

ORDINANCE NO. 1509

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA AMENDING THE ARCATA MUNICIPAL CODE PERTAINING TO THE USE AND REGULATION OF CANNABIS

TITLE V—SANITATION AND HEALTH CHAPTER 10—MEDICAL MARIJUANA USE AND REGULATION

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

Section 1: Chapter 10 (*Medical Marijuana Use and Regulation*), Title V (*Sanitation and Health*), Section 5952, is hereby amended as shown in the following strike through and double underscore text:

SEC 5952. Commercial Cannabis Activity Permit, and Other Required Licenses, Cultivation for Personal Use.

- A. *Permit Required.* It is unlawful to engage in Commercial Cannabis Activity in the City of Arcata without first obtaining a Commercial Cannabis Activity Permit from the City Manager or his/her designee in accordance with this Chapter. Any violation of the terms or conditions of a Commercial Cannabis Activity Permit shall be deemed a violation of this Chapter. Obtaining a Commercial Cannabis Activity Permit does not relieve a Commercial Cannabis Activity Business Owner of its obligation to comply with all applicable local, state and federal laws, policies and regulations. Commercial Cannabis Activity Permits may be issued for use only at property zoned for Commercial Cannabis Activity under the City's Land Use Code.
- B. *State License.* After January 1, 2018, it shall be unlawful to operate any business or conduct any activity in the City of Arcata for which a state Cannabis license is required without also having a valid State license. Prior to implementation of the State license program, all Commercial Cannabis Activity permitted by the City shall be conducted in accordance with this Chapter, the City's Land Use Code, and all laws pertaining to the equivalent license classification under the applicable provisions of state law and regulation.
- C. *Permit Regulations.* The City Manager shall develop regulations pertaining to the issuance, compliance monitoring, renewal, and enforcement of Commercial Cannabis Activity Permits, which shall be subject to promulgation by resolution of the City Council. Such regulations may provide for energy efficiency, odor control, and inventory tracking, and such other matters as deemed necessary to promote the public health, safety and welfare of the City.
- D. *Pre-existing Commercial Cannabis Activity.* Any person who is lawfully engaged in Commercial Cannabis Activity as permitted by the City of Arcata Land Use Code

section 9.42.105 prior to July 1, 2015 may continue such activity if, within six months after the adoption of this Ordinance, such person has submitted an application for a Commercial Cannabis Activity Permit under this Chapter. If an application is submitted according to this Chapter, such pre-existing Commercial Cannabis Activity may continue until such time as the Permit application is denied, expires, or is revoked.

- E. *Effect of Commercial Cannabis Activity Permit.* No person shall have any entitlement or vested right to receive a Permit, or renewed Permit, under this Chapter. The Permit requirements in this Chapter shall be in addition to, and not in lieu of, licensing or permitting requirements imposed by any other federal, state, or local law. The City's Permit issued under this Chapter does not provide any exception, defense, or immunity to any person in regard to potential criminal liability the person may have for the production, distribution, or possession of cannabis. All Commercial Cannabis Activity Business Owners shall be held jointly and severally responsible to comply with all Permit conditions, and shall be held jointly and severally liable for Permit any violations, regardless of which Owners sign the Permit.
- F. *Other Permits and Licenses required.* In addition to a Commercial Cannabis Activity Permit as required by the Chapter, it is unlawful to establish or otherwise engage in Commercial Cannabis Activity without a current and valid business license issued pursuant to Title VI of the Arcata Municipal Code, and, where applicable, a land use permit issued pursuant to the City's Land Use Code. Any violation of the terms or conditions of any other required City permit or license shall be deemed a violation of this Chapter.
- G. The cultivation of nonmedicinal Cannabis for personal use is permitted subject to all applicable laws and all of the following restrictions:
 - (1) 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; and
 - (2) ~~The cultivation area shall not exceed 100 square feet.~~ and
 - (2) All cultivation shall occur either inside ~~within~~ a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure. Alternatively, if not enclosed in a structure, then cultivation may occur only in an area not within a direct line of sight from the frontage public right of way and not within a side or rear setback area as defined in Title IX, Planning and Zoning.

Section 2: Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance, 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 3: CEQA: 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 4: Effective Date: This Ordinance shall be effective 30 days after adoption.

DATE: October 17, 2018

ATTEST:

/s/ Bridget Dory
City Clerk, City of Arcata

APPROVED:

/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. 1509, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California on the 17th day of October, 2018, by the following vote:

AYES: PEREIRA, WATSON, ORNELAS, PITINO, WINKLER

NOES: NONE

ABSENT: NONE

ABSTENTIONS: NONE

/s/ Bridget Dory
City Clerk, City of Arcata