

ALL CELL PHONES AND ELECTRONIC DEVICES MUST BE TURNED OFF
IN THE COUNCIL CHAMBERS



AGENDA

REEDLEY PLANNING COMMISSION REGULAR MEETING

5:00 P.M. – THURSDAY, OCTOBER 20, 2016

Meeting will be held at:

**City of Reedley Council Chambers
845 "G" Street
Reedley, California 93654**

The Council Chambers are accessible to the physically disabled. Requests for additional accommodations for the disabled, including auxiliary aids or services, should be made one week prior to the meeting by contacting the City Clerk at 637-4200 ext. 212.

City of Reedley's Internet Address: www.reedley.com/

Commissioners

Alberto Custodio, Chairman

Pete Perez, Vice-Chairman

Dawn Barcellos

Ron Hudson

Staff

Tony Stewart, AICP, Community Development Director

Ellen Moore, Associate Planner

PLEDGE OF ALLEGIANCE

ROLL CALL

PUBLIC COMMENT – Provides an opportunity for members of the public to address the Planning Commission on items of interest to the public within the Commission's jurisdiction and which are not already on the agenda this evening. It is the policy of the Commission not to answer questions impromptu. Concerns or complaints will be referred to the Community Development Director's office. Speakers should limit their comments to not more than three (3) minutes. No more than ten (10) minutes per issue will be allowed. For items which are on the agenda this evening, members of the public will be provided an opportunity to address the Commission as each item is brought up for discussion.

NOTICE TO PUBLIC

Under a **CONSENT AGENDA** category, a recommended course of action for each item is made. Any Commissioner may remove any item from the **CONSENT AGENDA** in order to discuss and/or change the recommended course of action, and the Commission can approve the remainder of the **CONSENT AGENDA**.

CONSENT AGENDA

1. Minutes of Regular Meeting, June 16, 2016 and Special Meeting, June 23, 2016 - Recommend Commission Approve.

PUBLIC HEARING

2. Consideration of Text Amendment Application No. 2016-2
Through Resolution No. 2016-10, staff recommends that the Planning Commission take the following actions:
 - a) RECOMMEND TO THE CITY COUNCIL APPROVAL of Environmental Assessment No. 2016-11, Environmental Finding of No Possibility of Significant Effect, dated September 28, 2016
 - b) RECOMMEND TO THE CITY COUNCIL APPROVAL of Text Amendment Application No. 2016-2, proposing to amend the text of the Reedley Municipal Code pertaining to permitted uses in the City's various zone districts related to the prohibited/restricted use of medical marijuana

DIRECTOR'S REPORT

3. Community Development Department Updates

FUTURE AGENDA ITEMS

- November 3, 2016 – General Plan Amendment, Change of Zone, Tentative Subdivision Map
- November 17, 2016 – None at this time
- December 1, 2016 – None at this time

ADJOURNMENT

REEDLEY PLANNING COMMISSION REGULAR MEETING – June 16, 2016

*Item # 1
(Under Perez Minutes)*

The regular meeting of the Reedley Planning Commission was held Thursday, June 16, 2016, in the City of Reedley Council Chambers, 845 "G" Street, Reedley. Chairman Custodio called the meeting to order at 5:02 p.m.

Pledge of Allegiance - led by Acting Chairman Pete Perez.

ROLL CALL

Commissioners Present: Dawn Barcellos, Ron Hudson, Pete Perez.

Commissioners Excused: Alberto Custodio, Gabriel Gutierrez.

City Staff Present: Ellen Moore, Interim City Planner.

PUBLIC COMMENT: None

CONSENT AGENDA

1. Minutes of Regular Meeting, April 21, 2016.

C. Barcellos moved, C. Perez seconded, to approve the minutes of the regular meeting of April 21, 2016. Motion carried.

PUBLIC HEARING

2. Consideration of Conditional Use Permit No. 2016-3

Through Resolution No. 2016-08, staff recommends that the Planning Commission take the following actions:

a) APPROVE Environmental Assessment No. 2016-6, determining that Conditional Use Permit Application No. 2016-3 is exempt from CEQA, pursuant to Section 15274 of the CEQA Guidelines

b) APPROVE Conditional Use Permit Application No. 2016-3, authorizing the operation of a large family day care home, located at 1288 East Santa Rosa Street

Interim City Planner E. Moore presented the staff report to the Planning Commission. Martina Rangel, the applicant, spoke on behalf of the project and answered questions. The Planning Commissioners asked questions and deliberated. Acting Chairman Perez opened the public hearing. There was no public comment. Acting Chairman Perez closed the public hearing.

C. Hudson moved, C. Barcellos seconded, whereas the Planning Commission, using their independent judgement, approved Conditional Use Permit Application No. 2016-3 and Environmental Assessment No. 2016-6. Motion carried by the following vote:

AYES: Hudson, Barcellos, Perez.

