



34 *"(a) If a city councilmember is absent without permission from all regular city*  
35 *council meetings for 60 days consecutively from the last regular meeting he or*  
36 *she attended, his or her office becomes vacant and shall be filled as any other*  
37 *vacancy.(b) Notwithstanding subdivision (a), if a city council meets monthly or*  
38 *less frequently than monthly and a city councilmember is absent without*  
39 *permission from all regular city council meetings for 70 days consecutively*  
40 *from the last regular meeting he or she attended, his or her office becomes*  
41 *vacant and shall be filled as any other vacancy."*

42 The statute is self-executing: upon the occurrence of the qualifying absence period without  
43 permission, the office becomes vacant by operation of law without any further council action.  
44 The council's role is to recognize and fill the resulting vacancy pursuant to Government Code  
45 § 36512.

#### 46 **Councilmember in Question's Attendance Record: October–December 2024**

47 The following dates are relevant to this investigation:

- 48 ● October 1, 2024: Councilmember in Question attended the regular Yreka City  
49 Council meeting — the last regular meeting he attended before his absence.
- 50 ● October 15, 2024: Regular Yreka City Council meeting held. The Councilmember in  
51 Question was absent. No prior excused absence was formally granted or entered in  
52 the minutes.
- 53 ● October 23, 2024: A special meeting of the Yreka City Council was held. The  
54 Councilmember in Question attended this special meeting. Special meetings are not  
55 "regular city council meetings" within the meaning of § 36513.
- 56 ● November 5, 2024: The scheduled regular Yreka City Council meeting was canceled.
- 57 ● November 19, 2024: Regular Yreka City Council meeting held. The Councilmember  
58 in Question was absent without formal excuse.
- 59 ● December 3, 2024: Regular Yreka City Council meeting. The Councilmember in  
60 Question attended — ending the consecutive absence period.

61

62 The interval between October 1, 2024 (last regular meeting attended) and December 3, 2024  
63 (next regular meeting attended) spans 62 consecutive days. During that interval, the  
64 Councilmember in Question missed all regular meetings (October 15 and November 19)  
65 without having obtained prior, formally recorded permission from the Yreka City Council.

#### 66 **The 60-Day vs. 70-Day Threshold Dispute**

67 Following inquiry by a different Councilmember, the question of whether the seat had become  
68 vacant was placed on the March 18, 2025 Yreka City Council agenda as Item 11e, with the  
69 recommended action that "the City of Yreka comply with California Government Code § 36513  
70 and that the Seat on the Yreka City Council has been Vacated by Non-Compliance with  
71 California Government Code § 36513."

72 At that meeting, the different Councilmember argued that Yreka's twice-monthly meeting  
73 schedule triggers the 60-day rule under § 36513(a), making the 62-day absence sufficient to  
74 vacate the seat. The Councilmember in Question and City Attorney argued that the  
75 cancellation of the November 5 regular meeting transformed the Council into a de facto  
76 "monthly" body during the relevant period, thereby invoking the 70-day threshold under §

77 36513(b). The City Attorney acknowledged that the Council lacked a formal written absence  
78 policy and deferred to the Council on the ultimate determination.

79 No vote on the vacancy question was taken at the March 18 meeting. On a motion by a  
80 Councilmember (passed 3-1, with one Councilmember dissenting), the item was continued to  
81 the April 1, 2025 regular meeting.

## 82 **The April 1, 2025 Council Action**

83 At the April 1, 2025 regular meeting, the Council voted 3-1 — to formally and retroactively  
84 excuse the Councilmember in Question’s October 15, 2024 absence due to illness. The stated  
85 purpose was to bring the unexcused absence within 60 days, thereby avoiding the vacancy  
86 trigger under § 36513(a).

87 A different Councilmember continued to object, calling for an independent legal opinion from  
88 an attorney other than the City Attorney, stating: "We need an attorney that's going to not  
89 change their mind, that's not going to say one thing to one council-member, and another thing  
90 to another council-member." the Mayor remarked: "I hope moving forward we have learned  
91 from this."

92 Following the April 1 vote, the Council took no further action to declare a vacancy, and the  
93 Councilmember in Question has continued to serve.

