

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN
ADOPTING CHAPTER 17.64 OF TITLE 17 OF THE ARVIN MUNICIPAL CODE
PERTAINING TO COMMERCIAL CANNABIS ACTIVITY**

WHEREAS, the City of Arvin (“the City”) has the authority under Article XI, Section 7 of the California Constitution, to enact regulations for the public peace, morals, and welfare of the City; and

WHEREAS, in 1996, with the adoption of Proposition 215, the California voters approved the Compassionate Use Act (Health and Safety Code § 11362.5) to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes where that medical use is deemed appropriate and has been recommended by a physician, without fear of criminal prosecution under limited, specified circumstances; and

WHEREAS, in 2004, the State Legislature enacted SB 420, the Medical Marijuana Program Act (Health and Safety Code § 11362.7 et seq.), clarifying the scope of the Compassionate Use Act and provide additional statutory guidance regarding medical cannabis use and allowing cities and counties to adopt supplemental rules and regulations; and

WHEREAS, on October 9, 2015, the Governor signed the Medical Marijuana Regulation and Safety Act (“MMRSA”), comprised of California legislative bills AB 243, AB 266, and SB 643, creating a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medicinal marijuana, all subject to local control; and

WHEREAS, on June 27, 2016, the Governor signed SB 837, effective immediately, changing the title of MMRSA to the Medical Cannabis Regulation and Safety Act (“MCRSA”), changing the terminology therein from “medical marijuana” or “marijuana” to “medical cannabis” or “cannabis”, and making other technical changes thereto. SB 837 also adopted regulations relating to the use and diversion of water in connection with the cultivation of cannabis; and

WHEREAS, at the November 8, 2016 general election, the California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”), establishing a comprehensive regulatory and licensing scheme for commercial recreational (adult-use) cannabis operations, and legalizing limited personal adult-use cannabis use, possession, and cultivation; and

WHEREAS, on June 27, 2017, Governor Brown signed Senate Bill 94, the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), which merged the regulatory regimes of MCRSA and AUMA; and

WHEREAS, MAUCRSA, at Business & Professions Code §26050, establishes 20 different types of state licenses, including permit types pertaining to cannabis cultivation, manufacturing, testing, retailing, and distribution, which medicinal and adult-use cannabis businesses must obtain, depending on the nature of the cannabis business, in order to operate legally in the State; and

WHEREAS, MAUCRSA, at Business & Professions Code §26200(a)(1), provides that local jurisdictions may adopt and enforce local ordinances to regulate or prohibit any or all types of

medicinal and adult-use business operations licensed by the state under Business & Professions Code §26050, including, but not limited to, by imposing local zoning and land use requirements; and

WHEREAS, MAUCRSA, at Business & Professions Code §26055(d), provides that a State commercial cannabis license may not be issued to an applicant whose operations would violate the provisions of any local ordinance or regulation; and

WHEREAS, the MAUCRSA, at Business & Professions Code §26201, provides that any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state for the various types of medicinal and adult-use commercial cannabis operations licensed by the state under Business & Professions Code §26050 shall be the minimum standards, and that a local jurisdiction may establish additional or more-stringent standards, requirements, and regulations; and

WHEREAS, pursuant to the MAUCRSA, the California Bureau of Cannabis Control (“BCC”), Department of Food and Agriculture (“CDFA”), and Department of Public Health (“CDPH”) adopted emergency regulations which establish additional State license types and specify the process and requirements for obtaining state licenses to engage in all types of commercial medicinal and adult-use cannabis activities in the State of California (“Regulations”); and

WHEREAS, the Regulations were approved by the State Office of Administrative Law (“OAL”) on December 7, 2017; and

WHEREAS, the BCC is now accepting applications for temporary and annual state licenses for commercial cannabis retailers, distributors, microbusinesses, testing laboratories, and cannabis events, and will soon begin accepting annual licenses for the same; and

WHEREAS, the CDPH is now accepting applications for temporary and annual state licenses for commercial cannabis manufacturers; and

WHEREAS, the CDFA is now accepting applications for temporary state licenses for commercial cannabis cultivators, nurseries and processors; and

WHEREAS, several California cities have reported negative impacts of cannabis cultivation and related activities, including but not limited to offensive odors, criminal activity, (such as trespassing, theft, violent robberies and robbery attempts, and the illegal sale and distribution of cannabis), and public health and safety concerns (such as fire hazards and problems associated with mold, fungus, and pests); and

WHEREAS, cannabis plants, as they begin to flower and for a period of two months or more, produce a strong odor, offensive to many people, and detectable far beyond property boundaries if grown outdoors or if grown indoors without proper ventilation, odor control, and other regulations; and

WHEREAS, due to the value of cannabis plants and their strong smell (which alerts others to their locations), cannabis cultivation has been linked to break-ins, robbery, armed robbery, theft and attendant violence and injury, creating an increased risk to public safety; and

WHEREAS, unregulated cannabis cultivation can be harmful to the welfare of the surrounding community and its residents and can constitute a public nuisance, in that cannabis cultivation has been shown to involve avoidance of environmental laws and regulations, and has resulted in the pollution of waters and navigable waterways in the State of California; and

WHEREAS, the indoor cultivation of cannabis has potential adverse effects to the structural integrity of the buildings in which cannabis is cultivated, and the use of high wattage grow lights and excessive use of electricity increases the risk of fire, which presents a clear and present danger to the buildings, its occupants, and neighboring buildings and residents; and

WHEREAS, unregulated indoor cultivation of cannabis can be harmful to the public health, safety and welfare, given that electrical modifications risk fires, poor irrigation can cause mold, overloaded circuits can leave entire neighborhoods in the dark, plant chemicals can cause illness, improper carbon dioxide mixed with insufficient ventilation can cause injury or death, and structural changes put first responders in danger if they rush into the unknown; and

WHEREAS, the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognize that the cultivation or other concentration of cannabis in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering and/or crime; and

WHEREAS, there are numerous well publicized studies and reports, as well as numerous documented incidents in Kern County and throughout the State, which show that unregulated cannabis activities have a significant adverse effect on the community; and

WHEREAS, in the absence of a formal regulatory framework, the adverse impacts frequently associated with commercial cannabis activities will occur, resulting in a potentially significant negative impact upon the environment and upon public health, safety, and welfare of the community; and

WHEREAS, outdoor cannabis cultivation and unregulated indoor cannabis cultivation are likely to result in these negative effects on the public health, safety, and welfare in the City, as reflected by the experiences of other cities; and

WHEREAS, the City has a compelling interest in protecting the public health, safety, and welfare of its citizens, residents, visitors and businesses, and in preserving the peace and quiet of the neighborhoods within the City by regulating the commercial cultivation of medicinal and adult-use cannabis; and

WHEREAS, based on the foregoing and pursuant to the above-described express statutory authority and its police power, the City desires to explicitly prohibit certain cannabis activities including the outdoor cultivation of commercial cannabis for both medicinal and adult-use, and to enact reasonable regulations for the indoor or mixed-light cultivation, manufacturing, testing, and distribution of commercial medicinal and adult-use cannabis in order to protect and promote public health, safety and welfare; and

WHEREAS, under U.S. Supreme Court precedent, government agencies generally may conduct regulatory inspections of "closely regulated" businesses without reasonable suspicion that

the business subject to inspection has violated a statute or regulation, provided that the governmental agency conducting the inspection has “special needs,” beyond its ordinary interest in enforcement of criminal statutes, to conduct inspections, the regulations in the particular area could not be enforced if public officials could conduct inspections only when they have a reasonable suspicion that a violation has occurred, the businesses subjected to inspection are engaged in a particular category of activity that reduces the reasonable expectation of privacy of those engaged in such activities in relation to the inspections at issue, and the discretion of inspecting officials is reasonably constrained by the authorizing statute (*People v. Maikho*, 51 Cal.4th 1074, 1091-92 (2011)); and

WHEREAS, commercial cannabis businesses cultivate, manufacture, dispense, distribute, test, or engage in other business activities relating to a historically criminalized substance which is often used for medical purposes, which can cause health and safety issues for those consuming it, which can be unsafe if improperly cultivated, manufactured or handled, and which is subject to illegal diversion, and as a result, state and local government agencies, including the City, have a strong governmental interest in regulating such businesses; and

WHEREAS, businesses engaged in commercial cannabis activities constitute “closely regulated” businesses which have a reduced reasonable expectation of privacy due to the strong governmental interest in regulating such activities to protect against the potential risks to public health and safety relating to such activities, and therefore the probable cause and warrant requirements ordinarily required for law enforcement searches are relaxed as to such businesses; and

WHEREAS, the City has a special need, beyond its ordinary interest in enforcement of criminal statutes, to conduct regulatory inspections of commercial cannabis businesses due to the unique threats to public health, safety and welfare posed by such businesses, including but not limited to risks of fire and explosion resulting from improper cultivation, manufacturing or other processes used by such businesses, and the increased risk of crime, in the absence of proper security measures, resulting from the presence of valuable property on the premises of such businesses; and

WHEREAS, the regulations imposed by this Ordinance could not be effectively enforced if the City’s officials could conduct inspections only when they have a reasonable suspicion that a violation has occurred, because often the threats to public health, safety and welfare arising from a commercial cannabis business will not be apparent from the outside, and any prior notice requirements associated with such inspections would allow such businesses to temporarily conceal or remove the conditions that give rise to such threats for purposes of passing the inspection, only to allow such conditions to return thereafter; and

WHEREAS, based on the foregoing, the City Council intends to authorize reasonable suspicionless inspections of commercial cannabis business in the City by local officials as necessary to enforce this Ordinance and thereby safeguard public health, safety and welfare, and to impose reasonable constraints on the discretion of such inspecting officials by limiting their inspection authority to confirming compliance with this Ordinance and the applicable laws and regulations referenced herein; and

WHEREAS, in 2010, the City adopted Sections 17.02.435 and 17.07.01 of Title 17 of the Arvin Municipal Code pertaining to Medical Marijuana Dispensaries, placing a complete ban on dispensaries in the City based upon various health, safety and welfare and land use findings relating to marijuana cultivation, dispensing, and consumption; and

WHEREAS, on November 21, 2017, the City Council adopted Ordinance No. 443, adopting Chapter 17.62 of Title 17 of the Arvin Municipal Code pertaining to commercial cannabis activities, and repealing Sections 17.02.435 and 17.07.01 of Title 17 of the Arvin Municipal Code pertaining to Medical Marijuana Dispensaries; and

WHEREAS, the Arvin Municipal Code already contained a Chapter 17.62 (“Sign Regulations [Private Property]”) prior to adoption of Ordinance No. 443, and said chapter remains in effect;

WHEREAS, the City Council now sees fit to repeal Ordinance No. 443 and to replace it with this Ordinance, in order to relocate the duplicative Chapter 17.62 pertaining to commercial cannabis activities to Chapter 17.64 of the Arvin Municipal Code, and to amend and supplement the regulations imposed by the City on commercial cannabis business applicants in the City; and

WHEREAS, nothing in this Ordinance shall be construed to: (1) allow any person to engage in conduct that endangers others or causes a public nuisance; or (2) allow any activity relating to the cultivation, manufacturing, testing, distribution, or consumption of cannabis which is illegal under state or federal law; and

WHEREAS, all legal prerequisites to the adoption of this ordinance have occurred.

