and present danger to the building and its occupants.

276 R. The Attorney General's August 2008 Guidelines for the Security and Non-
277 Diversion of Marijuana Grown for Medical Use recognizes that the
278 Cultivation or other concentration of Marijuana in any location or premises
279 without adequate security increases the risk that nearby homes or
280 businesses may be negatively impacted by nuisance activity such as
281 loitering or crime.

282 S. Based on the findings above, the potential establishment of the cultivation,
283 and processing of medical marijuana in the City without an express ban on
284 such activities poses a current and immediate threat to the public health,
285 safety, and welfare in the City due to the negative impacts of such
286 activities as described above;

287 T. The issuance or approval of business licenses, subdivisions, use permits,
288 variances, building permits, or any other applicable entitlement for
289 marijuana cultivation and processing will result in the aforementioned
290 threat to public health, safety, and welfare; and

- 291 U. It is in the interest of the City, its residents, and its lawfully permitted
292 businesses that City adopts this ordinance to expressly prohibit the
293 establishment and operation of marijuana cultivation, processing, delivery,
294 and dispensary activities as well as the issuance of any use permit,
295 variance, building permit, or any other entitlement, license, or permit for
296 any such activity, except where the City is preempted by federal or state
297 law from enacting a prohibition on any such activity or a prohibition on the
298 issuance of any use permit, variance, building permit, or any other
299 entitlement, license, or permit for any such activity
- 300 V. The California Constitution, Article XI, section 7, provides cities with
301 broad authority to determine, for purposes of health, safety, and welfare,
302 the appropriate uses of land within a city's boundaries.
- 303 W. The Planning Commission of the City of Yreka, after due notice, at the
304 public hearing of January 20, 2016, reviewed the proposed Ordinance and
305 accompanying documents, considered testimony regarding the proposed
306 Ordinance, and voted - - to recommend [approval/denial] of
307 the Ordinance to the City Council.
- 308 X. U. All legal prerequisites for the adoption of this Ordinance have
309 occurred.
- 310 Y. V. The above recitals are all true and correct and are incorporated in the
311 substantive portion of this Ordinance.

312 **9.26.130 Scope**

313 The provisions of this Chapter shall apply generally to all property throughout
314 the incorporated area of the City of Yreka, as from time to time, annexed and
315 expanded.

316 **9.26.140 Responsibilities**

- 317 A. Regardless of whether an owner is in actual possession of his or her real
318 property, it is the duty of every owner of real property within the
319 incorporated area of City of Yreka to prevent a public nuisance from
320 arising on, or from existing upon, his or her real property.
- 321 B. No person or entity shall cause, permit, maintain, conduct or otherwise
322 allow a public nuisance as defined in this Chapter to exist upon any
323 property within their control and shall not cause a public nuisance to exist
324 upon any other property within the incorporated limits of the City of
325 Yreka. It shall be the duty of every owner, occupant, and person that
326 controls any land or interest therein within the incorporated area of the
327 City of Yreka to remove, abate and prevent the reoccurrence of any public
328 nuisance upon such land.

329 **9.26.150 Private Right of Action**

330 Nothing contained in this Chapter shall be construed to prohibit the right of any
331 person or public or private entity damaged by any violation of this Chapter to
332 institute a civil proceeding for injunctive relief against such violation, for

333 money damages, for compensatory damages, for injunctive relief, and for the
334 cost of suit and reasonable attorney's and expert witness' fees, or for whatever
335 other or additional relief the court deems appropriate. The remedies available
336 under this Chapter shall be in addition to, and shall not in any way restrict
337 other rights or remedies available under law.

338

339

ARTICLE 2 DEFINITIONS

340

9.26.200 Definitions

342 Except where the context otherwise requires, the following definitions shall
343 govern the construction of this Chapter:

- 344 A. "Accessory Structure" means a separate and permitted building located on
345 the same parcel as the residence.
- 346 B. "Building Official" means any person employed by the City of Yreka that
347 has been delegated or assigned building inspection duties or building plan
348 approval.
- 349 C. "City Manager" means the City Manager of the City of Yreka, California or
350 his or her designee.
- 351 D. "Code" means the City of Yreka Municipal Code.
- 352 E. "Code Enforcement Officer" means any person employed by the City of
353 Yreka that has been delegated or assigned code enforcement
354 responsibilities.
- 355 F. "Costs of Enforcement" or "Enforcement Costs" means the total cost
356 incurred by the City in connection with a public nuisance including, but not
357 limited to:
- 358 1. Any cost incurred in removing or remedying a public nuisance;
 - 359 2. The actual expenses and costs of the city in preparation of notice and
360 order, reconsideration, appeal and termination fees for administrative
361 services rendered by the City in connection with the inspection, notification,
362 prosecution and abatement procedures authorized by this code:
 - 363 a. Notice and order, appeal and termination fees in such amounts as
364 are determined from time to time by resolution of the city council;
 - 365 b. Notice and order, appeal and termination fees based on services
366 rendered by the City from the time of the initial complaint intake for
367 the purpose of documenting a violation of this code until the violation
368 is corrected;
 - 369 c. The notice and order, appeal and termination fees are not intended
370 to be a penalty imposed for violation of this code or other laws;
 - 371 d. Specifications and contracts;
 - 372 e. Any attorney's fees expended in the abatement of the nuisance,

- 373 through inspection warrant, civil action or otherwise;
374 f. The cost of printings and mailings required under this code;
375 g. All costs or expenses to which the city may be entitled pursuant to
376 Health and Safety Code Section 510 and other statutory entitlement;
377 h. All costs and expenses for which the city may be liable under state
378 law arising from or related to the nuisance.

379 3. Any cost incurred by the City in collecting the costs enumerated in
380 subsections 1 and 2 of this definition.

381 G. "City" means the City of Yreka.

382 H. "Chapter" or Ordinance means this ordinance.

383 I. "Cultivation" means the planting, growing, harvesting, drying, processing,
384 or storage of one or more Marijuana plants or any part thereof in any
385 location, indoor or outdoor, including from within a fully enclosed and
386 secure building.

387 J. " Dwelling" means a building intended for human habitation that has been
388 legally established, permitted and certified as a single-family or multi-
389 family dwelling.

390 K. "Enforcement Official" means the Code Enforcement Officer, City
391 Attorney or the City Police, or the authorized officers or designees of
392 either, each of whom is independently authorized to enforce this Chapter.

393 L. "Indoors" means within a fully enclosed structure, with a solid roof, floor,
394 and walls. The structure must be securable against unauthorized entry and
395 constructed of solid materials such as 3/8" or thicker plywood, glass, or
396 equivalent materials. Shade-cloth covered and plastic sheeting covered,
397 regardless of gauge, or similar products do not satisfy this requirement. A
398 structure without a solid floor does not satisfy this requirement; no
399 Marijuana shall be Cultivated in the soil beneath the Dwelling or
400 Accessory Structure.

401 M. "Marijuana" means all parts of the plant *Cannabis sativa* L. or *Cannabis*
402 *ruderalis*, whether growing or not; the seeds thereof; the resin extracted
403 from any part of the plant; and every compound, manufacture, salt,
404 derivative, mixture, or preparation of the plant, its seeds or resin. It does
405 not include the mature stalks of the plant, fiber produced from the stalks,
406 oil or cake made from the seeds of the plant, any other compound,
407 manufacture, salt, derivative, mixture, or preparation of the mature stalks
408 (except the resin extracted there from), fiber, oil, or cake, or the sterilized
409 seed of the plant which is incapable of germination including marijuana
410 infused in foodstuff or any other ingestible or consumable product
411 containing marijuana. The term "marijuana" shall also include "medical
412 marijuana" as such phrase is used in the August 2008 Guidelines for the
413 Security and Non-Diversion of Marijuana Grown for Medical Use, as may
414 be amended from time to time, that was issued by the office of the Attorney

415 General for the state of California or subject to the provisions of California
416 Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996)
417 or California Health and Safety Code Sections 11362.7 to 11362.83
418 (Medical Marijuana Program Act).

- 419 N. "Marijuana plant" means any mature or immature Marijuana plant
420 including the stalks of the plant, or any Marijuana seedling, that is capable
421 of producing Marijuana. A "mature" Marijuana plant is one whose sex can
422 be determined by visual inspection.
- 423 O. "Marijuana Processing" means any method used to prepare marijuana or its
424 byproducts for commercial retail and/or wholesale, including but not
425 limited to: drying, cleaning, curing, packaging, and extraction of active
426 ingredients to create marijuana related products and concentrates.
- 427 P. "Outdoors" means any location that is not "indoors" within a fully enclosed
428 and secure structure as defined herein.
- 429 Q. "Parcel" means any parcel of real property that may be separately sold in
430 compliance with the Subdivision Map Act (commencing with Section
431 66410 of the Government Code) and also means parcels that are described,
432 recorded and kept in official City records specifically including documents
433 and maps used by the Siskiyou County Assessor's Office, the Siskiyou
434 County Tax Collector's Office and the Siskiyou County Recorder's Office.
- 435 R. "Residence" shall have the same meaning as "Dwelling".
- 436 S. "Police" or "Police Department" means the City of Yreka Police
437 Department or the authorized representatives thereof.

438 **ARTICLE 3**
439 **RESTRICTIONS AND REQUIREMENTS**

440 **9.26.300 Cultivation Prohibited.**

441 It is unlawful and a public nuisance for any person owning, leasing, renting,
442 occupying, or having charge or possession of any Parcel within any zoning
443 district in the City to cause or allow such Parcel or premises to be used for
444 the Cultivation of Marijuana Plants whether Outdoors, Inside or in an
445 Accessory Structure except where the City is preempted by federal or state
446 law from enacting a prohibition on any such activity. No use permit,
447 variance, building permit, or any other entitlement, license, or permit,
448 whether administrative or discretionary, shall be approved or issued for the
449 activities of marijuana cultivation, marijuana processing, marijuana
450 delivery, or the establishment or operation of a marijuana dispensary in the
451 City, and no person shall otherwise establish or conduct such activities in
452 the City, except where the City is preempted by federal or state law from
453 enacting a prohibition on any such activity for which the use permit,
454 variance, building permit, or any other entitlement, license, or permit is
455 sought.

456 **ARTICLE 4**

457 **PUBLIC NUISANCE**

458 **9.26.400 Public Nuisance**

459 Any violation of this Chapter is hereby declared to be a public nuisance.

460 **ARTICLE 5**

461 **ENFORCEMENT**

462 **9.26.500 Enforcement Authority**

463 The Code Enforcement Official that has been assigned responsibility for
464 administration of Code Enforcement services is hereby designated to enforce
465 this Chapter.