NOES: None.

ABSTAIN: None.

ABSENT: Custodio, Gutierrez.

COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Interim City Planner E. Moore gave an oral report of the current community development department activity.

FUTURE AGENDA ITEMS

- June 23, 2016 Special Meeting – CUP Amendment
- July 7, 2016 – None at this time
- July 21, 2016 – None at this time

Interim City Planner E. Moore discussed future Planning Commission agenda items.

ADJOURNMENT

REEDLEY PLANNING COMMISSION REGULAR MEETING – June 16, 2016

Meeting adjourned at 5:33 p.m.

ATTEST:

Tony Stewart, AICP, Secretary

Alberto Custodio, Chairman
Reedley Planning Commission

REEDLEY PLANNING COMMISSION SPECIAL MEETING – June 23, 2016

Item #1
(Unofficial Minutes)

The special meeting of the Reedley Planning Commission was held Thursday, June 23, 2016, in the City of Reedley Council Chambers, 845 "G" Street, Reedley. Chairman Custodio called the meeting to order at 5:01 p.m.

Pledge of Allegiance - led by Chairman Custodio.

ROLL CALL

Commissioners Present: Dawn Barcellos, Ron Hudson, Pete Perez, Alberto Custodio.

Commissioners Excused: Ron Hudson (recused).

City Staff Present: Ellen Moore, Interim City Planner and Kaitlin Underwood, Building Permit Technician/Administrative Assistant.

PUBLIC COMMENT: None

PUBLIC HEARING

1. Consideration of Conditional Use Permit No. 335 Amendment Application No. 8
Through Resolution No. 2016-09, staff recommends that the Planning Commission take the following actions:

A. APPROVE Environmental Assessment No. 2016-7, determining that Conditional Use Permit No. 335 Amendment Application No. 8 is exempt from CEQA, pursuant to Section 15332 (Class 32/Infill Development) of the California Environmental Quality Act (CEQA) Guidelines.

B. APPROVE Conditional Use Permit No. 335 Amendment Application No. 8, authorizing the changes to a previously approved entitlement for Immanuel Elementary School on ±2.81 acres of property located at 1128 South Reed Avenue.

Interim City Planner E. Moore presented the staff report to the Planning Commission. Interim City Planner E. Moore referred to a comment letter from George and Inge Nord, 1361 South Riverview Avenue, regarding concerns about trees, lighting, and a proposed emergency access point, and responded to the letter. Chairman Custodio opened the public hearing at 5:14 p.m. Ryan Wood, applicant and Superintendent of Immanuel Schools, spoke on behalf of the project. The Planning Commissioners asked questions of the applicant, Ryan Wood including questions referenced in the Nords' comment letter. Jaime Loreda, 1021 South Hope Avenue, voiced his concerns about the project regarding neighborhood safety and speeding. Gary Donaldson, 1427 South Hope Avenue, voiced his concerns about the project regarding the proposed basketball court location, open space requirements, and speed/quantity of traffic on South Hope Avenue. Renee Johnson, representing her mother who lives at 1386 South Hope Avenue, asked questions and voiced their concerns about the project regarding the basketball court, trees, lighting, traffic, and noise. Interim City Planner E. Moore and applicant Ryan Wood responded to public comments and answered questions. Jaime Loreda, Gary Donaldson, and Renee Johnson had further comments. Chairman Custodio closed the public hearing at 5:46 p.m.

C. Perez moved, C. Barcellos seconded, whereas the Planning Commission, using their independent judgement, approved Conditional Use Permit Application No. 335 Amendment Application No. 8 and Environmental Assessment No. 2016-7. Motion carried by the following vote:

AYES: Perez, Barcellos, Gutierrez, Custodio.
NOES: None.
ABSTAIN: Hudson.
ABSENT: None.

COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Interim City Planner E. Moore gave an oral report of the current community development department activity.

FUTURE AGENDA ITEMS

> July 7, 2016 – None at this time

REEDLEY PLANNING COMMISSION SPECIAL MEETING – June 23, 2016

- July 21, 2016 – None at this time
- August 4, 2016 – None at this time

Interim City Planner E. Moore discussed future Planning Commission agenda items.

ADJOURNMENT

Meeting adjourned at 5:51 p.m.