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## 95 **METHODOLOGY**

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96 The Civil Grand Jury reviewed the following materials in the course of this investigation:

- 97 ● California Government Code §§ 36512, 36513 (current text)
- 98 ● Yreka City Council regular meeting agendas and published minutes for the period  
99 September 2024 through April 2025
- 100 ● The March 18, 2025 Yreka City Council meeting agenda packet (117 pages, including  
101 staff report at page 106)
- 102 ● The minutes of the March 18, 2025 and April 1, 2025 Yreka City Council meetings
- 103 ● The League of California Cities publication, "City Council Qualifications, Vacancies,  
104 Incompatible Offices and Related Issues"
- 105 ● The Siskiyou County Civil Grand Jury Procedure Manual
- 106 ● Published news reporting regarding the Council's handling of Item 11e

107

108 The Civil Grand Jury interviewed **several** witnesses, including City officials and members of the  
109 public. Names and titles of interviewees are not disclosed to protect confidentiality. The Civil  
110 Grand Jury did not conduct its own independent investigation of the medical condition or  
111 personal circumstances during the relevant absence period of the Councilmember in  
112 Question.

113

## 114 **DISCUSSION**

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115 **Issue 1: Which Threshold Applies — 60 or 70 Days?**

116 **The plain text of § 36513 controls, and it applies the 60-day rule to Yreka.**

117 Section 36513(b) raises the threshold to 70 days only "if a city council meets monthly or less  
118 frequently than monthly." The relevant question is the nature of the council's established  
119 meeting schedule, not the frequency of meetings actually held during any particular period.

120 Yreka's city ordinances establish a twice-monthly regular meeting schedule, and this schedule  
121 appears on the face of every City Council agenda. The cancellation of a single regular meeting  
122 — the November 5, 2024 meeting — does not alter the council's established meeting  
123 frequency or transform it into a body that "meets monthly." A canceled meeting is an  
124 interruption of the schedule, not a change to it.

125 This interpretation is consistent with the purpose of § 36513, which creates an accountability  
126 mechanism for council attendance. Allowing a single meeting cancellation to raise the vacancy  
127 threshold from 60 to 70 days would permit an absence to be regularized by the fortuitous or  
128 purposeful cancellation of a meeting — an outcome inconsistent with the statute's text and  
129 purpose.

130 The Civil Grand Jury concludes that the 60-day threshold of § 36513(a) applies to the Yreka  
131 City Council.

132 **Issue 2: Was the Councilman "Absent Without Permission"?**

133 **No prior, formal permission was recorded in the minutes for the October 15 or November  
134 19, 2024 meetings.**

135 Section 36513 uses the phrase "absent without permission" but does not define it. The City of  
136 Yreka has no written absence policy. At the time of Councilmember's absences, there was no  
137 ordinance, resolution, or established procedure specifying how a councilmember obtains  
138 permission, what constitutes acceptable grounds, or when permission must be requested and  
139 granted.

140 The Councilmember in Question has indicated he communicated his situation to fellow  
141 councilmembers at the October 23, 2024 special meeting. However, that meeting was a  
142 special meeting, not a regular meeting, and no motion, vote, or minute entry excusing his  
143 absence from the October 15 or November 19 regular meetings appears in the public record.

144 The only contemporaneous example of a formally granted excused absence in the record is  
145 the permission granted to a different Councilmember in October 2024, which was explicitly  
146 voted upon and entered in the minutes. No equivalent action was taken for the  
147 Councilmember in Question at the time of his absences.

148 The Civil Grand Jury concludes that the Councilmember in Question was absent without  
149 permission, as that phrase is used in § 36513, from the October 15 and November 19, 2024  
150 regular meetings.

151 **Issue 3: Did a Vacancy Occur by Operation of Law?**

152 **Yes. By the plain text of § 36513(a), Davis's office became vacant on or about December 3,  
153 2024.**

154 When the conditions of § 36513(a) are met — consecutive absence without permission for 60  
155 days from the last regular meeting attended — the office "becomes vacant" by operation of

156 law. The vacancy is self-executing; no council vote is required to create it. The council's role is  
157 to recognize the vacancy and fill it under Government Code § 36512.

158 The conditions of § 36513(a) were met no later than December 3, 2024, when 62 days had  
159 elapsed since the October 1, 2024 regular meeting that Councilmember in Question last  
160 attended. At that point, the office became vacant by operation of law.