NOW THEREFORE, the City Council of the City of Arvin does hereby ordain as follows:

SECTION 1. The above recitals are incorporated herein by reference.

SECTION 2. The Ordinance is exempt from the California Environmental Quality Act (“CEQA”) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment. (CEQA Guidelines § 15061(b)(3).) It is also exempt because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of natural resources and the environment by prohibiting environmentally destructive components of unregulated cannabis cultivation. (CEQA Guidelines §§ 15307 and 15308.)

SECTION 3. Chapter 17.64, of Title 17, of the Arvin Municipal Code and the Sections specifically identified below are adopted to read as follows:

Chapter 17.64

COMMERCIAL CANNABIS ACTIVITY

Section 17.64.010 Purpose and Intent.

- (a) It is the purpose and intent of this Chapter to adopt local prohibitions and regulations applicable to commercial cannabis activity as may be permitted by the Medical and Adult-Use Cannabis Regulation and Safety Act and other applicable State law, as amended, pertaining to regulation of commercial cannabis and the use of land, in order to protect the City’s neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter to regulate the cultivation, manufacturing and testing of cannabis and cannabis products in a manner which is

responsible and which protects the health, safety, and welfare of the residents of the City, and to enforce rules and regulations consistent with applicable state law including, but not limited to, the Medical and Adult-Use Cannabis Regulation and Safety Act, the Adult Use of Marijuana Act, the Compassionate Use Act of 1996, and the Medical Marijuana Program Act. In furtherance of these objectives, this Chapter imposes an annual permit requirement, conditional use permit requirement, and development agreement provisions applicable to persons who seek to own, operate, or engage in commercial cannabis businesses within the City as authorized under this Chapter or the Arvin Municipal Code. Nothing in this Chapter is intended to authorize any activity which is in violation of state or federal law. The provisions of this Chapter are in addition to the business license requirements applicable to business conducted in the City, and to all other applicable requirements of the Arvin Municipal Code.

- (b) Pursuant to Section 7 of Article XI of the California Constitution, the City is authorized to adopt ordinances that establish standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, testing, laboratory operations and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City to commercial cannabis activity.

Section 17.64.020 Definitions.

When used in this Chapter, the following terms shall have the meanings ascribed to them in this Section. Any reference to California statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

- (a) “*Building Official*” means the Building Official for the City or his or her designee.
- (b) “*Cannabis*” means 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 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. “*Cannabis*” also does not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. For the purpose of this Chapter, “*Cannabis*” does not mean industrial hemp as that term is defined by Section 11018.5 of the California Health and Safety Code.
- (c) “*Cannabis concentrate*” means manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids active ingredient, thereby increasing

the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Chapter. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health & Safety Code, or a drug, as defined by Section 109925 of the Health & Safety Code.

- (d) “*Cannabis products*” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- (e) “*Chief of Police*” means the Chief of Police for the Arvin Police Department or his/her designee.
- (f) “*City Manager*” means the City Manager for the City or his/her designee.
- (g) “*Commercial cannabis activity*” or “*commercial cannabis business*” includes any business or operation, including a nonprofit operation, which engages in cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale (including retail and wholesale) of cannabis or cannabis products, except cultivation and possession of cannabis for personal use as set forth in this Chapter or as preempted by State law.
- (h) “*Commercial cannabis permit*” means a permit issued by the City pursuant to this Chapter to a commercial cannabis business.
- (i) “*Cultivation*” means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (j) “*Cultivation site*” means a facility where cannabis is propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or where all or any combination of those activities occur.
- (k) “*Day care center*” means, as the term is understood in Business & Professions Code Section 26001(o), as may be amended, any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers.
- (l) “*Delivery*” means the commercial transfer of cannabis or cannabis products to a customer, and includes the use by a retailer of any technology platform.
- (m) “*Distribution*” means the procurement, sale and transport of cannabis and cannabis products between licensees.
- (n) “*Distributor*” means a licensee engaged in distribution.
- (o) “*Edible cannabis product*” means a cannabis product that is intended to be used, in whole or in part, for human consumption. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety

Code or a drug as defined by Section 109925 of the California Health and Safety Code.

- (p) “*Fire Chief*” means the Fire Chief for the City as designated by the Kern County Fire Department, or his or her designee.
- (q) “*HIPAA*” means the Health Insurance Portability and Accountability Act of 1996.
- (r) “*Labeling*” means any label or other written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.
- (s) “*License*” or “*State License*” means a license issued by the State of California, or one of its departments or divisions, pursuant to Division 10 of the California Business & Professions Code. “*Licensee*” means a person holding a State License.
- (t) “*Live plants*” means living cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.
- (u) “*Manufacture*” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.
- (v) “*Manufacturer*” means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container; “*Manufacturer*” includes the activity of manufacturing.
- (w) “*Manufacturer 1*” or “*Manufacturer Level 1*” means a licensee that manufactures cannabis products using nonvolatile solvents, or no solvents.
- (x) “*Manufacturer 2*” or “*Manufacturer Level 2*” means a licensee that manufactures cannabis products using volatile solvents.
- (y) “*Manufacturing site*” means a location that produces, prepares, propagates, or compounds cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a person issued a license by the State of California, or one of its departments or divisions, for these activities.
- (z) “*Nursery*” means a licensee that produces only cannabis clones, immature cannabis plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- (aa) “*Package*” means any container or receptacle used for holding cannabis or cannabis products.

- (bb) “*Person*” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular.
- (cc) “*Sell,*” “*sale*” and “*to sell*” include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting and receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased.
- (dd) “*School*” means, as the term is understood in Business & Professions Code Section 26054(b), as may be amended, a place of instruction in kindergarten or any grades 1 through 12.
- (ee) “*State*” means the State of California and all of its departments, divisions and agencies, including but not limited to the Bureau of Cannabis Control, the Department of Public Health, and the Department of Food and Agriculture.
- (ff) “*Stacking*” means cultivating cannabis plants on platforms or tables and stacking them in multiple layers on top of each other.
- (gg) “*Testing Laboratory*” means a laboratory, facility or entity that offers or performs tests of cannabis or cannabis products and that is both: (1) accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity; and (2) a State licensee.
- (hh) “*Topical cannabis*” means a cannabis product intended for external application. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.
- (ii) “*Volatile solvents*” means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.
- (jj) “*Youth center*” means, as the term is understood in Business & Professions Code Section 26001(av), as may be amended, any public or private facility that is primarily used to host recreational or social activities for minors, including but not limited to private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

Section 17.64.030 Non-Commercial Cannabis Activity.

This Chapter applies only to commercial cannabis activities. Non-commercial cannabis activities shall be governed by the mandatory regulations established within Chapter 8.29 of Title 8 of the Arvin Municipal Code, as may be repealed or amended by the City Council from time to time, and any other applicable provisions of the Arvin Municipal Code.

Section 17.64.040 Permitted Types of Commercial Cannabis Businesses

- (a) Commercial cannabis businesses within the City which involve the activities of indoor or mixed-light cultivation, nursery, manufacturing, testing, distribution and microbusiness (other than retail sale), as licensed by the state license types below as provided for in Business & Professions Code Division 10, including but not limited to Section 26050, are allowed subject to issuance and maintenance of required permits, licenses and entitlements set forth in Section 17.64.060, and subject to continuing compliance with this Chapter and all other applicable City and State laws and regulations:
- (1) Type 1A = Cultivation; Specialty Indoor; Small.
 - (2) Type 1B = Cultivation; Specialty Mixed-Light; Small.
 - (3) Type 2A = Cultivation; Indoor; Small.
 - (4) Type 2B = Cultivation; Mixed-Light; Small.
 - (5) Type 3A = Cultivation; Indoor; Medium.
 - (6) Type 3B = Cultivation; Mixed-Light; Medium.
 - (7) Type 4 = Cultivation; Nursery.
 - (8) Type 5A = Cultivation; Indoor; Large.
 - (9) Type 5B = Cultivation; Mixed-Light; Large.
 - (10) Type 6 = Manufacturer 1.
 - (11) Type 7 = Manufacturer 2.
 - (12) Type 8 = Testing Laboratory.
 - (13) Type 11 = Distributor.
 - (14) Type 12 = Microbusiness (subject to Section 17.64.050(c)).
- (b) Any commercial cannabis activity not expressly authorized by this Chapter is prohibited.

Section 17.64.050 Prohibited Types of Commercial Cannabis Businesses

- (a) Commercial cannabis businesses (including non-profit operations) within the City which involve the activities of outdoor cultivation and retailer are prohibited in the City. This prohibition includes, but is not limited to, commercial cannabis activities

licensed by the state license classifications listed below, as provided for in Business & Professions Code Division 10, including but not limited to Section 26050:

- (1) Type 1= Cultivation; Specialty Outdoor; Small.
 - (2) Type 1C = Cultivation; Specialty Cottage; Small.
 - (3) Type 2 = Cultivation; Outdoor; Small.
 - (4) Type 3= Cultivation; Outdoor; Medium.
 - (5) Type 5 = Cultivation; Outdoor; Large.
 - (6) Type 9 = Non-Storefront Retailer
 - (7) Type 10 = Retailer.
- (b) Except as otherwise expressly provided in this Chapter, the prohibition provided by subsection (a) includes any similar commercial cannabis activities authorized under new or revised state licenses, or any other state authorization, for any type, category, or classification of commercial cannabis activities which involve the above-referenced or similar activities or operations.
- (c) Notwithstanding any other provision of this Chapter, the retail sale of cannabis and cannabis products, whether by storefront operation or delivery, shall be prohibited in the City. No commercial cannabis permit issued to any person, including but not limited to a person holding a Type 12 “Microbusiness” State license, shall include any authorization to engage in the retail sale of cannabis or cannabis products. This prohibition shall apply equally to retail sales of both adult-use and medicinal cannabis and cannabis products. No medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider, within the meaning of Health & Safety Code Section 11362.768, shall be permitted to engage in the retail sale of cannabis or cannabis products in the City, whether conducted from a storefront or mobile retail outlet or otherwise.

Section 17.64.060 Required Licenses and Permits.

