ORDINANCE NO. 1419

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA AMENDING TITLE IX OF THE ARCATA MUNICIPAL CODE, ZONING REGULATIONS PERTAINING TO MURALS, PERMIT TIME LIMITS, RESIDENTIAL USES IN COMMERCIAL AND INDUSTRIAL ZONES, SECOND UNITS, MOBILE FOOD AND DRINKING VENDORS, MINOR USE PERMITS, AND BEEKEEPING

TITLE IX: PLANNING AND ZONING
CHAPTER 1: LAND USE AND DEVELOPMENT GUIDE

SECTIONS PERTAINING TO MURALS, PERMIT TIME LIMITS, AND RESIDENTIAL USES IN COMMERCIAL AND INDUSTRIAL ZONES:

9.38.090 - STANDARDS FOR SPECIFIC SIGN TYPES;
9.100.020 - DEFINITIONS OF SPECIALIZED TERMS AND PHRASES;
9.26.030 - COMMERCIAL, INDUSTRIAL, AND PUBLIC FACILITY ZONING DISTRICT ALLOWABLE LAND USES, TABLE 2-10;
9.79.070 - PERMIT TIME LIMITS, EXTENSIONS, AND EXPIRATION;

SECTIONS PERTAINING TO SECOND UNITS:

9.42.170 - SECOND UNITS (Repealed);
9.22.030 - AGRICULTURAL AND RESOURCE DISTRICT ALLOWABLE LAND USES, TABLES 2-1:
9.24.030 – RESIDENTIAL DISTRICT ALLOWABLE LAND USES, TABLE 2-4;
9.24-040 - RESIDENTIAL DISTRICT PARCEL AND DENSITY STANDARDS, TABLE 2-5;
9.36.040 – NUMBER OF PARKING SPACES REQUIRED;
9.42.030 - ACCESSORY STRUCTURES;
9.100.020 - DEFINITIONS OF SPECIALIZED TERMS AND PHRASES;

SECTIONS PERTAINING TO MOBILE EATING AND DRINKING VENDORS:

9.42.140 - OUTDOOR RETAIL DISPLAYS AND SALES;

SECTIONS PERTAINING TO BEEKEEPING AND MINOR USE PERMITS:

9.42.050 –ANIMAL KEEPING, TABLE 4-1 AND TABLE 4-2
9.72.080 – USE PERMIT AND MINOR USE;
9.72.040 – DESIGN REVIEW;

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

Section 1: Amendments Pertaining To Murals, Permit Time Limits, and Residential Uses in Commercial and Industrial Zones: Title IX of the Arcata Municipal Code, *Planning and Zoning*, Chapter 1, *Land Use And Development Guide*, Sections 9.38.090, *Standards for Specific Sign Types*; 9.100.020, *Definitions of Specialized Terms and Phrases*; 9.26.030, *Commercial, Industrial, and Public Facility Zoning District Allowable Land Uses*, Table 2-10, *Residential Uses*; and 9.79.070, *Permit Time Limits, Extensions, and Expiration*, is hereby amended as shown in the following strike through and underscore (unchanged text within the Section or Subsection is omitted and is shown by "* * *").

SEC. 9.38.090 - Standards for Specific Sign Types

* * *

D. Murals. A mural placed on the wall of a structure may be allowed in any ~~commercial or industrial~~ zoning district ~~subject to Minor Use Permit, and~~ as follows.

~~1. A mural without text visible from a public right-of-way may be approved in addition to (not counted as part of) the sign area allowed by Section 9.38.080 (Sign Standards by Zone); a mural with text shall comply with the sign area limitations applicable to the site.~~

~~2. The approval of a mural shall require that the review authority first find that the size, colors, and placement of the mural are visually compatible with the structure architecture, and that the mural will serve to enhance the aesthetics of the City.~~

1. A mural located in any commercial or industrial zoning district is subject to Design Review if it contains text or graphics intended to advertise or identify any business or product.

2. Only the portion of the mural that contains text or graphics intended to advertise or identify any business or product shall be subject to the sign area requirements allowed by Section 9.38.080 (Sign Standards by Zone).

