



**SPECIAL MEETING AGENDA
ARVIN PLANNING COMMISSION**

**MONDAY OCTOBER 30, 2017 6:00p.m.
CITY HALL COUNCIL CHAMBERS
200 CAMPUS DRIVE, ARVIN**

CALL TO ORDER

Chair Trujillo

PLEDGE OF ALLEGIANCE

ROLL CALL:

Olivia Trujillo
Janett Zavala
Yesenia Martinez
Miguel Rivera
Gerardo Tinoco

Chairperson
Vice Chairperson
Planning Commissioner
Planning Commissioner
Planning Commissioner

STAFF:

Marti Brown
Jake Raper
Shannon L. Chaffin
Cecilia Vela

Community Development Director
City Planner
City Attorney – Aleshire & Wynder
Secretary

PUBLIC COMMENTS:

The meetings of the City Council and all municipal entities, commissions, and boards (“the City”) are open to the public. At regularly scheduled meetings, members of the public may address the City on any item listed on the agenda, or on any non-listed matter over which the City has jurisdiction. At special or emergency meetings, members of the public may only address the City on items listed on the agenda. The City may request speakers to designate a spokesperson to provide public input on behalf of a group, based on the number of people requesting to speak and the business of the City.

In accordance with the Brown Act, all matters to be acted on by the City must be posted at least 72 hours prior to the City meeting. In cases of an emergency, or when a subject matter needs immediate action or comes to the attention of the City subsequent to the agenda being posted, upon making certain findings, the City may act on an item that was not on the posted agenda.

AGENDA STAFF REPORTS AND HANDOUTS:

Staff reports and other disclosable public records related to open session agenda items are available at City Hall, 200 Campus Drive, Arvin, CA 93203 during regular business hours.

CONDUCT IN THE CITY COUNCIL CHAMBERS:

Rules of Decorum for the Public

Members of the audience shall not engage in disorderly or boisterous conduct, including the utterance of loud, threatening or abusive language, clapping, whistling, stamping of feet or other acts which disturb, disrupt, impede or otherwise render the orderly conduct of the City meeting infeasible. A member of the audience engaging in any such conduct shall, at the discretion of the presiding officer or a majority of the City, be subject to ejection from the meeting per Gov. Code Sect. 54954.3(c).

Removal from the Council Chambers

Any person who commits the following acts in respect to a meeting of the City shall be removed from the Council Chambers per Gov. Code Sect. 54954.3(c).

- (a) Disorderly, contemptuous or insolent behavior toward the City or any member thereof, tending to interrupt the due and orderly course of said meeting;
- (b) A breach of the peace, boisterous conduct or violent disturbance, tending to interrupt the due and orderly course of said meeting;
- (c) Disobedience of any lawful order of the Mayor, which shall include an order to be seated or to refrain from addressing the City; and
- (d) Any other unlawful interference with the due and orderly course of said meeting.

AMERICANS with DISABILITIES ACT:

In compliance with the ADA, if you need special assistance to participate in a City meeting or other services offered by the City, please contact the City Clerk’s office, (661) 854-3134. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

1. Agenda As To Form. Motion _____ Second _____ Vote _____

Roll Call: PC Tinoco _____ PC Rivera _____ PC Martinez _____ VC Zavala _____ Chair Trujillo _____

2. PUBLIC COMMENTS

This portion of the agenda is reserved for persons wishing to address the Planning Commission. At regularly scheduled meetings, members of the public may address the Planning Commission on any matter that is not listed for review on the agenda. At special or emergency meetings, members of the public may only address the Planning Commission on matters that are listed for review on the agenda. Individuals must give their name and limit their comments to two minutes. Issues raised during Public Comments are informational only and the Planning Commission cannot take action at this time. All comments shall be directed towards the Chairperson and not to individual Commissioners or staff.

3. CONSENT AGENDA ITEM(S)

A. Approval of the Minutes of the Special Meeting of June 22, 2017.

Staff recommends approval of the Minutes of the Special Meeting of June 22, 2017.

Motion _____ Second _____ Vote _____

Roll Call: PC Tinoco _____ PC Rivera _____ PC Martinez _____ VC Zavala _____ Chair Trujillo _____

4. PUBLIC HEARING(S)

A. Public Hearing to Consider and Approve A Resolution of the Planning Commission of the City of Arvin Recommending Adoption of the Proposed Text Amendment to Title 17-Zoning, Chapter 17.46 Oil and Gas Production - Repealing Existing Chapter and Adoption of Chapter 17.46 – Text Amendment 2017-04, Oil and Gas Production Regulation of Petroleum Facilities and Recommending Adoption of Categorical Exemption under CEQA Section 15308 – Actions by Regulatory Agencies For Protection of Natural Resources.

Staff recommends to open the hearing; allow for public testimony; close the hearing and approve the Resolution.

Motion _____ Second _____ Vote _____

Roll Call: PC Tinoco _____ PC Rivera _____ PC Martinez _____ VC Zavala _____ Chair Trujillo _____

- B. Public Hearing to Consider and Approve A Resolution of the Planning Commission of the City of Arvin Recommending Adoption of the Proposed Code Amendments to Title 17 – Zoning, Definitions for Section 17.02.310 – Home occupation, Section 7.02.520 - Quasi-home Occupation, and Amendment to Section 17.080.020 Permitted Uses, Subsection D Home Occupation Standards and to Adopt Notice of Exemption Per Section 15061 (B) (3).**

Staff recommends to open the hearing; allow for public testimony; close the hearing and approve the Resolutions.

