

ORDINANCE NO. 1516

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA AMENDING THE ARCATA MUNICIPAL CODE TO MAKE MINOR AND NON-SUBSTANTIVE CORRECTIONS, UPDATES, AND CLARIFICATIONS

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

Section 1: Section 1100 (Definitions and Rules of Construction) of Chapter 2 (Definitions and Rules of Construction), Title I (General Provisions) of the Arcata Municipal Code is hereby amended by deletion of the definition for “Director of Public Works.”

Section 2: Section 1300 of Chapter 4 (Other City Ordinances), Title I (General Provisions) of the Arcata Municipal Code is hereby amended as shown in the following strike through and double underscore text:

SEC. 1300. Location of related ordinances.

Other related City ordinances, and rules and regulations may be found in the Land Use Code and Development Guide and in the City Personnel Rules and Regulations.

Section 3: Section 2120 of Chapter 2 (Officers & Employees), Title II (Administration) of the Arcata Municipal Code is hereby amended as shown in the following strike through and double underscore text:

SEC. 2120. Departments established.

The following departments are hereby established:

- A) Finance Department
- B) Community Development Department
- C) Police Department
- D) ~~Public Works Department~~ Engineering Department
- E) Environmental Service Department
- F) City Manager's Office

Section 4: Section 2208 of Article 2 (Planning Commission), Chapter 3 (Boards, Commissions, Committees, and Task Forces), Title II (Administration) of the Arcata Municipal Code is hereby amended as shown in the following strike through and double underscore text (unchanged text is omitted and is shown by “* * *”):

SEC. 2208. Creation, Powers and Duties.

The Planning Commission is hereby created. Its powers and duties shall be as specified in the State Planning and Zoning Law, Title 7 of the Government Code. These powers and duties are outlined as follows:

* * *

GE. To review and make decisions regarding the consistency of proposed acquisition or disposition of real property by the City with the General Plan and any applicable Specific Plans, as provided by state law.

HG. To review and make decisions with respect to the consistency of proposed capital improvement projects and programs with the General Plan and any applicable Specific Plans, as provided by state law.

HH. To exercise any other powers and duties as may be assigned by state law or by the zoning ordinances codified at Title IX of the Arcata Municipal Code.

JL. To conduct all powers, duties and functions of the Historic and Design Review Commission as codified in the City's Land Use Code, Title IX of the Arcata Municipal Code, including the implementation of the Historic Preservation Element of the General Plan.

Section 5: Section 2707 of Chapter 6 (Emergency Organization and Functions), Title II (Administration) of the Arcata Municipal Code is hereby amended as shown in the following strike through and double underscored text (unchanged text is omitted and is shown by “* * *”):

SEC. 2707. Continuity of Government.

* * *

D. In the event the City Manager is, or becomes, unavailable and is therefore unable to serve as Director, the Chief of Police shall serve as both City Manager and Director. In the event the Chief of Police is, or becomes, unavailable to serve as Director and City Manager, the Director of Community Development shall serve as both City Manager and Director. Thereafter, in the event of unavailability, the order of succession to serve as Director and City Manager shall be the Director of Finance, ~~Director of Public Works~~, or the Director of Environmental Services. If the City Manager becomes available, she/he shall resume the office of Director and City Manager.

Section 6: Sections 2901, 2902, and 2903 of Article 1 (City Council) of Chapter 8 (Conflict of Interest Code), Title II (Administration) of the Arcata Municipal Code are hereby amended as shown in the following strike through and double underscored text:

SEC. 2901. Application of code.

This Conflict of Interest Code shall be applicable to members of the City Council, whether acting as a Councilmember or as a governing board member or commissioner of any City agency, to the City Manager, City Attorney, ~~City Clerk~~, City Treasurer, and to designated employees as specified in Article 2 of this Chapter.

SEC. 2902. Disclosure.

Members of the City Council, the City Manager, City Attorney, ~~City Clerk~~ and City Treasurer are required, pursuant to Government Code Section 87200, to disclose investments, interests in real property and other income. No other or no additional disclosure requirements are imposed by this Conflict of Interest Code.

SEC. 2903. Circumstances requiring disqualification.

Any member of the City Council, City Manager, City Attorney, ~~City Clerk~~ and City Treasurer must disqualify himself or herself from making or participating in the making of any decisions which will foreseeably have a material financial effect, distinguishable from its effect on the public generally, on any economic interest, as defined in Government Code Section 87103. No such official as enumerated herein shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made.