- (a) It shall be unlawful to own, establish, operate, use, or permit the establishment or activity of a commercial cannabis business, or to participate in a commercial cannabis business as an employee, contractor, agent, volunteer, or in any manner or capacity, other than as provided in this Chapter and pursuant to:
- (1) A valid and current commercial cannabis permit issued by the City pursuant to this Chapter;

- (2) The equivalent State license(s) for such commercial cannabis business issued pursuant Division 10 of the Business & Professions Code, as amended;
 - (3) A conditional use permit pertaining to the location of the business, issued by the City pursuant to Section 17.64.210 and Chapter 17.56;
 - (4) A development agreement pursuant Section 17.64.200; and
 - (5) Employee work permits as required pursuant to Section 17.64.090.
- (b) The City Manager is hereby authorized to issue commercial cannabis permits on behalf of the City. The City Manager, in his or her sole discretion, may issue a commercial cannabis permit pursuant to the mandatory requirements of this Chapter and the Arvin Municipal Code, as may be amended by the City Council from time to time.
- (c) A commercial cannabis permit shall be governed by the following requirements and/or limitations:
- (1) Commercial cannabis permits may only permit the types of cannabis activity expressly authorized by this Chapter.
 - (2) There shall be no public access to any permitted commercial cannabis business. Only persons involved in the bona fide business activities of a commercial cannabis shall be permitted to access the permitted premises.
 - (3) It shall be unlawful for a commercial cannabis business to employ, or for any person to grant access to a commercial cannabis business to, any individual who is under twenty-one (21) years of age.
 - (4) Each commercial cannabis permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance and must thereafter be renewed. Continued operation of a commercial cannabis after expiration of a commercial cannabis permit shall be unlawful and a violation of this Chapter.
 - (5) An application for renewal of a commercial cannabis permit shall be filed with the City Manager at least sixty (60) calendar days prior to the expiration date of the permit and shall comply with all requirements applicable to an application for a new commercial cannabis permit.
 - (6) An application for renewal of a commercial cannabis permit shall be denied if any of the following exists:
 - i. The application is filed less than sixty (60) calendar days before expiration of the commercial cannabis permit.
 - ii. The commercial cannabis permit or any of the other entitlements required for the commercial cannabis to operate in compliance with this Chapter, is suspended or revoked at the time the application for

renewal is submitted, or is suspended or revoked while the application for renewal is pending.

- iii. The commercial cannabis business or activity has not been in regular and continuous operation during the four (4) months prior to the submission of the application for renewal.
 - iv. The commercial cannabis business or activity otherwise fails to conform to the requirements of this Chapter, any provision of the Arvin Municipal Code, or any condition of approval of the commercial cannabis permit.
 - v. The applicant for renewal of the commercial cannabis permit has failed to obtain or renew any required State license.
 - vi. The applicant for renewal has failed to pay in full any fees, administrative citation fines, penalties and/or costs imposed by the City relating to the commercial cannabis business, unless assessment of the fees, administrative fines, penalties and/or costs are being appealed.
- (7) If a renewal application is denied, the applicant may file an appeal. The appeal must be in writing, must identify the grounds for reversing the denial, and must be submitted to the City Clerk within ten (10) days from the date of the denial. The appeal shall be conducted as established within this Chapter and/or the Arvin Municipal Code. In the alternative, the applicant may file a wholly new application for a commercial cannabis permit pursuant to this Chapter. Upon expiration of the commercial cannabis permit and regardless of a pending appeal or new application for a commercial cannabis permit, all applicant's commercial cannabis activity shall immediately cease. Violations of this Section shall be subject to denial of the appeal or new application for a commercial cannabis permit and/or the enforcement, penalties and cost recovery proscribed within this Chapter and/or the Arvin Municipal Code.
- (8) An applicant seeking multiple licenses for different types of commercial cannabis activities shall be required to comply with the multiple licensing restrictions contained in State law, including but not limited to Business and Professions Code Section 26053. An applicant may hold multiple City issued commercial cannabis permit types, consistent with the requirements of Business and Professions Code Section 26053 and a Type 12 "Microbusiness" State license.
- (9) Any unpaid fees, administrative fines, penalties and/or costs imposed by the City relating to the commercial cannabis business shall be added to the fee for renewal of the commercial cannabis permit, unless assessment of the fees, administrative fines, penalties and/or costs are being appealed.
- (10) A commercial cannabis permit shall not be renewed until the City receives payment in full of the renewal fee.

- (d) Prior to commencing operation, a commercial cannabis business shall obtain a City business license and comply with all applicable provisions and requirements of that license.
- (e) Prior to commencing operation, a commercial cannabis business shall be subject to mandatory inspections pursuant to Section 17.64.150 and shall obtain all required permits or approvals which would otherwise be required by applicable law, including, but not limited to, building permit(s), California Fire Code permit(s), and planning-level permit(s) required by Title 17 Zoning of the Arvin Municipal Code.
- (f) Consistent with the requirements of Business and Professions Code Section 26053, a commercial cannabis business conducting multiple commercial cannabis activities shall obtain a City-issued commercial cannabis permit for each type and location of commercial cannabis activity prior to engaging in that activity. A commercial cannabis business licensed by the State to conduct multiple commercial cannabis activities shall not receive a City-issued commercial cannabis permit authorizing any commercial cannabis activity within the City that is not expressly authorized by this Chapter.
- (g) A commercial cannabis business which holds a City-issued commercial cannabis permit for testing shall not be issued or hold any other City-issued commercial cannabis permit.
- (h) Revocation, termination, denial, non-issuance or suspension of a State license shall immediately terminate the commercial cannabis permit and all commercial cannabis activity shall immediately cease. Upon reinstatement or receipt of a new State license, the commercial cannabis activity may file for a new permit from the City. While a new application for a commercial cannabis permit is pending, applicant shall not engage in any commercial cannabis activity. Violations of this Section shall be grounds for denial of an application for a commercial cannabis permit and for the enforcement, penalties and cost recovery proscribed within this Chapter and/or the Arvin Municipal Code.

Section 17.64.070 Existing Commercial Cannabis Businesses.

Commercial cannabis businesses in existence in the City as of the date of adoption of this Chapter shall immediately apply for a commercial cannabis permit pursuant to this Chapter and otherwise meet all other conditions and requirements of this Chapter imposed on newly established commercial cannabis businesses. An unpermitted commercial cannabis business that can demonstrate to the City Manager's satisfaction that it is diligently applying to obtain the required permits and licenses, and that it is in good standing and otherwise in compliance with all applicable local and state laws and regulations, may, at the discretion of the City Manager, be temporarily permitted to continue its operations while its applications for the required permits and licenses are pending.

Section 17.64.080 Security Measures.

- (a) A permitted commercial cannabis business, regardless of building type utilized, shall implement sufficient security measures to both deter and prevent unauthorized

entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products at the commercial cannabis business. These security measures shall include, but shall not be limited to, all of the following, in addition to any other security measures deemed necessary by the City Manager or required pursuant to any regulations as may be promulgated by the City Manager in furtherance of the purposes of this Chapter:

- (1) Preventing both non-employees and employees from remaining on the premises of the commercial cannabis business if they are not engaging in bona fide business activity of the commercial cannabis business.
- (2) Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
- (3) Ensuring that live growing plants which are being cultivated are kept at a secured cultivation site of a commercial cannabis business, and that otherwise, all cannabis and cannabis products are stored in a secured and locked room, safe, or vault at all times. All cannabis and cannabis products, including live plants which are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.
- (4) Installing twenty-four (24) hour security surveillance cameras with night vision capability and of at least HD-quality to monitor all entrances and exits to and from the premises and to monitor all interior spaces, excluding all restroom and changing room facilities, within the commercial cannabis business. The security surveillance system shall be compatible with software and hardware utilized by the Arvin Police Department. The security surveillance system shall be capable of providing the Arvin Police Department with remote real-time/live access to the video footage during emergency situations, including but not limited to armed robbery, active shooter, hostage, and exposure to hazardous or volatile substances. Video recordings shall be maintained for a minimum of forty-five (45) days. Upon request by the Chief of Police, video recordings will provided to the Arvin Police Department within twenty-four (24) hours. If the commercial cannabis business refuses to provide the Chief of Police access to the real-time/live video feed or the requested video recordings, the City Attorney shall be authorized to seek reimbursement of all costs, including but not limited to court costs, attorney's fees, filing fees, administrative time and fees and employee time, incurred by the City while seeking a warrant and/or judicial intervention granting the requested access. The requirements of this Section shall be in addition to any other provision provided for within the Arvin Municipal Code.
- (5) Sensors shall be installed to detect entry and exit from all secure areas.
- (6) Panic buttons shall be installed in all commercial cannabis businesses.

- (7) A professionally installed, maintained, and monitored alarm system shall be maintained in operable condition at all times.
 - (8) Any bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building and shall be installed in compliance with all applicable requirements of the Arvin Municipal Code, California Building Code and California Fire Code.
 - (9) Each commercial cannabis business shall have the capability to remain secure and operational during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
 - (10) All security personnel to be hired or used by each commercial cannabis business shall be licensed by and in good standing with the State Bureau of Security and Investigative Services and shall submit to a fingerprint-based state and federal criminal history records check in accordance with Section 17.64.250(k). Security personnel shall be disqualified from employment or involvement with the commercial cannabis business if the results of the criminal history records check would constitute grounds for denial of an employee work permit pursuant to Section 17.64.090(e). At least one such security guard shall be on the premises of each commercial cannabis business during all operating hours. The City Manager may increase the number of security guards required to be on the premises of any commercial cannabis business as a condition of approval of any commercial cannabis application, if he or she deems such additional security guards necessary to adequately protect the premises based on the size or other characteristics of the commercial cannabis business or its premises.
- (b) Each commercial cannabis business shall provide the City Manager with the identity and contact information for a liaison who shall be reasonably available to meet and discuss compliance with the requirements of the Arvin Municipal Code, state law and/or any other regulations relating to the commercial cannabis activity.
 - (c) As part of the application and permitting process, each commercial cannabis business shall provide the City Manager with a detailed transportation plan describing the procedures for safely and securely transporting cannabis, cannabis products and/or currency.
 - (d) A commercial cannabis business shall notify the Chief of Police within twenty-four (24) hours after discovering any of the following:
 - (1) Significant discrepancies identified during inventory. The level of significance may be determined by regulations promulgated by the City Manager.
 - (2) Diversion, theft, loss or any criminal activity involving the commercial cannabis business, an employee or any agent of the commercial cannabis business.

- (3) The loss or unauthorized alteration of records referring or related to cannabis, cannabis products, employees or agents of the commercial cannabis business.
- (4) Any other breach of security.

Section 17.64.090 Employee Work Permits.

- (a) Every employee or independent contractor working at a commercial cannabis business or involved in delivery or distribution-related services for a commercial cannabis business shall obtain an Employee Work Permit. It shall be the responsibility of the commercial cannabis permit holder to ensure that Employee Work Permits are obtained from the City Manager prior to the employee or independent contractor commencing work. Persons who are listed as commercial cannabis permit holders shall not be required to obtain an Employee Work Permit if such person also serves as an employee or contractor for a commercial cannabis business.
- (b) Each prospective employee or independent contractor of a commercial cannabis business shall be required to submit an application to the City Manager so that a criminal history records check can be performed by the City or an agency authorized or requested to do so by the City. The application shall contain the following:
 - (1) Name, current resident address, and telephone number.
 - (2) Date of birth.
 - (3) Social security number, tax identification number or State of California identification card.
 - (4) Height, weight, eye color and hair color.
 - (5) Photographs for identification purposes (photographs shall be taken by the Arvin Police Department or another source deemed reliable and appropriate by the City Manager in his or her discretion).
 - (6) Signed consent to a fingerprint-based state and federal criminal history records check conducted by the City or an agency authorized or requested to do so by the City, including but not limited to fingerprint analysis conducted utilizing the California Department of Justice Live Scan system or any other system deemed necessary or appropriate in the discretion of the City Manager.
 - (7) Such other identification and information as deemed necessary and pertinent to the Employee Work Permit by the City Manager in his or her discretion.
 - (8) Authorization for the City Manager to seek verification of the information contained within the application.
 - (9) The name of the commercial cannabis business and commercial cannabis permit holder for which the applicant is seeking to work.