ATTEST:

Tony Stewart, AICP, Secretary

Alberto Custodio, Chairman
Reedley Planning Commission



REEDLEY PLANNING COMMISSION

ITEM NO: 2

DATE: October 20, 2016

TITLE: Consideration of Text Amendment Application No. 2016-2, proposing to amend the text of the Reedley Municipal Code pertaining to permitted uses in the City's various zone districts related to the prohibited/restricted use of medical marijuana

BY: Ellen Moore, Associate Planner *EM*
Community Development Department

SUBMITTED: Tony Stewart, AICP, Director *TS*
Community Development Department

RECOMMENDATION

Staff recommends that the Planning Commission through Resolution No. 2016-10, take the following action:

- a) RECOMMEND TO THE CITY COUNCIL APPROVAL of Environmental Assessment No. 2016-11, Environmental Finding of No Possibility of Significant Effect, dated September 28, 2016
- b) RECOMMEND TO THE CITY COUNCIL APPROVAL of Text Amendment Application No. 2016-2, proposing to amend the text of the Reedley Municipal Code pertaining to permitted uses in the City's various zone districts related to the prohibited/restricted use of medical marijuana

EXECUTIVE SUMMARY

Proposed is amending sections 10-6A-3, 10-6B-2, 10-6C-2, 10-15-11, 10-25-3, and 10-25-4 of Title 10 of the Reedley Municipal Code pertaining to permitted uses in the City's various zone districts. These sections currently list medical marijuana consumption, cultivation and delivery either as permitted or expressly prohibited uses in various zone districts. These sections need to be amended to reflect the banning of cultivation and delivery of medical marijuana, as well as restricted consumption of medical marijuana, as stated in Ordinance No. 2016-002. This text amendment proposes Municipal Code amendments that are procedural in nature, proposes no new uses, and its adoption will not result in the approval of any activities that are already permitted, under the existing Municipal Code.

Staff is presenting Text Amendment Application No. 2016-2 to the Planning Commission for their consideration, to receive public comment, and to make a recommendation to the City Council.

PROJECT DESCRIPTION/BACKGROUND

In 1996, with the adoption of Proposition 215, California voters approved the Compassionate Use Act (Health and Safety Code 11362.5) to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician, without fear of criminal prosecution under limited, specified circumstances. Subsequent State legislation sought to clarify the scope of the Compassionate Use Act and provide additional statutory guidance regarding medical marijuana use. These statutes are codified at Health and Safety Code 11362.7 et seq. and allow cities and counties to adopt supplemental rules and regulations.

In response, in 2010, the City of Reedley adopted Ordinance No. 2009-06, which enacted a complete ban on medical marijuana dispensaries in the City and imposed strict limitations on medical marijuana cultivation and consumption. Specifically, the City allowed patient and primary caregiver cultivation, up to a maximum of 24 plants, to occur in a secure, locked, and fully enclosed structure, including a ceiling, roof, or top.

On October 9, 2015, the Governor signed the Medical Marijuana Regulation and Safety Act, a comprehensive set of rules regulating medical marijuana businesses, both dispensaries and cultivation, subject to local control. The Act, created by three separate bills (AB 266, AB 243, and AB 643), allows local jurisdictions to enact their own regulations or the State will become the sole licensing authority. What this means is that if the City of Reedley, or any municipal city, does not immediately ban delivery services, the City may be subject to the State having sole regulation authority.

In response, on April 26, 2016, the City Council of the City of Reedley adopted Ordinance No. 2016-002, amending Chapter 11 of Title 5 of the Reedley Municipal Code pertaining to Medical Marijuana. The Ordinance banned all cultivation of medical marijuana, either privately or through a cooperative, banned the delivery of medical marijuana to residences in the City of Reedley, and continued to restrict the consumption of medical marijuana to private residences or the property of such residences as long as they are not in public view.

Upon further review of other sections of the Reedley Municipal Code, staff identified sections in Title 10, Zoning Regulations, which needed to be consistent with adopted Ordinance No. 2016-002.

Proposed is amending sections 10-6A-3, 10-6B-2, 10-6C-2, 10-15-11, 10-25-3, and 10-25-4 of Title 10 of the Reedley Municipal Code pertaining to permitted uses in the City's various zone districts. These sections currently list medical marijuana consumption, cultivation and delivery either as permitted or expressly prohibited uses in various zone districts. These sections need to be amended to reflect the banning of cultivation and delivery of medical marijuana, as well as restricted consumption of medical marijuana, as stated in Ordinance No. 2016-002.

Staff recommends that pursuant to Reedley Municipal Code, §10-22-2, Initiation, the City Manager may initiate the proposed text amendment to the Reedley Municipal Code.

ENVIRONMENTAL REVIEW

This proposed Municipal Code amendment is procedural in nature, proposes no new uses, and its adoption will not result in the approval of any activities that are not already permitted under the Municipal Code.

There is no substantial evidence in the record that any of the exceptions set forth in CEQA Guidelines, Section 15002(k)(1), Section 15378(a) and Section 15061(b)(3) apply to the proposed Municipal Code amendment that are procedural in nature, proposes no new uses, and its adoption will not result in the

approval of any activities that are not already permitted under the Municipal Code. Therefore, staff has determined that a no possibility of significant effect is appropriate for the proposed project.

