

ORDINANCE NO. 444

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN, REPEALING, REPLACING AND AMENDING SECTIONS 17.02.310, 17.02.520, AND 17.08.020(D) OF THE ARVIN MUNICIPAL CODE RELATING TO HOME OCCUPATION AND QUASI-HOME OCCUPATION AND ADOPTION OF NOTICE OF EXEMPTION PER SECTION 15061(b)(3).

WHEREAS, in 1965 the City Council adopted Ordinance No. 51 establishing definitions for Home Occupation and Quasi-Home Occupation and was codified as Title 17.02.310 and .520 of the Arvin Municipal Code; and

WHEREAS, since the City Council adopted Ordinance No.'s Ord. 309, 1998: Ord. 199 (part), 1985; and Ordinance No. 376, 2008 and Ord. No. 421, 2015 relating to Title 17.08.020 Permitted Uses in the R-1 One-Family Dwelling Zone; and

WHEREAS, on June 22, 2017, the Planning Commission adopted Resolution No. 2017-14 Initiating a code amendment as authorized by Title 17 Zoning, Section 17.54.040 (A) and (B) on its own motion may initiate amendments to Title 17 Zoning whenever the public necessity, convenience, general welfare, or good zoning practices justify such action; and

WHEREAS, the Planning Commission at a Special Meeting on October 30, 2017 conducted a public hearing and at the conclusion of said hearing recommended adoption of said code amendments and adoption of a Notice of Exemption as the appropriate environmental document for said amendments; and

WHEREAS, the City Council wishes to amend Sections 17.02.310, 17.02.520, and 17.08.020 (D) to expand the definitions for Home Occupation, Quasi-Home Occupation and amend Subsection D of 17.08.020 Permitted Uses in the R-1 One-Family Dwelling Zone relating to Home Occupations-Quasi-Home Occupations; and

WHEREAS, on November 07, 2017 the City Council conducted a public hearing regarding the introduction and first reading of this ordinance during which it received a staff presentation and testimony from members of the public, and after closing the public hearing and after Council deliberation voted to introduce this ordinance; and,

WHEREAS, on November 21, 2017 the City Council conducted a public hearing regarding the possible adoption of this ordinance during which it received a staff presentation and testimony from members of the public and then closed the public hearing.

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

SECTION 1.

A. The above recitals are incorporated are hereby by reference.

B. The City Council finds and determines that the amendments and additions to Chapter 17 Zoning of the Arvin Municipal Code constitute a project the California Environmental Quality Act. The City Council, based upon its own independent judgment and substantial evidence in the record of proceedings related to this project has determined, pursuant to CEQA Guidelines, section 15061(b)(3) it can be seen with certainty there is no possibility that the activity in question may have a significant effect on the environment because the amendments are not permitting new uses within the City and is merely providing further regulations to uses already permitted and further adopts the Notice of Exemption and directs the City Clerk to file said document with the Kern County Clerk's office.

SECTION 2. Sections 17.02.310 – Home Occupation, 17.02.520 – Quasi-Home Occupation, and amend Subsection D of 17.08.020 Permitted Uses in the R-1 One-Family Dwelling Zone relating to Home Occupations of the Arvin Municipal Code is amended to read as follows:

Section 17.02.310. Home Occupation is amended to read as follow:

“Home occupation – Quasi-Home Occupation” shall mean any occupation, profession, activity, or use, home-based business, conducted entirely within a dwelling, accessory structure, and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes, and does not change the character thereof or adversely affect the uses permitted in the residential zone district of which it is part which meets the criteria listed in Section 17.08.020 (D). Where such occupation does not meet the criteria under Section 17.08.020 (D), the Community Development Director may, upon issuance of an Administrative Permit per Section 17.05.080 Per Arvin City Code approve or conditionally approve such use. ~~means any occupation carried on by the resident of a dwelling as a secondary use in connection with which there is no person employed, no sounds audible beyond the premises, no display and no advertising, except that one sign, not to exceed two (2) square feet in area, may be attached flat against the wall of a building.~~

Section 17.20.520. Quasi-Home Occupation is amended to read as follows:

Quasi-Home Occupation – Home Occupation shall mean any occupation, profession, activity, or use, home-based business, conducted entirely within a dwelling, accessory structure, and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes, and does not change the character thereof or adversely affect the uses permitted in the residential zone district of which it is part which meets the criteria listed in Section 17.08.020 (D). Where such occupation does not meet the criteria under

Section 17.08.020 (D), the Community Development Director may, upon issuance of an Administrative Permit per Section 17.05.080 Per Arvin City Code approve or condonably approve such use. - an occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display or sign; no stock in trade or commodity sold upon the premises; no person employed; and no mechanical equipment used except such as is necessary for housekeeping purposes.

SECTION 3. Section 17.08.20 (D) of the Arvin Municipal Code is hereby deleted.