- (c) Every applicant for an Employee Work Permit shall provide the City with a non-refundable fee, as established by resolution of the City Council, to cover the City's costs of general review and processing Employee Work Permit Applications. A state and federal criminal history records check fee shall also be required in accordance with Section 17.64.250(k), except that the applicant may provide the City Manager with a completed state and federal criminal history check performed by a third party vendor, as deemed necessary or appropriate in the discretion of the City Manager, in which case no criminal history records check fee shall be required.
- (d) The City Manager, upon receiving a properly completed application, payment of the application fee, and payment of the criminal history records check fee or a completed third party criminal history records check, shall conduct an investigation into the information provided by the applicant. The investigation shall be completed within thirty (30) days of receiving the properly completed required application materials and fees. The City Manager shall provide the applicant with notice either approving or denying the requested Employee Work Permit within fifteen (15) days of completing the criminal history records check and investigation. The City Manager, in his or her sole discretion, may conditionally approve the issuance of an Employee Work Permit pending completion of the criminal history records check and investigation. Notice of the decision shall be personally served or mailed to the applicant via U.S. mail. Notice of the decision is presumed served upon the applicant at the time it is deposited within the U.S. mail. The decision of the City Manager on an Employee Permit shall be final, subject to judicial review pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within ninety (90) calendar days of the date of the decision.
- (e) An Employee Work Permit shall be denied based upon any of the following grounds:
 - (1) The employee-applicant has, at any time, been issued a local or state permit or license to conduct commercial cannabis activities in California or another state and the permit or license has been suspended or revoked, or the applicant has otherwise been subject to disciplinary action relating to the permit or license.
 - (2) The employee-applicant has been convicted of a serious or violent offense as listed within California Penal Code Sections 667.5 and 1192.7(c), or has been convicted of any other offense listed within Business and Professions Code Section 26057.
 - (3) The employee-applicant has been convicted of a misdemeanor involving theft, dishonesty, fraud, narcotics sales or narcotic trafficking within the five (5) years preceding the date of the application.
 - (4) The employee-applicant has been convicted of a felony involving the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined within the Federal Controlled Substance Act, unless the applicant received a Certificate of Rehabilitation as defined in said Act.

- (5) The employee-applicant has engaged in misconduct related to the qualifications, functions or duties of his or her position with the commercial cannabis business.
 - (6) The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business practices as defined by the Arvin Municipal Code and/or state or federal law.
 - (7) The employee-applicant is under the age of twenty-one (21), or any age as may be set by state law.
 - (8) The employee-applicant meets any of the conditions identified within Business and Professions Code Section 26057(b).
- (f) The City Manager may suspend or revoke an Employee Work Permit when the employee or independent contractor has committed any of the following acts:
- (1) Any action which would be grounds for denial of an Employee Work Permit.
 - (2) Any violation of this Chapter, the Arvin Municipal Code, or any other applicable state or federal law governing the commercial cannabis business or activity.
- (g) Prior to suspending or revoking an Employee Work Permit, the City Manager shall conduct a hearing. Written notice of the hearing shall be provided to the employee or independent contractor at least five (5) calendar days prior to the hearing. The notice shall contain the basis for suspending or revoking the Employee Work Permit. Notice may be provided by either personal service or U.S. mail. After the hearing, the City Manager shall provide notice of the decision whether to suspend or revoke the Employee Work Permit. The decision of the City Manager shall be final, subject to judicial review pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within ninety (90) calendar days of the date of the decision. The employee or independent contractor has no right to appeal the decision to the City Council.
- (h) The City Manager may immediately suspend an Employee Work Permit without notice or hearing, subject to appeal rights as set forth in this Chapter, under the following circumstances:
- (1) The employee or independent contractor is convicted of a public offense in any court for the violation of any law which would be grounds for denial of an Employee Work Permit.
 - (2) The City Manager or Chief of Police determines that immediate suspension is necessary to protect the public health, safety and welfare of the community. The City Manager shall provide notice of the grounds for immediate suspension of the Employee Work Permit and the suspension shall only be for as long as reasonably necessary to address the grounds which led to the suspension.

Section 17.64.100 Right to Occupy and to Use Property.

As a condition precedent to the City's issuance of a commercial cannabis permit pursuant to this Chapter, any person intending to open and to operate a commercial cannabis business shall provide sufficient evidence of the legal right to occupy and to use the proposed location. In the event the proposed location is leased from another person, the applicant for a permit under this Chapter shall provide a signed and notarized statement from the owner of the property to demonstrate the property owner has acknowledged and has consented to the operation of a commercial cannabis business on the property.

Section 17.64.110 Location of Commercial Cannabis Business - Proximity to Sensitive Uses.

- (a) Commercial cannabis activity shall be a conditional use within the following zoning districts of the City: M-1, M-2, M-3, A-1 and A-2 zoning districts. Except as otherwise provided in this Chapter, commercial cannabis activity is prohibited in all other zoning districts of the City.
- (b) No commercial cannabis business shall be located within one thousand feet (1,000') from any school, day care center, youth center, public park, or public library.
- (c) No commercial cannabis business may operate within any residential zoning district or area of the City.
- (d) A commercial cannabis business generally may not operate adjacent to, across a street or alley from, or within two hundred feet (200') of, any residential zoning district or area of the City. However, if an existing building or facility in a City zoning district enumerated in subsection (a) is located adjacent to or across a street or alley from a residential zoning district or area of the City, a commercial cannabis business may be permitted to operate in such location if, in the opinion of City Manager, the operation of a commercial cannabis business in such location would not tend to cause a public nuisance, nor a situation which may result in repeated police department responses or a negative impact on the adjacent residential units or dwellings. Any subsequent expansion of a commercial cannabis business permitted to operate in such a location, which expansion requires a new or amended commercial cannabis permit, shall also be subject to a determination by the City Manager that the expansion would not tend to cause a public nuisance or a situation which may result in repeated police department responses or a negative impact on the adjacent residential units or dwellings.
- (e) Commercial cannabis businesses shall be required to comply with all zoning, land use, and development regulations applicable to the underlying zoning district in which they are permitted to establish and operate as set forth in Title 17 of the Arvin Municipal Code.
- (f) Any commercial cannabis business which has been determined by the City Manager to be an existing commercial cannabis business on the effective date of the Ordinance codified in this Chapter shall be exempt from compliance with the

limitations prescribed in this Section, unless such location is otherwise determined to constitute a public nuisance or otherwise a disturbance to the adjacent or neighboring uses as determined by the provisions of this Chapter.

Section 17.64.120 Alcohol and Tobacco Restrictions.

- (a) In accordance with Business & Professions Code Section 26054, as amended, no commercial cannabis business shall cause or allow the sale (whether retail or wholesale) of alcoholic beverages or tobacco products on or at its premises.
- (b) No commercial cannabis business shall cause or allow alcoholic beverages to be dispensed or consumed on or at its premises.
- (c) No commercial cannabis business shall operate in a location that requires persons to pass through a business that sells alcohol or tobacco to access the premises of the commercial cannabis business, or that requires persons to pass through the premises of the commercial cannabis business to access a business that sells tobacco or alcohol.
- (d) No commercial cannabis business shall operate in a location that is adjacent to a business that sells alcoholic beverages at retail.

Section 17.64.130 Concurrent Regulation with State.

It is the stated intent of this Chapter to regulate commercial cannabis activity in the City concurrently and consistent with State laws and regulations, and the provisions of this Chapter shall be construed in accordance with that intent.

Section 17.64.140 Compliance with Laws.

- (a) It shall be the responsibility of the commercial cannabis permit holder, including its owners and operators, to ensure that the permitted commercial cannabis business is, at all times, operating in compliance with all applicable state and local laws and regulations, as amended, and any conditions of approval of a State license or City-issued commercial cannabis permit or other entitlement.
- (b) Nothing in this Chapter shall be construed as an authorization of any action or conduct in violation of state law or local law with respect to the operation of a commercial cannabis business.
- (c) Nothing in this Chapter shall be construed as an authorization by the City, its elected or appointed officials, employees, agents, representatives and/or consultants, collectively or individually, of any conduct in violation of federal law.

Section 17.64.150 Inspections and Enforcement.

- (a) No commercial cannabis business shall commence operation, and no commercial cannabis permit application or conditional use permit application shall be approved for any commercial cannabis business, unless and until:

- (1) The City Manager and Police Chief have inspected the premises of the commercial cannabis business and reviewed all written procedures, standards and protocols developed by such business pursuant to this Chapter, and have confirmed in writing that the business is in compliance with all applicable requirements of this Chapter; and
 - (2) The Fire Chief and Building Official have inspected the premises of the commercial cannabis business and reviewed all written procedures, standards and protocols developed by such business pursuant to this Chapter, and have confirmed in writing that the premises are in compliance with the California Building Standards Code and the State Fire Marshal regulations, as adopted by the City, and all other building and fire safety-related requirements applicable to the business; and
 - (3) The Kern County Environmental Health Division has inspected the premises of the commercial cannabis business and all written procedures, standards and protocols developed by such business pursuant to this Chapter, and has confirmed in writing that the premises are in compliance with the provisions of this Chapter and applicable state law relating to edible cannabis products and storage and disposal of waste, chemicals and hazardous materials, to the extent applicable to the commercial cannabis business.
- (b) In addition to the initial permit inspections pursuant to subsection (a) and after permitted commercial cannabis business activities have commenced, the City, the Fire Chief and the Kern County Environmental Health Division are authorized to conduct reasonable unannounced and suspicionless inspections of the interior and exterior premises of any commercial cannabis businesses at any time during regular hours of operation for the purpose of ensuring compliance with this Chapter and applicable state law as specified in subsection (a).
- (c) Each commercial cannabis business shall be subject to two mandatory inspections conducted by the City and two mandatory inspections conducted by the County pursuant to subsection (b) per calendar year. Notwithstanding the foregoing, further inspections may be conducted at any time in response to complaints received by the City relating to violations on the premises of a commercial cannabis business.
- (d) During all inspections conducted pursuant to this Section, the inspecting officials are authorized to photograph and otherwise document the conditions on the premises, and to take such other measures as are reasonably necessary to ascertain whether the business is in compliance with this Chapter, subject to adherence to all HIPAA rights and all other applicable privacy rights unrelated to the purpose and intent of the inspection. Samples of cannabis and cannabis products may be temporarily taken from the commercial cannabis business and retained for the minimum time and to the minimum extent necessary to ascertain compliance with this Chapter, provided that any such samples shall be logged, recorded, and maintained in accordance with the Arvin Police Department standards for evidence.

- (e) For all inspections required by this section (not including complaint-based inspections), inspection fees sufficient to cover the costs of such inspections shall be paid by each commercial cannabis business as part of such business' commercial cannabis permit application and renewal fees.
- (f) Failure or refusal of a commercial cannabis business, or any owner, manager, employee or agent thereof, to grant access to its premises of the commercial cannabis business to facilitate any inspection pursuant to this Section shall constitute a violation of this Chapter, and shall constitute grounds for the City to obtain an inspection warrant to inspect the commercial cannabis business in accordance with State law. The City is authorized to seek reimbursement from the commercial cannabis permit holder and/or the commercial cannabis business for all costs, including but not limited to court costs, attorneys' fees, and administrative expense, incurred in obtaining such an inspection warrant.
- (g) For purposes of this Section, the "City" shall mean and include the City Manager, the Building Official, and the Police Chief, and "County" shall mean the Fire Chief and the Kern County Environmental Health Division. A joint inspection of a commercial cannabis business conducted concurrently by more than one of the foregoing officials shall constitute one inspection for purposes of this Section.
- (h) All inspections shall be subject to adherence to applicable HIPPA rights and other applicable privacy rights unrelated to the purpose and intent of the inspections.
- (i) The requirements and remedies set forth in this Section shall be in addition to all other applicable provisions of the Arvin Municipal Code.