3. The Review Authority may grant a Master Sign Plan on a parcel(s) not meeting one of the conditions of §9.38.030 D. 1 if the mural contains subordinate and incidental text or graphics intended to advertise or identify any business or product.

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SEC. 9.100.20 - Definitions of Specialized Terms and Phrases

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Sign. A structure, device, figure, display, message placard, or other contrivance excluding merchandise display, or any part thereof, located outdoors or indoors, that is designed, constructed, intended, or used to provide information, convey an idea, to direct or attract attention to an object, person, institution, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Does not include murals, paintings and other works of art that are not intended to otherwise ~~convey information,~~ advertise or identify any business or product. Types of signs include the following.

* * *

SEC. 9.26.030 - Commercial, Industrial, and Public Facility Zoning District Allowable Land Uses

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TABLE 2-10 **Allowed Land Uses and Permit Requirements for Commercial, Industrial, And Public Facility Zoning Districts**	P	Permitted Use, Zoning Clearance required
	MUP	Minor Use Permit required
	UP	Use Permit required (2)
	S	Permit determined by specific use regulations
	—	Use not allowed

LAND USE (1)	**PERMIT REQUIRED BY DISTRICT**							**Specific Use Regulations**
	CC	**CG**	**CV**	**CM**	**IL**	**IG**	**PF**	
RESIDENTIAL USES								
Caretaker ~~unit~~ / Employee Unit	—	~~MUP~~ P(4)	—	—	~~MUP~~ P(4)	~~MUP~~ P(4)	— P(4)	
Emergency shelter	—	UP	—	—	UP	UP	MUP	
Group Quarters	—	UP	—	—	UP	UP	MUP	
Home occupation	P	P	—	P	P	— P	— P	9.42.090
Live/work unit	P	P	—	P	P	—	—	9.42.100
Multi-family housing	P(3)	P(3)	—	P(3)	~~P~~	—	—	9.42.110
Residential care facility, 7 or more clients	MUP	MUP	—	MUP	—	—	MUP	
Single-family dwelling	P(3)	P(3)	—	P(3)	~~P~~	—	—	
~~Transitional housing~~	~~P(3)~~	~~P(3)~~	~~—~~	~~P(3)~~	~~P~~	~~UP~~	~~MUP~~	

Key to Zoning District Symbols

CC	Commercial - Central	**IL**	Industrial - Limited
CG	Commercial - General	**IG**	Industrial - General
CV	Commercial - Visitor Serving	**PF**	Public Facility
CM	Commercial - Mixed Use Center		

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 sf; 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 the nonresidential uses or at ground level behind the street-fronting nonresidential uses pursuant to Section 9.42.110.

(4) More than one Caretaker/Employee Unit per parcel requires a Use Permit pursuant to §9.72.080.

* * *

SEC. 9.79.070 - Permit Time Limits, Extensions, and Expiration

A. Time limits. Unless a condition of approval or other provision of this Land Use Code establishes a different time limit, any permit or approval not exercised within ~~12~~ 24 months of approval shall expire and become void, except where an extension of time is approved in compliance with Subsection B., below, or by the period of time in which:

1. An appeal to the Council is pending;

2. A proceeding before the California Coastal Commission is pending; or

3. Construction is restrained by the process of any Court of competent jurisdiction.

B. Extensions of time. Upon written request by the applicant, the Zoning Administrator may extend the time for an approved planning permit to be exercised. The Zoning Administrator may defer action and refer the request to the review authority who originally granted the approval.

1. Filing and review of request.

a. Time for filing. The applicant shall file a written request for an extension of time with the Department at least 30 days before the expiration of the permit, together with the filing fee required by the City's Fee Schedule.

b. Basis for extension. The Zoning Administrator shall determine whether the applicant has made a good faith effort to exercise the permit. The burden of proof is on the applicant to establish, with substantial evidence, that circumstances beyond the control of the applicant (e.g., demonstrated financial hardship, problems with completing the acquisition of the parcel, poor weather during periods of planned construction, etc.) have prevented exercising the permit.