466 **9.26.510 Right of Entry/Inspection**

467 To enforce the provision of this Code, any Code Enforcement Officer may at a
468 reasonable time request inspection of any parcel suspected of cultivating
469 Marijuana. If the person owning or occupying the Parcel refuses the request
470 for an inspection, the Code Enforcement Officer shall have recourse to every
471 remedy provided by law to secure entry, including obtaining an inspection
472 warrant.

473 **9.26.520 Violations**

- 474 A. It is unlawful and a violation of this Chapter for any person to permit a
475 public nuisance to exist upon real property in which such person has an
476 ownership or possessory interest.
- 477 B. It shall be unlawful and a violation of this Chapter to do anything in
478 contrary to the requirements and provisions set forth in this Chapter.
- 479 C. Each person violating this Chapter shall be guilty of a separate offense for
480 each and every day, or portion thereof, which any violation of any
481 provision of this Chapter is committed, continued, or permitted by any such
482 person. Any violation, which persists for more than one day, is deemed a
483 continuing violation.

484 **9.26.530 Remedies**

- 485 A. Any violation of this Chapter shall be deemed a public nuisance and is
486 subject to any enforcement process authorized by law or as outlined in this
487 Code.
- 488 B. Nothing herein shall be read, interpreted or construed in any manner so as
489 to limit any existing right or power of the City of Yreka or any other
490 governmental entity to enforce City ordinances, to abate any and all
491 nuisances, or employ any remedy available at law or equity.
- 492 C. Issuance of a warning shall not be a requirement prior to using any
493 enforcement provision of this Code. Violations are not tiered and are
494 subject to enforcement without warning.

495 D. A civil action to foreclose a lien, the special assessment procedure, and
496 a personal action against the owner and all other responsible persons
497 shall not be mutually exclusive and the City shall be free to use all
498 methods simultaneously as long as the City does not receive multiple
499 payments for Enforcement Costs.

500 **9.26.540 Notice and Order to Abate**

501 A. Upon making a determination that a public nuisance exists, the
502 Enforcement Official shall notify the owner and/or the alleged violator that
503 a public nuisance exists upon such owner's property. As to an owner, the
504 Notice and Order to Abate shall be delivered by personal service or by
505 Certified, Return Receipt mail, with postage prepaid, addressed to the
506 owner as such owner's name and address appears on the last equalized
507 assessment roll or to such other address as the owner directs. As to an
508 alleged violator whom the Enforcement Official has determined directly or
509 indirectly contributed to the condition creating the nuisance, the Notice and
510 Order to Abate shall be delivered by personal service or by Certified,
511 Return Receipt mail, with postage prepaid, to the last known address of the
512 alleged violator. In addition, the Notice and Order to Abate shall be
513 delivered by first class mail, with postage prepaid, addressed to the owner
514 and/or alleged violator at the same addresses. A copy shall also be posted
515 on the property. The Enforcement Official shall complete a proof of
516 service.

517 B. The Notice and Order to Abate shall describe the use or condition which
518 constitutes the public nuisance; and shall order that the uses or conditions
519 constituting the nuisance be abated by demolition, securing, removal,
520 cleanup, repair or other means within a reasonable time certain as
521 determined necessary for such abatement by the Code Enforcement Official
522 based upon the nature and complexity of the abatement process, normally
523 being three (3) days, or less, from the date such notice is mailed and/or
524 posted.

525 **9.26.550 Violation Penalty**

526 A. Criminal Penalties.

527 Any responsible party, whether owner, lessee, sublessor, sublessee or occupant
528 of any premises who violates the provisions of this code shall be guilty of a
529 misdemeanor for each day such violation continues.

530 B. Administrative Penalties.

531 1. Any person who violates this Chapter shall be guilty of a separate offense
532 for each and every day, or portion thereof, the violation is committed,
533 permitted or continued. The city attorney may pursue any lawful civil
534 remedy and administrative penalties brought to enforce any provisions of
535 this Chapter.

536 2. In addition to the actual abatement and/or Enforcement Costs incurred by
537 the City any person who has been issued a Notice and Order to Abate

537 Public Nuisance shall be assessed an Administrative Penalty payable to the
538 City as follows:

- 539 a. A penalty of \$1,000.00 for each violation of this Code per day as set
540 forth in the Notice and Order to Abate.
- 541 b. A penalty of \$2,000.00 for each violation of this Code per day when a
542 second violation of this Code occurs within eighteen (18) months of a
543 previously issued Notice and Order to Abate.
- 544 c. A penalty of \$3,000.00 for each violation of this Code per day for each
545 subsequent violation of this Code beyond the second when the violation
546 occurs within thirty-six (36) months of the original Notice and Order to
547 Abate.

548 3. For the purpose of calculating the daily Administrative Penalty, each
549 offense of any Section of this Chapter shall be charged as a separate
550 violation; in addition, each cubic foot of area under cultivation that
551 exceeds the maximum Defined Area in violation of this Chapter shall be
552 charged as a separate violation.

553 4. The Administrative Penalty, pursuant to this Section, shall be assessed
554 immediately upon the issuance of a Notice and Order to Abate Public
555 Nuisance and shall continue to accrue until the date compliance with the
556 Order has been met and verified by the Code Enforcement Officer. In the
557 event a Request for Reconsideration has been properly filed with the City,
558 the Request for Reconsideration shall have no affect on the Administrative
559 Penalty and said Penalty shall continue to accrue during the pendency of
560 the determination. At the conclusion of the hearing the Yreka City Council
561 is authorized to modify or waive the Administrative Penalty for cause and
562 shall make express findings into the record for such modification or
563 waiver.

564 C. Obstruction a Crime.

565 Any person who obstructs, impedes or interferes with any representative,
566 officer, employee, contractor or authorized representative of the city council or
567 with any representative of a city department or with any person who owns or
568 holds any estate or interest in a building which has been ordered to be abated
569 pursuant to the provisions of this Chapter when any of the aforementioned
570 individuals are engaged in the work of abating any nuisance as required by the
571 provisions of this Chapter, or in performing any necessary act preliminary to or
572 incidental to such work authorized or directed pursuant to this Chapter lawfully
573 engaged in proceedings involving the abatement of a nuisance is guilty of a
574 misdemeanor.

575 **9.26.560 Enforcement Costs**

576 A. All costs and penalties associated with the enforcement of this Chapter are
577 the joint and several responsibility of the owner, lessee, renter, occupier
578 and person having charge or possession of any Parcel(s) on which a

580 nuisance has been found to exist and such costs shall be paid within 30
581 days of the date of demand thereof.

582 B. Where costs and penalties go unpaid beyond 30 days, the Enforcement
583 Official shall take action to confirm the costs and record a lien against the
584 Parcel and will attach as a lien until paid. Costs or expenses for which the
585 City may be reimbursed shall begin to accrue at the time the City first receives
586 a complaint regarding a problem on the property. Any lien recorded pursuant
587 to Government Code §38773.5 it shall not include administrative penalties
588 assessed and shall be limited to the Enforcement Costs. However, upon entry
589 of a second or subsequent civil or criminal action within a two year period
590 finding an owner of a Parcel or a person described in paragraph (3) of
591 subdivision (d) of Government Code §38772 is responsible for the condition
592 that may be abated in accordance with this Chapter, the Court may order that
593 person to pay treble the Enforcement Costs.

594 C. An additional fee which shall be set by resolution of the city council shall be
595 imposed on the owner of the Parcel at the conclusion of any matter in which a
596 notice and order has been issued. This termination fee shall be calculated to
597 recover the cost of closing the file, removing or placing liens, and other
598 associated administrative costs. Costs shall be assessed at the conclusion of the
599 abatement; provided, however, in the case of abatement by any method which
600 takes more than six months, costs may be assessed at any time after six
601 months, but in no event more than two times a year.

602 D. Enforcement Costs and expenses may be recovered even if the nuisance is
603 corrected voluntarily, subsequent to the issuance of an abatement order. No
604 fees shall be due and owing if it is administratively determined that no
605 nuisance exists. All fees shall be a personal obligation of the owner and a lien
606 upon the Parcel and are due and payable within thirty days of issuance of the
607 notice and order or closing of the file respectively. Any fee not paid within
608 that time shall be payable to the City.

609 E. The City Manager/designee shall keep an account of the costs (including
610 incidental expenses) of abating such nuisance on each separate lot or parcel
611 of land where the work is done and shall render an itemized billing to the
612 property owner, which shall be due and payable within thirty days. If the
613 owner refuses or neglects to pay the bill, an itemized report in writing shall
614 be made to the planning commission showing the cost of abatement and the
615 demolishing or repairing of said buildings or structures, including any
616 salvage value relating thereto; provided, that before said report is submitted
617 to the planning commission, a copy of the same shall be mailed together
618 with a notice of the time when said report shall be heard by the planning
619 commission for confirmation.

620 F. The planning commission shall set the matter for hearing to determine the
621 correctness or reasonableness, or both, of such costs, and shall serve notice
622 thereof.

623 G. Proof of said service shall be made by declaration under penalty of perjury

624 filed with the city clerk.

625 **9.26.570. Record of Abatement Cost—Hearing and Proceedings.**

626 At the time and place fixed for receiving and considering the report, the
627 planning commission shall hear and pass upon the reports of such costs of
628 abatement, together with any objections or protests raised by any of the persons
629 liable to be assessed for the cost of abating the nuisance.

630 Thereupon, the planning commission may make such revision, correction or
631 modification in the report, as it may deem just, after which, by motion, the
632 report, as submitted or as revised, corrected or modified, shall be confirmed.
633 The hearing may be continued from time to time. The decision of the planning
634 commission on all protests and objections that may be made shall be final and
635 conclusive.