Section 17.64.160 Fees and Charges.

- (a) No person may commence or continue any commercial cannabis activity in the City without timely paying in full all fees, costs, penalties and charges associated with the operation of a commercial cannabis activity. Fees and charges associated with the operation of a commercial cannabis activity shall be established by resolution or ordinance of the City Council.
- (b) All commercial cannabis businesses operating pursuant to this Chapter shall pay any and all applicable sales, use, business or other taxes, and all license, registration, or other fees required pursuant to federal, state, and local law.

Section 17.64.170 Violations and Enforcement.

- (a) Any person that violates any provision of this Chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized pursuant to this Chapter and/or the provisions of the Arvin Municipal Code.
- (b) Each and every violation of this Chapter shall constitute a separate violation and shall be penalized pursuant to this Chapter and/or the provisions of the Arvin Municipal Code.

- (c) Any person who violates, causes, continues or permits another to violate the provisions of this Chapter commits a misdemeanor and shall be punishable in accordance with Chapter 1.08.010 of the Arvin Municipal Code. The City may also pursue all applicable civil and administrative remedies, including but not limited to injunctive relief and administrative citations. Should a court of competent jurisdiction subsequently determine that the misdemeanor criminal penalty provision renders the provisions of this Chapter, or the provisions of any Chapter adopted by reference within the Arvin Municipal Code unlawful, the City intends that the misdemeanor provision be severable from the remaining penalty provisions and the City will only pursue criminal infraction penalties and/or non-criminal remedies for violations of this Chapter.
- (d) Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance which may be abated by the City pursuant to the Arvin Municipal Code.
- (e) The administrative citation penalty for all violations of this Chapter, within a rolling twelve (12) month period shall be as follows: one thousand dollars and no cents (\$1,000.00) per violation.
- (f) In addition to any other remedy or enforcement mechanism provided within this Chapter or any other provision of the Arvin Municipal Code, the City may commence a civil action seeking any other relief or remedy available at law or in equity.
- (g) The provisions of this Chapter are complimentary, cumulative, supplementary, and additional to any other legal remedies available, whether found in the Arvin Municipal Code, state or federal laws, regulations, or case law.
- (h) The City Manager may suspend or revoke a commercial cannabis permit when the permit holder or anyone acting on their behalf has committed any of the following acts or maintained any of the following conditions:
 - (1) Any action or condition which would be grounds for denial of a commercial cannabis permit.
 - (2) Any violation of this Chapter, the Arvin Municipal Code, or any other applicable state or federal law governing the commercial cannabis business or activity, or any applicable condition of approval of the commercial cannabis permit.
- (i) Prior to suspending or revoking a commercial cannabis permit, the City Manager shall conduct a hearing. Written notice of the hearing shall be provided to the permit holder at least five (5) calendar days prior to the hearing. The notice shall contain the basis for suspending or revoking the commercial cannabis permit. Notice may be provided by either personal service, U.S. mail and/or posting or depositing the notice at the commercial cannabis business. After the hearing, the City Manager shall provide notice of the decision whether to suspend or revoke the commercial cannabis permit. The decision of the City Manager shall be final, subject to judicial review

pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within ninety (90) calendar days of the date of the decision. The commercial cannabis permit holder has no right to an administrative appeal of the decision.

- (j) The City Manager may immediately suspend a commercial cannabis permit without notice or hearing, subject to appeal rights as set forth in this Chapter, under the following circumstances:
 - (1) The commercial cannabis permit holder is convicted of a public offense in any court for the violation of any law which would be grounds for denial of a commercial cannabis permit.
 - (2) The City Manager, Chief of Police, Fire Chief or any other authorized public safety or building official determines that immediate suspension is necessary to protect the public health, safety and welfare of the community. The City Manager shall provide notice of the grounds for immediate suspension of the commercial cannabis permit, and the suspension shall only be for as long as reasonably necessary to address the grounds which led to the suspension.

Section 17.64.180 Limitations on City's Liability.

To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to having issued a commercial cannabis permit or otherwise approving the operation of any commercial cannabis business pursuant to this Chapter. As a condition of approval of any commercial cannabis permit issued pursuant to this Chapter, the person to which a commercial cannabis permit is issued shall be required to meet all of the following conditions:

- (a) Execute an agreement indemnifying, defending (at its sole cost and expense), and holding the City and its officers, employees, representatives, and agents harmless from any and all claims, losses, damages, injuries or liabilities associated with permitting or approving the operation of a commercial cannabis activity or the operation thereof or associated with the commercial cannabis business or its members' violation of any federal, state or local laws.
- (b) Maintain insurance at coverages, limits, and with conditions thereon determined necessary by the City Manager, in consultation with the City Attorney. Commercial General Liability insurance shall be maintained at all times with coverage limits that meet or exceed two million dollars (\$2,000,000.00) per occurrence and in the aggregate. In the alternative to maintaining Commercial General Liability, a commercial cannabis permit holder may post a bond, in a form subject to approval by the City Attorney, with the City in the minimum amount of two million dollars (\$2,000,000.00). The City Manager may, in his or her sole discretion, increase the minimum bond amount required by a commercial cannabis permit holder.
- (c) The City may terminate a commercial cannabis permit for failure to maintain the required insurance or bond. The City may provide a commercial cannabis permit holder with written notice of its intent to terminate the commercial cannabis permit and for failure to maintain the required insurance or bond. Within seven (7) calendar

days from the date upon the notice of intent to terminate, a commercial cannabis permit holder shall tender to the City proof that it has obtained the required insurance or posted the required bond. If a commercial cannabis permit holder fails to timely provide proof of the required insurance or bond to the City, the commercial cannabis permit shall be terminated and the commercial cannabis permit holder shall immediately cease all commercial cannabis business activities. Failure to immediately cease all commercial cannabis business activities shall subject the commercial cannabis permit holder to the penalties, enforcement and cost recovery provisions established within the Arvin Municipal Code and any other legal remedies available to the City.

- (d) Reimburse the City for any and all costs and expenses, including attorney fees and costs and court costs that the City may be required to pay as a result of any legal challenge related to the City's approval of a commercial cannabis permit pursuant to this Chapter or the City's approval of the operation of a commercial cannabis activity. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the obligations imposed under this Section.

Section 17.64.190 Commercial Cannabis Permit Application Procedures and Requirements.

- (a) In addition to the authority granted pursuant to the express provisions of this Section and Chapter, to the extent consistent with this Chapter and other applicable law, the City Council may by resolution adopt such fees, and the City Manager may adopt such forms and procedures, as are necessary to implement this Chapter with respect to the review, processing, evaluation, selection, investigation, approval, denial, renewal, suspension, and revocation of commercial cannabis permits and related appeals.
- (b) The owner of a proposed commercial cannabis operation shall file an application with the City Manager upon a form provided by the City and shall pay an application filing fee in an amount set by resolution by resolution of the City Council, as may be amended from time to time.
- (c) Each commercial cannabis permit application shall contain, at minimum, the following:
 - (1) The printed full name, signature, date of birth, social security number, and present address and telephone number of all persons and entities responsible for the operation of the commercial cannabis business including managers, corporate officers, investors, any individual with an ownership interest, any member of a board of directors, any general or limited partner, and/or any member of a decision-making body for the commercial cannabis business.
 - (2) The address to which correspondence from the City of Arvin is to be sent.

- (3) The names and addresses of all businesses operated by and the employment of the applicant(s) for the five (5) years immediately preceding the date of the application.
- (4) Any litigation in which the applicant(s) has been involved within the five (5) years immediately preceding the date of the application and a statement of whether any business currently operated by the applicant(s) or operated by the applicant(s) within the five (5) years immediately preceding the date of the application has been investigated or the permit or license authorizing the operation of such business has been revoked or suspended within the five (5) years immediately preceding the date of the application.
- (5) The address of any commercial cannabis business currently being operated by the applicant(s), or any of them, or which have been previously operated by them.
- (6) The supply sources and product supply chain for all cannabis and cannabis products sold at the commercial cannabis business, including the site(s) where cultivation occurs, where the cannabis or cannabis products are processed or manufactured, any required testing of cannabis or cannabis products, distribution information, and packaging and labelling criteria.
- (7) The names and telephone numbers of the person(s) to be regularly engaged in the operation of the proposed commercial cannabis business, whether as an employee, volunteer or contractor. The application shall also contain the names and telephone numbers of those persons having management and supervisory responsibilities for the proposed commercial cannabis business.
- (8) Odor control devices and techniques to prevent odors from marijuana from being detectable off-site.
- (9) Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated or excess medical cannabis product.
- (10) Procedures for inventory control to prevent diversion of cannabis and cannabis product, employee screening, storage of cannabis and cannabis product, personnel policies, and record-keeping procedures.
- (11) A detail of the operating procedures to be utilized at the facility, including a description of how chemicals and fertilizers will be stored, handled, used and disposed of, manufacturing methods, the transportation process, inventory procedures, and quality control procedures.
- (12) A site plan and floor plan of the commercial cannabis business denoting the property lines and the layout of all areas of the commercial cannabis business including storage, cultivation, manufacturing, testing, distributing, reception or waiting areas, and all ancillary support spaces, and the relationship of the facility to adjacent properties and land uses.

- (13) Size, height, colors, and design of any proposed signage at the site. A City of Arvin sign permit issued pursuant to the Arvin Municipal Code shall be required.
 - (14) An operations and security plan.
 - (15) Standard operating procedures detailing how operations will comply with state and local regulations, how safety and quality of products will be ensured, record-keeping procedures for financing, testing, and adverse event recording, and product recall procedures.
 - (16) Proposed hours of operation.
 - (17) Recycling and waste disposal information.
 - (18) Youth access restriction procedures.
 - (19) A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
 - (20) A detailed description of energy and water usage plan enumerating best practices and leading industry practices in efficient utilization of both resources.
 - (21) Any other information deemed necessary by the City Manager.
- (d) A commercial cannabis permit application shall be denied based upon any of the following grounds:
- (1) The applicant has been issued a local or state permit or license to conduct commercial cannabis activities in California or another state and the permit or license has been suspended or revoked, or the applicant has been subjected to disciplinary action relating to the permit or license.
 - (2) The applicant has been convicted of a serious or violent offense as listed within California Penal Code Sections 667.5 and 1192.7(c), or the applicant has been convicted of any other offense listed within Business and Professions Code Section 26057.
 - (3) The applicant has been convicted of a misdemeanor involving theft, dishonesty, fraud, narcotics sales or narcotic trafficking within the five (5) years preceding the date of the application.
 - (4) The applicant has been convicted of a felony involving the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined within the Federal Controlled Substance Act, unless the applicant received a Certificate of Rehabilitation as defined in that Act, within the ten (10) years preceding the date of the application.