~~**c. Public hearing.** If the original approval required a public hearing, the review authority who originally granted the approval shall hold a public hearing on a proposed extension of time, after providing notice of the public hearing in compliance with Chapter 9.74 (Public Hearings).~~

2. Action on extension request. A permit may be extended as follows for no more than two additional 12-month periods beyond the expiration of the original approval; provided, the review authority first finds that there have been no changes in the conditions or circumstances of the site or project that would have been grounds for disapproval of the original project.

a. Zoning Administrator's action. Unless referred to the original review authority, ~~U~~upon good cause shown, ~~the first~~ an extension may be approved, approved with modifications, or disapproved by the Zoning Administrator, whose decisions may be appealed ~~to the Planning Commission~~, in compliance with Chapter 9.76 (Appeals).

~~**b. Planning Commission's action.** One subsequent extension may be approved, approved with modifications, or disapproved by the Planning Commission, whose decisions may be appealed to the Council in compliance with Chapter 9.76 (Appeals).~~

* * *

F. Developed in pre-approved phases. If a project is to be developed in pre-approved phases, each subsequent phase shall be exercised within ~~12~~ 24 months from the date that the previous phase was exercised, unless otherwise specified in the permit, or the permit

shall expire and be void in compliance with Subsection C., above, except where an extension of time is approved in compliance with Subsection B., above.

Section 2: Amendments Pertaining To Second Units. Title IX of the Arcata Municipal Code, *Planning and Zoning*, Chapter 1, *Land Use and Development Guide*, Section 9.42.170, *Second Units*, is repealed.

Section 3: Amendments Pertaining To Second Units (cont.) Title IX of the Arcata Municipal Code, *Planning and Zoning*, Chapter 1, *Land Use and Development Guide*, Sections 9.22.030, *Agricultural And Resource District Allowable Land Uses*, *Table 2-1*, 9.24.030, *Residential District Allowable Land Uses*, *Table 2-4*, 9.24.040, *Residential District Parcel And Density Standards*, *Table 2-5*; 9.36.040, *Number of Parking Spaces Required*, 9.42.030, *Accessory Structures*;; and 9.100.020, *Definitions of Specialized Terms and Phrases*, are amended as shown in the following strike through and underscore (unchanged text within the Section or Subsection is omitted and is shown by "* * *"):

SEC. 9.22.030 - Agricultural and Resource District Allowable Land Uses

* * *

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					
	PERMIT REQUIRED BY DISTRICT					**Specific Use Regulations**
LAND USE (1)	**AE**	**AE-CZ**	**AR**	**NR-TP**	**NR-PT**	

* * *

RESIDENTIAL USES

Farmworker housing for agriculture activities on site	UP	UP	UP	—	—	
Home occupation	P	P	P	P	P	9.42.090
Mobile home - Outside of mobile home park	P	P	P	P	P	9.42.120
Residential accessory use or structure	P	P	P	—	—	9.42.030
Residential care facility, 6 or fewer clients	MUP	MUP	P	—	—	
Second ~~dwelling~~ unit	P	P	P	—	—	9.42.~~170~~ 030
Single-family dwelling	P	P	P	P	P	

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SEC. 9.24.030 - Residential District Allowable Land Uses

* * *

TABLE 2-4 Allowed Land Uses and Permit Requirements for Residential Zoning Districts	P MUP UP S —	Permitted Use, Zoning Clearance required Minor Use Permit required Use Permit required Permit determined by specific use regulations Use not allowed			
LAND USE (1)	PERMIT REQUIRED BY DISTRICT				Specific Use Regulations
	RVL	RL	RM	RH	

* * *

RESIDENTIAL USES

Home occupation	P	P	P	P	9.42.090
Mobile home - Outside of mobile home park	P	P	P	P	9.42.120
Mobile home park, including individual mobile homes	UP	UP	UP	UP	9.42.120
Multi-family housing, 2 units	—	P	P	P	~~9.42.130~~
Multi-family housing, 3 to 9 units	—	MUP(2)	P	P	9.42.130
Multi-family housing, 10 or more units	—	—	P	P	9.42.130
Organizational house (sorority, monastery, religious, etc.)	UP	UP	UP	UP	
Residential accessory use or structure	P	P	P	P	9.42.030
Residential care facility, 6 or fewer clients	P	P	P	P	
Residential care facility, 7or more clients	UP	UP	UP	UP	
Rooming or boarding house	—	UP	P	P	
Second ~~dwelling~~ unit	P	P	P	P	~~9.42.170~~ 9.42.030
Single-family dwelling	P	P	P	P	

* * *

SEC. 9.24.040 - Residential District Parcel and Density Standards

A new subdivision, and the density of residential development, shall comply with the requirements shown in Table 2-5.