636 **9.26.575. Nuisance Abatement Lien.**

637 A. If the nuisance abatement and related Enforcement Costs are not paid within
638 five days after the planning commission confirms the costs of abatement, the
639 city shall notify the owner of record of the parcel of land on which the
640 nuisance is maintained, based on the last equalized assessment roll or the
641 supplemental roll, whichever is more current, that a nuisance abatement lien
642 will be recorded. The notice shall specify the amount of the lien, the name
643 of the city, the date of the abatement order, the street address, the legal
644 description and the assessors parcel number of the parcel on which the lien
645 is imposed, and the name and address of the recorded owner of the parcel.
646 The notice shall be served in the same manner as a summons in a civil
647 action in accordance with Article 3 (commencing with Section 415.10) of
648 Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. If the owner of
649 record after diligent search cannot be found, the notice may be served by
650 posting a copy thereof in a conspicuous place upon the property for a period
651 of ten days and publication thereof in a newspaper of general circulation
652 published in Siskiyou County pursuant to Section 6062 of the Government
653 Code. Such notice of lien for recordation shall be in the form
654 substantially as follows:

655 NOTICE OF LIEN

656 (Claim of City of Yreka)

657 Pursuant to the authority vested by the provisions of Chapter 9.26
658 of the City of Yreka Municipal Code, the city manager (or his
659 designee) of the City of Yreka did on or about (insert date), cause
660 the premises hereinafter described [insert description of abatement
661 action taken] to abate a public nuisance on said real property; and
662 the Planning Commission of the City of Yreka did on (insert date),
663 assess the cost of such abatement action taken; and the same has not
664 been paid nor any part thereof; and that said City of Yreka does
665 hereby claim a lien on premises in the amount of said assessment,
666 to wit: the sum of \$ (insert amount); and the same shall be a lien

667 upon said real property until the same has been paid in full and
668 discharged of record.

669 The real property hereinbefore mentioned, and upon which a lien
670 is claimed, is that certain parcel of land lying and being in the City
671 of Yreka, County of Siskiyou, State of California, and particularly
672 described as follows:

673 (Insert description)

674 DATED: (insert date).

675 City Manager of the City of Yreka, California
676 (ACKNOWLEDGEMENT)

- 677 C. The planning commission may order a refund of all or part of the
678 assessment paid pursuant to this code if it finds that all or part of the
679 assessment was erroneously levied. An assessment or part thereof shall not
680 be refunded unless a claim is filed with a city clerk within six months after
681 the assessment became due and payable. The claim shall be verified by the
682 person who paid the assessment, or the legal representative of such person.
- 683 B. After notice is given in accordance with subsection A of this section, the
684 notice of lien shall be recorded in the Siskiyou County recorder's office and
685 shall thereafter constitute a lien on the real property for the expense of the
686 abatement, the related administrative costs together with interest thereon.
- 687 C. In the event the lien is discharged, released or satisfied, either through
688 payment or foreclosure, notice of the discharge containing the same
689 information as the notice of lien shall be recorded in the Siskiyou County
690 recorder's office.
- 691 D. The City may enforce the nuisance abatement lien by an action for a money
692 judgment.

693 **ARTICLE 6**

694 **REQUESTS FOR RELIEF OR RECONSIDERATION**

695 **AND UNIFORM HEARINGS AND PROCEDURES**

696 **9.26.600 Relief and Reconsideration.**

- 697 A. Requests for Relief. Any person or entity unable to comply with the
698 requirements of this Ordinance, or any person affected by any City
699 decision, action, or determination related to this Ordinance, may submit to
700 the City a written request for relief setting forth in detail the facts
701 supporting the request. The City Manager shall designate a City officer or
702 employee with managerial authority who will consider the matter without a
703 hearing and decide whether to grant relief. The City Manager's designee
704 may request additional information. The City Manager's designee may
705 decide the matter within fifteen (15) business days from the receipt of the

706 request, or, if additional information is requested and received within
707 fifteen (15) business days from the receipt of the request, then fifteen (15)
708 business days from the date the City receives all additional requested
709 information.

710 B. Requests for Reconsideration.

711 1. Within 30 days after the date of mailing of written notice of any City
712 decision granting or denying relief under paragraph A of this Section,
713 or within 30 days after the date the request for relief is deemed denied,
714 any person or entity affected by the requirements, decision, action or
715 determination that was the subject of the request for relief may submit
716 to the City Manager a written request for reconsideration. The City
717 Manager shall personally consider all requests for reconsideration. The
718 request for reconsideration must set forth in detail the facts supporting
719 the request.

720 2. The City Manager may act on the request for reconsideration with or
721 without a hearing in any manner the City Manager deems reasonable
722 and shall thereafter issue a final written determination concerning the
723 request for reconsideration. Whenever the City Manager does not upon
724 the request for reconsideration within fifteen (15) business days of
725 receipt of the request for reconsideration, the request shall be deemed
726 denied on the first day following that time period. Notice of any
727 decision will be mailed to the person or entity requesting relief. The
728 decision, action or determination shall remain in effect during the
729 period of review by the City Manager.

730 3. The City Manager's decision shall become final and binding at the time
731 the City Manager acts on the request or fails to act within the time
732 specified by this paragraph (B). If the City Manager acts on the request
733 for reconsideration, notice of the City Manager's action will be mailed
734 to the person or entity requesting reconsideration within five (5)
735 business days of the action.

736 4. Any person or entity affected by a decision, action or determination
737 related to this Ordinance who wishes to appeal or challenge the
738 decision, action or determination must request reconsideration using the
739 process specified in this paragraph B. This requirement is jurisdictional.
740 The failure to seek reconsideration shall be deemed a failure of the
741 person or entity subject to the decision, action or determination to
742 exhaust administrative remedies.

743 **9.26.610 Decision – Time Limitation for Judicial Filing**

744 All final administrative orders made pursuant to the procedures set forth in
745 this subsection shall be subject to review only as provided in California Code

746 of Civil Procedure Sections 1094.5 and 1094.6. Should any court of competent
747 jurisdiction determine that the city must provide an appeal of any final
748 administrative order in a manner other than set forth in Sections 1094.5 and
749 1094.6, then it is the intent of the city council that the administrative penalty
750 process remain as provided herein and to provide that any appeal which is
751 timely requested follow the procedures set forth in Government Code Section
752 53069.4. Otherwise, all objections to such decision shall be deemed waived.

753 **9.26.620 Severability**

754 If any section, sentence, clause or phrase of this Chapter is for any reason held
755 to be invalid or unconstitutional by a decision of any court of competent
756 jurisdiction, such decision shall not affect the validity of the remaining
757 portions of this Chapter. The City Council hereby declares that it would have
758 passed this ordinance and adopted this Chapter and each section, sentence,
759 clause or phrase thereof, irrespective of the fact that any one or more sections,
760 subsections, sentences, clauses or phrases were to be declared invalid or
761 unconstitutional.

762 **Section 4. Inconsistency.**

763 Any provisions of the Yreka Municipal Code, or appendices thereto, or any
764 other ordinances of the City inconsistent herewith, to the extent of such
765 inconsistencies and no further, are hereby repealed.

766 **Section 5. CEQA Exemption.**

767 The City Council finds the approval of this ordinance is not subject to the
768 California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines
769 Sections 15060(c)(2) (the activity will not result in a direct or reasonably
770 foreseeable indirect physical change in the environment) and 15060(c)(3) (the
771 activity is not a project as defined in Section 15378) of the CEQA Guidelines,
772 California Code of Regulations, Title 14, Chapter 3, because it has no potential
773 for resulting in physical change to the environment, directly or indirectly.
774 Alternatively, the City Council finds the approval of this ordinance is not a
775 project under CEQA Regulation Section 15061(b)(3) because it has no potential
776 for causing a significant effect on the environment. In addition, the ordinance is
777 exempt from environmental review pursuant to the general rule of the
778 California Environmental Quality Act, which exempts minor alterations to land
779 use limitations that do not result in changes in land use or density pursuant to
780 CEQA Guidelines Section 15305. Finally this Ordinance is exempt because it is
781 an urgency Ordinance necessary to protect the City from a current and
782 immediate threat to the public health, safety and welfare. Based on the
783 information contained in the staff report and accompanying attachments and
784 exhibits, the City Council hereby finds:

- 785 1. The proposed project will not result in a significant adverse effect on
786 the environment and will support the public health, safety, and welfare

- 787 2. The Ordinance and its provisions are consistent with the goals and
788 policies of the General Plan.
- 789 3. The Ordinance provides regulations for Marijuana Cultivation and this
790 minor alteration to land use limitations that do not result in changes in
791 land use or density pursuant to CEQA Guidelines Section 15305.
- 792 4. This is an urgency Ordinance necessary to protect the City from a
793 current and immediate threat to the public health, safety and welfare.

794 **Section 6. Publication of Codification.**

795 Section 3 of this Ordinance shall require publication in the codification of the
796 Yreka Municipal Code. The City Clerk is directed to post a Notice of
797 Exemption

798 **Section 7. Implementation.**

799 The City Council hereby authorizes and directs the City Manager to take any
800 action and sign any documents necessary to implement this Ordinance.

801 **Section 8. Execution.**

802 The Mayor and City Clerk are authorized to subscribe this ordinance where
803 indicated below to evidence its approval by the City Council.

804 Introduced at a regular meeting of the City Council held February 4,
805 2016, and adopted as an ordinance of the City of Yreka at a regular meeting of
806 the City Council held on February 18, 2016 by the following vote:

807
808
809 AYES:
810 NOES:
811 ABSENT:

812
813
814

John Mercier, Mayor

816
817

818 APPROVED AS TO FORM

Attest:

819
820
821

Dohn Henion, City Attorney

Elizabeth E. Casson, City Clerk

Resolution No. PC 2016-3a

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF YREKA
RECOMMENDING THE CITY COUNCIL ADOPT AN URGENCY ORDINANCE
ENACTING CHAPTER 9.26 ENTITLED "MARIJUANA CULTIVATION" TO PROHIBIT
OUTDOOR CULTIVATION OF MARIJUANA, REGULATE THE STRUCTURES WITHIN
WHICH MARIJUANA MAY BE CULTIVATED, ESTABLISH A REGISTRATION PROCESS
AND FINDING THE ADOPTION OF THIS ORDINANCE TO BE EXEMPT FROM CEQA.

WHEREAS, the members of the Planning Commission, with the assistance of City staff, have reviewed the proposed Ordinance enacting Chapter 9.26 entitled "Marijuana Cultivation" and

WHEREAS, the Planning Commission has determined the this proposed Ordinance is consistent with the Yreka General Plan and the standards of Yreka Municipal Code; and

WHEREAS, the proposed amendment to the Yreka Municipal Code has been determined to be *exempt* from California Environmental Quality Act (CEQA) review pursuant to Public Resources Code Section 15061(b)(3), commonly described as the 'general rule' exemption, because the proposed action would not permit new development at a density or intensity in excess of what is permitted at the current time and under current regulations and would not allow for new development methods, techniques or applications that would physically impact the environment, and

WHEREAS, the City has noticed a public hearing for the proposed Ordinance as required by Government Code Section 65090; and

WHEREAS, on January 20, 2016, the Planning Commission conducted a public hearing on the proposed Ordinance adding Chapter 9.26 to the Yreka Municipal Code.

