

ORDINANCE NO. 1496

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA AMENDING ZONING REGULATIONS PERTAINING TO CANNABIS REGULATION

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

Section 1. Amendment to Table 1-1 – Zoning Districts: 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, Land Use Code Applicability, Section 9.12.020 Zoning Map and Zoning Districts, are hereby amended to replace the words “Medical Marijuana” with “Cannabis” and revise the “:MMIZ” zoning district symbol with “CIZ” as shown in the following strike through and bold double 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		
:CD	Creamery District	Industrial - Limited
:HL	Historic Landmark	All
:MM <u>CIZ</u>	Medical Marijuana <u>Cannabis</u> Innovation Zone	Specific Industrial – Limited and Industrial – General properties - See Section 9.28.130, Figure 2-25.

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Section 2. Amendment to Allowable Land Uses; Table 2-1. The Allowable Land Uses for the Agricultural and Resource Zoning Districts 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 *Agricultural and Resource Zoning District Allowable Land Uses*, are hereby amended to replace the words “Medical Marijuana” with “Cannabis” for Agricultural cultivation - Medical Marijuana as shown in the following strike through and bold double underscore text (unchanged text within the Table is omitted and is shown by “* * *”):

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	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 <u>Cannabis</u>	—	—	—	—	9.42.105

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Section 3. Amendment to Allowable Land Uses; Table 2-4. The Allowable Land Uses for the Residential Zoning Districts depicted in Table 2-4 of Title IX, *Planning and Zoning*, Chapter 1, *Planning*

and Zoning Standards, Section 9000, Land Use Code, Article 2, Zoning Uses, Section 9.24.030 Residential Zoning District Allowable Land Uses, are hereby amended to replace the words “Medical Marijuana” with “Cannabis” for Agricultural cultivation - Medical Marijuana as shown in the following strike through and bold double underscore text (unchanged text within the Table is omitted and is shown by “* * *”):

TABLE 2-4 Allowed Land Uses and Permit Requirements for Residential 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 DISTRICT				Specific Use Regulations
	RVL	RL	RM	RH	

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AGRICULTURAL & OPEN SPACE USES

Agricultural accessory structure	MUP	UP	UP	UP	9.42.030
Agricultural cultivation - Medical marijuana Cannabis	—	—	—	—	9.42.105

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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 to replace the words “Medical Marijuana” with “Cannabis” for Agricultural cultivation - Medical Marijuana as shown in the following strike through and bold double underscore text (unchanged text within the Table is omitted and is shown by “* * *”):

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	IL-2	IG	PF	

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INDUSTRY, MANUFACTURING & PROCESSING, WHOLESALING

Agricultural cultivation – Medical Marijuana Cannabis	UP(9)	UP(9)	—	—	UP/P	—	UP/P	—	9.28.130 and 9.42.105
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* * *

SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL

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Medical services - Medical marijuana Cannabis dispensary	UP	UP	—	—	—	UP	—	—	9.42.105
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Section 5. Text Amendment to Combining Zone. The Combining Zone of Title IX, Planning and Zoning, Chapter 1, Planning and Zoning Standards, Section 9000, Land Use Code, Article 2, Zoning Uses, Section 9.28.130 Medical Marijuana Innovation Zone (:MMIZ) Combining Zone are hereby

amended by the revisions to replace the words “Medical Marijuana” with “Cannabis” and revise the “:MMIZ” zoning district symbol with “CIZ” as shown in the following strike through and bold double underscore text:

9.28.130 ~~Medical Marijuana~~Cannabis Innovation Zone (~~:MMIZ~~CIZ) Combining Zone

A. Purpose. The intent of the ~~:MMIZ~~CIZ combining zone is to establish an area where niche manufacturing businesses can safely produce ~~medical marijuana~~cannabis products. ~~Medical marijuana~~cannabis cultivation, processing, warehousing, research, and testing are allowed. New ~~medical marijuana~~cannabis product development is strongly encouraged. The ~~:MMIZ~~CIZ combining zone was created to stimulate investment, new business creation, and to eliminate blight. The ~~:MMIZ~~CIZ combining zone establishes special standards to maintain compatibility with uses allowed in the primary zone.

B. Applicability. The ~~:MMIZ~~CIZ combining zone applies to commercial cannabis activities in Areas 1 and 2 as shown in Figure 2-25.

C. Permit Requirements. In addition to any planning permits required in Table 2-10 and any other Federal, State, or local approval, a City of Arcata commercial cannabis activity permit is required for Areas 1 and 2. All commercial cannabis activities in Area 2 require a use permit. The total number of active use permits in Area 2 is limited to 20.