Table 2-5 - Parcel and Density Standards

Development Standard	Requirement by Zoning District			
	RVL	RL	RM	RH
Minimum lot area	20,000 sf	4,000 sf, 6,000 sf average (1)(2)	3,000 sf	6,000 sf
Minimum lot width	60 ft (3)	60 ft (3)	30 ft (4)	30 ft (4)
Maximum lot depth	4 times lot width (2)	None	None	None
Residential density	2 or fewer primary units per acre, maximum (5)	2 minimum to 7.25 units maximum per acre (5)	7.26 minimum to 15 units maximum per acre (5)	15.01 minimum to 32 units maximum per acre (5)
	Plus 1 second unit per parcel in compliance with Section 9.42.~~170~~ 030			

Notes:

(1) A parcel in a new subdivision may be as small as 4,000 square feet, but the average size of all the parcels must be 6,000 square feet, except where the subdivision complies with the Special Subdivision Design Standards of Section 9.88.032.
(2) Section 9.24.060.B (RL Alternative Development Option) may allow a lower average.
(3) May be reduced to 30 ft where the review authority determines that a lesser proposed width is sufficient to ensure safe and adequate access and parking.
(4) A larger minimum width may be required where the review authority determines that 30 feet is insufficient to ensure safe and adequate access and parking.
(5) See Section 9.31.030 of this Land Use Code for Density Bonus Provisions.

SEC. 9.36.040 – Number Of Parking Spaces Required

*** * ***

A. Parking requirements by land use.

*** * ***

4. If a new required on-site parking space eliminates an existing on-street parking space, the Director and/or Review Authority may reduce the number of spaces required by one space in order to prevent the loss of on-street parking.

SEC. 9.42.030 - Accessory Structures

The following standards apply to accessory structures, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

* * *

D. Detached structures. An accessory structure that is detached from the primary structure shall comply with the following standards, except where this Section establishes a different requirement for a specific type of accessory structure.

* * *

~~**3. Separation between structures.** An accessory structure shall maintain at least a six-foot separation from other accessory structures and the primary structure unless the Building Official determines otherwise (see definition foe for "Accessory Structure" and related definitions).~~

E. Historic and Design Review. An accessory structure that is located in front of or that exceeds the height of the primary structure shall be reviewed by the Historic and Design Review Commission.

SEC. 9.100.020 – Definitions of Specialized Terms and Phrases

* * *

Residential Accessory Use or Structure. Any use and/or structure that is customarily a part of, and clearly incidental and secondary to a residence, and does not change the character of the residential use. This definition includes the following ~~detached~~ accessory structures, and other similar structures normally associated with a residential use of property. See also "Agricultural Accessory Structure."

- garages
- gazebos
- greenhouses (non-commercial)
- guest houses
- home satellite dishes and receiving antennas per 9.44.030 B
- second units
- spas and hot tubs
- storage sheds
- studios
- swimming pools
- tennis and other on-site sport courts
- workshops

Also includes the indoor storage of automobiles (including their incidental restoration and repair), personal recreational vehicles and other personal property, accessory to a residential use. ~~Does not include: second units, which are separately defined.~~

* * *

Second Unit. A second permanent dwelling that is accessory to a primary dwelling on the same site. A second unit provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, sanitation, and parking, and if attached to the primary dwelling, is provided ~~exterior~~ access separate from the primary dwelling.

