

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

From: (Public Agency): City of Yreka
701 4th Street
Yreka, CA 96097

County Clerk
County of: Siskiyou
311 Fourth Street, Room 201
Yreka, CA 96097

(Address)

Project Title: Zoning Ordinance Amendment: Chapter 16.58 "Variances"

Project Applicant: City of Yreka

Project Location - Specific:

City-wide

Project Location - City: Yreka Project Location - County: Siskiyou

Description of Nature, Purpose and Beneficiaries of Project:

Amendments to the City of Yreka Zoning Code to update findings, establish due process procedures and comply with current state and federal case law concerning variances.

Name of Public Agency Approving Project: City of Yreka

Name of Person or Agency Carrying Out Project: Juliana Lucchesi, AICP

Exempt Status: (check one):

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: Section 15061(b)(3) "General Rule"
- Statutory Exemptions. State code number: _____

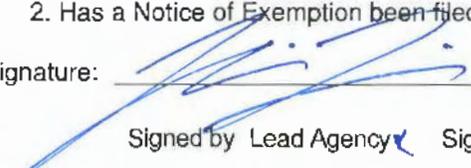
Reasons why project is exempt:

The proposed amendments were found to not have any foreseeable direct or indirect impacts to the environment; therefore, the proposed amendments would not be considered a "project" under CEQA. This is called a General Rule exemption under CEQA Guidelines Section 15061(b)(3).

Lead Agency
Contact Person: Juliana Lucchesi, AICP Area Code/Telephone/Extension: 530-841-2324

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? • Yes No

Signature:  Date: 6/8/2022 Title: Planning Director

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

ORDINANCE NO. 870

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YREKA
AMENDING YREKA MUNICIPAL CODE CHAPTER 16.58 ENTITLED
“VARIANCES” AND FINDING THE ADOPTION OF THIS ORDINANCE
TO BE EXEMPT FROM CEQA**

Recitals

BE IT ORDAINED by the City Council of the City of Yreka as follows:

SECTION 1. Chapter 16.58 Sections 16.58.010 entitled Variances, 16.58.020 entitled Application, 16.58.030 entitled Public Hearing, 16.58.040 entitled Action by Commission, 16.58.050 entitled Revocation of variances and § 16.58.060 entitled Variances within any historic district, landmark, or landmark site, of the Yreka Municipal Code are deleted in their entirety and supplanted and there is added sections 16.58.070, 16.58.080, 16.58.090 and 16.58.100 as follows:

Chapter 16.58 VARIANCES

16.58.010 Purpose

The variance is established to permit modification of development standards as they apply to particular development when practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of the zoning code, develop through the strict literal interpretation and enforcement of such provisions. Any variance granted shall be subject to conditions that will ensure that the variance does not constitute a granting of special privilege(s) inconsistent with the limitations upon other properties in the vicinity and zoning district in which the property is situated.

16.58.020 Applicability

A. A variance may be granted by the Planning Commission to permit modification of the following where mandated by this Title 16:

1. Building line setbacks, yards, open space, and buffer areas.
2. Height, lot coverage, density, and bulk regulations.
3. Off-street parking spaces, maneuvering areas and driveway width, and paving standards.
4. Landscaping requirements.
5. Wall, fencing, and screening requirements.
6. Street and highway dedication and improvement standards.
7. Lot area and width requirements.
8. Operating conditions such as hours or days of operation, number of employees, and equipment limitations.
9. Sign regulations other than outdoor advertising.

10. Distance-separation requirements.

B. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

C. A variance shall not be granted for a parcel of property that authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

16.58.030 Application and Review Procedures

A. Application Checklist. The application submittal shall contain all of the materials and information as required by the variance checklist.

B. Application fee. The City's variance application fee shall be paid at the time of application submission to the Planning Department. The variance application fee shall be set by City Council resolution.

C. The applicant shall submit the variance application to the Planning Department. The Planning Department shall have 30 calendar days to review the application and provide notice to the applicant whether the application is complete or requires additional information:

1. If the Planning Department determines that the application is incomplete, the Department shall notify the applicant of the application's deficiencies. The applicant will have a maximum of ninety (90) calendar days from the date of the notification letter to correct the deficiencies. If the applicant fails to provide further response or correction, the application process is deemed to have lapsed at the expiration of the ninetieth day.

2. If the Planning Department determines that the application is complete, the proposed variance shall be reviewed for environmental compliance with the California Environmental Quality Act (CEQA). Upon completion of the environmental review, the Planning Department shall schedule a public hearing with the Planning Commission no more than 15 days after completing environmental compliance.

16.58.040 Public Hearing Procedure

A public hearing by the Planning Commission shall be held and noticed in compliance with Government Code Sections 65090 through 65096.

16.58.050 Findings

A. In order to grant any variance, the findings of the Planning Commission shall be:

1. Because of special circumstances or exceptional characteristics applicable to the property, the strict application of the City Code deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

2. The modification authorized will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

3. Strict application of zoning regulations as they apply to such property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations and standards.

4. Such adjustment will not be materially detrimental to the public health, safety, or general welfare, or to the use, enjoyment, or valuation of property of other persons located in the vicinity.