ATTACHMENTS

1. Resolution No. 2016-10, Recommending the City Council of the City of Reedley, Approve Text Amendment No. 2016-2, Proposing to amend the text of the Reedley Municipal Code pertaining to permitted uses in the City's various zone districts
2. Proposed Text Amendment Application No. 2016-2
3. Initiation of Text Amendment
4. City of Reedley, Environmental Assessment No. 2016-11, Environmental Finding of No Possibility of Significant Effect, dated September 28, 2016
5. Adopted Ordinance No. 2016-002

Motion: _____

Second: _____

RESOLUTION NO. 2016-10

**A RESOLUTION OF THE CITY OF REEDLEY PLANNING COMMISSION,
RECOMMENDING THE CITY COUNCIL OF THE CITY OF REEDLEY APPROVE TEXT
AMENDMENT APPLICATION NO. 2016-2, PROPOSING TO AMEND THE TEXT OF THE REEDLEY
MUNICIPAL CODE PERTAINING TO PERMITTED USES IN THE CITY'S VARIOUS ZONE
DISTRICTS RELATED TO THE PROHIBITED/RESTRICTED USE OF MEDICAL MARIJUANA**

WHEREAS, in 1996, Proposition 215 was passed to ensure that seriously ill Californians have the right to obtain and use marijuana for the medical purposes; and

WHEREAS, in 2010, the City of Reedley adopted Ordinance No. 2009-06, which enacted a complete ban on medical marijuana dispensaries in the City and imposed strict limitations on medical marijuana cultivation and consumption; and

WHEREAS, the intent of Ordinance No. 2009-06 was to promote the health, safety, and general welfare of the residences and businesses within the city; and

WHEREAS, in 2015, the Medical Marijuana Regulation and Safety Act was passed which allows local jurisdictions to enact their own regulations or the State will become the sole licensing authority; and

WHEREAS, in 2016, the City of Reedley adopted Ordinance No. 2016-002, which enacted a complete ban on cultivation and delivery of medical marijuana, and continued to restrict the consumption of medical marijuana; and

WHEREAS, the intent of Ordinance No. 2016-002 was to promote the health, safety, and general welfare of the residences and businesses within the city; and

WHEREAS, upon further review of other sections of the Reedley Municipal Code, staff identified sections in Title 10, Zoning Regulations, which needed to be consistent with adopted Ordinance No. 2016-002; and

WHEREAS, on February 4, 2016, the City of Reedley, pursuant to Reedley Municipal Code, §10-22-2, Initiation, initiated Text Amendment Application No. 2016-2; and

WHEREAS, Text Amendment Application No. 2016-2 is proposing to amend sections 10-6A-3, 10-6B-2, 10-6C-2, 10-15-11, 10-25-3, and 10-25-4 of Title 10 of the Reedley Municipal Code pertaining to permitted uses in the City's various zone districts; and

WHEREAS, these proposed text changes to the Reedley Municipal Code would reflect the banning of cultivation and delivery of medical marijuana, as well as restricting consumption of medical marijuana, as stated in Ordinance No. 2016-002; and

WHEREAS, the proposed Municipal Code amendment is procedural in nature, proposes no new uses, and its adoption will not result in the approval of any activities that are not already permitted under the Municipal Code; and

WHEREAS, on October 20, 2016 the Planning Commission held a public meeting and received a staff report, staff presentation and accepted public comments.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. Recitals. The foregoing recitals are true and correct and incorporated herein by reference; and
2. The Planning Commission finds there is no substantial evidence in the record that any of the exceptions set forth in CEQA Guidelines, Section 15002(k)(1), Section 15378(a) and Section 15061(b)(3) apply to the proposed Municipal Code amendment that are procedural in nature, proposes no new uses, and its adoption will not result in the approval of any activities that are not already permitted under the Municipal Code. Therefore, it is determined that a no possibility of significant effect determination is appropriate for the proposed project through Environmental Assessment No. EA-2016-11; and
3. The Planning Commission finds that Text Amendment Application No. 2016-2 is proposed to be consistent with Ordinance No. 2016-002; and
4. The preparation and adoption of the Text Amendment Application No. TA-2016-2 is consistent with Reedley General Plan Update 2030; and
5. The Planning Commission hereby recommends to the City Council of the City of Reedley approval of Text Amendment Application No. 2016-2; and
6. This resolution is effective upon adoption.

This foregoing resolution is hereby approved and adopted at a regular meeting of the Reedley Planning Commission, in the City of Reedley, held on the 20th day of October 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Alberto Custodio, Chairman
City of Reedley Planning Commission

ATTEST:

Tony Stewart, AICP, Secretary

**TEXT AMENDMENT APPLICATION NO. 2016-2
ORDINANCE NO. 2016-___**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REEDLEY
AMENDING SECTIONS 10-6A-3, 10-6B-2, 10-6C-2, 10-15-11, 10-25-3, AND 10-25-4 OF
TITLE 10 OF THE REEDLEY MUNICIPAL CODE PERTAINING TO PERMITTED USES IN
THE CITY'S VARIOUS ZONE DISTRICTS**

The City Council of the City of Reedley does hereby ordain as follows:

Section 1. Section 10-6A-3 of Article A of Chapter 6, of Title 10 of the Reedley Municipal Code is hereby amended to remove subsection 16, and re-number subsections 17-24 as subsections 16-23, as follows.

