



City of Wheatland

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PLANNING COMMISSION MEETING STAFF REPORT

Date: January 16, 2018
Agenda Item:

Subject: Consideration of proposed Ordinance amending Wheatland Municipal Code to prohibit commercial marijuana land uses and outdoor cultivation of marijuana, and development of recommendation regarding same to City Council.

Prepared by: Jennifer Buckman, City Attorney

Recommendation

Staff requests that the Planning Commission recommend City Council adopt the attached Ordinance amending Sections 18.06.010 and 18.09.090, and Chapter 18.61, of the Wheatland Municipal Code to prohibit commercial marijuana land uses and the outdoor cultivation of marijuana within the City.

Background

Consistent with state law, since 2013, the City of Wheatland has prohibited all outdoor medical marijuana cultivation, as well as all medical marijuana dispensaries, in all zoning districts in the City. (Wheatland Municipal Code, Chapter 18.61 [prohibiting outdoor medical marijuana cultivation]; Wheatland Municipal Code § 18.09.090 [prohibiting medical marijuana dispensaries].) The City authorized indoor cultivation of medical marijuana, subject to certain permitting requirements. (Wheatland Municipal Code, Chapter 18.61 and 15.05.100 Appendix "C," Section C105.)

These provisions of the municipal code need to be updated due to the November 2016 passage of Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"). Subject to local and state restrictions and regulations, AUMA generally legalizes the nonmedical, recreational use of marijuana by persons 21 years of age and over. (Health & Saf. Code § 11362.1.)

These laws allow cities to adopt local ordinances regulating or completely prohibiting nonmedical marijuana businesses and commercial activities, including marijuana deliveries. (Bus. & Prof. Code § 26200(b).) Without both a state and local permit, commercial marijuana businesses cannot operate within a city.

Also, under these laws, cities may continue to prohibit all outdoor personal cultivation of nonmedical marijuana. (See Health & Saf. Code § 11362.2(b)(3).) However, AUMA authorizes indoor cultivation of marijuana for personal use. For each single private residence, AUMA allows indoor personal cultivation of up to six marijuana plants, and the possession of the marijuana produced by the plants, subject to reasonable regulations adopted by local jurisdictions such as the City. (Health & Saf. Code §§ 11362.1(a)(3), 11362.2(b)(2).)

Due to the many changes that were taking place in this area of law from November 2016 through 2017, California's three state cannabis licensing authorities did not issue their regulations to implement the AUMA until December 2017. Under the AUMA, commercial marijuana businesses were authorized to apply for licenses as early as January 1, 2018. Due to the extremely short schedule, at the December 12, 2017 City Council meeting, the City Council adopted an urgency interim Ordinance to impose a moratorium on commercial marijuana land uses and outdoor cultivation of marijuana, for either medical or adult, nonmedical use, to allow City staff, the Planning Commission and the City Council sufficient time to review the new materials, study the issue and develop a recommendation for changes to the zoning code and other provisions of the City's municipal code to address the AUMA appropriately.

The Ordinance included with this report represents that recommendation. If approved, the Ordinance would make permanent the ban on commercial marijuana land uses, and it would expand the existing ban on outdoor cultivation of medical marijuana so that it includes nonmedical, adult use marijuana as well. Consistent with the AUMA, the Ordinance would raise the age for a person to obtain a marijuana cultivation license from the City from 18 to 21 years of age. The Ordinance would also make technical amendments to the definitions included in the Municipal Code to make them consistent with current law.

CEQA Review

Under both AUMA and the California Environmental Quality Act (CEQA), the adoption of the proposed Ordinance is statutorily and categorically exempt from the requirements of the California Environmental Quality Act (CEQA).

Alternatives

The Planning Commission could choose to recommend that the City Council not adopt the attached Ordinance amending Sections 18.06.010 and 18.09.090, and Chapter 18.61 of the Wheatland Municipal Code, or the Planning Commission could recommend specific proposed changes to the Ordinance for the City Council to consider.

Conclusion

Staff recommends that the Planning Commission take the following action:

- Recommend that the City Council adopt the attached Ordinance amending Sections 18.06.010 and 18.09.090, and Chapter 18.61 of the Wheatland Municipal Code to prohibit commercial marijuana land uses and outdoor cultivation of marijuana within the City.