#### 161 **Issue 4: Effect of the April 1, 2025 Retroactive Excuse**

162 **The retroactive excuse is of uncertain legal effect and does not clearly cure a vacancy that**  
163 **had already occurred by operation of law.**

164 On April 1, 2025, the City Council voted to retroactively excuse Councilmember in Question  
165 October 15, 2024 absence. The Civil Grand Jury notes the following:

- 166 ● Government Code § 36513 does not expressly authorize retroactive permission, nor  
167 does it prohibit it. No published California appellate decision directly addresses  
168 whether a retroactive excused absence can prevent or undo a statutory vacancy.
- 169 ● The League of California Cities notes that whether retroactive permission is effective  
170 depends on local policy and council practice and that § 36513's "absent without  
171 permission" language is undefined.
- 172 ● The City of Yreka had no written policy governing the timing or form of permission at  
173 the time of the relevant absences.
- 174 ● If a vacancy had already occurred by operation of law before the April 1, 2025  
175 meeting, action taken at that meeting by a body that may have included an ineligible  
176 member could itself be subject to legal challenge.

177

178 The Civil Grand Jury makes no determination as to the legal validity of the retroactive excuse  
179 as a matter of civil law. The Civil Grand Jury does find that the Council's handling of this matter  
180 — improvised, legally uncertain, and contested — reflects a failure of governance that  
181 damaged public confidence and the uniform application of state law.

#### 182 **Issue 5: Absence of a Written Absence Policy**

183 **The absence of a formal absence policy contributed to this dispute and creates ongoing**  
184 **governance risk.**

185 The City Attorney acknowledged at the March 18, 2025 meeting that Yreka has no written  
186 policy governing how council absences are excused. The practical result was that identical  
187 conduct — being absent from regular meetings — was handled inconsistently: One  
188 Councilmember's absence in October 2024 was formally excused by vote and minute entry;  
189 the other member's absences were not. This inconsistency is a governance deficiency that a  
190 written policy would directly address.

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## 192 **FINDINGS**

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193 The Civil Grand Jury finds as follows:

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195 **Finding 1:** The Yreka City Council is a city body that meets, pursuant to its ordinances and  
 196 regular practice, twice per month. The 60-day absence threshold of California Government  
 197 Code § 36513(a) therefore applies. The City of Yreka has no written policy governing the  
 198 granting of excused absences. This absence of policy contributed materially to the dispute  
 199 over the status of the Councilmember and to inconsistent treatment of councilmember  
 200 absences.

201

202 **Finding 2:** The Councilmember in Question last attended a regular City Council meeting on  
 203 October 1, 2024. He was absent without prior formal permission recorded in the minutes,  
 204 from the October 15, 2024 and November 19, 2024 regular meetings. He returned to a regular  
 205 meeting on December 3, 2024 — a span of 62 consecutive days. At no time before or during  
 206 the relevant absence period did the City Council vote to or record in the minutes any grant of  
 207 an excused absence for the Councilmember in Question from the October 15, 2024 or the  
 208 November 19, 2024 regular meetings.

209 **Finding 3:** The conditions of California Government Code § 36513(a) having been met, the  
 210 seat on the Yreka City Council became vacant by operation of law no later than December 3,  
 211 2024. The cancellation of the November 5, 2024 regular meeting does not alter Yreka’s  
 212 established twice-monthly meeting frequency for purposes of code 36513 and does not  
 213 trigger the 70-day threshold of code 36153(b). The April 1, 2025 Council vote to retroactively  
 214 excuse the October 15, 2024 absence was of uncertain legal effect and does not clearly cure  
 215 a vacancy that had already occurred by operation of law.

## 216 RECOMMENDATIONS

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217 **Recommendation 1 (to the Yreka City Council):** The City Council should formally declare that  
 218 a vacancy occurred in the council seat held by the Councilmember pursuant to California  
 219 Government Code § 36513(a), effective no later than December 3, 2024, and should fill that  
 220 vacancy in accordance with Government Code § 36512.

221 **Recommendation 2 (to the Yreka City Council):** The City Council should adopt a written  
 222 absence policy — by ordinance, resolution, or formal rules of procedure — that defines: (a)  
 223 the procedure by which a councilmember may request an excused absence; (b) the grounds  
 224 upon which such a request may be granted; (c) the timing requirement (specifically, whether  
 225 requests may only be made prospectively); and (d) the requirement that any grant of  
 226 permission be recorded in the official minutes.