Section 7: Section 2961 of Article 4 (Certain Other City Committees and Commissions) of Chapter 8 (Conflict of Interest Code), Title II (Administration) of the Arcata Municipal Code is hereby amended as shown in the following strike through and double underscore text:

SEC. 2961. Adoption of reference.

Each of the members of the Arcata Planning Commission, ~~the Historic and Design Review Commission~~, and the Economic Development Committee shall comply with all of the provisions of Article 2 of Title II of the Arcata Municipal Code. The disclosure categories, as listed in Section 2916, shall be as follows:

Arcata Planning Commission	All
Historic and Design Review Commission	All
Economic Development Committee	All

Section 8: Sections 3850, 3851, 3852, and 3853 of Chapter 5 (Safe Firearm Storage), Title III (Public Safety) of the Arcata Municipal Code are hereby recodified in a new Chapter 6 (Safe Firearm Storage) as Sections 3860, 3861, 3862, and 3863, respectively, with no other changes to Chapter 5 or Chapter 6.

Section 9: Section 4282 of Article 10 (Unlawful Panhandling) of Chapter 2 (Other Violations), Title IV (Public Welfare, Morals, and Conduct) of the Arcata Municipal Code is hereby amended as shown in the following strike through and double underscore text:

SEC. 4282. Unlawful Panhandling.

It is unlawful and a public nuisance for any person to:

- A. Panhandle in an aggressive manner in any public place;
- B. Panhandle ~~within twenty (20) feet of any check cashing business, or within twenty (20) feet of any automated teller machine; provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the facility; or~~
- C. ~~Panhandle within twenty (20) feet of the entrance to a supermarket, retail store, restaurant or bar;~~
- ~~D.~~C. Panhandle in any public transportation vehicle, ~~or within twenty (20) feet of a bus stop or bus shelter;~~
- ~~E.~~ Panhandle in any City owned parking lot or parking structure accessible to the general public, ~~or within twenty (20) feet of the entrance or exit to any parking lot or parking structure;~~
- ~~F.~~ Panhandle while on any public pedestrian foot bridge, ~~or within twenty feet of the entrance or exit to a public pedestrian foot bridge; or~~
- G. Panhandle within twenty (20) feet of any intersection.

Section 10: Section 4310 of Chapter 3 (Noise in the Downtown Plaza Area), Title IV (Public Welfare, Morals, and Conduct) of the Arcata Municipal Code is hereby amended as shown in the following strike through and double underscore text (unchanged text is omitted and is shown by “* * *”):

SEC. 4310. Definitions.

All terms and phrases used in this chapter shall have the meanings as defined herein. The definition of a term or phrase shall apply to any of that term's or phrase's variants.

* * *

5. Downtown Plaza area shall mean that area defined in Section 4171 of Chapter 2 of this Title Section 10800 of Chapter 5 Title X.

* * *

Section 11: Section 5805 of Chapter 8 (Underground Storage of Hazardous Substances), Title V (Sanitation and Health) of the Arcata Municipal Code is hereby amended as shown in the following strike through and double underscore text (unchanged text is omitted and is shown by “* * *”):

SEC. 5805. Permit Required.

* * *

(c) This Section does not obviate the requirements to obtain valid permits pursuant to other provisions of this Code, or compliance with other applicable ordinances, including but not limited to the City of Arcata Land Use Code and Development Guide, and all applicable Building and Fire Codes.

Section 12: Sections 5806, 5817, and 5821 of Chapter 8 (Underground Storage of Hazardous Substances), Title V (Sanitation and Health) of the Arcata Municipal Code are hereby amended to change all usage of the term “Director of Public Works” to “Director of Environmental Services.”

Section 13: Section 5950 of Chapter 10 (Cannabis Use and Regulations), Title V (Sanitation and Health) of the Arcata Municipal Code is hereby amended as shown in the following strike through and double underscore text (unchanged text is omitted and is shown by “* * *”):

SEC. 5950. Findings and Purposes.

* * *

B. The Medicinal Adult-Use Cannabis Regulation and Safety Act establishes, among other things, a licensing program requiring cannabis cultivators, manufacturers, distributors, testing laboratories, dispensaries, ~~distributors~~ and transporters to obtain State-issued licenses, and authorizes local governments to establish additional standards, requirements, and regulations for local licenses and permits.