Attachments

1. Ordinance Amending Sections 18.06.010 and 18.09.090 and Chapter 18.61 of the Wheatland Municipal Code Regarding Commercial Marijuana Land Uses and Outdoor Cultivation of Marijuana

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF WHEATLAND
AMENDING SECTIONS 18.06.010 AND 18.09.090 AND
CHAPTER 18.61 OF THE WHEATLAND MUNICIPAL CODE
REGARDING COMMERCIAL MARIJUANA LAND USES
AND OUTDOOR CULTIVATION OF MARIJUANA

The City Council of the City of Wheatland does ordain as follows:

SECTION 1. Purpose and Authority. This ordinance amends the definitions of "cultivate," "cultivation," and "marijuana" in, and adds definitions of "cannabis products" and "commercial marijuana land uses" to section 18.06.010; amends section 18.09.090; and amends Chapter 18.61 of the Wheatland Municipal Code, all for the purpose of prohibiting commercial marijuana land uses and the outdoor cultivation of any marijuana, medical or non-medical, within the City. This ordinance is adopted pursuant to California Constitution article 11, section 7, Government Code section 65800 et seq., Bus. & Prof. Code section 26200, and other applicable law.

SECTION 2. General Findings. The City Council finds and determines as follows:

A. In 1996, California voters approved Proposition 215, the Compassionate Use Act of 1996 (codified as Health and Safety Code section 11362.5 et seq.) (the "CUA"), to enable persons who are seriously ill and who have the approval of a physician to access marijuana for medical purposes and use it without fear of criminal prosecution under limited, specified circumstances. In 2003, the Legislature enacted the Medical Marijuana Program Act (the "MMP") to clarify the scope of the CUA, promote the CUA's consistent application throughout the state and expressly allow cities and other local governing bodies to adopt and enforce local rules and regulations consistent with the MMP.

B. In 2003, the Legislature enacted the Medical Marijuana Program Act (the "MMP") to clarify the scope of the CUA, promote the CUA's consistent application throughout the state and expressly allow cities and other local governing bodies to adopt and enforce local rules and regulations consistent with the MMP.

C. The CUA and the MMP primarily address aspects of criminal law that pertain to the possession, cultivation or distribution of marijuana by providing qualifying patients and primary caregivers who cultivate marijuana for medical purposes with a limited defense to certain specified state criminal statutes. The CUA, the MMP and the State Attorney General's *2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use*, which were issued pursuant to the MMP (the "2008 Guidelines"), do not provide for the comprehensive regulation of medical marijuana cultivation or of the premises used for such cultivation.

D. Pursuant to its police powers, the City is authorized to adopt regulations to protect public health, safety, and welfare.

E. The City Council chose to exercise its police powers to regulate certain aspects of medical marijuana within the City. On August 28, 2012, the City Council adopted Ordinance No. 441, an Urgency Ordinance of the City Council of the City of Wheatland Amending Chapter 18.09 of the Wheatland Municipal Code Regarding Medical Marijuana Dispensaries to prohibit medical marijuana dispensaries from locating within the City. Ordinance No. 441 provided that medical marijuana dispensaries are prohibited in all zoning districts, including all planned development districts, within the City.

F. Also on August 28, 2012, the City Council adopted Ordinance No. 442, an Urgency Ordinance of the City Council of the City of Wheatland Adding Chapter 18.61 to the Wheatland Municipal Code Regarding Medical Marijuana Cultivation. To protect the health, safety, and welfare of the community, Ordinance 442 imposed zoning restrictions on the cultivation of medical marijuana, when it is otherwise allowed by California law.

G. On August 13, 2013, the City Council adopted Ordinance No. 450, an Ordinance of the City Council of the City of Wheatland Amending Chapter 18.06 of the Wheatland Municipal Code to clarify that mobile medical marijuana dispensaries are prohibited from locating within the City.

H. The California state laws relating to cannabis (marijuana) have continued to evolve since the City Council last considered these issues in 2013.

I. In 2015, the Legislature passed, and the Governor signed into law, three bills (Assembly Bills 243 and 266, and Senate Bill 643), which collectively created a licensing and regulatory framework for medical cannabis through the Medical Cannabis Regulation and Safety Act.