10-6A-3: PERMITTED USES:

For the purposes of this section a "permitted use", also referred to as a "by right" use, will require the approval of a site plan review application for newly proposed development to occur.

A. Permitted Uses:

~~16. Medical marijuana cultivation in accordance with section 5-11-3 of this code and subject to section 10-15-11 of this title.~~

4716. One single-family dwelling unit per lot, pursuant to chapter 5 of this title and article B of this chapter.

4817. Parks, playgrounds, recreational areas.

4918. Raising of field crops. Fruits, nuts, vines, vegetables and horticultural specialties, the raising of livestock and rangelands.

2019. Roadside stands, temporary, for the sale of agricultural products produced on the premises.

2420. Second residential dwelling unit per lot, pursuant to article D of this chapter.

2221. Telecommunication facilities within a building.

2322. Wildlife preserve and conservation areas.

2423. Water pump station.

Section 2. Section 10-6B-2 of Article B of Chapter 6, of Title 10 of the Reedley Municipal Code is hereby amended to remove subsection 11 as follows.

10-6B-2: PERMITTED USES:

A. General:

~~11. Medical marijuana cultivation in accordance with section 5-11-3 of this code and subject to section 10-15-11 of this title.~~

Section 3. Section 10-6C-2 of Article C of Chapter 6, of Title 10 of the Reedley Municipal Code is hereby amended to remove subsection 11 as follows.

10-6C-2: PERMITTED USES:

A. General:

~~11. Medical marijuana cultivation in accordance with section 5-11-3 of this code and subject to section 10-15-11 of this title.~~

Section 4. Section 10-15-11 of Chapter 15, of Title 10 of the Reedley Municipal Code is hereby amended to read as follows.

10-15-11: USES EXPRESSLY PROHIBITED:

C. In addition to the specific uses of land, buildings, and structures listed as prohibited in each zone district, the following uses shall be prohibited in all zone districts and there shall be no administrative approval, conditional use permit, or other permit issued for such use:

1. Medical marijuana dispensaries, as set forth in section 5-11-4 of this code;

2. ~~The individual cultivation of more than twenty four (24) marijuana plants for medical purposes, whether mature or immature, and the collective or cooperative cultivation of marijuana, as set forth in section 5-11-3 of this code.~~ The cultivation of medical marijuana, as set forth in section 5-11-3 of this code.

Section 5. The Use Matrix contained in Section 10-25-3 of Chapter 25, of Title 10 of the Reedley Municipal Code is hereby amended to remove the following use from the List of Uses.

10-25-3: USE MATRIX; RESIDENTIAL:

Medical marijuana patient cultivation and primary caregiver cultivation in accordance with §§ 5-11-3 and 10-15-11	-	-	P	P	P	P
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Section 6. The Use Matrix contained in Section 10-25-4 of Chapter 25, of Title 10 of the Reedley Municipal Code is hereby amended to remove the following use from the List of Uses.

10-25-4: USE MATRIX; OFFICE/COMMERCIAL:

Medical marijuana primary caregiver cultivation in accordance with §§ 5-11-3 and 10-15-11	P	P	P	P	-	-
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Section 7. This Ordinance shall take effect and be in full force thirty (30) days after its adoption.

Section 8. The City Clerk is hereby directed to cause a summary of this Ordinance to be published by one insertion in a newspaper of general circulation in the community at least five (5) days prior to adoption and again fifteen (15) days after its adoption. If a summary of the ordinance is published, then the City Clerk shall cause a certified copy of the full text of the proposed ordinance to be posted in the office of the City Clerk at least five days prior to the Council meeting at which the ordinance is adopted and again after the meeting at which the ordinance is adopted. The summary shall be approved by the City Attorney.