* * *

Section 14: Sections 5920, 5925, 5930, 5935, 5940, 5945, 5950, 5955, and 5960 of Chapter 10.5 (Genetically Engineered Organisms), Title V (Sanitation and Health) of the Arcata Municipal Code is hereby recodified as Sections 5970, 5971, 5972, 5973, 5974, 5975, 5976, 5977, and 5978, respectively, into new Chapter 11 (Genetically Engineered Organisms) of Title V (Sanitation and Health), Chapter 10.5 is removed, and no other changes are made to these Sections.

Section 15: The following sections of Title VII (Public Works) of the Arcata Municipal Code are hereby amended to change all usage of the term “Public Works” to “Environmental Services:”

Chapter 1 (Streets and Sidewalks):

Article 2 (Construction): Sections 7101, 7103, 7104, 7104.1, 7104.3, 7104.4, 7109, 7110, 7113, 7117, 7118, 7119, 7120, 7121, 7123, 7124, and 7125;
Article 3 (Protection): Section 7202
Article 4 (House Numbers): Section 7303
Article 5 (Public Telephones): Section 7313.

Chapter 3 (Water):

Article 1 (General Provisions): Sections 7606 and 7607;
Article 4 (Application for Regular Water Service): Sections 7684 and 7685
Article 5 (Main Extensions): Sections 7700, 7701, 7702, 7703, and 7704
Article 7 (Meters): Sections 7760, 7761, 7762, and 7764
Article 6 (General Use Regulations): Sections 7741, 7742, 7743, 7744, 7749, and 7750
Article 8 (Billing): Section 7783
Article 11 (Public Fire Protection): Sections 7840 and 7841
Article 12 (Private Fire Protection Service): Sections 7862, 7863, 7865, and 7867
Article 13 (Temporary Service): Sections 7880, 7882, 7883, and 7884
Article 15 (Fluoridation): Section 7940
Article 16 (Backflow Prevention): Section 7976

Chapter 4 (Underground Utility Districts): Sections 7984, 7985, and 7988

Chapter 5 (Stormwater Management):

Division 1 (Storm Drain Service Fees), Article 2 (Drainage Development Fee):
Sections 7994.02, 7994.03, 7994.04, 7994.06, and 7994.07
Division 2 (Reduction of Stormwater Pollution), Article 4 (Compliance, Monitoring, Violations and Administrative and Other Remedies): Section 7999.13

Section 16: Section 7975 of Chapter 3 (Water), Title VII (Public Works) of the Arcata Municipal Code is hereby recodified as Section 2315, Chapter 4 (Fiscal Administration), Title II (Administration). Additionally, usage of the term “Public Works Department” is hereby changed to “Engineering Department.”

Section 17: Sections 8202, 8204, and 8207 of Article 1 (House Moving), Chapter 2 (House Moving) of Title VIII (Building Regulation) of the Arcata Municipal Code are hereby amended to change all usage of the term “Public Works” to “Environmental Services.”

Section 18: Section 8300 (Certificates of Insurance) of Article 1 (House Moving), Chapter 2 (House Moving), Title VIII (Building Regulation) of the Arcata Municipal Code is hereby recodified as Section 8208.

Section 19: Section 8302 of Article 1 (Small Residential Rooftop Solar Energy System Permit Application Review Process) of Chapter 3 (Solar Energy Systems), of Title VIII (Building Regulation) of the Arcata Municipal Code is hereby amended as shown in the following strike through and double underscore text (unchanged text is omitted and is shown by “* * *”):

SEC. 8302. Expedited Permit Review.

* * *

4. Inspection. For a small residential rooftop solar energy system eligible for expedited review, only one (1) inspection shall be required, which shall be done in a

timely manner. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized; however the subsequent inspection need not conform to the requirements of this subsection.

5. Permit Application Review. An application that satisfies the information requirements in the checklist, as determined by the Building Official, shall be deemed complete. Upon receipt of an incomplete application, the Building Official shall issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance.

6. Permit Issuance. Upon confirmation by the Building Official of the application and supporting documentation being complete and meeting the requirements of the checklist, the Building Official shall administratively approve the application and issue all required permits or authorizations. Such approval does not authorize an applicant to connect the small residential rooftop solar energy system to the local utility provider's electricity grid. The applicant is responsible for obtaining such approval or permission from the local utility provider.

7. Inspection. ~~For a small residential rooftop solar energy system eligible for expedited review, only one (1) inspection shall be required, which shall be done in a timely manner. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized; however the subsequent inspection need not conform to the requirements of this subsection.~~

87. Use Permit Requirement. In the event the Building Official finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety, the City may require the applicant to obtain a use permit in order to avoid or mitigate the adverse impact. Any conditions imposed to mitigate the specific adverse impact upon the public health and safety shall be at the lowest cost possible.

