

ORDINANCE NO. 1468

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA AMENDING
THE LAND USE CODE OF THE ARCATA MUNICIPAL CODE TO CREATE
A MEDICAL MARIJUANA INNOVATION ZONE COMBINING ZONE**

**TITLE IX—PLANNING AND ZONING
CHAPTER 1—PLANNING AND ZONING STANDARDS
SECTION 9000—LAND USE CODE (LUC)
SECTION 9.12.020—ZONING MAP AND ZONING DISTRICTS
SECTION 9.26.030—COMMERCIAL, INDUSTRIAL, AND PUBLIC FACILITY ZONING
DISTRICTS
SECTION 9.28.130 (NEW)—MEDICAL MARIJUANA INNOVATION ZONE (:MMIZ)
COMBINING ZONE**

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

Section 1. Amendment to Zoning Map. The Zoning Map of Title IX—*Planning and Zoning*, Chapter 1—*Planning and Zoning Standards*, Section 9000—*Land Use Code*, Article 1—*LUC Applicability*, Section 9.12.020—*Zoning Map and Zoning Districts*, on file with the Community Development Department, is hereby amended by the creation of a Medical Marijuana Innovation Zone Combining Zone as shown in Exhibit 1 attached hereto and incorporated herein, which shall be incorporated into the Zoning Map on file, and the property identified in Exhibit 1 is hereby rezoned.

Section 2. Amendment to Zoning Districts; Table 1-1. The Zoning Districts as shown in Table 1-1 of Title IX—*Planning and Zoning*, Chapter 1—*Planning and Zoning Standards*, Section 9000—*Land Use Code*, Article 1—*LUC Applicability*, Section 9.12.020—*Zoning Map and Zoning Districts*, are hereby amended by the addition of a Medical Marijuana Innovation Zone Combining Zone as shown in the following bold underscore text (unchanged text within the Table is omitted and is shown by “* * *”):

TABLE 1-1—ZONING DISTRICTS

Zoning District Symbol	Name of Zoning District	General Plan Designation Implemented by Zoning District
* * *	* * *	* * *

Combining Zones

:HL	Historic Landmark	All
: MMIZ	Medical Marijuana Innovation Zone	Specific Industrial—Limited properties—see Section 9.28.130, Figure 2-25
:NH	Natural Hazards	All
:NCA	Neighborhood Conservation Area	All
:PA	Plaza Area	Commercial-Central
:PD	Planned Development	All
:SCA :SCNR :SCR :SCC :SCI :SCP	Special Considerations—Agricultural Special Considerations—Resource Special Considerations—Residential Special Considerations—Commercial Special Considerations—Industrial Special Considerations—Public Facility	Agricultural Natural Resource Residential Commercial Industrial Public Facility
:WP	Wetland Protection	Natural Resource—WSP
:SP	Stream Protection	Natural Resource—WSP

Section 3. Amendment to Agricultural and Resource District Allowable Land Uses; Table 2-1. The Agricultural and Resource District Allowable Land Uses depicted in Table 2-1 of Title IX, *Planning and Zoning*, Chapter 1, *Planning and Zoning Standards*, Section 9000, *Land Use Code*, Article 2, *Zoning Uses*, Section 9.22.030, are hereby amended as shown in the following bold double strike through text (unchanged text within the Table is omitted and is shown by “* * *”):

Table 2-1—Allowable Land Uses and Permit Requirements for Agricultural and Resource Zoning Districts

TABLE 2-1 Allowed Land Uses and Permit Requirements for Agricultural and Resource Zoning Districts	P	Permitted Use, Zoning Clearance required			
	MUP	Minor Use Permit required			
	UP	Use Permit required			
	S	Permit determined by specific use regulations			
	—	Use not allowed			
LAND USE (1)	PERMIT REQUIRED BY				Specific Use Regulations
	AE	AR	NR-TP	NR-PT	

AGRICULTURAL & OPEN SPACE USES

Agricultural accessory structure, 4,000 sf or less	P	MUP	MUP	MUP	9.22.060,9.42.030
Agricultural accessory structure, larger than 4,000 sf	MUP	MUP	MUP	MUP	
Agricultural cultivation—Medical marijuana	UP	—	—	—	9.42.105
Agricultural processing—Very low impact	P	P	P	P	
Agricultural processing—Low impact	MUP	MUP	MUP	MUP	
Agricultural processing—Moderate impact	UP	UP	—	—	
Animal keeping	S	S	S	S	9.22.060,9.42.050
Aquaculture—Ocean dependent	—	—	MUP	MUP	
Commercial greenhouse—Perimeter foundation, 1,000 sf or less	P	MUP	—	—	
Commercial greenhouse—Perimeter foundation, larger than 1,000 sf	MUP	MUP	—	—	
Commercial greenhouse—Slab foundation	UP	UP	—	—	