J. On November 8, 2016, the people of the State of California passed Proposition 64, the "Control, Regulate and Tax the Adult Use of Marijuana Act," which legalized non-medical use and cultivation of marijuana by persons 21 years of age and over and created a state and local regulatory and licensing system governing commercial cultivation, testing, manufacturing and distribution of non-medical marijuana and marijuana products. AUMA allows local governments to reasonably regulate the cultivation of marijuana for personal use through zoning and other local laws, and it allows local governments to ban outdoor cultivation. Under AUMA, local governments maintain the ability to adopt business and land use regulations and/or prohibitions for commercial marijuana activities.

K. On April 28, 2017, California's three state cannabis licensing authorities, the Department of Food and Agriculture's CalCannabis Cultivation Licensing program, the Department of Consumer Affairs' Bureau of Cannabis Control, and the Department of Public Health's Manufactured Cannabis Safety Branch, released draft regulations to implement the Medical Cannabis Regulation and Safety Act of 2015. These licensing authorities had planned to move forward with a separate draft regulatory package for implementation of the Adult Use of Marijuana Act, but this process posed a risk of creating conflicting laws and regulations.

L. In late June 2017, the Legislature passed and the Governor signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which creates one regulatory system for both medicinal and adult-use cannabis. As a result, the state cannabis licensing

authorities withdrew the medical cannabis regulations they had proposed in April 2017 and began working on new regulations to implement MAUCRSA.

M. On November 16, 2017, California's three state cannabis licensing authorities publicly noticed proposed emergency regulations for commercial medicinal and adult-use cannabis.

N. On December 12, 2017, the City Council adopted an Urgency Ordinance to establish a temporary moratorium on all outdoor cultivation of marijuana and all commercial marijuana land uses in order to protect the public health, safety and welfare while allowing City staff, the Planning Commission, and the City Council with a reasonable and sufficient period of time to consider and craft a comprehensive ordinance lawfully regulating commercial and personal marijuana activity within the City.

O. The Federal Controlled Substances Act (21 U.S.C. § 801 et seq.) classifies marijuana as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, has no currently accepted medical use in treatment in the United States and 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, transport, or possess with intent to manufacture, distribute or dispense, marijuana. The Federal Controlled Substances Act does not exempt the cultivation, manufacture, distribution, dispensation, transportation or possession of marijuana for medical purposes.

P. On January 4, 2018, the Attorney General of the United States rescinded the Memorandum issued by his predecessor which had stated that it would be the policy of the United States Department of Justice not to prosecute possession or use of marijuana under the Federal Controlled Substances Act in states where the possession or use of marijuana had been legalized under state law. The Attorney General has directed the United States Attorneys in those states that they may use their discretion in determining whether these crimes, under the particular facts or circumstances, create a public health or safety hazard that is worthy of prosecution under the federal law.

Q. The City Council desires to ensure that all land uses, operations and business within the City are permitted under both state and federal law in order to protect the health and welfare of residents, businesses and visitors of the City.

R. The unregulated cultivation of marijuana can adversely affect the health, safety and well-being of the City, its residents and the environment. Such cultivation, without certain safeguards, increases the risk of criminal activity, degradation of the natural environment, electrical fire hazards and malodorous smells, particularly if substantial amounts of marijuana are concentrated in one place.

S. After the CUA was enacted, numerous counties and cities throughout the State, including the Cities of Concord, Rocklin, Roseville, Oakland, Hayward, Anaheim, Riverside and Redding, and Contra Costa, Fresno, Los Angeles, Madera, Nevada, Placer, Riverside and San Diego Counties, experienced adverse secondary effects associated with medical marijuana dispensaries in those cities and counties. These effects include but are not limited to: (1) public consumption

of marijuana; (2) street-level dealers selling marijuana to persons who go to a dispensary, often at reduced rates; (3) criminal activity at or near the dispensary; (4) customers or potential customers of the dispensary loitering and interfering with neighboring residents and businesses; (5) increased pedestrian and vehicle traffic in the immediate vicinity of the dispensary; and (6) increased incidence of arrests for driving under the influence of marijuana.

T. The cultivation of marijuana at locations or premises within the vicinity of schools creates unique risks that the marijuana plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with the cultivation or distribution of marijuana at such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation of marijuana at such locations or premises is especially hazardous to public safety and welfare, and to the protection of juveniles and the person or persons cultivating the marijuana plants.

U. As marijuana plants begin to flower, they produce an extremely strong odor that is offensive to many people and detectable well beyond property boundaries upon which they are grown.

