

ORDINANCE NO. 2021-473

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN AMENDING CHAPTER 17.64 (“COMMERCIAL CANNABIS ACTIVITY”) TO TITLE 17 (“ZONING”) OF THE ARVIN MUNICIPAL CODE TO ESTABLISH CONSISTENCY WITH STATE LAWS GOVERNING SENSITIVE USE LOCATIONS

WHEREAS, this project was before the City Council acting as Planning Commission on December 8, 2020 and, in its capacity as Planning Commission, the City Council recommended approval of the proposed cannabis amendment; and

WHEREAS, the amendment presented to the City Council acting as Planning Commission on December 8, 2020 has not been modified and is now before the City Council in its original form; and

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, providing 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, 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, 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 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 on December 7, 2017; 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, 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 commercial cannabis activities; 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, which added Chapter 17.62 “Commercial Cannabis Activity” to Title 17 of the Arvin Municipal Code, and which repealed 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 full force and effect;

WHEREAS, the City Council renumbered and relocated the duplicative Chapter 17.62 “Commercial Cannabis Activity” to Chapter 17.64 of Title 17, of the Arvin Municipal Code, and amended and supplemented the regulations imposed by said chapter on commercial cannabis businesses and applicants in the City; and

WHEREAS, the City Council now desires to align the “Commercial Cannabis Activity” ordinance with State of California requirements for placement of a cannabis business near or adjacent to a sensitive location (including but not limited to schools, day care centers, youth centers, parks or libraries) by adopting this Ordinance; 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.

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

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

SECTION 1. The above recitals are true and correct and are incorporated herein.

SECTION 2. The City Council finds and determines that 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, as this Ordinance merely amends the existing Arvin Municipal Code to establish new and amended procedures and requirements for the permitting and regulation of certain commercial cannabis activities, the environmental impacts of which will be assessed on a use-specific basis, and the use of which is consistent with existing State law. (CEQA Guidelines § 15061(b)(3)). Furthermore, the City

Council finds and determines the Ordinance would also be subject to Categorical Exemptions under CEQA Guidelines sections 15307 and 15308, as 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.) Finally, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines section 15300.2 apply to this Ordinance. Therefore, the City Council also adopts Categorical Exemptions for this Ordinance, pursuant to CEQA Guidelines sections 15307 and 15308.

SECTION 3. Subsection “B” of Section 17.64.110, and sub-subsection “4” of subsection “B” of 17.64.210, both of Chapter 17.64, of Title 17 are hereby amended to read in their entirety as follows:

Chapter 17.64

COMMERCIAL CANNABIS ACTIVITY

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

...

- B. All commercial cannabis business shall comply with the distance requirements established for sensitive locations (including but not limited to schools, day care centers, youth centers, public parks, or public libraries) as defined and established by the State of California.

Section 17.64.210 Conditional Use Permits.

...

- 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:

...

4. A statement of whether the subject property meets the State of California requirements for placement of a cannabis business near or adjacent to a sensitive location (including but not limited to schools, day care centers, youth centers, parks or libraries).

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance, in that the invalid provision shall be deemed severed from the ordinance and the balance shall remain in effect. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 5. This Ordinance shall take effect thirty (30) calendar days after its 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 of the City of Arvin after waiving first reading, except by Title, at a regular meeting thereof held on the 12th day of January 2021, and adopted the Ordinance after the second reading at a regular meeting held on the 26th day of January 2021, by the following roll call vote:


AYES: CM Horton, CM Borreli, CM Robles, MPT Franetovich, Mayor Trujillo

NOES: _____

ABSTAIN: _____

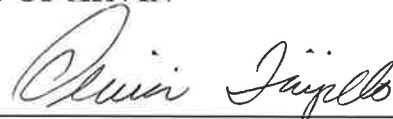
ABSENT: _____

ATTEST



CECILIA VELA, City Clerk

CITY OF ARVIN

By: 

OLIVIA TRUJILLO, 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.