Commercial greenhouse—Soil dependent, 1,000 sf or less	P	P	—	—	9.22.060
Commercial greenhouse—Soil dependent, larger than 1,000 sf	MUP	MUP	—	—	
Crop production, horticulture, orchard, vineyard	P(2)	P(2)	P(2)	P(2)	9.22.060
Forestry	MUP	MUP	P(2)	—	
Nature preserves, habitat and wetland restoration	P(2)	P(2)	P(2)	P(2)	9.22.060
Winery	UP	UP	—	—	

* * *

Section 4. Amendment to Allowable Land Uses; Table 2-10. The Allowable Land Uses for the Commercial, Industrial, And Public Facility Zoning Districts depicted in Table 2-10 of Title IX, *Planning and Zoning*, Chapter 1, *Planning and Zoning Standards*, Section 9000, *Land Use Code*, Article 2, *Zoning Uses*, Section 9.26.030 *Commercial, Industrial, And Public Facility Zoning District Allowable Land Uses*, are hereby amended by the revisions to the permit requirements for Agricultural cultivation—Medical Marijuana as shown in the following bold double strike through and double underscore text (unchanged text within the Table is omitted and is shown by “* * *”):

**Table 2-10—
Allowable Land Uses and Permit Requirements for Commercial, Industrial, And Public Facility Zoning Districts**

TABLE 2-10 Allowed Land Uses and Permit Requirements for Commercial, Industrial, and Public Facility Zoning Districts	P	Permitted Use, Zoning Clearance required								Specific Use Regulations
	MUP	Minor Use Permit required								
	UP	Use Permit required (2)								
	S	Permit determined by specific use regulations								
	—	Use not allowed								
	PERMIT REQUIRED BY DISTRICT									
LAND USE (1)	CC	CG	CV	CM	IL	IG	PF			

INDUSTRY, MANUFACTURING & PROCESSING, WHOLESALING

Agricultural cultivation—Medical Marijuana	—	—	—	—	UP(9)		UP(9)	—	9.42.105
Agricultural processing—Very low impact	—	—	—	—	P		P	—	
Agricultural processing—Low impact	MUP(4)	MUP(4)	—	—	P		P	—	
Biodiesel production	—	—	—	—	UP		UP	—	
Composting	—	—	—	—	MUP		MUP	—	
Construction contractors	—	—	—	—	P		P	—	
Furniture and fixtures manufacturing, cabinet shop	—	UP	—	—	P		P	—	
Laboratory- Medical, analytical, R&D	—	P	—	—	P		P	—	
Laundry, dry cleaning plant	—	UP	—	UP	P		P	—	
Manufacturing/processing- Low impact	MUP(4)	MUP(4)	—	—	P		P	—	
Manufacturing/processing- Moderate impact	—	—	—	—	MUP		MUP	—	
Manufacturing/processing- High impact	—	—	—	—	—		UP	—	
Media production	P	P	—	—	P		P	—	
Printing and publishing	P	P	—	—	P		P	—	
Recycling- Processing facility	—	—	—	—	MUP		P	—	9.42.160
Recycling- Reverse vending machines	—	P	P	—	P		P	—	9.42.160
Recycling- Scrap and dismantling yards	—	—	—	—	—		MUP	—	9.42.160
Recycling- Small collection facility	—	MUP	—	—	MUP		P	P	9.42.160
Solid waste disposal transfer station	—	—	—	—	UP		UP	—	
Storage—Business records	MUP	MUP	—	—	MUP		MUP	—	

Storage—Outdoor	MUP	MUP	MUP	MUP	P		P	P	9.42.150
Storage—Personal storage facility (mini-storage)	—	UP	—	—	P		P	—	
Storage—Warehouse, indoor storage	—	UP	—	—	P		P	—	
Wholesaling and distribution	—	P	—	—	P		P	—	

* * *

Notes:

- (1) See Article 10 (Glossary) for land use definitions.
- (2) Use Permit required for any proposed retail use with either: (a) a floor greater than 30,000 square feet; or (b) physical alteration of eight or more acres; or (c) generation of 1,000 or more vehicle trips per day. See also Section 9.26.060.
- (3) Residential units should only be located above nonresidential uses or at ground level behind the street-fronting nonresidential uses pursuant to Section 9.42.110.
- (4) Allowed only in conjunction with the on-site retail sale of products produced on the site.
- (5) More than one caretaker/employee unit per parcel requires a Use Permit pursuant to Section 9.72.080.
- (6) Principally permitted if the standards of Section 9.42.070 are met; otherwise a Minor Use Permit (MUP) is required.
- (7) Permitted Use in IL-2 Creamery District Overlay Zone Subarea A only. Subarea B requires either a MUP or UP as specified in Table 2-10.
- (8) Permitted Use in IL-2 Creamery District Overlay Zone Subarea B only. Subarea A requires either a MUP or UP as specified in Table 2-10.
- (9) See Section 9.28.130 Medical Marijuana Combining Zone for allowable cultivation areas.**

Section 5. Zoning Text Amendment, Addition of Combining Zone. The Combining Zones of Title IX, *Planning and Zoning*, Chapter 1, *Planning and Zoning Standards*, Section 9000, *Land Use Code*, Article 2, *Zoning Uses*, are hereby amended by the addition of Section 9.28.130 *Medical Marijuana Innovation Zone (:MMIZ) Combining Zone*, as shown in the following bold double underscore text:

9.28.130—Medical Marijuana Innovation Zone (:MMIZ) Combining Zone

- A. Purpose.** The :MMIZ combining zone is applied to all sites and areas identified in Figure 2-25. The intent of the :MMIZ is to establish an area where niche manufacturing businesses that produce medical marijuana related products such as edibles, oils, tincture sprays, lotions and a variety of other products can be safely produced. Medical marijuana cultivation, processing, and warehousing are also allowed. Research, testing, and new medical marijuana product development is strongly encouraged. Since the closure of the former Humboldt Flakeboard plant, Assessor Parcel Number’s (APN’s) 507-081-043, 507-121-013, and 507-081-050 have rapidly deteriorated into a state of blight. The establishment of the :MMIZ combining zone on those parcels, will assist with the removal of blight from the properties. The :MMIZ combining zone establishes special standards to address the unique legal, social, security, enforcement, and environmental concerns that have been well documented to be associated with medical marijuana while maintaining compatibility with the other uses that either currently exist or are likely to exist in the area immediately around the :MMIZ.
- B. Applicability.** The :MMIZ combining zone is comprised of Areas 1 and 2 as shown in Figure 2-25, and applies only to those parcels specifically identified in Figure 2-25. Additions or deletions from the :MMIZ require an amendment to Figure 2-25.
- C. Permit requirements.** A Zoning Clearance is required for Area 1 and a Conditional Use Permit is required for Area 2. The total number of Conditional use Permits for Area 2 shall be limited to four (4). A non-planning local permit or local license issued by the City of Arcata is also required.

D. Land use and development standards. Proposed development and new land uses within the :MMIZ combining zone shall comply with the requirements of the primary zoning district, and all other applicable provisions of this Land Use Code, except that each parcel within the :MMIZ:

1. Shall be limited to cultivating medical marijuana on no more than 25% of the total building floor area per parcel without a Conditional Use Permit. For the purposes of this section, the term cultivation includes all growing processes from seed to cutting. Cultivation does not include the area where drying or storing of harvested plant or plant material occurs.
2. Shall not have an area utilized for cultivation that is greater 4000 square feet per lease/business without a Conditional Use Permit.
3. Shall have at least one 600 square foot or greater in size commercial food grade manufacturing area, laboratory, or other comparable improved space that meets state requirements ready for occupancy, prior to receiving a final building permit for cultivation on a parcel. This requirement shall not apply if no cultivation is taking place on the parcel.
4. No residential uses shall be allowed with the exception of one caretaker unit which is intended for security purposes.

The minimum lot area on APN's: 507-081-043, 507-121-013, and 507-081-050 may be reduced to 10,000 square feet through the Land Use Code Subdivision Regulations and Procedures.

[Figure 2-25 on following page]