SECTION 4. Section 17.08.20 (D) is hereby adopted as follows:

Section 17.08.20(D). The following criteria and standards for home occupations-quasi-home occupations are intended to provide reasonable opportunities for employment within the home, home base business, while avoiding changes to the residential character of a dwelling and neighborhood that accommodates a home occupation, or the surrounding neighborhood.

1. Business License required. A home occupation, home base business, shall require a City Business License and a Home Occupation Permit. A permit to conduct a home occupation shall be obtained from the Community Development Director, or designee, prior to issuance of a business license.

2. Application: An application and payment of the established fee for a home occupation permit shall be submitted to the Community Development Director or designee by the person responsible for the operation of any home occupation. If the applicant is not the owner of the property involved, the applicant shall have a "consent of owner" form signed by the owner or authorized representative.

3. Home Occupation or Quasi-Home Occupation Permit – Substitute for Administrative Approval - No Home Occupation or Quasi-Home Occupation (home based business) shall be established in a residence until a home occupation permit or quasi-home occupation permit is approved by the Community Development Director or designee. Home Occupation and Quasi-Home Occupation Conditions, as established in this section, satisfies the requirements of an Administrative Permit, Section 17.05.080 - Permitted uses designated—Administrative approval. Upon issuance of a Home Occupation Permit or a Quasi-Home Occupation Permit by the Community Development Director, or designee said permit conditions incorporates the requirements and findings below to insure that the residential neighborhood is not adversely affected by the establishment of a home base business.

a. Before approving or conditionally approving any such application, the Community Development Director shall find that under the circumstances of the particular case, the proposed use or buildings will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood.

b. Findings:

1. That the use will not involve any process, equipment or materials which, in the

opinion of the Community Development Director, will be objectionable to persons living or working in the vicinity by reason of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried wastes, noise, vibration, illumination, glare, or unsightliness, or to involve any hazard of fire or explosion; and

2. That the proposed use will be harmonious with existing structures and uses of land in the vicinity;

3. That proposed signs will not by size, location or lighting interfere with traffic or limit visibility.

4. Home Occupation and Quasi-Home Occupation permits – term. A Home Occupation or Quasi-Home Occupation permit shall not expire unless: revoked, lapse of a current and valid Business Licenses; however, the permit is not transferable to a different permittee, location, or use.

5. Home Occupation and Quasi-Home Occupation permits –revocation. The home occupation or Quasi-Home Occupation permit granted under this article shall be subject to revocation by the Community Development Director, or designee, when the permittee violates any of the restrictions and conditions set forth in this article or upon verification of objectionable activity and/or complaints.

6. Home Occupation and Quasi-Home Occupation permits – denial. A Home Occupation-Quasi-Home Occupation permit shall not be issued for the following uses: Retail sales, commercial photograph studios, beauty parlors, barber shops, music schools, dancing schools, business schools, or other schools of any kind with organized classes, retail motor vehicle sales or repair, or any similar activities are prohibited. If the use applied for does not meet the required conditions and standards, the Community Development Director, or designee, shall deny the application that do not comply with the provisions of 17.08.020 (D) (Home occupation permits-Quasi-Home Occupations: Conditions: Issuance).

7. Issuance. The Community Development Director, or designee, shall analyze all the facts presented with the application and, if the use applied for meets each and every one of the required conditions and standards, shall issue the Home Occupation Permit-Quasi-Home Occupation Permit subject to the findings under Section 17.08.020 (D). The applicant shall sign a statement acknowledging that the use must remain in compliance with the standards and criteria as well as all other city codes and regulations.

8. Compliance with all other laws and regulations. Business operations conducted at this residence shall comply with all local, State, and Federal laws and regulations, including, but not limited to, building, fire, and ADA accessibility requirements.

9. Indemnification. In the event the City determines that it is necessary to take legal action to enforce any of the provisions of these conditions, and such legal action is

taken, the applicant shall be required to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the City, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the City should otherwise agree with applicant to waive said fees or any part thereof. The foregoing shall not apply if the permittee prevails on every issue in the enforcement proceeding.

10. Conditions: Issuance.

(a) No home occupation permit shall be issued unless the use applied for meets the following standards and conditions:

(1) The permit is only valid for the person(s) and location identified in the application and shall not be transferable to another person(s) or location.

(2) The home occupation shall be conducted entirely within the residential dwelling. Outside activity, storage, or display is prohibited, except as provided herein or upon conditional approval of the Community Development Director.

(3) Limitations of Use and Storage:

(a) The floor area used for such occupation or profession shall not exceed four hundred (400) square feet in any case – within the residence.

(b) Storage of goods and materials may be stored in the garage when such storage does not limit or prohibit the parking of automobiles.

(c) Storage of goods and materials may be stored in approved accessory structures per Arvin city code.

(d) No occupation may be conducted in the garage area nor in any accessory structure.

(4) The proposed occupation shall clearly be incidental and secondary to the residential use of the dwelling, and shall not change the residential character of the dwelling.