* * *

Section 4: Amendments Pertaining To Mobile Eating And Drinking Vendors. Title IX of the Arcata Municipal Code, *Planning and Zoning*, Chapter 1, *Land Use and Development Guide*, Section 9.42.140 is amended as shown in the following strike through and underscore (unchanged text within the Section or Subsection is omitted and is shown by "* * *"):

SEC. 9.42.140 - Outdoor Retail Displays and Sales

* * *

B. Mobile retail vendor outdoor displays and sales. Mobile vendor outdoor displays and sales shall include, but are not limited to the following: mobile eating and drinking vendors, mobile prepared food vendors, mobile flower vendors, and mobile merchandise vendors. These and similar activities are not allowed to operate as a business within a public right-of-way unless an Encroachment Permit is obtained.

1. Additional requirements for mobile eating and drinking vendors. Mobile eating and drinking vendors include, but are not limited to sandwich wagons, recreational vehicle cafes, hot dog wagons, ice cream wagons, and similar uses. These activities are allowed subject to the following standards for each vendor:

~~**a. Parking.** If located at a site for more than four hours per day, a minimum of one off-street parking space shall be provided.~~

~~**b. Seating.** If located at a site for more than four hours per day, a minimum of 16 outdoor seating spaces with tables shall be provided.~~

~~**c. Restroom.** If located at a site for more than four hours per day, a portable restroom facility shall be provided.~~

~~**d. Hours of operation.** Hours of operation shall be limited from 6 a.m. to 10 p.m. daily, except for the Central Business District.~~

~~**e. Exceptions.** Exceptions to minimum standards shall require a Minor Use Permit.~~

a. Design Review. Design review shall be required to consider site layout, signs, and setbacks, as well as other impacts from site design and operation.

b. Exemption. Mobile vendors that locate for less than one hour per day at a particular site are exempt from 9.42.140.B.1.a

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Section 5: Amendments to Animal Keeping, Minor Use Permit, and Design Review: Title IX of the Arcata Municipal Code, *Planning and Zoning*, Chapter 1, *Land Use Development Guide*, Section 9.42.050, *Animal Keeping*, *Table 4-1 and Table 4-2*; 9.72.080, *Use Permit and Minor Use Permit*; and 9.72.040, *Design Review* are amended as shown in the following strike through and underscore (unchanged text within the Section or Subsection is omitted and is shown by "* * *"):

SEC. 9.42.050 - Animal Keeping

* * *

B. Allowable animal keeping activities and permit requirements.

1. Activities and permit requirements. Animal keeping, including related animal husbandry activities (breeding, etc.) is allowed only in compliance with the limitations on use and permit requirements in Table 4-1, and the animal keeping standards in Subsection C. The keeping of imported animals may require approval by the U.S. Department of Agriculture Fish and Wildlife Service, U.S. Department of Public Health, California Department of Fish and Game, and/or the California Department of Food and Agriculture, in addition to any City approval required by this Section.

Table 4-1 - Allowable Animal Keeping and Permit Requirements

Type of Animal	Requirement by Zoning District				
	AE, AE-CZ, NR	AR, RVL	RL	RM, RH, CC, CG, & CM	Other Non-Commercial, Non-Residential Zones
Aviary for birds other than fowl or poultry	P	P	P	P	MUP
Beekeeping	P	P	P	P	MUP
Boarding or breeding kennels	P	MUP	—	—	MUP
Fowl and poultry, except roosters over 6 months of age	P	P	P	—	MUP
Hogs and swine	P	P	—	—	MUP
Horses and cows	P	P	—	—	MUP
Household pets	P	P	P	P	P
Roosters over 6 months of age	P	—	—	—	MUP
Other large animals (defined in Table 4-2)	P	P	—	—	MUP
Other small animals (defined in Table 4-2)	P	P	P	—	MUP
Medium sized animals	P	P	P	—	MUP

Key to permit requirements:

P	Permitted animal keeping, no City approval required for the animal keeping activity, provided that it complies with the standards in Subsections C. and D.
MUP	Minor Use Permit approval required in compliance with Section 9.72.080
—	Type of animal or activity not allowed.

* * *

C. Animal keeping standards. Animal keeping within the AR, RVL, and RL zones shall comply with the standards in Table 4-2, where allowed by Subsection B., Table 4-1. Animal keeping within the AE, AE-CZ, and NR zones shall comply with the setback requirements of this Subsection, but is otherwise not regulated by this Section. Modifications to these standards may be granted by Minor Use Permit.