NOW THEREFORE, THE YREKA PLANNING COMMISSION DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. The Planning Commission hereby finds and determines that the foregoing recitals are true and correct.

Section 2. The Planning Commission recommends the Yreka City Council adopt an Urgency Ordinance of the City Council of the City of Yreka enacting Chapter 9.26 entitled "Marijuana Cultivation" to prohibit outdoor cultivation of marijuana, regulate the structures within which marijuana may be cultivated, establish a registration process and finding the adoption of the Ordinance to be exempt from CEQA, Said Ordinance being attached hereto and made a part herein by reference.

Passed and adopted this 20th day of January 2016, by the following vote:

Ayes:

Nays:

Absent:

Matt Osborn, Chair



ORDINANCE NO.

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YREKA
ENACTING CHAPTER 9.26 ENTITLED "MARIJUANA CULTIVATION"
TO PROHIBIT OUTDOOR CULTIVATION OF MARIJUANA,
REGULATE THE STRUCTURES WITHIN WHICH MARIJUANA MAY BE CULTIVATED,
ESTABLISH A REGISTRATION PROCESS
AND FINDING THE ADOPTION OF THIS ORDINANCE TO BE EXEMPT FROM CEQA**

THE CITY COUNCIL OF THE CITY OF YREKA FINDS AND ORDAINS AS
FOLLOWS:

Section 1. The City Council of the City of Yreka, by four-fifths vote, makes the following urgency findings and declares the following:

A. Chapter 9.26 of the City of Yreka Code is intended to implement state law by providing a means for regulating the Cultivation of medical Marijuana in a manner that is consistent with state law and which balances the needs of medical patients and their caregivers and promotes the health, safety, and welfare of the residents and businesses within the incorporated area of the City of Yreka, as from time to time annexed and expanded.

B. The Cultivation of Marijuana outdoors, where it is often readily observable by neighbors and the general public, increases the risk of trespassing and burglary, and acts of violence in connection with the commission of such crimes or the occupants' attempts to prevent such crimes. Outdoor Cultivation further makes the premises more prone to act as an attractive nuisance for children.

C. The indoor Cultivation of Marijuana within a Residence or Accessory Structure used or intended for human occupancy presents potential health and safety risks to those living in the Residence or otherwise occupying the structure, especially to children, including, but not limited to, increased risk of fire from grow light systems, exposure to fertilizers, pesticides, anti-fungus/mold agents, and exposure to potential property crimes.

D. Prohibiting the Cultivation of Marijuana within a Residence or Accessory Structure is proper and necessary to avoid the aforementioned harms and to protect the health, safety, and welfare of the residents and businesses within the incorporated area of the City of Yreka.

E. The City Council has heard substantial evidence that because Yreka lacks a Marijuana Cultivation ordinance, it has become an attractive location for out-of-city

41 and out-of state for-profit cultivators to come to for the purpose of large-scale
42 Marijuana grows. Recently many counties and cities in Northern California have
43 adopted restrictive or prohibitive Marijuana Cultivation ordinances, making Yreka
44 an attractive option for Marijuana cultivators. The Council finds that immediate
45 action, in the form of urgency ordinance is necessary to curb the potential influx of
46 large-scale Marijuana Cultivation into the City.

47 F. The City Council has previously found that a statewide water shortage
48 emergency exists, under the authority of Executive Order B-29-15; California Code
49 of Regulations, Title 23, Sections 863, 864, 865 and 868; the State mandated that all
50 urban water suppliers implement water waste control measures; as well as State
51 Urban Water Supplier Conservation Tiers requiring City water users to decrease
52 their water usage by thirty-two (32) percent; and pursuant to its authority under
53 Water Code Section 350, 356 and 375, the City of Yreka prohibited the wastage of
54 water and ordered that the water conservation measures and water use restrictions
55 are necessary and appropriate to prevent the waste of water and to protect the health
56 and safety of water users.

57 G. Because Yreka residents have not yet decreased water usage to the mandated
58 levels and are presently 17.7% over their allowed water consumption limit, the State
59 Water Resources Board has served a Conservation Order on the City mandating the
60 City to identify areas of potential water usage. This Chapter on Marijuana
61 Cultivation is one area where water may be conserved by restricting the area of
62 Cultivation resulting in less water being used as compared to a larger area
63 Cultivations.

64 H. Adoption of this Ordinance under urgency is necessary for the immediate
65 preservation of the public peace, health, and safety, as set forth in Government Code
66 section 25123, subdivision (d), in order to prevent further Cultivation of Marijuana
67 within Residences or Accessory Structures used or intended for human occupancy in
68 the City of Yreka, which would threaten significant impacts on the public peace,
69 health, and safety if permitted to occur.

70 I. The Medical Marijuana Regulation and Safety Act provides that the State of
71 California will be the sole licensing authority for the commercial Cultivation of
72 medical Marijuana unless a city adopts a land use regulation or ordinance regulating
73 or prohibiting the Cultivation of Marijuana under the principles of permissive
74 zoning. Yreka has no such land use ordinance and the State of California has
75 mandated that any land use regulation or ordinance must take effect before March 1,
76 2016. Since due process requires proper notice, hearing and recommendation by the
77 Planning Commission before the City Council consider a zoning ordinance; this
78 Ordinance could not become effective prior to March 1, 2016 if the usual 30-day
79 post-adoption time period for it to become effective were applied. As Yreka's health
80 and safety requires that the dangerous conditions that arise from the Cultivation of
81 Marijuana should be mitigated through local land use controls and that local right
82 will be lost if not exercised before March 1, 2016, the adoption and effectiveness of
83 this ordinance is urgent and necessary for the immediate preservation of the public
84 peace, health, and safety.

121
122

ARTICLE I GENERAL PROVISIONS

123 **9.26.100 Authority.**

124 Pursuant to authority granted by Article XI Section 7 of the California
125 Constitution, Section 372 of the California Penal Code, California Code
126 of Civil Procedure § 731 and California Civil Code §3491 the City
127 Council of the City of Yreka does hereby enact this Chapter.

128 **9.26.110 Purpose & Intent.**

129 The purpose and intent in adopting this Chapter is to acknowledge State law as
130 it relates to medical Marijuana and to reduce conditions that create public
131 nuisances through enacting these regulations including without limitation,
132 restrictions as to location of Cultivation, the Defined Area in which Marijuana
133 Plants may be Cultivated, and the use of screening and security structures, to
134 more effectively control the adverse impacts associated with Marijuana
135 Cultivation as stated herein, while considering the desires of Qualified Patients
136 Qualified Patients and Primary Caregivers, in furtherance of the public
137 necessity, health, safety, convenience, and general welfare within the City's
138 jurisdictional limits. Nothing in this Chapter shall be construed to authorize
139 any use, possession, Cultivation, or distribution of Marijuana for non-medical
140 purposes or that is in violation of state or federal law.

141 **9.26.120 Findings.**

- 142 A. The Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies
143 Marijuana as a Schedule I Drug, which is defined as a drug or other
144 substance that has a high potential for abuse, that has no currently accepted
145 medical use in treatment in the United States, and that has not been
146 accepted as safe for use under medical supervision.
- 147 B. The Federal Controlled Substances Act makes it unlawful, under federal
148 law, for any person to cultivate, manufacture, distribute or dispense, or
149 possess with intent to manufacture, distribute or dispense, Marijuana. The
150 Federal Controlled Substances Act contains no exemption for the
151 Cultivation, manufacture, distribution, dispensation, or possession of
152 Marijuana for medical purposes.
- 153 C. In 1996, the voters of the State of California approved Proposition 215,
154 "The Compassionate Use Act," (codified as Health and Safety Code
155 Section 11362.5) which was intended to decriminalize Cultivation and
156 possession of medical Marijuana by a seriously ill patient, or the patient's
157 primary caregiver, for the patient's personal use, and to create a limited
158 defense to the crimes of possessing or cultivating Marijuana. The Act
159 further provided that nothing in this section shall be construed to supersede
160 legislation prohibiting persons from engaging in conduct that endangers
161 others, or to condone the diversion of Marijuana for non-medical purposes.

- 162 D. The State enacted SB 420 in 2004 (known as the “Medical Marijuana
163 Program Act,” codified as Health and Safety Code Section 11362.7 et seq.)
164 to expand and clarify the scope of The Compassionate Use Act of 1996 by
165 creating the Medical Marijuana Identification Card program, creating
166 reasonable regulations for cultivating, processing, transporting and
167 administering Marijuana, as well as limiting the amount Marijuana a
168 qualified individual may possess. The Medical Marijuana Program Act
169 defines a "primary caregiver" as an individual who is designated by a
170 qualified patient or by a person with an identification card, and who has
171 consistently assumed responsibility for the housing, health, or safety of
172 that patient or person and is further defined in the California Supreme
173 Court decision *People v. Mentch* (2008) 45 Cal. 4th 274.
- 174 E. The City's geographic and climatic conditions provide conditions that are
175 favorable to Outdoor Marijuana Cultivation, thus growers can achieve a
176 high per-plant yield. The Federal Drug Enforcement Administration reports
177 that various types of Marijuana plants under various planting conditions
178 may yield averages of 236 grams, or about one-half (1/2) pound, to 846
179 grams, or nearly two (2) pounds.
- 180 F. Children (minors under the age of 18) are particularly vulnerable to the
181 effects of Marijuana use and the presence of Marijuana plants is an
182 attractive nuisance for children, creating an unreasonable hazard in areas
183 frequented by children (including schools, parks, and other similar
184 locations).
- 185 G. The unregulated Cultivation of Marijuana in the incorporated area of the
186 City of Yreka can adversely affect the health, safety, and well being of the
187 City, its residents and environment. Comprehensive civil regulation of
188 premises used for Marijuana Cultivation is proper and necessary to avoid
189 the risks of criminal activity, degradation of the natural environment,
190 malodorous smells, and indoor electrical fire hazards that may result from
191 unregulated Marijuana Cultivation, and that are especially significant if the
192 amount of Marijuana cultivated on a single premises is not regulated and
193 substantial amounts of Marijuana are thereby allowed to be concentrated in
194 one place.
- 195 K. The indoor Cultivation of substantial amounts of Marijuana within a
196 Residence presents potential health and safety risks to those living in the
197 Residence, especially to children, including, but not limited to, increased
198 risk of fire from grow light systems, exposure to fertilizers, pesticides,
199 anti-fungus/mold agents, and exposure to potential property crimes
200 targeting the Residence.
- 201 L. Comprehensive restriction of Premises used for Marijuana Cultivation is
202 proper and necessary to address the risks and adverse impacts as stated
203 herein, that are especially significant if the amount of Marijuana cultivated
204 on a single premises is not regulated and substantial amounts of Marijuana
205 are thereby allowed to be concentrated in one place.