16.58.060 Conditions of Approval

A. The Commission may impose conditions to ensure that the approval will be in accordance with the findings required in Section 16.58.050. Such conditions may involve any pertinent factors affecting the establishment, operation and maintenance of the use for which such variance is requested.

B. The application may be approved contingent upon compliance with applicable provisions of other ordinances and any other federal, State, or County requirements.

16.58.070 Revocation of variances.

A. If a variance is not exercised, used, or established within one year of its grant or the time otherwise specified in the permit, the variance automatically expires. A variance is considered to be exercised, used, or established when, within one year of its grant or within the time otherwise specified in it, a building permit is issued for the purpose and location described in it. If no building permit is required to establish the variance, use, or other matter granted, then the permit is considered to be exercised, used, or established when clear and visible evidence as to its beginning and reasonable progress toward completion is demonstrated.

B. A variance or modification shall be revoked if the Planning Commission finds that one or more of the following conditions exists:

1. The variance or modification was obtained in a fraudulent manner;
2. The use for which the variance or modification was granted had ceased or was suspended for six or more successive calendar months;
3. The variance or modification is being, or has been, exercised contrary to any conditions of approval imposed upon such permit;
4. The variance or modification is being, or has been, exercised in violation of any law;
5. That the use for which the variance or modification was granted is being exercised so as to be detrimental to the public health or safety or so as to constitute a nuisance.

C. The Planning Commission, on its own motion, may, or upon direction of the City Council, shall hold a public hearing upon the question of revocation of a variance or modification granted. Notice of such hearing shall be noticed in compliance with Government Code Sections 65090 through 65096. The City shall bear the burden of proving grounds for revocation. The permittee may at such hearing add any relevant evidence or testimony in opposition to the proposed revocation. If

the Planning Commission finds that grounds for revocation exist, it may revoke the variance or impose conditions to its continuance. The Planning Commission shall render a written decision within thirty (30) days of said public hearing and include findings of fact in the event the permit is revoked. The decision of the Planning Commission may be appealed as provided in Section 16.14.030.

16.58.080 Variances within any historic district, landmark, or landmark site.

Any application for a variance required or permitted pursuant to the terms of this title which relates to any real property located within a historic district, landmark, or landmark site established pursuant to Title 17 of the Yreka Municipal Code, shall first be reviewed and considered by the Historic District and Landmarks Commission prior to consideration thereof by the Planning Commission.

16.58.090 Appeals

In case the applicant or other affected are not satisfied with the action of the Planning Commission they may, within ten (10) calendar days after the rendition of the decision thereon by the Commission, appeal in writing to the City Council pursuant Section 16.14.030.

16.58.100 Changed Plans

A request for changes in conditions of approval of a variance or a change of site plans that would affect a condition of approval shall be treated as a new application, except those changes determined to be minor, in the opinion of the Planning Director, may be approved administratively by the Director.

SECTION 2. Any provisions of the Yreka Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 3. Exemption from CEQA. The action taken in this Ordinance does not commit the City to any action that may have a significant effect on the environment. As a result, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) such approval does not constitute a project subject to the requirements of the California Environmental Quality Act. The City Council directs City staff to file a Notice of Exemption within five (5) days following adoption of this Ordinance with the Siskiyou County Clerk.

SECTION 4. Severability. If any section, subsection, part, clause, sentence or phrase of this Ordinance or the application thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, the validity of the remaining portions of this Ordinance, the application thereof, shall not be effected thereby but shall remain in full force and effect, it being the intention of the City Council to adopt each and every section, subsection, part, clause, sentence phrase regardless of whether any other section, subsection, part, clause, sentence or phrase or the application thereof is held to be invalid or unconstitutional.

SECTION 5. Effective Date. This ordinance shall take effect thirty days after its adoption.

SECTION 6. Implementation. The City Council hereby authorizes and directs the City Manager to take any action and sign any documents necessary to implement this Ordinance.

SECTION 7. Publication. The City Clerk is directed to prepare, post and publish a summary of this ordinance as provided in Government Code Section 36933(c)(1).

SECTION 8. Codification. The City Clerk is directed and authorized to instruct the publisher of the City of Yreka Municipal Code that codification of this Ordinance is limited to Section 1.

SECTION 9. Execution. The Mayor and City Clerk are authorized to subscribe this ordinance where indicated below to evidence its approval.

Introduced at a regular meeting of the City Council held 17th day of May 2022, and adopted as an ordinance of the City of Yreka at a regular meeting of the City Council held on June 7, 2022 by the following vote:

AYES: Baird, Smith Freeman, Kegg, McCay, Middleton

NOES: None.

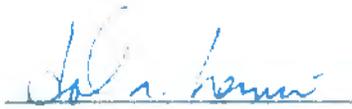
ABSENT: None.

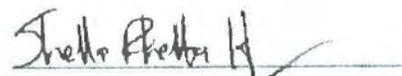
ABSTAIN: None.


Duane Kegg, Mayor

APPROVED AS TO FORM

Attest:


Dohn Honion, City Attorney


Shella Rhetta Hogan, City Clerk