(5) Window displays, "show windows," or other exterior display to attract customers, clients, or the general public are prohibited. No exterior sign, except a professional occupation sign one (1') foot by one (1') foot in size, announcing the name and home occupation, affixed to a wall of the primary dwelling.

(6) Exterior alterations of residential dwellings, for the purpose of drawing attention to the business, or in association with the operation of the business, are prohibited.

(7) Operation of the business shall not generate vehicular traffic that is not normally associated with residential uses.

(i) Deliveries to the home occupation shall be limited to no more than two (2) deliveries

per day. No delivery shall be by vehicles larger than a typical delivery van (FedEx, UPS, etc.).

(ii) No more than one (1) standard pickup or van, and one (1) utility trailer, as defined below, specifically designated to be used for the home occupation shall park at the subject residence at any time.

(a) "Utility trailer" shall mean and include a vehicle without motive power, not exceeding twenty (20') feet in length, eight (8') feet in width, and thirteen and one-half (13-1/2') feet in overall height, designed so that it can be drawn behind a motor vehicle in accordance with the California Vehicle Code. A private utility trailer, as defined herein, is considered incidental to the owner's residential use of a property. It is not intended to mean truck trailers that would be a single or double trailer to be pulled behind a commercial vehicle or similar tractor-truck vehicle.

(b) Adjacent Property Owner required. Notwithstanding the provisions of subsection (a) of this section, it shall be unlawful for any person to place, keep, maintain, or occupy, or permit to be placed, kept, maintained, or occupied, any utility trailer used in association of a home occupation permit activity, without the permission of the adjacent property owner.

(iii) In the event outside persons are employed to perform functions of this business away from the premises, parking or storage of employees' vehicles in the neighborhood is prohibited.

(iv) At least one (1) on-site parking space shall be provided for customers to the business. For the purposes of this section only, parking in a driveway shall meet the definition of a parking space.

(v) Parking of vehicles and/or utility trailers shall comply with the Arvin city code.

(8) Such occupation or profession shall be conducted by the residents of the premises.

(9) The proposed home occupation business shall be limited to no more than two (2) customers at a time and no more than six (6) customers per day, arriving no earlier than 7:00 a.m. and leaving no later than 7:00 p.m.

(10) Limitations of Use and Storage:

(a) The floor area used for such occupation or profession shall not exceed four hundred (400) square feet in any case – within the residence.

(b) Storage of goods and materials may be stored in the garage when such storage does not limit or prohibit the parking of automobiles.

(c) Storage of goods and materials may be stored in approved accessory structures

per Arvin city code.

(d) No occupation may be conducted in the garage area nor in any accessory structure.

(11) The proposed occupation shall only involve the use of power-driven equipment or chemicals normally incidental to the residential use.

(12) The applicant shall not list or advertise the residence address in the commercial telephone directory, newspaper, radio, or television in connection with the proposed occupation or profession.

(13) The proposed occupation shall not create a nuisance by reason of noise, odor, dust, vibration, fumes, smoke, electrical interference, or other causes.

(14) Based upon the unique functions and other unique conditions of the home base business, the Community Development Director, or designee, may impose additional conditions as may be deemed necessary to protect the health, safety, and welfare of the residents in the surrounding neighborhood.

SECTION 4. Publication. The City Clerk shall certify to the adoption of this Ordinance and cause it to be published, in accordance with Government Code, section 36933.

SECTION 5. Effective Date.

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.

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I HEREBY CERTIFY that the foregoing Ordinance was introduced by the City Council of the City of Arvin after waiving reading, except by Title, at a regular meeting thereof held on the 07th day of November 2017, and adopted the Ordinance after the second reading at a regular meeting held on the 21st day of November 2017, by the following roll call vote:

AYES: CM Madrigal, CM Martinez, MPT Robles, Mayor Gurrola

NOES: _____

ABSTAIN: _____

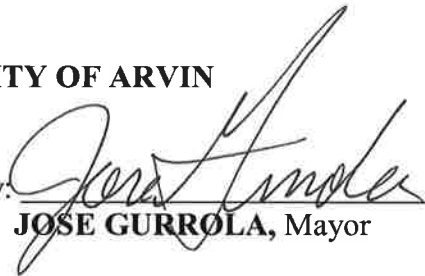
ABSENT: CM Ortiz

ATTEST

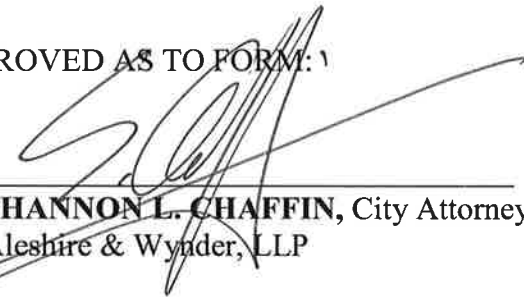


CECILIA VELA, City Clerk

CITY OF ARVIN

By: 
JOSE GURROLA, Mayor

APPROVED AS TO FORM: ✓

By: 
SHANNON L. CHAFFIN, City Attorney
Aleshire & Wynder, LLP

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