V. The strong, distinctive odor of marijuana plants may create an attractive nuisance, alerting individuals to the location of the plants and thereby creating the risk of potential crimes such as burglary, robbery, armed robbery, assault, attempted murder and murder. The cultivation of marijuana outdoors increases the risk of such activity and, when it occurs in or near residential zones, intrudes upon residential uses.

W. As recognized by the Guidelines issued by the State in 2008 (relating to the medical marijuana laws then in existence), the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that surrounding residences or businesses may be negatively impacted by nuisance activity such as loitering or crime.

X. The adverse secondary effects associated with commercial marijuana land uses present a clear and present danger to the preservation of the peace, health, safety and welfare of residents and businesses within the City. Moreover, if commercial marijuana land uses were to be permitted within the City, the City's limited law and code enforcement resources would be unable to adequately mitigate for these adverse impacts and to provide the same level of services to City residents and existing businesses.

Y. Other cities that are in close proximity to the City, such as the City of Sacramento, already permit and regulate the establishment of marijuana dispensaries within their boundaries. Thus, City residents who may wish to possess and use marijuana under California law can readily obtain marijuana from nearby dispensaries located in those cities.

Z. Indoor cultivation of substantial amounts of marijuana requires excessive use of electricity for high-wattage grow lighting systems used in marijuana cultivation, which often creates an unreasonable risk of fire and increases the chances of a fire, thereby presenting a clear and present danger to occupants.

AA. The limited right to cultivate marijuana conferred under state law does not authorize any person to create or maintain a public nuisance or otherwise exempt these persons from local land use regulations.

BB. The City Council desires to establish reasonable regulations governing the cultivation of marijuana within the City and commercial marijuana land uses in a manner that complies with state law and balances the City's interest in preserving the health, safety, and welfare of its residents. The City has a significant interest in preserving the health, safety, and welfare of its residents by enacting reasonable regulations on outdoor marijuana cultivation, and in protecting the public against businesses and commercial enterprises that traditionally have been an attraction for criminal and other activities that threaten public safety.

CC. At its duly noticed public meeting, the City Council received input and testimony from the public concerning this proposed ordinance and considered its adoption.

SECTION 3. Repeal of Interim Urgency Ordinance No. 466. On the effective date of this ordinance, Interim Urgency Ordinance No. 466 of the City Council of the City of Wheatland shall be repealed and superseded by this ordinance.

SECTION 4. The following definitions are hereby added to the definitions in section 18.06.010 of the Wheatland Municipal Code (to be inserted in alphabetical order):

"Cannabis products" shall have the same meaning as provided in California Health and Safety Code Section 11018.1.

"Commercial marijuana land uses" means the cultivation, manufacture, processing, distribution, storing, laboratory testing, grading, marketing, packaging, labeling, delivery, transportation, commercial use, or sale of marijuana and marijuana products, whether or not through a for-profit or non-profit enterprise, and whether or not conducted with a license issued in accordance with Division 10 of the Business and Professions Code (Business and Professions Code section 26000, et seq.).

SECTION 5. The following definitions in section 18.06.010 of the Wheatland Municipal Code are hereby amended to read as follows:

"Cultivate" or "cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming or processing of marijuana plants or any part thereof, whether occurring indoors or outdoors.

"Marijuana" shall have the same meaning as "Cannabis" as provided in California Health and Safety Code Section 11018.

SECTION 6. Section 18.09.090 of the Wheatland Municipal Code is hereby amended to read as follows:

18.09.090 Prohibition of Commercial Marijuana Land Uses, Including Medical Marijuana Dispensaries

Commercial marijuana land uses, including, but not limited to, medical marijuana dispensaries, are prohibited in all zoning districts within the city, including without limitation all planned development districts, and no conditional use permit shall be issued to any dispensary. Notwithstanding any provision in this code to the contrary, any person who violates this section shall not be subject to criminal liability under this code to the extent that such conduct is immune from criminal liability under the Compassionate Use Act (Health and Safety Code section 11362.5) and the Medical Marijuana Program (Health and Safety Code section 11362.7 et seq.), as the same exist or may hereafter be amended.