Table 4-2 - Animal Keeping Standards

Type of Animal or Facility	Maximum Number of Animals per Site (1)	Minimum Lot Area (2)	Minimum setback from Dwellings (3)
Aviary for birds other than fowl and poultry	1 per 500 sf of lot area		25 ft
Beekeeping	~~1 hive in per 10,000 sf of lot area in RVL, no limit in other allowed zones~~ 4 hives per lot of 10,000 square feet or less. No limit for lots greater than 10,000 square feet~~.~~ ~~(4)~~.	~~½ acre in RVL~~ 2-½ acres in AR (See Note 4)	~~25~~ 20 ft~~(4)~~
Fowl and poultry	1 per 500 sf of lot area		25 ft
Hogs and swine	4 per acre	½ acre in RVL 2-½ acres in AR	25 ft
Horses and cows	4 per acre	½ acre in RVL 2-½ acres in AR	25 ft
Other small animals - Including chinchillas, rabbits, non-poisonous reptiles, rodents, and other non- poisonous small animals.	No limitation when maintained within a dwelling as a household pet; 1 per 500 sf of lot area otherwise.		25 ft
Other medium animals - Pigmy goats, pot belly pigs, and miniature horses.	12 per acre		25 ft
Other large animals -Emus, goats, llamas, donkeys, ostriches, sheep, and similar sized animals.	8 per acre	½ acre in RVL 2-½ acres in AR	25 ft

Notes:

(1) Offspring allowed in addition to maximum number until six months of age, but not exceeding three times the number of adult animals.

(2) Minimum gross lot area required for the keeping of animals.

(3) Minimum setbacks from any door or window of any neighboring residential structure for barns, shelters, pens, coops, cages, and other areas and structures where animals are kept in concentrated confinement; but not including areas continuously maintained as pasture. Animals shall not be kept in any required front yard setback except in the AE zone in pasture areas.

(4) Any hive located within 20 feet of any property line shall have a solid barrier six (6) feet in height parallel to all property lines that extends at least 25 feet beyond the hive in both directions. No hive shall be located within five (5)

feet of any property line. Hives located more than 20 feet from a property line do not require a barrier from that property line.

SEC. 9.72.080 - Use Permit and Minor Use Permit

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B. Applicability. A Use Permit or Minor Use Permit is required to authorize a proposed land use identified by Article 2 (Zoning Districts and Allowable Land Uses) as being allowable in the applicable zoning district subject to the approval of a Use Permit or Minor Use Permit. Where a Minor Use Permit is required for modifications of site standards only, the Zoning Administrator shall determine if a Type "C" Design Review permit may be processed in lieu of the Minor Use Permit. For those site standard modifications, the project will be subject to Section 9.72.040.C.3 (Design Review).

* * *

E. Project review, notice, and hearing. Each application shall be reviewed by the Zoning Administrator to ensure that the proposal complies with all applicable requirements of this Land Use Code.

1. Use Permit. The Planning Commission shall conduct a public hearing on an application for a Use Permit before reaching a decision on the application. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 9.74 (Public Hearings).

2. Minor Use Permit. ~~Before a decision on a Minor Use Permit, the City shall provide notice~~ The Zoning Administrator or Planning Commission, consistent with 9.72.080.C, shall conduct a public hearing on an application for a Minor Use Permit before reaching a decision on the application. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 9.74 (Public Hearings).

a. Content of public notice. The notice shall state that the Zoning Administrator or Planning Commission, consistent with 9.72.080.C, will ~~decide whether~~conduct a public hearing to approve or disapprove the Minor Use Permit application on a date specified in the notice.~~, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.~~

~~**b. Response to request for hearing.** If a public hearing is requested, the Zoning Administrator shall refer the application to the Planning Commission for a hearing and decision to be conducted in compliance with Chapter 9.74 (Public Hearings).~~

~~**c. Decision without hearing.** If no public hearing is requested, the Zoning Administrator shall render a decision on the date specified in the notice described in Subsection E.2, above.~~

b. Report to the Planning Commission. The Zoning Administrator decision on a Minor Use Permit shall be reported to the Planning Commission at the next available Planning Commission hearing within the appeal period of the decision on a Minor Use Permit.