The foregoing Ordinance No. 2016-____ was introduced and given first reading at a regular meeting of the City Council of the City of Reedley held on the October ____, 2016, and was thereafter duly adopted at a regular meeting of the City Council held on _____, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Ray Soleno, Mayor

ATTEST:


Sylvia Plata, City Clerk




City of Reedley

Community Development Department
1733 Ninth Street
Reedley, CA93654
(559) 637-4200
FAX 637-2139

TO: Nicole R. Zieba, City Manager

FROM: Tony Stewart, AICP 
Community Development Director

BY: Ellen Moore, Associate Planner 
Community Development Department

DATE: September 28, 2016

SUBJECT: INITIATION OF AN AMENDMENT TO THE TEXT OF THE REEDLEY
MUNICIPAL CODE PERTAINING TO PERMITTED USES IN THE CITY'S
VARIOUS ZONE DISTRICTS

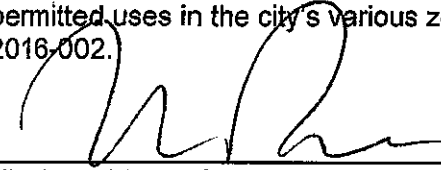
On April 26, 2016, the City Council of the City of Reedley adopted Ordinance No. 2016-002, amending Chapter 11 of Title 5 of the Reedley Municipal Code pertaining to Medical Marijuana. The Ordinance banned all cultivation of medical marijuana, either privately or through a cooperative, banned the delivery of medical marijuana to residences in the City of Reedley, and continued to restrict the consumption of medical marijuana to private residences or the property of such residences as long as they are not in public view.

Upon further review of other sections of the Reedley Municipal Code, staff identified sections in Title 10, Zoning Regulations, which needed to be consistent with adopted Ordinance No. 2016-002.

Proposed is amending sections 10-6A-3, 10-6B-2, 10-6C-2, 10-15-11, 10-25-3, and 10-25-4 of Title 10 of the Reedley Municipal Code pertaining to permitted uses in the City's various zone districts. These sections currently list medical marijuana consumption, cultivation and delivery either as permitted or expressly prohibited uses in various zone districts. These sections need to be amended to reflect the banning of cultivation and delivery of medical marijuana, as well as restricted consumption of medical marijuana, as stated in Ordinance No. 2016-002.

Staff recommends that pursuant to Reedley Municipal Code, §10-22-2, Initiation, the City Manager may initiate the proposed text amendment to the Reedley Municipal Code.

I, Nicole Zieba, City Manager, authorize the City of Reedley Community Development Department to proceed with the development of a text amendment to the Reedley Municipal Code pertaining to permitted uses in the city's various zone districts in order to be consistent with adopted Ordinance No. 2016-002.



Nicole R. Zieba, City Manager



Date

**CITY OF REEDLEY
ENVIRONMENTAL FINDING OF NO POSSIBILITY OF SIGNIFICANT EFFECT
ENVIRONMENTAL ASSESSMENT NO. 2016-11**

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO HAVE NO
SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 5 OF THE
STATE OF CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES

APPLICANT: City of Reedley
1733 Ninth Street
Reedley, California 93654

PROJECT LOCATION: The proposed amendment to the Reedley Municipal Code extends to and applies on a Citywide basis.

PROJECT DESCRIPTION: Text Amendment Application No. 2016-2 proposes to amend sections 10-6A-3, 10-6B-2, 10-6C-2, 10-15-11, 10-25-3, and 10-25-4 of Title 10 of the Reedley Municipal Code pertaining to permitted uses in the City's various zone districts.

This ordinance proposes Municipal Code amendments that are procedural in nature, proposes no new uses, and its adoption will not result in the approval of any activities that are not already permitted under the Municipal Code.

This project is exempt under Section 15002(k)(1), Section 15378(a) and Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines.

EXPLANATION: **CEQA Section 15002(k)(1):** The Lead Agency examines the project to determine whether there is a project subject to CEQA. The City has determined that the activities associated with the grant do not pose an impact on the environment such that it constitutes a project under CEQA.

CEQA Section 15378(a): A "Project" means the whole of the action, which has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. This ordinance proposes Municipal Code amendments that are procedural in nature, proposes no new uses, and its adoption will not result in the approval of any activities that are not already permitted under the Municipal Code.

CEQA Section 15061(b)(3): The activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. 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. No activity associated with this text amendment has been identified as causing a potential or significant effect on the physical environment.

CEQA applies only to projects, which have the potential for causing a significant effect on the environment. 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.

Finally, there is no substantial evidence in the record that any of the exceptions set forth in CEQA Guidelines, Section 15002(k)(1), Section 15378(a) and Section 15061(b)(3) apply to the proposed Municipal Code amendment that is procedural in nature, proposes no new uses, and its adoption will not result in the approval of any activities that are not already permitted under the Municipal Code. Therefore, staff has determined that a no possibility of significant effect is appropriate for the proposed project.

Date: September 28, 2016

Submitted by:  _____

Ellen Moore, Associate Planner
City of Reedley
Community Development Department
(559) 637-4200 ext. 222

ORDINANCE NO. 2016-002

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REEDLEY
AMENDING CHAPTER 11 OF TITLE 5 OF THE REEDLEY MUNICIPAL CODE
PERTAINING TO MEDICAL MARIJUANA**

THE CITY COUNCIL OF THE CITY OF REEDLEY DOES ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS.

1. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code Section 113623.5 and entitled "The Compassionate Use Act of 1996 or CUA").
2. The expressed intent of the CUA was to enable persons who were in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specific circumstances. The CUA was not intended to allow unlimited quantities of marijuana to be grown anywhere. Subsequent legislation since the CUA, including SB 420 in 2004, AB 2650 in 2010, and AB 1300 in 2011, has attempted to clarify the scope of the CUA.
3. In 2009, the City Council adopted Ordinance No. 2009-06. With the adoption of Ordinance No. 2009-06, the City Council made various health, safety, welfare, and land use findings relating to medical marijuana cultivation, dispensing, and consumption, which findings are incorporated herein by reference. Based upon those findings and the record before the City Council, the Council enacted a complete ban on medical marijuana dispensaries in the City and imposed strict limitations on medical marijuana cultivation. Specifically, the City allowed patient and primary caregiver cultivation, up to a maximum of 24 plants, to occur in a secure, locked, and fully enclosed structure, including a ceiling, roof, or top.
4. On October 9, 2015, Governor Brown signed three bills into law (AB 266, AB 243, and SB 643) which collectively are known as the Medical Marijuana Regulation and Safety Act (hereinafter "Act"). The Act set up a state licensing scheme for commercial medical marijuana uses while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a state license. The Act allows the City to regulate or completely prohibit medical marijuana activities.
5. The Federal Controlled Substances Act, 21 U.S.C. Section 801 et seq., classifies marijuana as a Schedule 1 Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute, or dispense, or possess with intent to manufacture, distribute or dispense, marijuana.

6. Since the passage of Ordinance No. 2009-06, the California Supreme has recognized that the City's inherent land use authority is not preempted by California's medical marijuana laws. The City has recognized a need to update the City's current regulations pertaining to the cultivation of medical marijuana to avoid adverse impacts on the community.
7. The City Council finds that activities associated with medical marijuana, including cultivation for personal medical use as allowed by the CUA and the Act, can adversely affect the health, safety, and well-being of City residents. City-wide prohibition is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from such activities.
8. The limited immunity from specified state marijuana laws provided by the CUA and other state laws does not confer a land use right or the right to create or maintain a public nuisance.
9. Nothing in this ordinance shall be construed to allow persons to engage in conduct that endangers others or causes a public nuisance.
10. Nothing in this ordinance shall be deemed to prevent federal prosecution of violations of the Controlled Substances Act within the City of Reedley.
11. Without an ordinance in place, medical marijuana cultivation, deliveries, and dispensaries could operate within the City without restriction. This ordinance is intended to help prevent adverse impacts on the community.

SECTION 2. Chapter 11 of Title 5 of the Reedley Municipal Code is amended to read as follows:

Chapter 11

MEDICAL MARIJUANA

Sections:

- 5-11-1: Purpose and intent.**
- 5-11-2: Definitions.**
- 5-11-3: Cultivation of medical marijuana prohibited.**
- 5-11-4: Medical marijuana dispensaries and deliveries prohibited.**
- 5-11-5: Regulations applicable to the consumption of medical marijuana.**
- 5-11-6: Public Nuisance.**
- 5-11-7: Penalties and enforcement.**
- 5-11-8: Severability.**

5-11-1: Purpose and intent:

It is the purpose and intent of this article to promote the health, safety, and general welfare of the residents and businesses within the City by prohibiting the cultivation, distribution and delivery of medical marijuana, and regulating the consumption of medical marijuana.

5-11-2: Definitions:

For purposes of this chapter, the following definitions shall apply, except where the context clearly indicates a different meaning:

“Collective” or “cooperative” means any association, cooperative, affiliation, group, or collective of qualified patients, persons with valid identification cards, and designated primary caregivers organized or associated to cultivate, store, or dispense marijuana for medical purposes as defined in strict accordance with California Health and Safety Code Sections 11362.5 and 11362.7 et seq.

“Cultivation of medical marijuana” means the planting, growing, harvesting, or processing of marijuana for medical use in strict accordance with the Compassionate Use Act (California Health and Safety Code Section 11362.5) and the Medical Marijuana Program Act (California Health and Safety Code Section 11362.7 et seq.)

“Delivery” shall be as defined in the Medical Marijuana Regulation and Safety Act, California Business and Professions Code section 19300.5(m), as that section may be amended from time to time, and includes the commercial transfer of medical marijuana and medical marijuana products from a dispensary or cultivation location as well as the use of any technology platform that enables qualified patients and caregivers to arrange for or facilitate the transfer.

“Marijuana” means all parts of the plant Genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.

“Medical marijuana” means marijuana used for medical purposes in accordance with the Compassionate Use Act (California Health and Safety Code Section 11362.5) or the Medical Marijuana Program Act (California Health and Safety Code Section 11362.7 et seq.)