- (5) The applicant has engaged in misconduct related to the ownership, qualifications, functions or duties of their position with the commercial cannabis business.
- (6) The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business practices as defined by the Arvin Municipal Code and/or state or federal law.
- (7) The applicant is under the age of twenty-one (21), or any age as may be set by state law.
- (8) The applicant fails to meet the requirements of this Chapter or other applicable state or local laws or regulations.
- (9) The applicant has not been approved for or has not agreed to a development agreement pursuant to Section 17.64.200.
- (10) The applicant has not been issued a conditional use permit pertaining to the location of the commercial cannabis business pursuant to Section 17.64.210 and Chapter 17.56.

A conviction within the meaning of this Chapter means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

This Section shall not constitute an exhaustive list of grounds for denial of a commercial cannabis application. The City Manager may promulgate regulations identifying additional grounds for denial.

- (e) The City Manager shall review each application to determine whether it contains all of the required information. If the application does not contain all of the required information, it shall be returned to the applicant for completion. The City Manager shall endeavor to conclude his or her review within ninety (90) days of the filing of the application. If additional time is necessary, the City Manager will advise the applicant of an estimated review time.
- (f) In reviewing an application for a commercial cannabis permit, the City Manager may request whatever additional information is deemed necessary to determine whether the application meets the requirements of this Chapter or other applicable local laws or regulations.
- (g) The City Manager shall have the authority to either grant or deny the application for a commercial cannabis permit. Notwithstanding any other provision of this Chapter, the City Manager, when approving a commercial cannabis permit, may place any additional limitations and conditions on the operation of a commercial cannabis business as he or she deems necessary, consistent with the public interest and with this Chapter.
- (h) When an application is denied, the City Manager shall provide a statement of decision giving the reasons for the denial and the findings upon which the decision is

based. Notice of the denial may be provided by either personal service or U.S. mail. Notice is presumed to be served upon the applicant once deposit into the U.S. mail. Any person denied a commercial cannabis permit shall have the right to appeal such denial in accordance with this Section.

- (i) Any appeal of a denial of an application shall be filed and conducted as prescribed in this subsection.
 - (1) Within ten (10) calendar days from the date of the denial of an application, an aggrieved party may appeal such action by filing with the City Clerk a written appeal setting forth the grounds for reversing the denial. The time requirement for filing an appeal shall be deemed jurisdictional and may not be waived. Appeals not timely filed or not setting forth the basis for the appeal are defective and shall be dismissed.
 - (2) Upon receipt of such written appeal, the City Clerk shall set the matter for a hearing before the City Manager. The hearing shall be conducted pursuant to the following procedures:
 - i. All hearings shall be recorded. Any party may, at their sole expense, have the hearing transcribed by a certified shorthand reporter;
 - ii. Hearings need not be conducted according to the technical rules of evidence;
 - iii. Any relevant evidence shall be admitted, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state;
 - iv. Oral evidence shall be taken only on oath or affirmation. The City Manager shall have the power to administer oaths;
 - v. Irrelevant and unduly repetitious evidence shall be excluded;
 - vi. Each party shall have the right to: call and examine witnesses on any matter relevant to the issues of the hearing; introduce documentary and physical evidence; cross-examine opposing witnesses on any matter relevant to the issues of the hearing, subject to the control of the City Manager, including the imposition of reasonable alternatives to cross-examination; impeach any witness regardless of which party first called the witness to testify; rebut the evidence; and be represented by anyone who is lawfully permitted to do so;
 - vii. The City Manager may take official notice, either during the hearing or after submission of the matter for decision, of any fact which may be judicially noticed by the courts of this state or of official records, regulations, rules, and decisions of state and local agencies, boards and departments and of City ordinances. In addition, the City

Manager may take official notice of matters in its own files and of prior proceedings under this chapter involving the same issues. If applicable, the City Manager may also take official notice of any generally accepted technical or scientific matter within their expertise. The parties present at the hearing shall be informed of the matters to be noticed, and those matters should be noted in the record, referred to therein, or appended thereto. Any such party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority; and

- viii. The City Manager may provide for reasonable continuances of the hearing, on his/her own initiative or at the request of a party, as necessary to properly conduct the appeal.

The hearing shall be set for hearing in a reasonable time after the date of filing the appeal with the City Clerk, but in no event later than ninety (90) days from the date of such filing. At least ten (10) days prior to the date of the hearing on the appeal, the City shall notify the appellant of the time and the place of the hearing. Notice may be provided by either personal service or U.S. mail. Notice is presumed to be served upon deposit into the U.S. mail.

- (3) At the conclusion of the hearing, the City Manager shall deliberate and reach a decision within fifteen (15) calendar days. The decision and the reason(s) for the decision shall be reduced to writing. The City Manager may affirm, reverse, or modify the denial issued pursuant to this Code as the facts and law warrant, subject to the following limitations:
 - i. The City Manager shall not have authority to waive any requirements of the Arvin Municipal Code or other applicable law.
 - ii. Nothing in these procedures shall be deemed to authorize the City Manager to deviate from unambiguous provisions of the governing code or statute, or well established interpretations of the same, based upon expert opinions or other reliable evidence.

A copy of the decision shall be sent by mail or otherwise to the appellant. Where known, a copy may also be provided by email.

- (4) The decision of the City Manager shall subject to a further administrative appeal to the Planning Commission, which shall be conducted in accordance with the procedures and requirements applicable to the appeal to the City Manager pursuant to this subsection.
- (5) The decision of the Planning Commission on the appeal shall constitute a final administrative decision. The appellant may thereafter file a petition for writ of mandate in superior court pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within ninety (90) calendar days of the date of the decision.

Section 17.64.200 Development Agreement.

Prior to operating in the City and issuance of a certificate of occupancy, in addition to satisfying the other requirements of this Chapter, a commercial cannabis business shall apply for and enter into a development agreement with the City.

- (a) Content and Procedures.
 - (1) Development agreements required pursuant to this Chapter shall set forth the terms and conditions under which the commercial cannabis business will operate that are in addition to the requirements of this Chapter, including, but not limited to, public outreach and education, community benefit, community service, payment of fees and other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety, and welfare of the City.
 - (2) The procedures for development agreements shall comply with this Chapter, Chapter 16.40 of the Arvin Municipal Code, and Article 2.5 of Chapter 4 of Division 1 of Title 7 of the California Government Code. To the extent there is a conflict between this Chapter and Chapter 16.40 of the Arvin Municipal Code with respect to a development agreement for a commercial cannabis business, this Chapter shall govern.
- (b) Application Requirements.
 - (1) Applicants must have a pending application for a commercial cannabis permit on file with the City, must hold a City-issued conditional use permit issued pursuant to Section 17.64.210 and Chapter 17.56 for the real property that will be the site of the commercial cannabis business, and must hold a legal or equitable interest in the real property that will be the site of the commercial cannabis business.
 - (2) Each applicant shall provide, to the satisfaction of the City Manager, written proof of its legal or equitable interest in the real property of the commercial cannabis business site, as well as proof of the authority of the agent or representative to act for the applicant.
 - (3) The City Manager shall prescribe the form for each application, notice and documents provided for or required under this Section for the preparation and implementation of development agreements. The applicant shall complete and submit such an application form to the City Manager, along with a deposit for the estimated direct and indirect costs of processing the development agreement. The applicant shall deposit any additional amounts for all costs and fees to process the development agreement, including all legal fees, within fifteen (15) days of request by the City Manager. Upon either completion of the application process or withdrawal of the application, the City shall refund any remaining deposited amounts in excess of the costs of processing.

- (4) The City Manager shall require an applicant to submit such information and supporting data as the City Manager considers necessary to process the application, including but not limited to a community benefit assessment to evaluate the benefits the development agreement will provide to the community.
- (c) Processing Requirements.
- (1) The City Manager shall endorse on the application the date it is received. An application or related document shall not be complete until an estimated deposit for the cost of processing has been paid to the City. The City Manager shall review the application and determine any additional requirements necessary to complete processing of the agreement. If within thirty (30) days of receiving the application the City Manager finds that all required information has not been submitted or the application is otherwise incomplete or inaccurate, the processing of the application and the running of any limits shall be suspended upon written notice to the applicant and a new thirty (30) day period shall commence once the required material is received by the City Manager.
 - (2) If the City Manager finds that the application is complete, it shall be accepted for filing and the applicant so notified. After receiving the required information and determining that the application is complete, the City Manager shall prepare a staff report and recommendation to the Planning Commission and City Council stating whether or not the agreement as proposed or in an amended form would be consistent with policies of the City, this Chapter and any applicable general or specific plan. The City Attorney shall review the proposed development agreement as to legal form.
 - (3) Notice of a hearing regarding the development agreement shall be given by the City Manager and shall comply with the requirements of Section 65867 of the California Government Code, as may be amended, as well as in the manner set forth in this Code.
 - (4) The Planning Commission shall review the proposed development agreement and provide a recommendation to the City Council to approve, approve with modifications or deny the proposed development agreement. If the Planning Commission fails to take action within sixty (60) days of opening the hearing on the matter, such failure shall be deemed to have made a recommendation of denial to the City Council unless the applicant has requested an extension of time, either in writing or on the record, which has been approved by the Planning Commission prior to the running of the sixtieth day.
 - (5) The proposed development agreement shall be set for hearing and consideration before the City Council within sixty (60) days of the recommendation of the Planning Commission, unless the applicant agrees in writing to an extension of time with the City Manager prior to the matter being heard by the City Council.

- (6) Within ten (10) calendar days after the City enters into the development agreement, the City Clerk shall have the agreement recorded with the County Recorder. If the parties to the agreement or their successors in interest amend or cancel the agreement as provided in Section 65868 of the California Government Code, or if the City terminates or modifies the agreement as provided in Section 65865.1 of the California Government Code for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the City Clerk shall have notice of such action recorded with the County Recorder.
- (d) Findings and Development Agreement Conditions. After the City Council completes the public hearing, the City Council may not approve the development agreement unless it finds that the provisions of the agreement:
 - (1) Are consistent with the goals, objectives, and policies of the general plan and any applicable specific plan;
 - (2) Are compatible with the uses authorized in and the regulations prescribed for the zoning district and area in which the real property is located;
 - (3) Will not be detrimental to the health, safety, environmental quality, and general welfare of the community;
 - (4) Will provide for or result in contributions, services or facilities that benefit the community, which may include, but are not limited to, public facilities, improvements, and services, parks, recreation and open space improvements, public art, youth sports programs, other public youth benefit programs, substance abuse awareness and recovery programs, and other public service programs.
 - (5) Will not adversely affect the orderly development of property or the preservation of property values;
 - (6) Provides for payment by the application of all costs associated with preparing and entering into the agreement; and
 - (7) Provides for a reasonable penalty for any violation of the development agreement.
 - (e) Modifications and Extensions.
 - (1) The provisions of Section 65868 of the California Government Code shall apply for all modifications, extensions or other amendments of the terms of a development agreement subject to this chapter.
 - (2) Either party may propose an amendment or termination of an approved development agreement subject to the following:

- i. The procedure for amending or terminating the development agreement is the same as the procedure for entering into an agreement in the first instance.
- ii. The development agreement may be amended or cancelled only by the mutual consent of the parties, as provided in Section 65868 of the California Government Code.