206 M. Unrestricted Outdoor Marijuana Cultivation is creating devastating impacts
207 to California's surface and groundwater resources and environmental
208 damage. The State Water Resources Control Board, the Central Valley
209 Regional Water Quality Control Board and the Department of Fish and
210 Wildlife have seen a dramatic increase in the number of Marijuana gardens,
211 and corresponding increases in impacts to water supply and water quality,
212 including the discharge of sediments, pesticides, fertilizers, petroleum
213 hydrocarbons, trash and human waste. The sources of these impacts result
214 from unpermitted and unregulated timber clearing, road development,
215 stream diversion for irrigation, land grading, erosion of disturbed surfaces
216 and stream banks, and temporary human occupancy without proper sanitary
217 facilities.

218 N. The immunities from certain prosecution provided to Qualified Patients and
219 their Primary Caregivers under State law to cultivate Marijuana plants for
220 medical purposes does not confer the right to create or maintain a public
221 nuisance. By adopting the regulations contained in this Chapter, the City
222 will achieve a significant reduction in the risks of fire, crime and pollution
223 caused or threatened by the unregulated Cultivation of Marijuana in the
224 City of Yreka.

225 O. Nothing in this Chapter shall be construed to allow the use of Marijuana
226 for non-medical purposes, or allow any activity relating to the Cultivation,
227 distribution, or consumption of Marijuana that is otherwise illegal under
228 State law. No provision of this Chapter shall be deemed a defense or
229 immunity to any action brought against any person by the City of Yreka,
230 the Yreka City Attorney, the Siskiyou District Attorney, the Attorney
231 General of State of California, or the United States of America.

232 P. In *Browne v. City of Tehama*, 213 Cal. App. 4th 704 (2013), the California
233 Court of Appeal stated that “Neither the Compassionate Use Act nor the
234 Medical Marijuana Program grants . . . anyone . . . an unfettered right to
235 cultivate Marijuana for medical purposes. Accordingly, the regulation of
236 Cultivation of medical Marijuana does not conflict with either statute.”
237 Similarly, in *City of Riverside v. Inland Empire Patients Health & Wellness*
238 *Center, Inc.*, 56 Cal. 4th 729 (2013), the California Supreme Court
239 concurred that “Nothing in the CUA or the MMP expressly or impliedly
240 limits the inherent authority of a local jurisdiction, by its own ordinances,
241 to regulate the use of its land . . .” Additionally, in *Maral v. City of Live Oak*
242 (2013), 221 Cal. App. 4th 975, 983, review denied 2014 Cal. LEXIS 2402
243 (March 26, 2014), the same Court of Appeal held that “there is no right-and
244 certainly no constitutional right-to cultivate medical Marijuana . . .” The
245 Court in Live Oak affirmed the ability of a local governmental entity to
246 prohibit the Cultivation of Marijuana under its land use authority.

247 Q. The indoor Cultivation of Marijuana has potential adverse effects to the
248 structural integrity of the building, and the use of high wattage grow lights

249 and excessive use of electricity increases the risk of fire, which presents a
250 clear and present danger to the building and its occupants.

251 R. The Attorney General's August 2008 Guidelines for the Security and Non-
252 Diversion of Marijuana Grown for Medical Use recognizes that the
253 Cultivation or other concentration of Marijuana in any location or premises
254 without adequate security increases the risk that nearby homes or
255 businesses may be negatively impacted by nuisance activity such as
256 loitering or crime.

257 S. The California Constitution, Article XI, section 7, provides cities with
258 broad authority to determine, for purposes of health, safety, and welfare,
259 the appropriate uses of land within a city's boundaries.

260 T. The Planning Commission of the City of Yreka, after due notice, at the
261 public hearing of January 20, 2016, reviewed the proposed Ordinance and
262 accompanying documents, considered testimony regarding the proposed
263 Ordinance, and voted _____ to recommend [approval/denial] of
264 the Ordinance to the City Council.

265 U. All legal prerequisites for the adoption of this Ordinance have occurred.

266 V. The above recitals are all true and correct.

267 **9.26.130 Scope.**

268 The provisions of this Chapter shall apply generally to all property throughout
269 the incorporated area of the City of Yreka, as from time to time, annexed and
270 expanded.

271 **9.26.140 Responsibilities.**

272 A. Regardless of whether an owner is in actual possession of his or her real
273 property, it is the duty of every owner of real property within the
274 incorporated area of City of Yreka to prevent a public nuisance from
275 arising on, or from existing upon, his or her real property.

276 B. No person or entity shall cause, permit, maintain, conduct or otherwise
277 allow a public nuisance as defined in this Chapter to exist upon any
278 property within their control and shall not cause a public nuisance to exist
279 upon any other property within the incorporated limits of the City of
280 Yreka. It shall be the duty of every owner, occupant, and person that
281 controls any land or interest therein within the incorporated area of the
282 City of Yreka to remove, abate and prevent the reoccurrence of any public
283 nuisance upon such land.

284 **9.26.150 Private Right of Action.**

285 Nothing contained in this Chapter shall be construed to prohibit the right of any
286 person or public or private entity damaged by any violation of this Chapter to
287 institute a civil proceeding for injunctive relief against such violation, for
288 money damages, for compensatory damages, for injunctive relief, and for the

289 cost of suit and reasonable attorney's and expert witness' fees, or for whatever
290 other or additional relief the court deems appropriate. The remedies available
291 under this Chapter shall be in addition to, and shall not in any way restrict
292 other rights or remedies available under law.

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ARTICLE 2 DEFINITIONS

296 **9.26.200 Definitions.**

297 Except where the context otherwise requires, the following definitions shall
298 govern the construction of this Chapter:

299 A. "Accessory Structure" means a separate and permitted or unpermitted
300 building located on the same parcel as the residence.

301 B. "Building Official" means any person employed by the City of Yreka that
302 has been delegated or assigned building inspection duties or building plan
303 approval.

304 C. "City Manager" means the City Manager of the City of Yreka, California or
305 his or her designee.

306 D. "Code" means the City of Yreka Municipal Code.

307 E. "Code Enforcement Officer" means any person employed by the City of
308 Yreka that has been delegated or assigned code enforcement
309 responsibilities.

310 F. "Costs of Enforcement" or "Enforcement Costs" means the total cost
311 incurred by the City in connection with a public nuisance including, but not
312 limited to:

313 1. Any cost incurred in removing or remedying a public nuisance;

314 2. The actual expenses and costs of the city in preparation of notice and order,
315 reconsideration, appeal and termination fees for administrative services rendered
316 by the City in connection with the inspection, notification, prosecution and
317 abatement procedures authorized by this code:

318 a. Notice and order, appeal and termination fees in such amounts as are
319 determined from time to time by resolution of the city council;

320 b. Notice and order, appeal and termination fees based on services rendered
321 by the City from the time of the initial complaint intake for the purpose of
322 documenting a violation of this code until the violation is corrected;

323 c. The notice and order, appeal and termination fees are not intended to be a
324 penalty imposed for violation of this code or other laws;

325 d. Specifications and contracts;

326 e. Any attorney's fees expended in the abatement of the nuisance, through
327 inspection warrant, civil action or otherwise;

328 f. The cost of printings and mailings required under this code;

329 g. All costs or expenses to which the city may be entitled pursuant to

- 330 Health and Safety Code Section 510 and other statutory entitlement;
331 h. All costs and expenses for which the city may be liable under state law
332 arising from or related to the nuisance.
- 333 3. Any cost incurred by the City in collecting the costs enumerated in subsections 1
334 and 2 of this definition.
- 335 G. "City" means the City of Yreka.
- 336 H. "Chapter" or Ordinance means this ordinance.
- 337 I. "Cultivation" means the planting, growing, harvesting, drying, processing,
338 or storage of one or more Marijuana plants or any part thereof in any
339 location, indoor or outdoor, including from within a fully enclosed and
340 secure building.
- 341 J. "Defined Area of Cultivation" means a single, Outdoor, area wherein all
342 portions of Cultivation are completely screened from public view.
343 Cultivation of Marijuana is limited to an area where the canopy of the
344 growing Marijuana is less than 100 square feet, irrespective of how many
345 Qualified Patients or Primary Caregivers live on the Parcel.
- 346 K. "Dwelling" means a building intended for human habitation that has been
347 legally established, permitted and certified as a single-family or multi-
348 family dwelling.
- 349 L. "Enforcement Official" means the Code Enforcement Officer, City
350 Attorney or the City Police, or the authorized officers or designees of
351 either, each of whom is independently authorized to enforce this Chapter.
- 352 M. "Fence" means a solid wall or a barrier connected by boards, masonry,
353 rails, panels, or any other materials typically utilized for residential fences
354 (subject to the approval of the City's Building Official) for the purpose of
355 enclosing, securing, and screening space from public view. The term
356 "Fence" does not include retaining walls.
- 357 N. "Indoors" means within a fully enclosed structure, with a solid roof, floor,
358 and walls. The structure must be securable against unauthorized entry and
359 constructed of solid materials such as 3/8" or thicker plywood, glass, or
360 equivalent materials. Shade-cloth covered and plastic sheeting covered,
361 regardless of gauge, or similar products do not satisfy this requirement. A
362 structure without a solid floor does not satisfy this requirement; no
363 Marijuana shall be Cultivated in the soil beneath the Dwelling or
364 Accessory Structure.
- 365 O. "Marijuana" means all parts of the plant *Cannabis sativa* L. or *Cannabis*
366 *ruderalis*, whether growing or not; the seeds thereof; the resin extracted
367 from any part of the plant; and every compound, manufacture, salt,
368 derivative, mixture, or preparation of the plant, its seeds or resin. It does
369 not include the mature stalks of the plant, fiber produced from the stalks,
370 oil or cake made from the seeds of the plant, any other compound,
371 manufacture, salt, derivative, mixture, or preparation of the mature stalks

372 (except the resin extracted there from), fiber, oil, or cake, or the sterilized
373 seed of the plant which is incapable of germination including marijuana
374 infused in foodstuff or any other ingestible or consumable product
375 containing marijuana. The term "marijuana" shall also include "medical
376 marijuana" as such phrase is used in the August 2008 Guidelines for the
377 Security and Non-Diversion of Marijuana Grown for Medical Use, as may
378 be amended from time to time, that was issued by the office of the Attorney
379 General for the state of California or subject to the provisions of California
380 Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996)
381 or California Health and Safety Code Sections 11362.7 to 11362.83
382 (Medical Marijuana Program Act).

