

**ORDINANCE NO. 448**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN AMENDING CHAPTER 17.56 (“CONDITIONAL USE PERMITS”) OF TITLE 17 (“ZONING”) OF THE ARVIN MUNICIPAL CODE TO ADD COMMERCIAL CANNABIS BUSINESSES AS A CONDITIONALLY PERMITTED USE IN SPECIFIC ZONES AND TO ADD EXPRESS PROCEDURES FOR SUSPENSION AND REVOCATION OF CONDITIONAL USE PERMITS.**

**WHEREAS**, the City has the police power, pursuant to Article XI, Section 7 of the California Constitution, to regulate land uses within its jurisdiction and to adopt and enforce ordinances to protect and promote the public health, safety, and welfare; and

**WHEREAS**, in the exercise of its police power, the City has established various zoning districts and has prohibited certain land uses in each of such zoning districts; and

**WHEREAS**, to ensure the compatibility of land uses and to protect against adverse effects on public health, safety and welfare resulting from improper or conflicting land uses, the City has enumerated certain land uses, pursuant to Chapter 17.56 of its Municipal Code, which are permitted subject to issuance of a conditional use permit in some or all of the City’s zoning districts; and

**WHEREAS**, to ensure consistency with provisions of the City’s Municipal Code directly regulating commercial cannabis activities, the City Council desires to declare commercial cannabis businesses a conditionally permitted use in specified zones of the City; and

**WHEREAS**, the City is authorized to suspend or revoke conditional use permits as necessary in the exercise of its police power, subject to the constitutional procedural due process rights of the permit holder; and

**WHEREAS**, pursuant to California Government Code Section 65905, cities are generally required to hold a public hearing on a proposed revocation or modification of a conditional use permit or an appeal from the action taken on a conditional use permit application, and notice of such a hearing shall be given pursuant to Government Code Section 65091; and

**WHEREAS**, the City’s Municipal Code does not presently contain any express provisions governing the procedures or requirements applicable to the City’s suspension or revocation of conditional use permits; and

**WHEREAS**, the City Council desires to enact such provisions to define and guide the procedural rights and obligations of the City and of the holders of conditional use permits in circumstances in which the City feels it is necessary, in the exercise of its police power, to suspend or revoke conditional use permits, and to ensure that the process is clear and efficient and that conditional use permits are not suspended or revoked in violation of the due process rights of permit holders; and

**WHEREAS**, all pre-requisites to adoption of this Ordinance have occurred.

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

**SECTION 1.** The Recitals set forth above are true and correct and incorporated herein.

**SECTION 2.** This Ordinance is exempt from CEQA review pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment. Although this Ordinance adds commercial cannabis businesses as a conditionally permitted use in specific zones, this addition is merely reflective of the provisions of the AMC which directly regulate commercial cannabis activities, and any such use will be subject to environmental review on a project-specific basis pursuant to those provisions in conjunction with the existing provisions of AMC Chapter 17.56. Otherwise, this Ordinance merely adds express procedures to the Arvin Municipal Code for revocation and suspension of conditional use permits by the City, an action which relates only to the applicable process for termination of conditionally permitted land uses. Furthermore, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines Section 15300.2 apply to this project.

**SECTION 3.** Chapter 17.56 of Title 17 of the Arvin Municipal Code is hereby amended to read in its entirety as follows:

### **Chapter 17.56**

#### **CONDITIONAL USE PERMITS**

##### **17.56.010 - Applicability.**

The regulations set forth in this chapter shall apply to the granting of conditional use permits.

##### **17.56.020 - Prohibited uses permitted when.**

- A. Certain uses may be permitted by the planning commission and the city council in zones in which they are not permitted by this title where such uses are deemed essential or desirable to the public convenience or welfare, and are in harmony with the various elements or objectives of the comprehensive general plan.
- B. Except as otherwise provided in this Chapter, the procedure for filing of conditional use permit applications, payment of filing fees for such applications, and all associated investigations, notices, public hearings, findings and appeals shall be the same as provided in Chapter 17.54 for variances.
- C. The planning commission may waive public hearings on an application for a conditional use permit for public utility or public service uses or public buildings, when found to be necessary for the public health, safety, convenience or welfare.
- D. No conditional use permit application shall be deemed complete or processed until the filing fee (which may be in the form of a deposit), as established pursuant to resolution of the City Council, has been paid in full.

**17.56.030 - Permitted Uses - Any zone.**

The following uses may be permitted in any zone upon the granting of a conditional use permit:

- A. Airports or aircraft landing fields;
- B. Cemeteries, columbariums, crematories and mausoleums;
- C. Churches or other places used exclusively for religious worship;
- D. City, county, state and federal enterprises, including buildings, facilities and uses of departments or institutions thereof which are necessary to the general welfare of the community;
- E. Day nurseries and nursery schools;
- F. Educational institutions, including schools, elementary or high;
- G. Establishments or enterprises involving large assemblages of people or automobiles, including amusement parks, circuses, carnivals, expositions, fairgrounds, open-air theatres, racetracks, recreational and sport centers;
- H. Hospitals, sanitariums and rest homes, homes for the aged;
- I. Institutions of a philanthropic or eleemosynary nature;
- J. Large-scale neighborhood housing projects having a minimum gross area of twenty (20) acres;
- K. Libraries, museums and private clubs;
- L. Natural resources development, together with the necessary buildings, apparatus or appurtenances, incident thereto, except drilling for or removal of oil, gas or other hydrocarbon substances;
- M. Parks, playgrounds and community buildings;
- N. Public utility or public service buildings, structures and uses;
- O. Radio and television transmitters;
- P. Real estate tract offices and signs;
- Q. Golf courses and country clubs;
- R. Mobile homes and mobile home parks.