Nothing herein shall limit the City's ability to terminate or modify the agreement consistent with Section 65865.1 or 65865.3 of the California Government Code, or as may be amended.

Section 17.64.210 Conditional Use Permits.

- (a) Except as otherwise stated herein, the procedure for filing of applications, filing fees, investigations, notices, public hearings, findings, and appeals of denials of conditional use permits required for commercial cannabis businesses pursuant to this Chapter shall be as stated in Section 17.56.020, as amended.
- (b) Applications. In addition to the application requirements pursuant to Section 17.56.020, as amended, applications for conditional use permits for commercial cannabis businesses pursuant to this Chapter shall contain the following information:
 - (1) The City zoning district, street address, legal description, and assessor's parcel number of the subject real property to be used as the site of the commercial cannabis operation.
 - (2) A general description of the subject property and the area surrounding the subject property, including proposed and existing land uses and existing physical characteristics.
 - (3) Payment of all required application fees.
 - (4) A statement of whether the subject property is located within 1,000 feet of any school, day care center, youth center, park or library.
 - (5) A statement of whether the subject property is located adjacent to or across a street or alley from any residential zoning district of the City.
 - (6) An agreement by the applicant to comply with all state and local laws and regulations applicable to the operation of the proposed commercial cannabis business on the subject property, including but not limited to the prohibitions of Section 17.64.120 relating to the sale and consumption of alcohol on the premises of the proposed commercial cannabis business.
 - (7) An agreement by the applicant to comply with the terms of any and all mitigation measures adopted, imposed or adhered to by the City pursuant to the California Environmental Quality Act relating to or affecting the operation of a commercial cannabis business on the subject property.

- (8) An agreement by the applicant to indemnify, defend (at its sole cost and expense), and hold harmless the City and its officers, employees, representatives, and agents from any and all claims, losses, damages, injuries or liabilities associated with permitting or approving the operation of a commercial cannabis activity or the operation thereof on the site, or associated with the commercial cannabis business or its members' violation of any federal, state or local laws.
 - (9) A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
 - (10) Any other deemed necessary, by the City Manager, in his or her discretion, to determine whether the applicant meets the requirements of this Chapter or other applicable requirements of state or local laws or regulations, or to further the purpose and intent of this Chapter.
- (c) Applicants for conditional use permits pursuant to this section shall be required to pay a supplemental conditional use permit application fee, in an amount set by resolution of the City Council, to cover the City's costs of general review and processing of conditional use permit applications pursuant to this Chapter in excess of the costs of processing a general conditional use permit application pursuant to Chapter 17.56. The fee established herein shall be additional to the fee required for general conditional use permit applications pursuant to Chapter 17.56 and all other applicable fees and charges.
- (d) Required Inspections and Conditions of Approval.
- (1) No conditional use permit shall be granted to a commercial cannabis business unless and until:
 - (1) The applicant has submitted a completed application for a commercial cannabis permit to the City Manager pursuant to Section 17.64.190, including payment of all required application fees;
 - (2) The applicant has been approved for and has agreed to the terms of a development agreement pursuant to Section 17.64.210 and Chapter 17.56; and
 - (3) All required inspections have been conducted pursuant to Section 17.64.150.
 - (2) Any of the authorities specified in subsection (d)(1) may recommend conditions of approval which may be imposed by the Planning Commission

in connection with any conditional use permit granted by the Planning Commission pursuant to this Section.

(e) Approval

- (1) No conditional use permit shall be issued to a commercial cannabis business unless the applicant satisfies all the requirements of this Section, Chapter 17.56, and all other applicable requirements of the Arvin Municipal Code and State law.
- (2) No conditional use permit shall be issued to a commercial cannabis business unless and until a development agreement has been approved for the commercial cannabis business pursuant to Section 17.64.200.
- (3) No conditional use permit shall be issued to a commercial cannabis business if it would be inconsistent with the terms of a development agreement entered into pursuant to Section 17.64.200.
- (4) Notwithstanding subsection (d)(2), in order to streamline the permitting process for a commercial cannabis business, the Planning Commission may approve the issuance of a conditional use permit to a commercial cannabis business, contingent upon City Council approval of a development agreement pursuant to Section 17.64.200, at the time that the Planning Commission recommends approval of such a development agreement to the City Council.

- (f) Suspension and Revocation. The City's Planning Commission may suspend or revoke a conditional use permit issued to a commercial cannabis business in accordance with Chapter 17.56. Notwithstanding the foregoing, in addition to the grounds set forth in Chapter 17.56 for suspension or revocation of a conditional use permit, failure to utilize the subject property for the use authorized in a conditional use permit within six months of its issuance, unless an extension is granted by the City Manager, shall constitute a basis for denial or suspension of the conditional use permit.

Section 17.64.220 Records and Reporting.

- (a) Subject to HIPAA rights and regulations unrelated to the purpose and intent of the inspection, each commercial cannabis business shall allow City officials, upon request, to inspect the commercial cannabis business' books, records, accounts, and any and all data relevant to its permitted activities for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data shall be produced within no later than twenty-four (24) hours after receipt of the City's request. Failure to timely provide the requested records may result in immediate suspension of the commercial cannabis permit.
- (b) Each commercial cannabis business shall file with the City Manager an audit of its financial operations for the previous fiscal year, complete and certified by an

independent certified public accountant in accordance with generally accepted auditing and accounting principles. The audit shall include, but not be limited to, a discussion, analysis, and verification of each of the records required to be maintained pursuant to this Chapter. The information contained in the audit shall be made available in standard electronic format which shall be compatible with Microsoft Office programs and software and which can easily be imported into either Excel, Access or any other contemporary software designated by the City Manager.

- (c) All commercial cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the cultivation, or manufacturing, laboratory testing and distribution processes until sold or delivered.
- (d) Each commercial cannabis business shall maintain a current register of all employees currently employed by the commercial cannabis business and shall disclose such register to any City official upon request.
- (e) All records required by this Chapter shall be maintained by commercial cannabis businesses for a period of not less than seven (7) years, and commercial cannabis businesses shall otherwise maintain accurate records of all commercial cannabis activities. All such records shall be made available for inspection by the City upon request consistent with California Business and Professions Code Section 26160 and any additional rules promulgated by the State, or by the City pursuant to this Chapter.

Section 17.64.230 Prohibition on Transfer of Commercial Cannabis Permits.

- (a) No commercial cannabis business shall operate under a commercial cannabis permit issued pursuant to this Chapter at any place or location other than that identified in the commercial cannabis permit.
- (b) Any permit issued pursuant to this Chapter shall be null and void upon sale or transfer of ownership of the commercial cannabis business unless prior approval is given by the City Manager and the proposed transferee submits all required application materials and pays all applicable fees and charges and independently meets the requirements of this Chapter.
- (c) Any attempt to transfer or any transfer of a commercial cannabis permit issued pursuant to this Chapter shall be void and the commercial cannabis permit shall be deemed immediately revoked and no longer of any force or effect.

Section 17.64.240 Packaging and Labelling.

No commercial cannabis business shall sell or deliver any cannabis or cannabis product, including any edible or other manufactured cannabis product, unless the same has been properly labeled and packaged in tamper-evident packaging in accordance with State law, including but not limited to California Business and Professions Code Section 26120, as may be amended from time to time. The City Manager may promulgate regulations imposing additional packaging and labelling requirements on cannabis or cannabis products.

Section 17.64.250 General Operating Requirements.

In addition to those operating requirements specifically set forth elsewhere in this Chapter and except as may otherwise be expressly set forth in this Chapter, the following operating requirements shall apply to all commercial cannabis businesses operating in the City of Arvin.

- (a) Hours of Operation. Commercial cannabis businesses may be open for business operations between the hours of eight (8:00) a.m. and seven (7:00) p.m., Monday through Sunday.
- (b) Restriction on Consumption. Cannabis shall not be consumed on the premises of any commercial cannabis businesses or elsewhere in the City other than at private residences.
- (c) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of the property. No outdoor storage of cannabis or cannabis products is permitted at any time.
- (d) Reporting and Tracking of Product and of Gross Sales. Each commercial cannabis business shall have in place a point-of-sale tracking system to track and to report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, and gross sales (by weight and by sale) and shall ensure that such information is compatible with the city's recordkeeping systems. The system must have the capability to produce historical transactional data for review by the City. All information provided to the City pursuant to this subsection shall be confidential and shall not be disclosed, except as may otherwise be required under law.
- (e) All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and distributed by State licensees that maintain operations in full conformance with the state and local laws and regulations.
- (f) Emergency Contact. Each commercial cannabis business shall provide the City Manager with the name, telephone number (mobile preferred, if available) of an on-site employee or owner to whom emergency notice can be provided.
- (g) Signage and Notices.
 - (1) In addition to the requirements otherwise set forth in this Section, business identification signage for a commercial cannabis business shall conform to the requirements of the Arvin Municipal Code, including, but not limited to, issuance of a City of Arvin sign permit.
 - (2) Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the

premises of the commercial cannabis business or elsewhere including, but not limited to, the public right-of-way.

- (3) No signs placed on the premises of a commercial cannabis business shall obstruct any entrance or exit to the building or any window.
 - (4) Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.
 - (5) Signage shall not be directly illuminated, internally or externally. No banners, flags or other prohibited signs may be used at any time.
- (h) Minors. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a commercial cannabis business. It is unlawful and a violation of this Chapter for any person to employ any person at a commercial cannabis business who is not at least twenty-one (21) years of age. The entrance to the commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the commercial cannabis business.
- (i) Odor Control. Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. As such, commercial cannabis businesses must install and maintain the following equipment or any other equipment which the City Manager determines has the same or better effectiveness:
- (1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
 - (2) An air system that creates negative air pressure between the commercial cannabis business's interior and exterior so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.
- (j) Display of Commercial Cannabis Permit and City Business License. The original copy of the permit issued by the City pursuant to this Chapter and the business license issued by the City pursuant to the Arvin Municipal Code shall be posted inside the commercial cannabis business in a location readily visible to the public.
- (k) Criminal History Records Check.

- (1) Every person listed as an owner, manager and supervisor of the commercial cannabis business must submit to a fingerprint-based state and federal criminal history records check conducted by the City or another agency authorized or requested to do so by the City.
 - (2) The criminal history records check may be conducted utilizing the California Department of Justice Live Scan system or any other system deemed necessary or appropriate in the discretion of the City Manager.
 - (3) Owners, managers and supervisors shall be disqualified from involvement with a commercial cannabis business where the results of a criminal history records check would constitute grounds for denial of an employee work permits to a commercial cannabis business employee pursuant to Section 17.64.090(e).
 - (4) A fee for the City's actual costs of conducting the criminal history records check, established by resolution of the City Council, shall be paid at the time the application for a commercial cannabis permit is submitted. The fee shall be paid in the form a trust deposit for actual costs. Applicant(s) shall provide an initial deposit in an amount the City Manager estimates will cover the costs of the criminal history records check, which shall be used and drawn upon as a retainer to cover the actual costs of such investigation. If this amount is not sufficient, the applicant shall provide additional amounts as necessary and if the applicant is unwilling or unable to do so, the investigation shall cease and shall not continue until such additional amounts are paid.
 - (5) In the alternative to subsection (k)(4) above, the commercial cannabis business or the subject owner, manager or supervisor may provide the City Manager with a completed criminal history records check performed by a third party vendor, as deemed necessary or appropriate in the discretion of the City Manager. If this alternative is used, the fee established pursuant to subsection (k)(4) above shall not apply.
- (l) Upon completion of the investigation or in the event the applicant withdraws its application, any unused amount will be refunded to the applicant within thirty (30) days.
 - (m) Loitering. The owner and/or operator of a commercial cannabis business shall prohibit loitering on the premises of the commercial cannabis business.
 - (n) Permits and other Approvals. Prior to the establishment of any commercial cannabis business or the operation of any such business, the person intending to establish a commercial cannabis business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such commercial cannabis business intends to establish and to operate.