383 P. "Marijuana plant" means any mature or immature Marijuana plant
384 including the stalks of the plant, or any Marijuana seedling, that is capable
385 of producing Marijuana. A "mature" Marijuana plant is one whose sex can
386 be determined by visual inspection.

387 Q. "Outdoors" means any location that is not "indoors" within a fully enclosed
388 and secure structure as defined herein.

389 R. "Parcel" means any parcel of real property that may be separately sold in
390 compliance with the Subdivision Map Act (commencing with Section
391 66410 of the Government Code) and also means parcels that are described,
392 recorded and kept in official City records specifically including documents
393 and maps used by the Siskiyou County Assessor's Office, the Siskiyou
394 County Tax Collector's Office and the Siskiyou County Recorder's Office.

395 S. "Primary Caregiver" shall have the same meaning as "primary caregiver" as
396 defined in the California Health and Safety Code, commencing with
397 Section 11362.7(d), and as further defined in the California Supreme Court
398 decision *People v. Mentch* (2008) 45 Ca1.4th 274.

399 T. "Public View" shall mean as viewed at ground level, without the use of a
400 ladder or similar device, from any place the general public has a lawful
401 right to be including the public right of way, a public way or neighboring
402 premises.

403 U. "Qualified Patient" shall have the same meaning as "qualified patient" as
404 defined in the California Health and Safety Code, commencing with
405 Section 11362.7(f) as amended or supplanted.

406 V. "Residence" shall have the same meaning as "Dwelling".

407 W. "Police" or "Police Department" means the City of Yreka Police
408 Department or the authorized representatives thereof.

409

ARTICLE 3
RESTRICTIONS AND REQUIREMENTS

9.26.300 Cultivation Restrictions.

- A. It is unlawful and a public nuisance for any person owning, leasing, renting, occupying, or having charge or possession of any Parcel within any zoning district in the City to cause or allow such Parcel or premises to be used for the Cultivation of Marijuana Plants except as permitted in this Chapter.
- B. Cultivation of Marijuana Outside is prohibited without proper registration issued by the City.
- C. All persons and entities engaging in the Cultivation of Marijuana shall:
 - 1. Have a legal water source on the Parcel;
 - 2. Not engage in unlawful or unpermitted surface drawing of water for such Cultivation; and
 - 3. Not permit illegal discharges of water from the parcel.
- D. Marijuana Cultivation shall not adversely affect the environment or the public health, safety, or general welfare by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, or vibration, by the use or storage of plant or animal poisons, or hazardous materials, processes, products or wastes, or by any other way.

9.26.310 Cultivation Requirements.

- A. Cultivation may only occur on a Parcel improved with an occupied, legally established, Dwelling in conformance with this Chapter. Any Marijuana Cultivation shall be Outside, contained within the Defined Area of Cultivation, and located and affixed to the real property that:
 - 1. Is on the same Parcel as the Dwelling of a qualified patient(s) or a primary caregiver(s); and
 - 2. Within the Defined Area of Cultivation.
 - 3. The Defined Area of Cultivation shall be screened from view by a solid Fence as described herein in Sections 9.26.330 and 9.26.200(M). Such Fencing shall not be built or placed within any mandatory setback required by the City of Yreka Municipal Code.
 - 4. The Defined Area of Cultivation shall not have any covering or canopy over Cultivated Marijuana.
 - 5. All Marijuana Cultivation shall strictly comply with the water conservation standards set forth in the Yreka Municipal Code at Chapter 12.12, entitled "Water Efficiency" and Chapter 11.38, entitled "Efficient Landscaping Ordinance." Drip irrigation is encouraged.

447 The Defined Area of Cultivation, if supplied with electricity, shall be
448 equipped with permanently installed and permitted electricity, and shall
449 not be served by temporary extension cords. Electrical wiring
450 conductors shall be sized based on the currently adopted California
451 Electrical Code with anticipated loads identified.

452 6. Any illumination of the Defined Area of Cultivation by artificial growth
453 inducing lights is prohibited. Gas products (including, without
454 limitation, CO₂, butane, propane, and natural gas), or generators shall
455 not be used within the Defined Area of Cultivation of Marijuana.

456 7. Structures that are exempt from Building Permits by City of Yreka
457 Municipal Code, Chapter 11, shall not be used for the Cultivation of
458 Marijuana.

459 8. All improvements within the Defined Area of Cultivation as well as the
460 fencing shall comply with all of the provisions of the City of Yreka
461 Code, including but not limited to, the City's Building and Construction
462 Code in Title 11, and construction codes in Title 12 of the City of Yreka
463 Municipal Code. Where the provisions of this Chapter are more
464 restrictive than other portions of the City of Yreka Code the provisions
465 of this Chapter shall govern.

466 **9.26.320 Cultivation Inside Dwellings and Accessory Structures Prohibited.**

467 Residential Structure and Accessory Structures Cultivation Prohibited. It is
468 unlawful and a public nuisance for any person to Cultivate medical
469 Marijuana inside any Residence or other structure, including Accessory
470 Structures.

471 **9.26.330 Fencing.**

472 A. Marijuana Cultivation is required to be surrounded by a solid fence that is
473 at least six (6) feet but not greater than (8) feet in height with a locking
474 gate and shall conform to the following:

- 475 1. Fencing materials shall be in compliance with Section 9.26.200(M);
- 476 2. Location of fence shall meet zoning setback and height requirements;
- 477 3. Fences over seven (7) feet in height will require proof of an approved
478 building permit; and
- 479 4. The fence and gate must be adequately secure to prevent unauthorized
480 entry and keep the area out of reach of minors.

481 Exception: Topography, natural vegetation, bushes or hedgerows alone may
482 constitute an adequate fence for the purposes of this Section, but shall be
483 subject to the approval of City of Yreka Building Official (CYBO).

484 **9.26.340 Registration Requirements.**

485 A. The Cultivation of Marijuana in any quantity upon any premises without
486 first registering the Cultivation and paying the required fee is hereby declared

487 to be unlawful and a public nuisance and may be abated in accordance with
488 this Chapter.

489 B. The Registration Application shall be prescribed by City of Yreka Building
490 Official (CYBO) and shall at a minimum contain the following:

491 1. The person(s) owning, leasing, occupying, or having charge or
492 possession of any premises have submitted the required annual
493 registration for the premises to CYBO, and provided all of the following
494 current information and documentation to CYBO:

495 a. The name of each person, owning, leasing, occupying, or having
496 charge or possession of the premises;

497 b. The name of each qualified patient or primary caregiver who
498 participates in the Cultivation, either directly or by providing
499 reimbursement for Marijuana or the services provided in conjunction
500 with the provision of that Marijuana;

501 c. A copy of the current valid medical recommendation or State-issued
502 medical Marijuana card for each qualified patient identified as
503 required above, and for each qualified patient for whom any person
504 identified as required above is the primary caregiver;

505 d. The total area to be used for the Cultivation of Marijuana plants on
506 the Parcel; and

507 e. Such other information and documentation as the CYBO determines
508 is necessary to ensure compliance with State law and this Chapter.

509 2. The registration shall contain a statement in substantially the following
510 form: By submitting this registration, the property owner and the
511 cultivator, if different, will allow and hereby consents to Code
512 Enforcement Officer(s) entering the property, at a reasonable time, to
513 inspect for compliance with this Chapter.

514 3. The registration shall contain a statement, under penalty of perjury, that
515 the information is true and accurate.

516 C. Where the registration application is deemed complete, and no violations or
517 conditions are identified to prohibit Marijuana Cultivation, a registration
518 number shall be provided to the applicants. The registration number shall
519 be kept with the Cultivation and shall be presented to the inspecting Code
520 Enforcement Officer upon request.

521 D. This information and documentation shall be received in confidence, and
522 shall be used or disclosed only for purposes of administration or
523 enforcement of this Chapter or State law, or as otherwise required by law,
524 including but not limited to the Public Records Act.

525 E. The City Council shall, by Resolution, establish a fee for such annual
526 registration in accordance with all applicable legal requirements.

- 527 F. Every registration under this Chapter shall be valid for no more than one
 528 calendar year and shall expire on December 31st of that year. An expired
 529 registration shall be renewed in the same manner as an initial registration
 530 hereunder. In the event that the registration of any premises for any
 531 calendar year is submitted after March 1st of that year, the registrant shall
 532 pay a late registration penalty equal to fifty percent (50%) of the applicable
 533 registration fee. The City Manager may waive the late registration penalty
 534 if the failure to timely register was due to reasonable cause and not due to
 535 willful neglect.
- 536 G. If the person(s) cultivating Marijuana on any legal parcel is/are not the
 537 legal owner(s) of the parcel, such person(s) shall submit a notarized letter
 538 from the legal owner(s) consenting to the Cultivation of Marijuana on the
 539 parcel. Notwithstanding the foregoing, the owner of a Parcel where the
 540 cultivator has not obtained a notarized letter shall still be responsible for
 541 any nuisance that has been determined to exist upon their property. The
 542 City shall prescribe forms for such letters.
- 543 H. No person(s) shall have any vested rights to any authorization, right, or
 544 interest under this Ordinance, regardless of whether such person(s)
 545 Cultivated Marijuana prior to the adoption of this Ordinance. Nothing in
 546 this Chapter shall be construed to confer a right to Cultivate Marijuana
 547 prior to the actual approval of a registration application by the City.