* * *

SEC 9.72.040 - Design Review

* * *

C. Review authority for Design Review. Design Review shall be conducted by the Historic and Design Review Commission (HDRC) or Planning Commission as established by the Council. The HDRC may choose to defer action and refer any Design Review application to the Planning Commission for hearing and decision.

1. **Type "A" Design Review**. Type "A" Design Review shall be approved or disapproved by the HDRC for those projects that do not have a concurrent application for which the Planning Commission is the review authority. ~~provided that:~~

~~The proposed project is exempt from CEQA or only the "No Impact" box is checked for all categories with the exception of Section V. Cultural Resources on the Initial Study for a project. If the proposed project is not statutorily or categorically exempt from CEQA, the application shall be referred to the Planning Commission for hearing and decision; or~~

~~The HDRC may choose to defer action and refer any Design Review application to the Planning Commission for hearing and decision.~~

2. **Type "B" Design Review**. Type "B" Design Review shall be approved or disapproved by the Planning Commission for all projects not determined to be Type "A". As per Section 9.72.040H.2, the HDRC shall provide a recommendation to the Planning Commission for all Type "B" Design Review applications.

3. **Type "C" Design Review**. Type "C" Design Review shall be required for those projects resulting from a request for modification of site standards as authorized by Section 9.72.080.B (Use Permit and Minor Use Permit) and shall be approved or disapproved by the HDRC.

* * *

G. Project review and noticing. Each application for Design Review shall be reviewed by the HDRC to ensure that the proposal complies with all applicable requirements of this Land Use Code. Each project will be listed on an agenda that will be posted at City Hall at least 72 hours in advance of the meeting. Any project referred to the HDRC as a result of subsections B2 or B3 shall require the applicant to post a notice of a pending permit at least 72 hours in advance of the meeting, on site and along public streets within 100 feet of the subject site's boundaries and in at least three public places in the City, in compliance with the Department's handout on public hearing requirements. Otherwise, the following projects shall be noticed in compliance with Chapter 9.74 (Public Hearings).

1. **Type "B" Design Review projects.** Any Design Review projects referred to the Planning Commission per Subsection 9.72.040(C)(2) of this Land Use Code.

2. **Type "C" Design Review projects.** Any Design Review projects resulting from a

request for modification of site standards as authorized by Section 9.72.080.B. (Use Permit and Minor Use Permit).

3~~2~~. **Subsection B6 projects.** Any project referred to Design Review per Subsection 9.72.040(B)(6) of this Land Use Code.

4~~3~~. **Director determination.** Any Design Review project determined by the Director to have potential to cause an adverse effect upon the aesthetic character of a Neighborhood Conservation Area or a building within the Period of Significance that has been determined historically significant by the City.

* * *

Section 6: Findings of Approval

Based upon the whole record, information received in public hearings, comments from responsible agencies, the Arcata Planning Commission Staff Reports and Resolutions PC-10-02, PC-11-05, PC-11-07 and PC-12-05, the following findings are hereby adopted.

1. The proposed amendments are consistent with the General Plan in accordance with the California Government Code, Section 65860.

2. The proposed amendments would not be detrimental to the public interest, health, safety, or convenience, nor to the welfare of the City.

Section 7: Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

Section 8: 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 9: CEQA. This ordinance is exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Section 10: Effective Date. This ordinance shall take effect thirty (30) days after its adoption by the City Council.

DATE: September 5, 2012

ATTEST:	APPROVED:
/s/ Randal J. Mendosa	/s/ Michael Winkler
City Clerk, City of Arcata	Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of **Ordinance No. 1419**, passed and adopted at a regular meeting of the City Council of the City of Arcata, County of Humboldt, State of California, on the 5th day of September, 2012, by the following vote:

AYES: **WINKLER, BRINTON, ORNELAS**

NOES: **NONE**

ABSENT: **STILLMAN, WHEETLEY**

ABSTENTIONS: **NONE**

/s/ Randal J. Mendosa
City Clerk, City of Arcata