98. Permit Denial. An application may be denied only upon written findings of the Building Official based on substantial evidence that the solar energy system could have a specific, adverse impact upon the public health and safety, and there is no feasible method to satisfactorily avoid or mitigate the adverse impact. The Building Official's findings shall include the basis for rejection of potential feasible alternatives to preventing the adverse impact.

109. Appeal. The decision of the Building Official pursuant to subsections ~~I~~7 and ~~J~~8 may be appealed to the Planning Commission, by submittal of a written appeal to the City Manager within ten (10) days after issuance of the Building Official's decision.

Section 20: The following sections of Title IX (Land Use Code) of the Arcata Municipal Code are hereby amended to change all references to the position "Public Works Director" and "Director of Public Works" to "City Engineer:"

Chapter 9.10 (Purpose and Applicability of Land Use Code):
Section 9.10.030

Chapter 9.30 (Standards for All Development and Land Uses):
Section 9.30.040

Chapter 9.36 (Parking and Loading):
Sections 9.36.090, 9.36.100, and 9.36.119

Chapter 9.42 (Standards for Specific Land Uses):
Section 9.42.140

Chapter 9.64 (Grading, Erosion, and Sediment Control)
Section 9.64.060

Chapter 9.88 (Subdivision Design and Improvement Requirements)
Section 9.88.030

Section 21: Section 9.28.130, Chapter 9.28 (Combining Zones), Title IX (Land Use Code), Figure 2-25 is hereby renamed “Cannabis Innovation Zone (:CIZ) Combining Zone.”

Section 22: Section 9.53.030 of Chapter 9.53 (Historical Resource Preservation), Title IX (Land Use Code) of the Arcata Municipal Code is hereby and amended as shown in the following strike through and double underscore text (unchanged text is omitted and is shown by “* * *”):

SEC. 9.53.030. Review Authority.

* * *

E. North-west Information Center (NWIC). The NWIC of the California Historical Resources Information System and the City of Arcata will enter into a Memorandum of Agreement (Agreement) no later than six months from the finalization of this Land Use Code. The duties of the NWIC and the City will be established in the Agreement and may include:

1. Providing pertinent records of recorded historical resources on file to the City.
2. Drafting and providing pertinent, current sensitivity historical resource base maps to the City.
3. Expediting NWIC record searches for City ground disturbing projects and activities that have the potential to cause significant impacts to historical resources.
4. Providing the NWIC pertinent data and surveys from the City.

F. Native American Tribal Governments. Within six months of the finalization of this land use code, the City will enter into agreements with, at a minimum, the Wiyot Tribe and the Blue Lake Rancheria for consultations. ~~The duties of the Native American Tribal Governments will be established in the MOA and may include:~~ The City shall refer projects which have the potential to impact cultural, tribal, or historic resources to the Wiyot-area Tribal Heritage Preservation Officers (THPOs) including:

1. Review of, adoption of, or amendments to the General Plan, Local Coastal Plan and Specific Plans, and the designation of open space that contains Native American traditional cultural places.
2. Review of the Agreement between the City and the NWIC.
3. Review of discretionary projects within the City that have the potential to cause significant impacts to historic, archaeological, and/or cultural resources.
4. Review of the preservation of, or the mitigation of impacts to, places, features and objects described in Sections 5097.9 and 5097.995 of the Public Resources Code (cultural places).
5. Establishing a protocol for notification of post-review of Native American discoveries per Subsection 9.53.100.C.

Section 23: Sections 9.66.020 and 9.66.040 of Chapter 9.66 (Urban Runoff Pollution Control), Title IX (Land Use Code) of the Arcata Municipal Code is hereby amended as shown in the following strike through text (unchanged text is omitted and is shown by “* * *”):

SEC. 9.66.020. Urban Runoff Water Quality and Discharge Management.

* * *

B. Applicability. This Section shall apply to all water entering the storm drain system generated on any developed and undeveloped lands within the City.

1. Responsibility for administration. The ~~Public Works Director~~ and Environmental Services Director shall administer, implement, and enforce the provisions of this Section.

* * *

SEC. 9.66.040. Urban Runoff Mitigation Plan Requirements.

* * *

D. Waiver of Runoff Mitigation plan. A full or partial waiver of compliance with this Section may be obtained by a person who applies to the City in writing and shows that the incorporation of design elements that address the objectives in Subsection B. is an economic and physical impossibility due to the particular configuration of the site or to irreconcilable conflicts with other City requirements. Requests for waivers shall be granted or denied, in writing, by a three-member board comprised of one representative each designated by the Environmental Services Director, ~~Public Works Director~~, and City Manager. Their decision shall be forwarded to the Council for final approval.