548 **ARTICLE 4**

549 **PUBLIC NUISANCE**

550 **9.26.400 Conditions Creating Public Nuisance.**

551 A public nuisance shall be deemed to exist when any of the following
 552 conditions or circumstances is present:

- 553 A. Any person owning, leasing, occupying or having charge or possession of
 554 any Parcel within the City's incorporated area to cause or allow such
 555 Parcel to be used for the Cultivation of Marijuana in violation of the
 556 provisions contained herein or any provisions set forth in Division 10 of
 557 the California Health and Safety Code.
- 558 B. The Cultivation of Marijuana and/or on a Parcel that does not have an
 559 occupied legally established Dwelling in conformance with this Chapter.
- 560 C. The Cultivation of Marijuana on a Parcel by anyone other than a qualified
 561 patient or a primary caregiver. A physician's recommendation shall be kept
 562 onsite at all times and shall be posted in plain view for inspection. Where
 563 multiple people are cultivating, each physician recommendation shall be
 564 posted.
- 565 D. Marijuana plants in public view as defined in Section 9.26.200 of this
 566 Chapter.
- 567 E. The Cultivation of Marijuana in excess of the Defined Area of Cultivation.

- 568 F. The improper use, storage and/or disposal (per the manufacturer's
569 instructions and/or any law that governs same) of chemicals, fertilizers, gas
570 products (CO2, butane, etc.) or any other products or equipment associated
571 with the Cultivation of Marijuana.
- 572 G. Any violation of this Chapter, any Ordinance or State law or any public
573 nuisance defined or known at common law or in equity jurisprudence.

574 **ARTICLE 5**
575 **ENFORCEMENT**

576 **9.26.500 Enforcement Authority.**

577 The Code Enforcement Official that has been assigned responsibility for
578 administration of Code Enforcement services is hereby designated to enforce
579 this Chapter.

580 **9.26.510 Right of Entry/Inspection.**

581 To enforce the provision of this Code, any Code Enforcement Officer may at a
582 reasonable time request inspection of any parcel suspected of cultivating
583 Marijuana. If the person owning or occupying the Parcel refuses the request
584 for an inspection, the Code Enforcement Officer shall have recourse to every
585 remedy provided by law to secure entry, including obtaining an inspection
586 warrant.

587 **9.26.520 Violations.**

- 588 A. It is unlawful and a violation of this Chapter for any person to permit a
589 public nuisance to exist upon real property in which such person has an
590 ownership or possessory interest.
- 591 B. It shall be unlawful and a violation of this Chapter to do anything in
592 contrary to the requirements and provisions set forth in this Chapter.
- 593 C. Each person violating this Chapter shall be guilty of a separate offense for
594 each and every day, or portion thereof, which any violation of any
595 provision of this Chapter is committed, continued, or permitted by any such
596 person. Any violation, which persists for more than one day, is deemed a
597 continuing violation.

598 **9.26.530 Remedies.**

- 599 A. Any violation of this Chapter shall be deemed a public nuisance and is
600 subject to any enforcement process authorized by law or as outlined in this
601 Code.
- 602 B. Nothing herein shall be read, interpreted or construed in any manner so as
603 to limit any existing right or power of the City of Yreka or any other
604 governmental entity to enforce City ordinances, to abate any and all
605 nuisances, or employ any remedy available at law or equity.

- 606 C. Issuance of a warning shall not be a requirement prior to using any
607 enforcement provision of this Code. Violations are not tiered and are
608 subject to enforcement without warning.
- 609 D. A civil action to foreclose a lien, the special assessment procedure, and
610 a personal action against the owner and all other responsible persons
611 shall not be mutually exclusive and the City shall be free to use all
612 methods simultaneously as long as the City does not receive multiple
613 payments for Enforcement Costs.

614 **9.26.540 Notice and Order to Abate.**

- 615 A. Upon making a determination that a public nuisance exists, the
616 Enforcement Official shall notify the owner and/or the alleged violator that
617 a public nuisance exists upon such owner's property. As to an owner, the
618 Notice and Order to Abate shall be delivered by personal service or by
619 Certified, Return Receipt mail, with postage prepaid, addressed to the
620 owner as such owner's name and address appears on the last equalized
621 assessment roll or to such other address as the owner directs. As to an
622 alleged violator whom the Enforcement Official has determined directly or
623 indirectly contributed to the condition creating the nuisance, the Notice and
624 Order to Abate shall be delivered by personal service or by Certified,
625 Return Receipt mail, with postage prepaid, to the last known address of the
626 alleged violator. In addition, the Notice and Order to Abate shall be
627 delivered by first class mail, with postage prepaid, addressed to the owner
628 and/or alleged violator at the same addresses. A copy shall also be posted
629 on the property. The Enforcement Official shall complete a proof of
630 service.
- 631 B. The Notice and Order to Abate shall describe the use or condition which
632 constitutes the public nuisance; and shall order that the uses or conditions
633 constituting the nuisance be abated by demolition, securing, removal,
634 cleanup, repair or other means within a reasonable time certain as
635 determined necessary for such abatement by the Code Enforcement Official
636 based upon the nature and complexity of the abatement process, normally
637 being three (3) days, or less, from the date such notice is mailed and/or
638 posted.

639 **9.26.550 Violation Penalties.**

640 A. Criminal Penalties.

641 Any responsible party, whether owner, lessee, sublessor, sublessee or occupant
642 of any premises who violates the provisions of this code shall be guilty of a
643 misdemeanor for each day such violation continues.

644 B. Administrative Penalties.

- 645 1. Any person who violates this Chapter shall be guilty of a separate offense
646 for each and every day, or portion thereof, the violation is committed,
647 permitted or continued. The city attorney may pursue any lawful civil

648 remedy and administrative penalties brought to enforce any provisions of
649 this Chapter.

650 2. In addition to the actual abatement and/or Enforcement Costs incurred by
651 the City any person who has been issued a Notice and Order to Abate
652 Public Nuisance shall be assessed an Administrative Penalty payable to the
653 City as follows:

654 a. A penalty of \$1,000.00 for each violation of this Code per day as set
655 forth in the Notice and Order to Abate.

656 b. A penalty of \$2,000.00 for each violation of this Code per day when a
657 second violation of this Code occurs within eighteen (18) months of a
658 previously issued Notice and Order to Abate.

659 c. A penalty of \$3,000.00 for each violation of this Code per day for each
660 subsequent violation of this Code beyond the second when the violation
661 occurs within thirty-six (36) months of the original Notice and Order to
662 Abate.

663 3. For the purpose of calculating the daily Administrative Penalty, each
664 offense of any Section of this Chapter shall be charged as a separate
665 violation; in addition, each cubic foot of area under cultivation that
666 exceeds the maximum Defined Area in violation of this Chapter shall be
667 charged as a separate violation.

668 4. The Administrative Penalty, pursuant to this Section, shall be assessed
669 immediately upon the issuance of a Notice and Order to Abate Public
670 Nuisance and shall continue to accrue until the date compliance with the
671 Order has been met and verified by the Code Enforcement Officer. In the
672 event a Request for Reconsideration has been properly filed with the City,
673 the Request for Reconsideration shall have no affect on the Administrative
674 Penalty and said Penalty shall continue to accrue during the pendency of
675 the determination. At the conclusion of the hearing the Yreka City Council
676 is authorized to modify or waive the Administrative Penalty for cause and
677 shall make express findings into the record for such modification or
678 waiver.

679 C. Obstruction a Crime.

680 Any person who obstructs, impedes or interferes with any representative,
681 officer, employee, contractor or authorized representative of the city council or
682 with any representative of a city department or with any person who owns or
683 holds any estate or interest in a building or Parcel which has been ordered to be
684 abated pursuant to the provisions of this Chapter when any of the
685 aforementioned individuals are engaged in the work of abating any nuisance as
686 required by the provisions of this Chapter, or in performing any necessary act
687 preliminary to or incidental to such work authorized or directed pursuant to this
688 Chapter lawfully engaged in proceedings involving the abatement of a nuisance
689 is guilty of a misdemeanor.

690

691 **9.26.560 Enforcement Costs.**

692 A. All costs and penalties associated with the enforcement of this Chapter are
693 the joint and several responsibility of the owner, lessee, renter, occupier
694 and person having charge or possession of any Parcel(s) on which a
695 nuisance has been found to exist and such costs shall be paid within 30
696 days of the date of demand thereof.

697 B. Where costs and penalties go unpaid beyond 30 days, the Enforcement
698 Official shall take action to confirm the costs and record a lien against the
699 Parcel and will attach as a lien until paid. Costs or expenses for which the
700 City may be reimbursed shall begin to accrue at the time the City first receives
701 a complaint regarding a problem on the property. Any lien recorded pursuant
702 to Government Code §38773.5 shall not include administrative penalties
703 assessed and shall be limited to the Enforcement Costs. However, upon entry
704 of a second or subsequent civil or criminal action within a two year period
705 finding an owner of a Parcel or a person described in paragraph (3) of
706 subdivision (d) of Government Code §38772 is responsible for the condition
707 that may be abated in accordance with this Chapter, the Court may order that
708 person to pay treble the Enforcement Costs.

709 C. An additional fee which shall be set by resolution of the city council shall be
710 imposed on the owner of the Parcel at the conclusion of any matter in which a
711 notice and order has been issued. This termination fee shall be calculated to
712 recover the cost of closing the file, removing or placing liens, and other
713 associated administrative costs. Costs shall be assessed at the conclusion of the
714 abatement; provided, however, in the case of abatement by any method which
715 takes more than six months, costs may be assessed at any time after six
716 months, but in no event more than two times a year.

717 D. Enforcement Costs and expenses may be recovered even if the nuisance is
718 corrected voluntarily, subsequent to the issuance of an abatement order. No
719 fees shall be due and owing if it is administratively determined that no
720 nuisance exists. All fees shall be a personal obligation of the owner and a lien
721 upon the Parcel and are due and payable within thirty days of issuance of the
722 notice and order or closing of the file respectively. Any fee not paid within
723 that time shall be payable to the City.

724 E. The City Manager/designee shall keep an account of the costs (including
725 incidental expenses) of abating such nuisance on each separate lot or parcel
726 of land where the work is done and shall render an itemized billing to the
727 property owner, which shall be due and payable within thirty days. If the
728 owner refuses or neglects to pay the bill, an itemized report in writing shall
729 be made to the planning commission showing the cost of abatement and the
730 demolishing or repairing of said buildings, structures and/or Marijuana
731 eradication, including any salvage value relating thereto; provided, that
732 before said report is submitted to the planning commission, a copy of the
733 same shall be mailed together with a notice of the time when said report
734 shall be heard by the planning commission for confirmation.

735 F. The planning commission shall set the matter for hearing to determine the
736 correctness or reasonableness, or both, of such costs, and shall serve notice
737 thereof.

