



CITY OF CALISTOGA

4

STAFF REPORT

TO: Honorable Mayor and City Council
FROM: Lynn Goldberg
DATE: December 4, 2018
Ordinance No. 739 Creating Text Amendments to the Calistoga Municipal Code, amending Calistoga Municipal Code 17.48.040(C)(3) to increase the number of marijuana plants that may be cultivated outdoors for personal use on certain residentially-zoned properties (Zoning Code
SUBJECT: Amendment ZOA 2018-2) (Second Reading)

SIGNATURE:

DYLAN FEIK, City Manager

DESCRIPTION: Ordinance No. 739 Creating Text Amendments to the Calistoga Municipal Code, amending Calistoga Municipal Code 17.48.040(C)(3) to increase the number of marijuana plants that may be cultivated outdoors for personal use on certain residentially-zoned properties (Zoning Code Amendment ZOA 2018-2) (Second Reading)

RECOMMENDATION: Adopt Ordinance No. 739.

SUMMARY:

On November 20, 2018, following a public hearing, the City Council introduced and waived the first reading of the attached ordinance.

CEQA 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.

ATTACHMENTS:

1. Ordinance No. 739

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)

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

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

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

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

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

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

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

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

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

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

36 **SECTION ONE**

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

39 **SECTION TWO**

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

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

43 **SECTION THREE**

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

49 **SECTION FOUR**

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

58 **SECTION FIVE**

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

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

AYES:
NOES:
ABSENT:
ABSTAIN:

Chris Canning, Mayor

ATTEST:

Kathy Flamson, City Clerk