- (o) Greenhouses. Greenhouses shall only be utilized for commercial cannabis cultivation and/or nurseries. A greenhouse shall be a fully enclosed permanent structure with solid walls that are clad in an opaque material with climate control, such as heating and ventilation capabilities and supplemental artificial lighting, and that uses a combination of natural and supplemental artificial lighting. The cultivation and nursery activities conducted within a greenhouse shall not be visible from any public right of way or adjacent private property. All greenhouses shall comply with the requirements of this Chapter and the Arvin Municipal Code, including the adopted requirements of the California Building Code, the California Fire Code and/or any other code adopted or incorporated by reference within the Arvin Municipal Code. The City Manager shall have authority, upon consultation with the City Attorney, to establish additional regulations and/or guidelines for operating greenhouses for commercial cannabis cultivation and/or nurseries within the City.
- (p) No commercial cannabis business shall store food grade alcohol or any other volatile chemical, solvent or substance in an amount which exceeds the maximum authorized amount determined by the Fire Chief.

Section 17.64.260 Cannabis Cultivation, Manufacturing, Waste Disposal, and Storage Requirements.

- (a) Commercial cannabis businesses shall comply with all pesticide use requirements of local, state and federal law. All weighing devices used by commercial cannabis businesses shall be maintained in compliance with local, state or federal law and applicable regulations regarding device registration with the Agricultural Commissioner. The Kern County Agricultural Commissioner may inspect the commercial cannabis business at any time during regular business hours to ensure compliance with this subsection.
- (b) Commercial cannabis businesses shall comply with all applicable provisions of the California Building Standards Code, as adopted by the City.
- (c) Commercial cannabis businesses shall comply with all local, state and federal laws and regulations applicable to storage and disposal of chemicals, solid waste, hazardous waste, and hazardous materials.
- (d) In no case shall any commercial cannabis business utilize any volatile solvents or other flammable, explosive or toxic substances to process or manufacture cannabis products in the City, except as expressly authorized pursuant to both a Type 7 State license and a City-issued commercial cannabis permit. The Fire Chief shall inspect any commercial cannabis business proposing to utilize such substances prior to issuance of a commercial cannabis permit for compliance with all applicable fire safety requirements, and the approval of the Fire Chief as to compliance with such requirements shall be required prior to approval of any such commercial cannabis permit.
- (e) Food grade alcohol used solely for the purposes of cleaning machinery and dissolving wax, unless otherwise prohibited by the State, is permitted.

- (f) All food products, food storage facilities, food-related utensils, equipment and materials shall be approved, used, managed and handled in accordance to the provisions of the California Retail Food Code, California Health and Safety Code Sections 113700 through 114437. All food products shall be protected from contamination at all times, and all food handlers must be clean, in good health and free from communicable diseases.
- (g) Stacking shall be allowed in a given structure only to the point that measuring the total canopy of each level of stacking is cumulatively no greater than the maximum canopy size allowed under applicable State laws or regulations.

Section 17.64.270 Total Area Devoted to Commercial Cannabis Businesses; Limitation on Minimum Size of Cultivation and Nursery Facilities.

No more than one million, three hundred thousand (1,300,000) square feet of area shall be permitted for use by commercial cannabis businesses in the City. The premises of each permitted commercial cannabis cultivation business, nursery and manufacturing business shall be a minimum of 5,000 square feet in area.

Section 17.64.280 Periodic Review by the City Council.

In the sole discretion of the City Manager; the City Attorney, and the Chief of Police shall report to the City Council findings on the operation of any cultivation facilities permitted pursuant to this Chapter and shall make a recommendation whether the cultivation facilities should be permitted to continue in operation for the remaining period of the term of their license (in addition to whatever other recommendations may be made) and whether the City should renew one or more of the permits for an additional period. Any termination or revocation of a license or permit, shall be in accordance with the provisions of the Arvin Municipal Code.

Section 17.64.290 Operating Requirements for Cultivation Businesses and Nurseries.

- (a) Outdoor commercial cultivation and outdoor nursery activity is prohibited.
- (b) In no case shall cannabis or cannabis products be visible from a public or private road, sidewalk, park, common public viewing area or adjacent property.
- (c) If a commercial cannabis business includes nursery activities, only one nursery may be located on the premises of the commercial cannabis business, and the nursery activity must be permitted pursuant to this Chapter and State law.
- (d) Cannabis cultivation and nursery activity shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters.
- (e) Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.

- (f) In no case shall any hazardous, flammable or explosive substances be used to process or manufacture cannabis products on site, except as otherwise stated in this Chapter pertaining to food grade alcohol.
- (g) The cultivation of cannabis and any nursery activity shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the commercial cannabis business, visitors to the area, neighboring properties, and the end users of the cannabis being cultivated, to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.
- (h) All applicants for a cannabis cultivation or nursery permit shall submit the following in addition to the information generally otherwise required for a commercial cannabis business:
 - (1) An operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of the nursery or cultivation activities and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season harvesting.
 - (2) A description of a legal water source, irrigation plan, and projected water use.
 - (3) Identification of the source of electrical power and plan for compliance with applicable Building Codes and related codes.
 - (4) Plan for addressing odor and other public nuisances which may derive from the nursery or cultivation site.

Section 17.64.300 Cannabis Manufacturing Business Operating Requirements.

- (a) Manufacturer 1 (Type 6) permittees shall utilize only manufacturing processes that are either solventless or that employ only nonflammable, nontoxic solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).
- (b) Manufacturer 2 (Type 7) permittees shall utilize only manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements:
 - (1) The system uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).
 - (2) The system is designed to recapture and contain solvents during the manufacturing process, and otherwise prevent the off-gassing of solvents into the ambient atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.

- (3) A licensed engineer certifies that the system is commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, including, but not limited to, the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or OSHA Nationally Recognized Testing Laboratories (NRTLs).
- (4) The system has a certification document that contains the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.
- (c) No compressed gases used in the manufacturing process shall be stored on the premises of any commercial cannabis businesses in excess of the amount authorized by the Fire Chief.
- (d) No manufactured cannabis products, including edible cannabis products, shall be sold or distributed on a retail basis in the City. Permitted manufacturers may sell manufactured cannabis products wholesale to other commercial cannabis business for retail sale outside of the City's boundaries.
- (e) All items to be sold or distributed wholesale shall be individually wrapped at the original point of preparation. Labeling must include the warnings and information required by State law, including but not limited to Business & Professions Code Section 26120, as may be amended.
- (f) All manufactured cannabis products must be in a properly labeled opaque (non-see-through) package before leaving any commercial cannabis business, in accordance with Business & Professions Code 26070.1, as may be amended. Deliveries must be in a properly labeled opaque package when delivered.
- (g) Manufacturers shall comply with all applicable federal, state and local laws and regulations relating to manufacturing safety procedures and product wrapping, labeling and packaging. The City Manager shall have authority, upon consultation with the City Attorney, to establish additional regulations and/or guidelines for manufacturing of cannabis products, both edible and non-edible, within the City.

Section 17.64.310 Cannabis Testing Laboratory Business Operating Requirements.

- (a) Commercial cannabis testing laboratories (e.g. businesses requiring a Type 8 State license) shall comply with all applicable federal, state and local laws, regulations and/or guidelines governing testing procedures and safety measures.
- (b) Commercial cannabis testing laboratories are prohibited from licensure for any commercial cannabis activity, except testing.
- (c) Commercial cannabis testing laboratories shall not employ any individual who is also employed by any other State licensee that does not hold a Type 8 State license.

- (d) Commercial cannabis testing facilities shall utilize food grade alcohol only to clean machinery and dissolve wax, unless otherwise authorized by the City and the State.

Section 17.64.320 Promulgation of Regulations and Standards.

The City Manager is authorized to promulgate reasonable regulations as deemed necessary to implement procedures or requirements in furtherance of the purposes of this Chapter. Regulations promulgated by the City Manager shall have the same force and effect of law and shall become effective upon date of approval by the City Manager.

Section 17.64.330 Community Relations.

- (a) Each commercial cannabis business shall provide the City Manager with the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the commercial cannabis business can be provided.
- (b) The owner, manager, and community relations representative from any commercial cannabis business holding a permit issued pursuant to this Chapter shall at the request of the City Manager meet to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter.

Section 17.64.340 Fees Deemed Debt to City of Arvin.

The amount of any unpaid fee, cost or charge imposed pursuant to this Chapter shall be deemed a civil debt to the City that is recoverable in any court of competent jurisdiction.

Section 17.64.350 Permit Holder Responsible for Violations.

Commercial cannabis permit holders shall be responsible for all violations of State or local laws or regulations, whether or not committed by the permit holder or any employee or agent of the permit holder, which occur in or on the premises of the commercial cannabis business, whether or not said violations occur within the permit holder's presence.

SECTION 4. City of Arvin Ordinance No. 443, entitled "An Ordinance of the City Council of the City of Arvin Adopting Chapter 17.62 of the Arvin Municipal Code Pertaining to Commercial Cannabis Activity," is hereby repealed in its entirety. Arvin Municipal Code Section 17.62 relating to sign regulations on private property, which existed prior to the date of adoption of Ordinance No. 443, remains in full force and effect.

SECTION 5. Section 17.02.435, of Title 17, of the Arvin Municipal Code is hereby repealed, and all commercial cannabis dispensaries within the City of Arvin shall be governed by the mandatory requirements of Chapter 17.64 of Title 17 of the Arvin Municipal Code.

SECTION 6. Section 17.07.01, of Title 17, of the Arvin Municipal Code is hereby repealed, and all commercial cannabis dispensaries within the City of Arvin shall be governed by the mandatory requirements of Chapter 17.64 of Title 17 of the Arvin Municipal Code.

SECTION 7: This Ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the Ordinance, or a summary of the Ordinance, shall be published once in a newspaper of general circulation.

DRAFT

I HEREBY CERTIFY that the foregoing Ordinance was introduced by the City Council after waiving reading, except by Title, at a regular meeting thereof held on the ____ day of _____ 2018, and adopted the Ordinance after the second reading at a regular meeting held on the ____ day of _____ 2018, by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST

CECILIA VELA, City Clerk

CITY OF ARVIN

By: _____
JOSE GURROLA, Mayor

I, _____, City Clerk of the City of Arvin, California, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of the Ordinance passed and adopted by the City Council of the City of Arvin on the date and by the vote indicated herein.