227 **Recommendation 3 (to the Yreka City Council and City Manager):** If the Council declines to  
 228 declare the vacancy, the Council should retain independent outside counsel — not currently  
 229 employed by the City — to opine on (a) whether a vacancy occurred under § 36513(a), and (b)  
 230 the validity of retroactive excused absences under California law, and should make that  
 231 opinion publicly available.

## 232 REQUIRED RESPONSES

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233 Pursuant to California Penal Code §§ 933 and 933.05, the following agencies are required to  
 234 respond to the findings and recommendations in this report within the time periods specified  
 235 below. Each response shall indicate whether the agency agrees or disagrees with each finding

236 and whether each recommendation will be implemented, partially implemented, will not be  
 237 implemented (with explanation), has already been implemented, or requires further study.

238

Yreka City Council	Findings 1–3; Recommendations 1–3	90 days from date of report
Yreka City Manager	Finding 1; Recommendation 2	60 days from date of report

241 **APPENDIX A — California Government Code § 36513**

242 *(a) If a city councilmember is absent without permission from all regular city*  
 243 *council meetings for 60 days consecutively from the last regular meeting he or*  
 244 *she attended, his or her office becomes vacant and shall be filled as any other*  
 245 *vacancy.(b) Notwithstanding subdivision (a), if a city council meets monthly or*  
 246 *less frequently than monthly and a city councilmember is absent without*  
 247 *permission from all regular city council meetings for 70 days consecutively*  
 248 *from the last regular meeting he or she attended, his or her office becomes*  
 249 *vacant and shall be filled as any other vacancy.(Amended by Stats. 1990, Ch.*  
 250 *1558, Sec. 2.)*

251 Source: [https://law.justia.com/codes/california/code-gov/title-4/division-3/part-1/section-](https://law.justia.com/codes/california/code-gov/title-4/division-3/part-1/section-36513/)  
 252 [36513/](https://law.justia.com/codes/california/code-gov/title-4/division-3/part-1/section-36513/)

253

254 **APPENDIX B — Timeline of Relevant Events**

255

October 1, 2024	Councilmember in Question attends regular meeting — last attendance before absence period
October 15, 2024	Regular meeting held; Councilmember in Question absent without formal excuse (Day 1 of absence period)
October 23, 2024	Special meeting held; Councilmember attends (not a "regular meeting" under § 36513)
November 5, 2024	Scheduled regular meeting canceled
November 19, 2024	Regular meeting held; Councilmember in Question absent without formal excuse

~December 2, 2024	Day 60 from October 1 — 60-day threshold reached under § 36513(a)
December 3, 2024	Regular meeting; Councilmember in Question attends — 62 days elapsed since last regular attendance
March 18, 2025	City Council agendas Item 11e; debate held; item continued 3-1 to April 1
April 1, 2025	Council votes 3-1 to retroactively excuse Councilmember in Question's October 15 absence

256

## 257 APPENDIX C — Sources

- 258 ● California Government Code § 36513 (Justia Law):  
259 <https://law.justia.com/codes/california/code-gov/title-4/division-3/part-1/section-36513/>  
260
- 261 ● Yreka City Council Meeting Minutes, March 18, 2025:  
262 [https://www.ci.yreka.ca.us/AgendaCenter/ViewFile/Minutes/\\_03182025-513](https://www.ci.yreka.ca.us/AgendaCenter/ViewFile/Minutes/_03182025-513)
- 263 ● Siskiyou News, "What's Going On with the Yreka City Council?" (March 20, 2025):  
264 <https://www.siskiyou.news/2025/03/20/whats-going-on-with-the-yreka-city-council/>  
265
- 266 ● Skip Descant, "[Councilmember in Question] Remains on Yreka City Council" (April 4,  
267 2025): <https://substack.com/home/post/p-160555652>
- 268 ● League of California Cities, "City Council Qualifications, Vacancies, Incompatible  
269 Offices and Related Issues":  
270 <https://www.cacities.org/UploadedFiles/LeagueInternet/01/01562a25-374e-4bd2-b871-148a170ef624.pdf>  
271
- 272 ● Siskiyou County Civil Grand Jury Procedure Manual (on file with the Court)