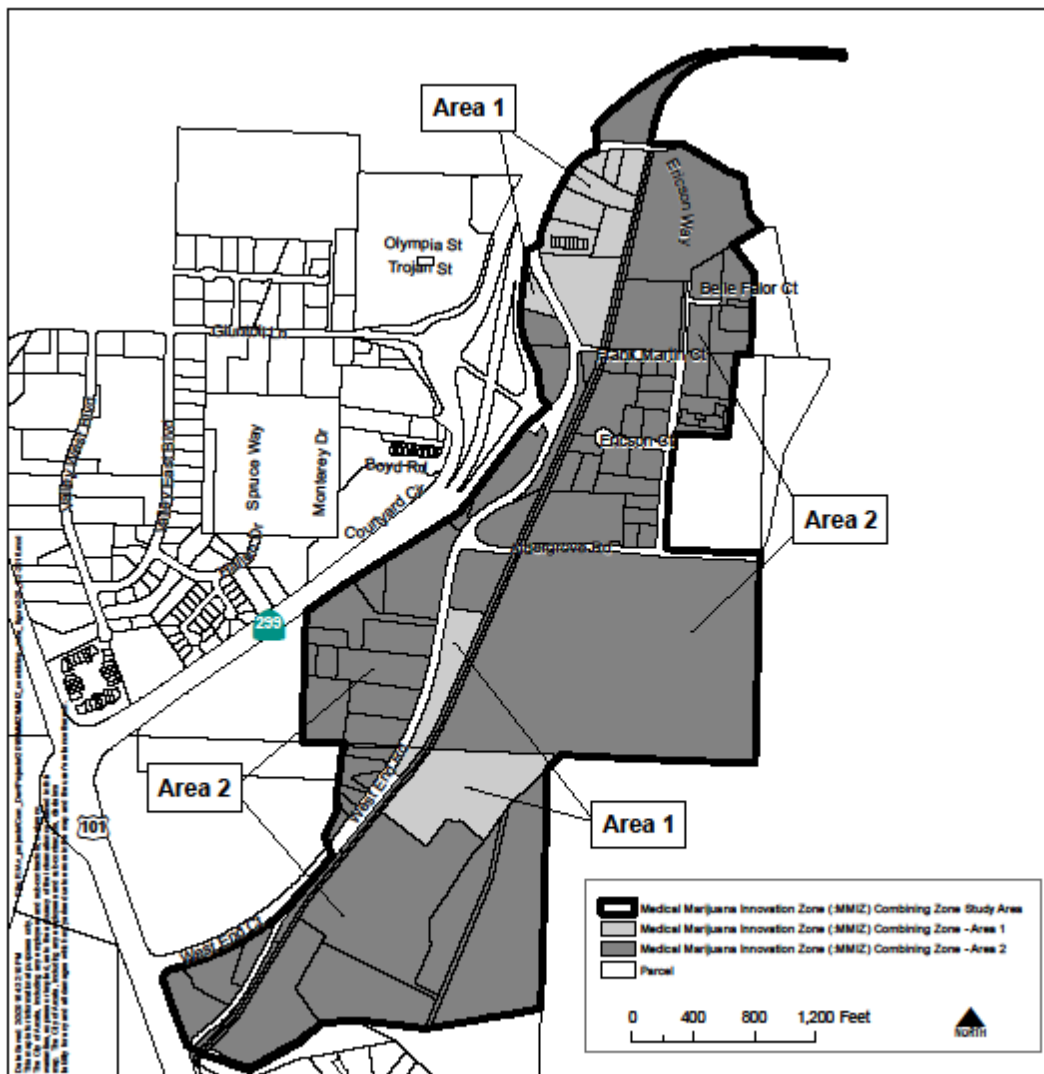


Figure 2-25 Medical Marijuana Innovation Zone (:MMIZ) Combining Zone

Section 6. Zoning Text Amendment, Repeal of sub-Section 9.42.105.F. Title IX, *Planning and Zoning*, Chapter 1, *Planning and Zoning Standards*, Section 9000, *Land Use Code*, Article 4, *Standards for Specific Land Uses*, Section 9.42.105, *Medical Marijuana: Cultivation and Dispensing*, is hereby amended by the repeal of sub-Section 9.42.105.F, *Medical Marijuana Cultivation and Dispensing*; sub-Sections 9.42.105.A–9.42.105.E are unchanged.

Section 7. Findings of Approval. Based upon the whole record, information received in public hearings, comments from responsible agencies, and the Arcata Planning Commission recommendation PC-15-02, dated September 8, 2015, the following findings are hereby adopted:

1. On May 20, 2015, the City Council received a report and heard testimony about the continued expansion of the marijuana industry in Humboldt County and the industry's preparation for voter approval of recreational marijuana in November of 2016.
2. In preparation for the rapidly expanding industry, the Council directed staff to initiate a Land Use Code amendment to create a new Medical Marijuana Innovation Overlay Zone on the former Humboldt Flakeboard plant parcels, APN's 507-081-043, 507-121-013, and 507-081-050, to assist in blight elimination on these parcels. Additionally, the Council adopted Ordinances 1484 and 1485, temporarily suspending some of its medical marijuana land use regulations and prohibiting offsite medical marijuana growing, cultivation and processing facilities within the City of Arcata while developing the MMIZ.
3. Early input from numerous property owners and potential medical marijuana businesses seeking to capitalize on the proposed MMIZ confirmed the potential for rapid expansion of the industry and inability of the City's zoning regulations to properly accommodate this emerging industry. In particular:
 - a. On May 5, 2015, the City received a Zoning Clearance request from North Coast Laboratories (APN: 507-430-016) requesting concurrence that expansion of its existing laboratory services to allow for the testing of medical marijuana for marijuana constituents (CBD's, THC, pesticide residuals, mold & fungus, etc) is allowable under the City's existing zoning.
 - b. On June 17, 2015, the owners of Axel Properties (APN: 507-251-020) submitted an application for a Conditional Use Permit to operate a cultivation and processing facility.
 - c. Based on the significant media coverage of the proposed MMIZ, the owners of APNs 507-251-017, 507-430-020, 507-430-005, and 507-430-007 requested inclusion of their parcels in the MMIZ.
4. After a City-wide evaluation of where to locate the MMIZ, Planning Commission Resolution No. PC-15-02 recommended adoption of an MMIZ created around the three blighted former Humboldt Flakeboard Panel parcels (referred to therein as Area A) as well as a nearby area containing the above parcels for which the owners had demonstrated readiness to enter the industry. These parcels were joined into a cohesive geographical district (referred to therein as Area C) comprised of 20 parcels anchored in the northeast, southeast and southwest by early participants in the discussion: North Coast Laboratories, Axel Properties and APN 507-251-017, respectively.
5. After consideration of the Planning Commission's recommendation on October 7, 2015, the City Council took action to proceed initially with a more focused MMIZ pilot project and introduced Ordinance 1468 to create the MMIZ on the three blighted former Humboldt Flakeboard Panels parcels (Area A) only. The Council additionally scheduled a community neighborhood meeting on October 28, 2015 due to increasing interest in the MMIZ and held additional public hearings on November 4, 2015, and November 18, 2015, where it learned

that interest in inclusion in the MMIZ has continued to escalate requiring more in depth environmental analysis.

6. After consideration of the additional public input and environmental analysis, the :MMIZ combining zone established by this Ordinance 1468 balances the competing interests of providing equal economic opportunity to all similarly situated properties in the West End Road area, while recognizing that the early participants in this process are best situated to quickly enter the industry and achieve greater economic success; and, additionally, implements the desire to proceed in a measured fashion that evaluates the unique impacts from this developing industry (and the potential for a recreational marijuana industry) on the City's business environment.
7. Creation of two Areas in the :MMIZ with different zoning standards implements a pilot project approach and allows the City to monitor impacts of the industry on such factors as economic diversity and law enforcement, and be better prepared for a commercial recreational marijuana industry in the near future.
8. Creation of Area 1 within the :MMIZ, where commercial medical marijuana uses are principally allowed subject to zoning standards and additional non-planning permitting, is intended to:
 - a. Allow for blight elimination on the former Humboldt Flakeboard plant properties: APNs 507-081-043, 507-121-013, and 507-081-050; and
 - b. Facilitate early and rapid economic development by property owners that have demonstrated the capacity to enter quickly into the developing commercial medical marijuana industry.
9. Creation of Area 2 within the :MMIZ (allowing for four commercial medical marijuana uses with a conditional use permit) provides to interested property owners economic opportunity in the developing commercial medical marijuana industry while monitoring the industry development and maintaining pilot project phasing.
10. The :MMIZ is subject to amendment after additional study.
11. The proposed Land Use Code, text and map amendments are consistent with all other provisions of the General Plan and would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
12. The affected sites are physically suitable for the proposed or anticipated uses and/or development.

Section 8. Severability. If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Section 9. Limitation of Actions. Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

Section 10. California Environmental Quality Act. A Negative Declaration was prepared circulated, and approved prior to the adoption of this Ordinance.

Section 11. Effective Date. This ordinance shall become effective upon the effective date of Arcata City Council Medical Marijuana Innovation Zone implementing regulations for local permitting and/or licensing requirements.

[Exhibit 1 on following page]

DATED: March 2, 2016

ATTEST:

APPROVED:

/s/ Bridget Dory
City Clerk, City of Arcata

/s/ Paul J. Pitino
Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 1468, passed and adopted at a regular meeting of the City Council of the City of Arcata, County of Humboldt, State of California, on the 2nd day of March, 2016, by the following vote:

AYES: PITINO, ORNELAS, PEREIRA, WINKLER

NOES: WHEETLEY

ABSENT: NONE

ABSTENTIONS: NONE

/s/ Bridget Dory
City Clerk, City of Arcata