D. Land Use and Development Standards. Proposed development and new land uses within the ~~:MMIZ~~CIZ combining zone shall comply with the requirements of the primary zoning district, and all other applicable provisions of this Land Use Code. In addition, the following specific regulations apply within the ~~:MMIZ~~CIZ combining zone:

1. ~~Medical marijuana~~Cannabis cultivation is an allowable use pursuant to permit requirements indicated by Figure 2-25 and Table 2-10. 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. Standards specific to parcels that have ~~medical marijuana~~cannabis cultivation are as follows:
 - a. Cultivation area shall be limited to no more than 25 percent of the total building floor area per parcel.
 - b. Cultivation area shall be no more than 4,000 square feet per lease area or business.
 - c. Limitations on cultivation area in subsections (D)(1)(a) and (b) of this Section may be exceeded through the issuance of a use permit.
 - d. Each parcel shall have at least one independently accessible, occupancy ready, commercial or industrial space designed and designated for allowable uses in the primary zone or ~~:MMIZ~~CIZ combining zone that is 600 square feet or greater in size, and is not used for cannabis cultivation. This space must be provided prior to receiving a certificate of occupancy for cultivation on a parcel.
2. The minimum lot area on Assessor’s Parcel Numbers 507-081-043, 507-121-013, and 507-081-050 shall be reduced to 10,000 square feet.

Section 6. Text Amendment to Accessory Uses. Title IX, *Planning and Zoning*, Chapter 1, *Planning and Zoning Standards*, Section 9000, *Land Use Code*, Article 4, *Standards for Specific Land Uses*, Section 9.42.040, *Accessory Uses*, is hereby amended by the revisions to replace the word “Medical Marijuana” with “Cannabis” as shown in the following strike through and bold double underscore text:

9.42.040 Accessory Uses

In addition to the uses expressly permitted in each zoning district by Article 2 (Zoning Districts and Allowable Land Uses), the following accessory uses are also permitted in compliance with this Section. See also Section 9.42.020 (Accessory Retail and Service Uses). These do not include uses covered in Section 9.42.105 (~~Medical Marijuana~~**Cannabis**).

Section 6. Text Amendment to Home Occupations. Title IX, *Planning and Zoning*, Chapter 1, *Planning and Zoning Standards*, Section 9000, *Land Use Code*, Article 4, *Standards for Specific Land Uses*, Section 9.42.090.B.2, *Home Occupations*, is hereby amended by the revision to replace the word “Medical Marijuana” with “Cannabis” as shown in the following strike through and bold double underscore text:

9.42.090 Home Occupations

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Uses prohibited as home occupations. Businesses with operating characteristics that have significant adverse impacts on the owners or occupants of the neighboring residential properties shall be prohibited as home occupations. Examples of such operating characteristics are: dust, glare, heat, noise, noxious gasses, odor, smoke, excessive traffic, vibration, use of explosives or highly combustible materials, and use of hazardous or toxic materials. The types of businesses that will be prohibited as home occupations include: vehicle repair, animal hospitals and boarding facilities, storage yards, medical clinics and laboratories, sex-oriented businesses, wood cutting businesses, welding and machine shop operations, and other similar businesses, and all uses covered in Section 9.42.105 (~~Medical Marijuana~~**Cannabis**).

* * *

Section 7. Text Amendment to Medical Marijuana: Cultivation and Dispensing. 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 revisions to the text as shown in the following strike through and bold double underscore text:

9.42.105 Medicinal ~~Marijuana~~Cannabis**: Cultivation and Dispensing**

- A. Purpose.** The purpose and intent of this section is to regulate the cultivation and dispensing of medicinal ~~marijuana~~**cannabis** in a manner that protects the health, safety and welfare of the community. This section is not intended to interfere with a patient’s right to medicinal ~~marijuana~~**cannabis**, as provided for in the Compassionate Use Act (**Proposition 215**, California Health & Safety Code Section 11362.5), the Medical Marijuana Program (Health and Safety Code Section 11362.7 et seq.), and the ~~Medical Cannabis Regulation and Safety Act, codified at Chapter 3.5 of Division 8 of the California Business and Professions Code, Section 19300 et seq.,~~ **and the Medicinal and Adult-Use Cannabis Regulation and Safety Act, codified at Division 10 of the Business and Professions Code, Section 26000 et seq.** nor does it criminalize medicinal ~~marijuana~~**cannabis** possession or cultivation in accordance with state law.
- B. Applicability.** No part of this ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. §800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state, or federal law, statute, rule or regulation. The cultivation, processing and dispensing of ~~medical marijuana~~**medicinal cannabis** in the City of Arcata is controlled by the provisions of this section and Section 9.28.130 of the Land Use Code.