738 G. Proof of said service shall be made by declaration under penalty of perjury
739 filed with the city clerk.

740 **9.26.570. Record of Abatement Cost—Hearing and Proceedings.**

741 At the time and place fixed for receiving and considering the report, the
742 planning commission shall hear and pass upon the reports of such costs of
743 abatement, together with any objections or protests raised by any of the persons
744 liable to be assessed for the cost of abating the nuisance.

745 Thereupon, the planning commission may make such revision, correction or
746 modification in the report, as it may deem just, after which, by motion, the
747 report, as submitted or as revised, corrected or modified, shall be confirmed.
748 The hearing may be continued from time to time. The decision of the planning
749 commission on all protests and objections, which may be made, shall be final
750 and conclusive.

751 **9.26.575. Nuisance Abatement Lien.**

752 A. If the nuisance abatement and related Enforcement Costs are not paid within
753 five days after the planning commission confirms the costs of abatement, the
754 city shall notify the owner of record of the parcel of land on which the
755 nuisance is maintained, based on the last equalized assessment roll or the
756 supplemental roll, whichever is more current, that a nuisance abatement lien
757 will be recorded. The notice shall specify the amount of the lien, the name
758 of the city, the date of the abatement order, the street address, the legal
759 description and the assessors parcel number of the parcel on which the lien
760 is imposed, and the name and address of the recorded owner of the parcel.
761 The notice shall be served in the same manner as a summons in a civil
762 action in accordance with Article 3 (commencing with Section 415.10) of
763 Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. If the owner of
764 record after diligent search cannot be found, the notice may be served by
765 posting a copy thereof in a conspicuous place upon the property for a period
766 of ten days and publication thereof in a newspaper of general circulation
767 published in Siskiyou County pursuant to Section 6062 of the Government
768 Code. Such notice of lien for recordation shall be in the form
769 substantially as follows:

770 NOTICE OF LIEN

771 (Claim of City of Yreka)

772 Pursuant to the authority vested by the provisions of Chapter 9.26
773 of the City of Yreka Municipal Code, the city manager (or his
774 designee) of the City of Yreka did on or about (insert date), cause
775 the premises hereinafter described [insert description of abatement
776 action taken] to abate a public nuisance on said real property; and
777 the Planning Commission of the City of Yreka did on (insert date),

778 assess the cost of such abatement action taken; and the same has not
779 been paid nor any part thereof; and that said City of Yreka does
780 hereby claim a lien on premises in the amount of said assessment,
781 to wit: the sum of \$ (insert amount); and the same shall be a lien
782 upon said real property until the same has been paid in full and
783 discharged of record.

784 The real property hereinbefore mentioned, and upon which a lien
785 is claimed, is that certain parcel of land lying and being in the City
786 of Yreka, County of Siskiyou, State of California, and particularly
787 described as follows:

788 (Insert description)

789 DATED: (insert date).

790 City Manager of the City of Yreka, California
791 (ACKNOWLEDGEMENT)

- 792 B. The planning commission may order a refund of all or part of the
793 assessment paid pursuant to this code if it finds that all or part of the
794 assessment was erroneously levied. An assessment or part thereof shall not
795 be refunded unless a claim is filed with a city clerk within six months after
796 the assessment became due and payable. The claim shall be verified by the
797 person who paid the assessment, or the legal representative of such person.
- 798 C. After notice is given in accordance with subsection A of this section, the
799 notice of lien shall be recorded in the Siskiyou County recorder's office and
800 shall thereafter constitute a lien on the real property for the expense of the
801 abatement, the related administrative costs together with interest thereon.
- 802 D. In the event the lien is discharged, released or satisfied, either through
803 payment or foreclosure, notice of the discharge containing the same
804 information as the notice of lien shall be recorded in the Siskiyou County
805 recorder's office.
- 806 E. The City may enforce the nuisance abatement lien by an action for a money
807 judgment.

808

ARTICLE 6

809

REQUESTS FOR RELIEF OR RECONSIDERATION

810

AND UNIFORM HEARINGS AND PROCEDURES

811

9.26.600 Relief and Reconsideration.

- 812 A. Requests for Relief. Any person or entity unable to comply with the
813 requirements of this Ordinance, or any person affected by any City
814 decision, action, or determination related to this Ordinance, may submit to
815 the City a written request for relief setting forth in detail the facts
816 supporting the request. The City Manager shall designate a City officer or
817 employee with managerial authority who will consider the matter without a

818 hearing and decide whether to grant relief. The City Manager's designee
819 may request additional information. The City Manager's designee may
820 decide the matter within fifteen (15) business days from the receipt of the
821 request, or, if additional information is requested and received within
822 fifteen (15) business days from the receipt of the request, then fifteen (15)
823 business days from the date the City receives all additional requested
824 information.

825 B. Requests for Reconsideration.

- 826 1. Within 30 days after the date of mailing of written notice of any City
827 decision granting or denying relief under paragraph A of this Section,
828 or within 30 days after the date the request for relief is deemed denied,
829 any person or entity affected by the requirements, decision, action or
830 determination that was the subject of the request for relief may submit
831 to the City Manager a written request for reconsideration. The City
832 Manager shall personally consider all requests for reconsideration. The
833 request for reconsideration must set forth in detail the facts supporting
834 the request.
- 835 2. The City Manager may act on the request for reconsideration with or
836 without a hearing in any manner the City Manager deems reasonable
837 and shall thereafter issue a final written determination concerning the
838 request for reconsideration. Whenever the City Manager does not act
839 upon the request for reconsideration within fifteen (15) business days of
840 receipt of the request for reconsideration, the request shall be deemed
841 denied on the first day following that time period. Notice of any
842 decision will be mailed to the person or entity requesting relief. The
843 decision, action or determination shall remain in effect during the
844 period of review by the City Manager.
- 845 3. The City Manager's decision shall become final and binding at the time
846 the City Manager acts on the request or fails to act within the time
847 specified by this paragraph (B). If the City Manager acts on the request
848 for reconsideration, notice of the City Manager's action will be mailed
849 to the person or entity requesting reconsideration within five (5)
850 business days of the action.
- 851 4. Any person or entity affected by a decision, action or determination
852 related to this Ordinance who wishes to appeal or challenge the
853 decision, action or determination must request reconsideration using the
854 process specified in this paragraph B. This requirement is jurisdictional.
855 The failure to seek reconsideration shall be deemed a failure of the
856 person or entity subject to the decision, action or determination to
857 exhaust administrative remedies.

858

859 **9.26.610 Decision – Time Limitation for Judicial Filing.**

860 All final administrative orders made pursuant to the procedures set forth in
861 this subsection shall be subject to review only as provided in California Code
862 of Civil Procedure Sections 1094.5 and 1094.6. Should any court of competent
863 jurisdiction determine that the city must provide an appeal of any final
864 administrative order in a manner other than set forth in Sections 1094.5 and
865 1094.6, then it is the intent of the city council that the administrative penalty
866 process remain as provided herein and to provide that any appeal which is
867 timely requested follow the procedures set forth in Government Code Section
868 53069.4. Otherwise, all objections to such decision shall be deemed waived.

869 **9.26.690 Severability.**

870 If any section, sentence, clause or phrase of this Chapter is for any reason held
871 to be invalid or unconstitutional by a decision of any court of competent
872 jurisdiction, such decision shall not affect the validity of the remaining
873 portions of this Chapter. The City Council hereby declares that it would have
874 passed this ordinance and adopted this Chapter and each section, sentence,
875 clause or phrase thereof, irrespective of the fact that any one or more sections,
876 subsections, sentences, clauses or phrases were to be declared invalid or
877 unconstitutional.

878 **Section 4. Inconsistency.**

879 Any provisions of the Yreka Municipal Code, or appendices thereto, or any
880 other ordinances of the City inconsistent herewith, to the extent of such
881 inconsistencies and no further, are hereby repealed for the purposes of this
882 Chapter.

883 **Section 5. CEQA Exemption.**

884 The City Council finds the approval of this ordinance is not subject to the
885 California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines
886 Sections 15060(c)(2) (the activity will not result in a direct or reasonably
887 foreseeable indirect physical change in the environment) and 15060(c)(3) (the
888 activity is not a project as defined in Section 15378) of the CEQA Guidelines,
889 California Code of Regulations, Title 14, Chapter 3, because it has no potential
890 for resulting in physical change to the environment, directly or indirectly.
891 Alternatively, the City Council finds the approval of this ordinance is not a
892 project under CEQA Regulation Section 15061(b)(3) because it has no potential
893 for causing a significant effect on the environment. In addition, the ordinance is
894 exempt from environmental review pursuant to the general rule of the
895 California Environmental Quality Act, which exempts minor alterations to land
896 use limitations that do not result in changes in land use or density pursuant to
897 CEQA Guidelines Section 15305. Finally, this Ordinance is exempt because it
898 is an urgency Ordinance necessary to protect the City from a current and
899 immediate threat to the public health, safety and welfare. Based on the

900 information contained in the staff report and accompanying attachments and
901 exhibits, the City Council hereby finds:

902 1. The proposed project will not result in a significant adverse effect on
903 the environment and will support the public health, safety, and welfare

904 2. The Ordinance and its provisions are consistent with the goals and
905 policies of the General Plan.

906 3. The Ordinance provides regulations for Marijuana Cultivation and this
907 minor alteration to land use limitations that do not result in changes in
908 land use or density pursuant to CEQA Guidelines Section 15305.

909 4. This is an urgency Ordinance necessary to protect the City from a
910 current and immediate threat to the public health, safety and welfare.

911 **Section 6. Publication of Codification.**

912 Section 3 of this Ordinance shall require publication in the codification of the
913 Yreka Municipal Code. The City Clerk is directed to post a Notice of
914 Exemption

915 **Section 7. Implementation.**

916 The City Council hereby authorizes and directs the City Manager to take any
917 action and sign any documents necessary to implement this Ordinance.

918 **Section 8. Execution.**

919 The Mayor and City Clerk are authorized to subscribe this ordinance where
920 indicated below to evidence its approval by the City Council. Introduced at a
921 regular meeting of the City Council held February 4, 2016, and adopted as an
922 ordinance of the City of Yreka at a regular meeting of the City Council held on
923 February 18, 2016 by the following vote:

924 AYES:

925 NOES:

926 ABSENT:

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932

933 APPROVED AS TO FORM

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936

937 Dohn Henion, City Attorney

John Mercier, Mayor

Attest:

Elizabeth E. Casson, City Clerk