### **17.56.040 - Permitted Uses - Specific Zone.**

The following uses may be permitted in the zones indicated in this section upon the granting of a conditional use permit:

- A. Advertising sign boards or structures in the C-1 zone;
- B. Agricultural industries and the processing of agricultural products in the A-2 zone;
- C. Animal hospitals, kennels and veterinaries in the C-2 zone;
- D. Apartment hotels in the R-4 zone;
- E. Automobile trailer courts or mobile home parks in the R-4 zone;
- F. Commercial cannabis businesses, as authorized by applicable provisions of the Arvin Municipal Code, in the M-1, M-2, M-3, A-1, and A-2 zones;
- G. Commercial stockyards and animal slaughter in the A-2 and M-3 zones;
- H. Dairies and livestock feed yards in the M-2, M-3 and A-1 zones;
- I. Dumps and refuse disposal areas in the A-2 and M-3 zones;
- J. Equestrian establishments, including stables, riding academies, schools or amusements, in the C-2 zone;
- K. Fruit, vegetable and meat packing plants in the A-1 and A-2 zones;
- L. Hog ranches in the A-2 zone;
- M. Housing for agricultural workers in the A-1 and A-2 zones;
- N. Mortuaries or funeral parlors in the C-1 and A zones;
- O. Sewer farms and sewage disposal plants in the A-2 and M-3 zones;
- P. Auto spray-painting operations when complementary to adjacent uses;
- Q. Fish farming in the E zone;
- R. Residential care facilities in the R-2, R-3 and R-4 zones.

### **17.56.050 - Suspension and Revocation.**

- A. Suspension and Revocation Authority. The Planning Commission may suspend or revoke a conditional use permit when the permit holder or anyone acting on the permit holder's 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 conditional use permit.
2. Any action or condition which constitutes a violation of this Chapter, any other applicable provision of the Arvin Municipal Code, or any applicable condition of approval of the conditional use permit.

B. Suspension and Revocation Procedures.

1. Prior to suspending or revoking a conditional permit, the Planning Commission shall conduct a public hearing to determine whether there is an appropriate basis for suspension or revocation pursuant to subsection (A) above.
2. Written notice of the public hearing shall be mailed or delivered, at least ten (10) calendar days prior to the hearing, to:
  - i. The permit holder, and the permit holder's duly authorized agent;
  - ii. The owner of the subject real property as shown on the latest equalized assessment roll, if different than the permit holder, and such owner's duly authorized agent. Instead of using the assessment roll, the City may use records of the Kern County Assessor or Tax Collector if those records contain more recent information than the information contained on the assessment roll;
  - iii. Each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the subject real property, whose ability to provide those facilities and services may be significantly affected by the proposed suspension or revocation; and
  - iv. All owners of real property as shown on the latest equalized assessment roll within 300 feet of the subject real property. Instead of using the assessment roll, the City may use records of the Kern County Assessor or Tax Collector if those records contain more recent information than the information contained on the assessment roll. If the number of owners to whom notice would be mailed or delivered is greater than 1,000, the City, in lieu of mailed or delivered notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the City at least 10 days prior to the hearing.
  - v. Any other person or entity entitled to notice pursuant to Government Code Section 65091, as may be amended.
3. The notice of public hearing shall be published and posted in accordance with Government Code Section 65091, as may be amended.

4. The notice of public hearing shall include the information required by Government Code Section 65094, as may be amended.
5. At the date, time and place set forth in the notice of public hearing, the Planning Commission shall conduct the public hearing and shall entertain all relevant evidence and objections presented. The technical rules of evidence shall not apply. At the conclusion of the public hearing, the Planning Commission shall render its decision.
6. The decision of the Planning Commission shall be appealable to the City Council by filing a notice of appeal with the City Clerk within fifteen (15) days of the date of the decision. The notice of appeal shall specify the grounds for filing an appeal and shall be accompanied by any applicable fee established by resolution of the City Council to cover the costs of processing the appeal.
7. Within 15 days of the City Clerk's receipt of a completed notice of appeal and payment of any required fees, the appeal shall be set for a hearing before the City Council. Notice of the hearing shall be mailed or delivered, at least ten (10) calendar days prior to the hearing, to the persons specified in subsection (B)(2). The notice shall also be published and posted in accordance with subsection (B)(3).
8. The hearing shall be conducted within 45 days of the City Clerk's receipt of the completed appeal and payment of any required fees.
9. At the date, time and place set forth in the notice, the City Council shall conduct the public hearing and shall entertain all relevant evidence and objections presented. The technical rules of evidence shall not apply. At the conclusion of the public hearing, the City Council shall render its decision.
10. The City Council's decision shall constitute a final administrative decision, while shall be 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.

**SECTION 4.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 5.** This Ordinance shall take effect 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.

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 05<sup>th</sup> day of June 2018, and adopted the Ordinance after the second reading at a regular meeting held on the 19<sup>th</sup> day of June 2018, by the following roll call vote:


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

NOES: \_\_\_\_\_


ABSTAIN: \_\_\_\_\_

ABSENT: CM Martinez

ATTEST

  
\_\_\_\_\_  
CECILIA VELA, City Clerk

CITY OF ARVIN

By:   
\_\_\_\_\_  
~~JOSE GURROLA, Mayor~~  
Jess Ortiz, Mayor Pro Tem

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.