C. **Release of Liability and Hold Harmless.** The owner and permittee of a medicinal ~~marijuana~~cannabis dispensary or cultivation facility shall release the City of Arcata, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of dispensary or cultivation facility owners, operators, employees, or clients for violation of state or federal laws in a form satisfactory to the Director. In addition, the owner and permittee of each medicinal ~~marijuana~~cannabis dispensary or cultivation facility shall indemnify and hold harmless the City of Arcata and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the dispensary or cultivation facility, and for any claims brought by any of their clients for problems, injuries, damages, or liabilities of any kind that may arise out of the distribution, cultivation and/or on- or off-site use of medicinal ~~marijuana~~cannabis provided at the dispensary or cultivation facility in a form satisfactory to the Director.

D. **Medicinal ~~Marijuana~~Cannabis for Personal Use.** An individual qualified patient shall be allowed to cultivate medicinal ~~marijuana~~cannabis within their private residence. Medicinal ~~marijuana~~cannabis for personal use shall be in conformance with the following standards:

1. The medicinal ~~marijuana~~cannabis cultivation area shall not exceed 100 square feet;
2. The sale of medicinal ~~marijuana~~cannabis produced for personal use is prohibited;
3. No more than six (6) living plants may be planted, cultivated, harvested, dried, or processed within a single private residence or upon the grounds of that private residence at any one time;
4. From a public right of way, there shall be no exterior evidence of medicinal ~~marijuana~~cannabis cultivation either within or outside the residence;
5. The medicinal ~~marijuana~~cannabis cultivation area shall be in compliance with the current, adopted edition of the California Building Code;
6. The medicinal ~~marijuana~~cannabis cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

E. **Permit requirements for Medicinal ~~Marijuana~~Cannabis Dispensaries.** Medicinal ~~cannabis~~cannabis dispensaries may be established only in those zoning districts listed in Table 2-10, "Allowable Land Uses and Permit Requirements for Commercial, Industrial, and Public Facility Zoning Districts." Medicinal ~~marijuana~~cannabis dispensaries shall only be allowed with an approved Use Permit in conformance with Section 9.72.080 (Use Permit and Minor Use Permit). The fact that an applicant possesses other types of State or City permits or licenses does not exempt the applicant from the requirement of obtaining a Use Permit to operate a medical ~~marijuana~~cannabis dispensary. Medicinal ~~marijuana~~cannabis dispensaries shall obtain a Commercial Cannabis Activity Permit from the City and any licenses required by the State of California.

1. Specific Regulations. The following specific regulations apply to medicinal ~~marijuana~~cannabis dispensaries:
 - a. The total number of medicinal ~~marijuana~~cannabis dispensaries within the City of Arcata shall be limited to two (2).
 - b. In addition to Section 9.72.080 F (Use Permit Findings and decision), the review authority should give special consideration to approving dispensaries located within a 300 foot radius from any existing residential zoning district, within 500 feet of any

other medicinal ~~marijuana~~ cannabis dispensary which is located either inside or outside the jurisdiction of the City, or within 500 feet from any existing public park, playground, day care, or school.

- c. If the Use Permit authorizes on-site medicinal ~~marijuana~~ cannabis cultivation at the dispensary, on-site cultivation shall not exceed twenty-five (25) percent of the dispensary's total floor area, and in no case shall cultivation area be greater than 1,500 square feet.
- d. Medicinal ~~marijuana~~ cannabis dispensaries shall not permit the smoking, ingestion, or consumption of medicinal ~~marijuana~~ cannabis on-site unless specifically authorized under the Use Permit.
- e. Medicinal ~~marijuana~~ cannabis dispensaries shall not permit the on-site display of ~~marijuana~~ cannabis plants.
- f. Medicinal ~~marijuana~~ cannabis dispensaries shall permit the distribution of live plants, starts and clones only as allowed by the approved Use Permit.
- g. Existing medicinal cannabis dispensaries operating under the authority of a Use Permit and Commercial Cannabis Activity Permit, and in good standing, may conduct retail sales of non-medicinal cannabis, subject to the issuance of, and in full compliance with, an amended Use Permit and a Commercial Cannabis Activity Permit for retail sales of non-medicinal cannabis.

Section 8. Text Amendment to Definitions. Title IX, *Planning and Zoning*, Chapter 1, *Planning and Zoning Standards*, Section 9000, *Land Use Code*, Article 10, *Glossary*, Section 9.100.020, *Definitions of Specialized Terms and Phrases*, is hereby amended by the revisions to the text as shown in the following strike through and bold double underscore text:

9.100.020 – Definitions of Specialized Terms and Phrases

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C Definitions, "C."

* * *

Cannabis. All parts of the plant *Cannabis sativa linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means: (1) "marijuana" as defined by Section 11018 of the Health and Safety Code, and (2) the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

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M Definitions, "M."

