

ORDINANCE NO. 739

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA AMENDING CALISTOGA MUNICIPAL CODE SECTION 17.48.040(C) TO INCREASE THE NUMBER OF CANNABIS PLANTS THAT MAY BE CULTIVATED OUTDOORS FOR PERSONAL USE TO FOUR (ZOA 2018-2)

WHEREAS, on November 8, 2016, California voters passed Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA"), which allows persons 21 years of age or older to plant, cultivate, harvest, dry or process up to six living cannabis plants upon the grounds of a private residence at one time; and

WHEREAS, the AUMA allows the City to enact and enforce reasonable regulations on cultivation within private residences and enclosed structures for personal use, and to ban or limit any type of outdoor cultivation; and

WHEREAS, regulating the personal cultivation of cannabis on residential properties is in conformance with Goal 7 of the City Council's goals and objectives for Fiscal Year 2018-19, which calls for making Calistoga safe; and

WHEREAS, on April 16, 2017, the City Council adopted Ordinance 730 which, in part, added Calistoga Municipal Code Section 17.48.040 to allow the cultivation of up to two cannabis plants outdoors for personal uses, subject to certain regulations; and

WHEREAS, at the time that Ordinance 730 was adopted, the City Council committed to reviewing the appropriateness of the two-plant limitation after the 2017 fall harvest had passed; and

WHEREAS, on May 15, 2018, the Council received a report on personal cannabis cultivation impacts from staff, which stated that the Calistoga Police Department had not logged any complaints related to personal cannabis cultivation, and no complaints have been reported to the City since then; and

WHEREAS, the Council directed staff to initiate an amendment to the City's personal cannabis cultivation regulations to increase the number of plants that may be cultivated outdoors for personal use; and

WHEREAS, the Planning Commission reviewed the proposed amendment at a public hearing on September 12, 2018, and after considering the public record, including the staff report and findings, adopted PC Resolution 2018-16 forwarding a recommendation that the City Council increase the number of cannabis plants that may be cultivated for personal use to four per dwelling unit; and

WHEREAS, the City Council of the City of Calistoga reviewed and considered this ordinance at a public hearing on November 20, 2018, noticed in accordance with state and local law, and which included the written and oral staff reports, the Planning Commission's recommendation and comments received from the general public and interested parties.

NOW, THEREFORE, THE CALISTOGA CITY COUNCIL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE

Findings. The above recitals are incorporated herein as if set forth herein in full and each is relied upon independently by the City Council for its adoption of this ordinance.

SECTION TWO

Calistoga Municipal Code Section 17.48.040(C)(3) is amended to read in its entirety as follows:

3. Outdoor cultivation of up to four plants is allowed per qualified parcel.

SECTION THREE

Environmental Review. This action has been reviewed in accordance with the California Environmental Quality Act, CEQA Guidelines Section 15061(b)(3), the “general rule” exemption. The City has determined that because it can be seen with certainty that there is no possibility that the proposed amendment will have an impact on the environment, this ordinance is therefore exempt from CEQA under the general rule.

SECTION FOUR

Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION FIVE

Effective Date. This Ordinance shall take effect thirty (30) days after its passage and before the expiration of fifteen (15) days after its passage, shall be published in accordance with law, in a newspaper of general circulation published and circulated in the city of Calistoga.

THIS ORDINANCE was introduced with the first reading waived at the City of Calistoga City Council meeting of the **20th day of November, 2018**, and was passed and adopted at a regular meeting of the Calistoga City Council on **December 4, 2018**, by the following vote:

- AYES:** Councilmembers Barnes, Kraus and Lopez-Ortega, Vice Mayor Dunsford and Mayor Canning
NOES: None
ABSENT: None
ABSTAIN: None



Chris Canning, Mayor

ATTEST:



Kathy Flamson, City Clerk