SECTION 7. Chapter 18.61 of the Wheatland Municipal Code is hereby amended to read as follows:

CHAPTER 18.61
CULTIVATION OF MARIJUANA

Sections:

- 18.61.010 Purpose
- 18.61.020 Applicability
- 18.61.030 Prohibited Locations
- 18.61.040 Indoor Cultivation
- 18.61.050 Indoor Cultivation – Registration
- 18.61.060 Enforcement

- 18.61.010 Purpose

The purpose of this chapter is to regulate the cultivation of marijuana in a manner that protects the health, safety and welfare of the community. This chapter is not intended to interfere with a person’s right to medical marijuana as provided for in California Health and Safety Code section 11362.5, as the same exists or may hereafter be amended, or to criminalize marijuana possession or cultivation as authorized under state law. This chapter is not intended to give any person independent legal authority to grow marijuana; it is intended simply to impose zoning restrictions on the cultivation of marijuana when it is authorized by California state law.

- 18.61.020 Applicability

A. Nothing in this chapter shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 800 et seq., or to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation.

B. Nothing in this chapter shall be construed to allow any conduct or activity relating to the cultivation, distribution, dispensing, sale or consumption of marijuana that is otherwise illegal under local or state law. No provision of this chapter shall be deemed to be a defense or immunity to any action brought against any person by the City, the Yuba County District Attorney, the State Attorney General or the United States.

18.61.030 Prohibited Locations

- A. No person shall cultivate marijuana outdoors.
- B. No person, including any qualified patient or primary caregiver, shall cultivate marijuana within a 300-foot radius of any park, school, child care center or day care center.
- C. No person, including any qualified patient or primary caregiver, shall cultivate marijuana indoors except within a dwelling or fully enclosed structure that meets the requirements set forth in section 10.61.040 and is registered with the city pursuant to section 18.61.050.

18.61.040 Indoor Cultivation

The indoor cultivation of marijuana shall be conducted only within a dwelling or fully enclosed structure that conforms to the following minimum standards:

- A. Indoor grow lights in any dwelling or fully enclosed structure shall not exceed an aggregate of one thousand two hundred watts (1,200 watts) and shall comply with all applicable building code regulations. Gas products, including, without limitation, carbon dioxide, butane, propane methane or any other flammable or non-flammable gas, or generators shall not be used within any dwelling or any fully enclosed structure that is used for the cultivation of marijuana.
- B. The area within a dwelling or fully enclosed structure that is used for the cultivation of marijuana shall not exceed fifty (50) square feet. The marijuana cultivation area shall not exceed ten (10) feet in height and shall not come within twelve (12) inches of the ceiling of the dwelling or fully enclosed structure or of any grow lights used for indoor cultivation. No more than six (6) plants may be grown for adult use, and no more plants may be grown for medical use than are needed by the qualified patient.
- C. The marijuana cultivation area, including any marijuana plants, cultivation or growing equipment and light emanating from grow lights used for indoor cultivation, shall not be visible from outside the dwelling or fully enclosed structure. No exterior evidence of marijuana cultivation shall be visible from the public right of way.

D. Any dwelling or fully enclosed structure used for the cultivation of marijuana shall have a ventilation and filtration system that prevents marijuana plant odors from exiting the interior of the dwelling or structure, complies with all applicable building code regulations, and has received all required permits and approvals. The ventilation and filtration system must be approved by the city and installed prior to commencing cultivation within the dwelling or fully enclosed structure.

E. A fully enclosed structure that is used for the cultivation of marijuana shall be located in the rear yard area of a parcel, maintain a minimum ten-foot setback from the rear yard property line and a side yard setback that is equal to the same side yard setback required for the residential parcel on which the dwelling sits, and the area surrounding the structure or rear yard must be enclosed by a solid and opaque fence at least six feet in height.

F. The marijuana cultivation area, whether in a dwelling or fully enclosed structure, shall not be accessible to persons under eighteen years of age. The cultivation of marijuana shall not be conducted by any person under twenty-one (21) years of age.

G. Either a qualified patient or primary caregiver shall reside full-time on the premises where the cultivation of medical marijuana occurs.