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Marijuana. See "Medical Marijuana-Cannabis"

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Medicinal MarijuanaCannabis. Means ~~marijuana~~ cannabis used in strict accordance with the Compassionate Use Act of 1996 (Health and Safety Code §11362.5 et seq) and ~~The Medical Marijuana Program (Health and Safety Code §11362.7 et seq.)~~, **Senate Bill 94, also known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Division 10 of the Business and Professions Code, Sections 26000 et seq).**

~~Marijuana. "Marijuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, cake, or the sterilized seed of the plant which is incapable of germination.~~**See "Cannabis"**

Medicinal MarijuanaCannabis Identification Card. A document issued by the State Department of Health Services that document identifies a person authorized to engage in the medicinal use of ~~marijuana~~ cannabis and the person's designated primary caregiver, if any as per California Health and Safety Code §11362.7, and as may be amended.

~~Medical Marijuana Cooperative or Collective. "Medical Marijuana Cooperative or Collective" means an affiliation or association of individuals whose collective intent is to provide education, referral or network services and to assist in the lawful acquisition and distribution of medical marijuana in a safe and affordable manner between primary caregivers and qualified patients as permitted in accordance with the Compassionate Use Act of 1996.~~

Person with an Identification Card. Means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article as per the California Health and Safety Code §11362.7, and as may be amended.

Primary Caregiver. Means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, as more particularly as set forth in California Health and Safety Code §11362.7, and as may be amended.

Qualified Patient. Means a person who is entitled to the protections of Section 11362.5 of the California Health and Safety Code, but who does not have an identification card issued pursuant to this article as set forth in California Health and Safety Code §11362.7, and as may be amended.

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P Definitions, "P."

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Person with an Identification Card. See "**Medicinal MarijuanaCannabis.**"

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Primary Caregiver. See "**Medicinal MarijuanaCannabis.**"

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Q Definitions, "Q."

Qualified Patient. See "**Medical MarijuanaCannabis.**"

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Section 9. Findings. Based upon the whole record, information received in public hearings, comments from responsible agencies, and the Arcata Planning Commission recommendation PC-17-07, dated November 28, 2017 the following findings are hereby adopted:

1. Since the Compassionate Use Act in 1996, the City of Arcata has amended its Medical Cannabis Regulatory Program to reflect changes in State cannabis regulations.
2. The proposed Land Use Code text amendments are interim measures as result of passage of the Senate Bill 94, also known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act while the City considers additional regulatory standards for non-medicinal cannabis activities.
3. The proposed Land Use Code text 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.
4. The affected sites are physically suitable for the proposed or anticipated uses and/or development.

Section 10. 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 11. 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 12. CEQA analysis. A Negative Declaration was prepared, circulated, and approved by the City Council prior to the adoption of Ordinance 1472, first adopting this Chapter. The amendments to this Chapter are consistent with the earlier adopted Negative Declaration.

Section 13. Effective Date. The Council finds that:

- A. The adoption of the Medicinal and Adult-Use Cannabis Safety and Regulation Act resulted in a complete overhaul and repeal of the existing state laws concerning medical and adult-use cannabis. The previously existing medical and adult-use state laws provided the basis for the City's current cannabis ordinance, which provides the foundation for the City's Commercial Cannabis Activity Permit program for medical activities. The City's current Municipal Code provisions do not authorize the issuance of Commercial Cannabis Activities Permits for nonmedical activities.
- B. On November 16, 2017, the state released draft comprehensive regulations to implement, interpret and make specific the Medicinal and Adult-Use Cannabis Safety and Regulation Act. These regulations define and clarify provisions applicable to state licensure of cannabis activities, including a process for demonstrating compliance with a local jurisdiction's regulations as a precondition to priority review of an application. The regulations will be finalized on December 4, 2017, and the state will begin issuing licenses for cannabis activities on January 1, 2018.
- C. Failure to update the Municipal Code provisions may result in increased illicit cannabis activities due to confusion over the City's regulation and authorization of cannabis activities.

Based on the findings set forth herein, for the immediate preservation of the public peace, health or safety, this Ordinance shall go into effect and be in full force and operation upon its final passage and adoption, pursuant to Government Code Section 36937.

DATE: December 20, 2017

ATTEST:

APPROVED:

/s/ Bridget Dory
City Clerk, City of Arcata

/s/ Sofia Pereira
Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 1496, passed and adopted at a regular meeting of the City Council of the City of Arcata, County of Humboldt, State of California, held on the 20th day of December, 2017, by the following vote:

AYES: PEREIRA, WATSON, ORNELAS, PITINO, WINKLER

NOES: NONE

ABSENT: NONE

ABSTENTIONS: NONE

/s/ Bridget Dory
City Clerk, City of Arcata