“Medical marijuana dispensary” means any facility, location, establishment or similar entity, whether fixed or mobile, that cultivates, distributes, delivers, supplies, or processes medical marijuana, and any building or structure, where medical marijuana is made available to, distributed by, or distributed to more than two (2) qualified patients, persons with an identification card, or primary caregivers. The terms qualified patients, persons with an identification card, or primary caregivers are defined in strict accordance with California Health and Safety Code Sections 11362.5, and 11362.7 et seq.

A medical marijuana dispensary shall not include the following uses, as long as these uses comply strictly with Health and Safety Code Sections 11362.5 and 11362.7 et seq., and all other

State and local laws pertaining to the uses, including zoning, permitting, and licensing requirements:

- (a) A clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code;
- (b) A health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code;
- (c) A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2 of the Health and Safety Code;
- (d) A residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2 of the Health and Safety Code;
- (e) A residential hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code.

5-11-3: Cultivation of medical marijuana prohibited:

(a) **Prohibition.** The cultivation of marijuana is expressly prohibited in all zones and all specific plan areas in the City. No person, including a qualified patient, primary caregiver, collective, cooperative, or dispensary shall cultivate any amount of medical marijuana in the City. This prohibition is intended to prohibit all cultivation of medical marijuana in the City, including cultivation for personal use, collective or cooperative cultivation, and commercial cultivation of medical marijuana.

(b) This section is intended to prohibit all activities for which a state license is required. Accordingly, the City shall not issue any permit, license or other entitlement for any activity for which a state license is required under the Medical Marijuana Regulation and Safety Act.

5-11-4: Medical marijuana dispensaries and deliveries prohibited:

Medical marijuana dispensaries as defined in Section 5-11-2 are prohibited within the City. The delivery of medical marijuana as defined in Section 5-11-2 is prohibited in the City regardless of the location of the dispensary or cultivation location and regardless of whether a technology platform is used by the dispensary. No person shall conduct any deliveries of medical marijuana that either originate or terminate within the City.

5-11-5: Regulations applicable to the consumption of medical marijuana:

No person shall smoke, ingest, or otherwise consume medical marijuana in the City of Reedley unless such smoking, ingesting or consumption occurs entirely within a private residence, or on the premises of a private residence but out of public view, or within a clinic, healthcare facility, residential care facility, or residential hospice licensed pursuant to applicable provisions of the California Health and Safety Code. "Within a private residence" shall mean inside habitable areas and shall not include garages, whether attached or detached, and other accessory buildings. "Out of public view" shall mean out of view from public rights-of-way where members of the public are lawfully entitled to be. Consumption in garages and other accessory buildings shall be out of public view.

5-11-6: Public nuisance:

Any use, condition, or activity caused or permitted to exist in violation of any provision of this chapter shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City in accordance with applicable law or any other remedy available to the City.

5-11-7: Penalties and enforcement:

Any violation of this chapter shall be considered a misdemeanor and punishable in accordance with Title 1, Chapter 4 of the municipal code. Each and every day, or portion thereof, a violation exists is a separate offense. The City may also pursue all applicable civil and administrative remedies, including but not limited to injunctive relief and administrative citations.

Should a court of competent jurisdiction subsequently determine that the criminal penalty provision renders this chapter unlawful, the City intends that the misdemeanor provision be severable from the remaining penalty provisions and the City will only pursue noncriminal remedies for violations of this chapter.

5-11-8: Severability:

If any section, subsection, phrase, provision, or clause of this article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this article. The City Council hereby declares that it would have adopted this article and each section, subsection, phrase, provision, or clause hereof irrespective of the fact that any one or more sections, subsections, phrases, provisions, or clauses be declared invalid.

SECTION 3. EFFECTIVE DATE.

1. 30 Days after adoption. This ordinance shall take effect and be in full force and effect from and after thirty (30) days after its adoption. Within fifteen (15) days after its

adoption, this ordinance, or a summary of this ordinance, shall be published once in a newspaper of general circulation in the City.

2. Grace Period. Notwithstanding the foregoing, those qualified patients and persons with identification cards, and primary caregivers, who were lawfully cultivating marijuana in the City as of the date of this Ordinance in strict compliance with applicable City and State medical marijuana cultivation regulations then in effect, and who remain in strict compliance with those regulations, shall have a period of six (6) months from the Effective Date to comply with the new regulations set forth in this Ordinance. For purposes of this grace period, cultivating marijuana shall mean actual growing plants. No new plantings or seedlings are allowed.


The foregoing ordinance was introduced at a regular meeting of the City Council held on April 12, 2016, and was adopted at a regular meeting of the City Council held on April 26, 2016, by the following vote, to wit:

AYES: FAST, RODRIGUEZ, BECK, BETANCOURT, SOLENO.

NOES: NONE.


ABSENT: NONE.

ABSTAIN: NONE.



Ray Soleno, Mayor

ATTEST:



Sylvia B. Plata, City Clerk