H. The marijuana area shall not result in a nuisance or adversely affect the health, welfare or safety of any resident or nearby residents by creating dust, glare, heat, noise, noxious gases, odors, smoke, traffic, vibration or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

18.61.050. Indoor Cultivation – Registration

A. Prior to commencing the cultivation of marijuana, the person(s) owning, leasing, occupying or having charge or possession of the dwelling or fully enclosed structure where marijuana cultivation is proposed to be conducted must be registered with the city clerk. Any registration under this section does not legalize or authorize the cultivation of marijuana, but merely exempts the registrant from the general prohibition on the cultivation of marijuana in section 18.61.030 and allows the city to monitor compliance with the regulations set forth in section 18.61.040. Upon registration, all of the following information must be provided to the city:

1. The name and current address of each person owning, leasing, occupying or having charge or possession of the premises where the cultivation of marijuana is proposed to be conducted.

2. A statement as to whether the marijuana being cultivated will be used for medical purposes or for adult use.

3. The name and address of each qualified patient or primary caregiver who will participate in the cultivation of medical marijuana, either directly or by providing reimbursement for the necessary expenses of cultivating that marijuana.

4. A copy of the current valid medical recommendation or state-issued medical marijuana card for each qualified patient identified as required above, and for each qualified patient for whom any person identified as required above is the primary caregiver.

5. The physical site address of where the marijuana is proposed to be cultivated and a description of the cultivation area(s).

6. The number of marijuana plants proposed to be cultivated.

7. Any such other information or documentation as the city manager determines is necessary or appropriate to ensure compliance with state law and this chapter.

B. To the extent permitted by law, the information and documentation submitted for marijuana cultivation registration or renewals shall be kept confidential, and shall be used only for purposes of administering and enforcing this chapter.

C. If the person(s) proposing to cultivate marijuana on any parcel is/are not the legal owner(s) of the parcel, such person(s) shall submit a notarized letter from the legal owner(s) consenting to the cultivation of marijuana on the parcel.

D. Any registration under this section is personal and unique to the person proposing to cultivate marijuana and the location where such cultivation is proposed to be conducted. In the event a property is sold, transferred or leased to a new tenant, the registration for that property shall expire upon such sale, transfer or lease. Moreover, if person cultivating marijuana, including but not limited to a qualified patient or primary caregiver, moves to a new residence in the city and proposes to continue cultivating marijuana in the new residence, he or she shall make a new registration for the new dwelling or fully enclosed structure. Every person cultivating marijuana under this section shall renew his or her registration every two years.

E. The city council may adopt a fee or fees required to be paid upon the filing of the registration provided in this chapter, which fees shall not exceed the reasonable cost of administering this chapter. The city council may adopt or amend any such fee by resolution.

18.61.060 Enforcement

This chapter shall be enforced pursuant to chapters 1.16 and 1.18 and section 18.88.030 and other applicable law. Notwithstanding any provision in this code to the contrary, persons who violate this chapter shall not be subject to criminal liability under this code to the extent that such conduct is immune from criminal liability under the Compassionate Use Act (Health and Safety Code section 11362.5) and the Medical Marijuana Program (Health and Safety Code section 11362.7 et seq.), as the same exist or may hereafter be amended.

SECTION 8. Exemption from CEQA. This ordinance will not cause a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment as compared to the existing physical environmental conditions within the City. The City Council therefore concludes that enactment of this ordinance does not constitute the approval of a project under the California Environmental Quality Act ("CEQA"), and, even if it did qualify as a project, it would be exempt from CEQA. (Pub. Res. Code § 21065, CEQA Guidelines §§ 15060(c)(2), 15060(c)(3); 15061(b)(3); 15064(d)(3); 15378(a).)

SECTION 9. Severability. If any section or provision of this ordinance or the imposition of such section or provision to any person, firm, organization, corporation or circumstance is held by a court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity of the remaining parts, which shall remain in full force and effect.

SECTION 10. Effective Date. This ordinance shall take effect 30 days after its final passage.

SECTION 11. Posting. Within 15 days from the date of passage of this ordinance, the City Clerk shall post a copy of it in at least three public places in the City.

INTRODUCED by the City Council on the ___th day of February 2018.

PASSED AND ADOPTED by the City Council of the City of Wheatland on the __th day of February 2018, as follows:

AYES:

NOES:

ABSTAIN:

ABSENT:

Joseph Henderson, Mayor

Attest:

Lisa J. Thomason, City Clerk

I hereby certify that the foregoing is a true and correct copy of City of Wheatland Ordinance No. _____, which ordinance was duly introduced, adopted and posted pursuant to law.

Lisa J. Thomason, City Clerk