* * *

Section 24: Section 9.72.040 of Chapter 9.72 (Permit Approval or Disapproval), Title IX (Land Use Code) of the Arcata Municipal Code is hereby amended to change all references of “Public Works” to “Environmental Services.”

Section 25: Section 9.88.070 of Chapter 9.88 (Subdivision Design and Improvement Requirements), Title IX (Land Use Code) of the Arcata Municipal Code is hereby amended as shown in the following strike through and double underscored text (unchanged text is omitted and is shown by “* * *”):

SEC. 9.88.070. Improvement Agreements and Security.

* * *

C. Time extensions. An extension of time for completion of improvements under a subdivision improvement agreement shall be granted by the Council only as follows:

1. ~~Public Works~~City Engineer’s report. The City Engineer notifies the Council that either the subdivider is proceeding to do the work required with reasonable diligence or is not yet ready to develop the subdivision, and has given satisfactory evidence of being able and willing to complete all required work within the time of the requested extension.

* * *

Section 26: Section 9.100.020 of Chapter 9.100 (Definitions), Title IX (Land Use Code) of the Arcata Municipal Code is hereby amended by deletion of the following definitions.

SEC. 9.100.020. Definitions of Specialized Terms and Phrases.

“Area of Shallow Flooding”
“Base Flood”
“Basement”
“Breakaway Wall”
“Coastal High Hazard Area”
“Exception”
“Functionally Dependent Use”
“Highest Adjacent Grade”
“Lowest Floor”
“Mean Sea Level”
“National Flood Insurance Program”
“New Construction”
“100-Year Flood”
“Remedy a Violation”
“Riverine”
“Sand Dunes”
“Special Flood Hazard Area (SFHA)”
“Start of Construction”

“Substantial Improvement”
“Violation”

Section 27: Section 9.100.20 of Chapter 9.100 (Definitions), Title IX (Land Use Code) of the Arcata Municipal Code is hereby amended as shown in the following strike through and double underscore text (unchanged text is omitted and is shown by “* * *”):

SEC. 9.100.20. Definitions of Specialized Terms and Phrases.

* * *

Medicinal Cannabis. Means cannabis used in strict accordance with the Compassionate Use Act of 1996 (Health and Safety Code Section 11362.5 et seq.) and Senate Bill 94, also known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Division 10 of the Business and Professions Code, Section 26000 et seq.).

1. Marijuana. See "Cannabis."
2. Medicinal Cannabis 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 cannabis and the person's designated primary caregiver, if any, as per California Health and Safety Code Section 11362.7, and as may be amended.

* * *

Section 28: Land Use Code Findings. In regard to the amendments made to Title IX (Land Use Code, LUC) of the Arcata Municipal Code in Sections 20-27 of this Ordinance, the City Council hereby determines that the proposed LUC text amendments are consistent with the General Plan and would not be detrimental to the public interest, health, safety, convenience, or welfare of the City based on the following required findings:

1. The proposed amendments are consistent with the General Plan because the amendments make administrative word choices and/or complete the implementation of previously adopted ordinances, will not affect regulatory programs or the policies enacted by them, and the consistency between the LUC and General Plan is not thereby affected by the changes; and
2. The proposed amendments would not be detrimental to the public interest, health, safety, convenience or welfare of the City because the amendments make administrative word choices and/or complete the implementation of previously adopted ordinances, will not affect regulatory programs or the policies enacted by them, and the amended sections will continue to protect the public interest, health, safety, convenience, and welfare of the City as did the previous wording.

Section 29: 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 30: Environmental Review. This Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it makes minor and non-substantive revisions to clarify and update existing laws and practices, and does not alter any existing regulation or its implementation, or create new regulations or programs. There is no possibility that the revisions herein may have a significant effect on the environment.

Section 31: This ordinance will take effect thirty (30) days after the date of its adoption.

DATE: July 17, 2019

ATTEST:

/s/ Bridget Dory
City Clerk, City of Arcata

APPROVED:

/s/ Brett Watson
Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 1516, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California, on the 17th day of July, 2019, by the following vote:

AYES: WATSON, WINKLER, ORNELAS, PEREIRA, PITINO

NOES: NONE

ABSENT: NONE

ABSTENTIONS: NONE

/s/ Bridget Dory
City Clerk, City of Arcata