

## **EXTENDED INTERIM ORDINANCE NO. 1465**

### **AN EXTENSION TO THE URGENCY MEASURE OF THE CITY COUNCIL OF THE CITY OF ARCATA ADOPTED AS AN INTERIM ORDINANCE NO. 1464 IMPOSING A TEMPORARY SUSPENSION OF SECTION 9.42.105.F OF THE LAND USE CODE - MEDICAL MARIJUANA CULTIVATION FOR COOPERATIVE OR COLLECTIVE – FOR AN INITIAL 45 DAYS WITH AN OPTION TO EXTEND THE SUSPENSION FOR AN ADDITIONAL 22 MONTHS, 15 DAYS.**

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

#### **Section 1. Findings.**

The City Council hereby makes the following findings:

- A. On June 17, 2015, the City Council for the City of Arcata adopted Interim Ordinance No. 1464, based, *inter alia*, on the following findings:
  1. On May 20, 2015, the City Council received a report and heard testimony about how the marijuana industry continues to expand in Humboldt County and how the marijuana industry is preparing for voter approval of recreational marijuana in November of 2016. The report and testimony further indicated that legalization will very likely result in the dramatic expansion of the marijuana industry in Humboldt County, and that businesses are strategically preparing for this expansion now.
  2. The City's existing land use regulations were designed to address grow houses and dispensaries. The City did not envision marijuana warehouse distribution centers or large scale growing and processing facilities. Arcata's zoning regulations are strictly applicable to medical marijuana uses and Arcata effectively has no regulations concerning recreational marijuana.
  3. The City has concerns that existing land use regulations could be abused and allow for a haphazard and rapid growth of marijuana related industries and businesses that may be inconsistent with the City's General Plan: 2020 as well as the City's environmental laws, regulations and policies, and could support illicit activity in violation of current medical marijuana law, all of which would be detrimental to the public health, safety and welfare of the City.
  4. In an effort to properly prepare for the rapidly expanding industry, while at the same time allowing for the medical marijuana industry to continue to operate in a safe and legal environment, the Council directed staff to: 1) initiate a Land Use Code amendment to create a new Medical Marijuana Innovation Overlay Zone on the adjoining properties identified by Assessor's Parcel Nos. (APNs) 507-081-043, 507-121-013, and 507-081-050 located on West End

Road, and 2) schedule a public hearing to consider adopting an ordinance imposing a suspension on the establishment of medical marijuana cultivation and processing facilities as currently authorized under Land Use Code Section 9.42.106.F. except within the Medical Marijuana Innovation Overlay Zone.

5. The United States Department of Justice (DOJ) in its most recent Guidance Regarding Marijuana Enforcement memorandum dated August 29, 2013, has stated that it will continue to rely on local law enforcement to address marijuana activity through enforcement of its own narcotics laws, and that it expects local governments to have enacted strong and effective regulatory enforcement systems that will address the threat that medical marijuana use as permitted by state laws could pose to public safety, public health, and other law enforcement interests. The creation of an Innovation Overlay Zone in one geographic area situated on the three adjacent parcels identified above, as opposed to multiple separated locations, better enables the City to comply with the DOJ memorandum.
6. Government Code section 65858 allows a City, without following the procedures otherwise required prior to the adoption of a zoning ordinance, to protect the public safety, health and welfare through adoption as an urgency measure of an interim ordinance prohibiting any uses that may be in conflict with a contemplated zoning proposal that the City Council, Planning Commission or Planning Department is considering or studying or intends to study within a reasonable time.

B. Ordinance No. 1464, temporarily prohibits offsite medical marijuana growing, cultivation and processing facilities within the City of Arcata, with the exception of such activities on Assessor's Parcel Nos. 507-081-043, 507-121-013, and 507-081-050 and other areas within a Medical Marijuana Innovation Overlay Zone, as established by the City's Land Use Code (LUC).

C. On July 14, 2015, the City of Arcata Planning Commission is expected to begin the public planning process to develop draft Land Use Code provisions that will create the new Medical Marijuana Innovation Overlay Zone. Additional time beyond this date is required for the Planning Commission to complete this process and to provide the City Council with recommended draft land use standards.

D. Unless extended by the City Council, Ordinance No. 1464 expires on August 1, 2015.

E. Government Code section 65858 allows a City to extend an interim ordinance by a four-fifths vote of the body, where the interim ordinance was initially adopted after notice and hearing for up to 22 months and 15 days, after additional notice and public hearing on the extension.

F. On June 21, 2015 the City noticed its intention to conduct a public hearing on July 1, 2015, to consider extending Ordinance No. 1464 for up to an additional 22 months, 15 days.

## **Section 2. Extension.**

Interim Ordinance No. 1464 is hereby extended until January 1, 2017. All terms adopted under Interim Ordinance No. 1464 shall continue with full force and effect as if re-stated here until January 1, 2017.

## **Section 3. Notice and Public Hearing.**

This Interim Ordinance Extension is adopted after notice of public hearing was duly made pursuant to California Government Code section 65090 and public hearing was held on July 1, 2015.

## **Section 4. Severability.**

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

## **Section 5. Penalties.**

Violation of any provision of this ordinance shall constitute an infraction. In addition, any violation of this ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

## **Section 6. Effective Date.**

This extension shall be enforced and be in effect immediately upon the expiration of Interim Ordinance No. 1464.

## **Section 7. Publication.**

Within fifteen (15) days after adoption, this ordinance shall be circulated with the names of the members voting for and against the same at least once in a newspaper of general circulation in the City of Arcata, and posted in public places within the City.

**DATE:** July 1, 2015

**ATTEST:**

/s/ Bridget Dory  
City Clerk, City of Arcata

**APPROVED:**

/s/ Michael Winkler  
Mayor, City of Arcata

**CLERK'S CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of Extension Ordinance No. 1465, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California on the 1<sup>st</sup> day of July, 2015, by the following vote:

**AYES: WINKLER, PITINO, ORNELAS, PEREIRA, WHEETLEY**

**NOES: NONE**

**ABSENT: NONE**

**ABSTENTIONS: NONE**

/s/ Bridget Dory  
City Clerk, City of Arcata