Motion _____ Second _____ Vote _____

Roll Call: PC Tinoco _____ PC Rivera _____ PC Martinez _____ VC Zavala _____ Chair Trujillo _____

- C. Public Hearing to Consider and Approve A Resolution of the Planning Commission of the City of Arvin Recommending Adoption of the Proposed Ordinance of the City Council of the City Of Arvin Adopting Chapter 17.62 of Title 17 of the Arvin Municipal Code Pertaining To Commercial Medical and Recreational Cannabis Activity, and Initiation Thereof.**

Staff recommends to open the hearing; allow for public testimony; close the hearing and approve the Resolution.

Motion _____ Second _____ Vote _____

Roll Call: PC Tinoco _____ PC Rivera _____ PC Martinez _____ VC Zavala _____ Chair Trujillo _____

5. REPORTS FROM STAFF

6. PLANNING COMMISSIONER COMMENTS

7. ADJOURNMENT

I hereby certify, under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted on the City Hall Bulletin Board, not less than 24 hours prior to the meeting. Dated: October 19, 2017.



Cecilia Vela, Secretary

**SPECIAL MEETING MINUTES
ARVIN PLANNING COMMISSION**

JUNE 22, 2017

CALL TO ORDER @ 6:04 PM

PLEDGE OF ALLEGIANCE

ROLL CALL: PC Tinoco absent; All others present.

1. Approval of Agenda As To Form.

Motion to approve Agenda.

Motion PC Zavala

Second PC Martinez

Vote 4-0

2. PUBLIC COMMENTS

This portion of the agenda is reserved for persons wishing to address the Planning Commission. At regularly scheduled meetings, members of the public may address the Planning Commission on any matter that is not listed for review on the agenda. At special or emergency meetings, members of the public may only address the Planning Commission on matters that are listed for review on the agenda. Individuals must give their name and limit their comments to two minutes. Issues raised during Public Comments are informational only and the Planning Commission cannot take action at this time. All comments shall be directed towards the Chairperson and not to individual Commissioners or staff.

3. ELECTION OF VICE CHAIRPERSON

Chair Trujillo opened nominations for Vice Chairperson.

**PC Zavala nominated PC Zavala (self). PC Rivera nominated PC Zavala. Vote 4-0
No other nominations received.**

New Vice Chairperson is Janett Zavala.

4. CONSENT AGENDA ITEM(S)

- A. Approval of the Minutes of the Regular Meeting(s) of February 9, 2016 and Special Meeting(s) of April 21, 2016 and March 28, 2017.**

Staff recommends approval of the Minutes of the Regular Meeting(s) of February 9, 2016 and Special Meeting(s) of April 21, 2016 and March 28, 2017.

Motion to approve the Minutes of the Regular Meeting(s) of February 9, 2016 and Special Meeting(s) of April 21, 2016 and March 28, 2017.

Motion VC Zavala

Second Chair Trujillo

Vote 4-0

5. PUBLIC HEARING ITEM(S)

- A. Public Hearing to Consider and Approve A Resolution of the Planning Commission of the City of Arvin Approving I) Site Plan Review 2017-330BMB – Taco Bell and Retail Building with Conditions; and II) Adopting A Mitigated Negative Declaration.**

Staff recommends to open the hearing; allow for public testimony; close the hearing and approve the Resolution.

Hearing opened.

Public testimony: Resident Eduardo Ruiz requested that the potholes be filled in the alley located adjacent to the Taco Bell project. Mr. Ruiz is concerned with the amount of traffic the project will create and requested to have a 5-mph speed limit sign placed in the alley.

Hearing closed.

Motion to approve the Resolution with revision to condition PW/CE-2 to read as follows:

PW/CE-2 The Developer shall repair all pot holes along the alley way between A Street and B Street to the satisfaction of the City Engineer.

Motion Chair Trujillo Second VC Zavala Vote 4-0
Resolution No. APC 2017-11

- B. Public Hearing to Consider and Approve A Resolution of the Planning Commission of the City of Arvin Adopting I) Mitigated Negative Declaration for Conditional Use Permit 2017-125EBMB Event Center; and**
Resolution No. APC 2017-12

Approve A Resolution of the Planning Commission of the City of Arvin Approving I) Conditional Use Permit 2017-125EBMB – Event Center and II) Adopted the Mitigated Negative Declaration, Subject to Conditions of Approval.

Resolution No. APC 2017-13

Staff recommends to open the hearing; allow for public testimony; close the hearing and approve both Resolutions.

Hearing opened.

No public testimony.

Hearing closed

Motion to approve both Resolutions with revision to conditions to reflect business hours to close at 10:00pm on Mondays thru Thursdays.

Motion VC Zavala Second Chair Trujillo Vote 4-0

6. ACTION ITEM(S)

- A. A Resolution of the Planning Commission of the City of Arvin Initiating an Amendment to Arvin Municipal Code Sections 17.02.310 (Home Occupation), 7.02.520 (Quasi-Home Occupation), and 17.08.020(D) (Permitted Uses).

Staff recommends approval of the Resolution.

Motion to approve the Resolution.

Motion VC Zavala

Second PC Rivera

Vote 4-0

Resolution No. APC 2017-14

7. REPORTS FROM STAFF

8. PLANNING COMMISSIONER COMMENTS

9. ADJOURNED @ 7:00PM

Respectfully submitted,

Cecilia Vela, Secretary

DRAFT



PLANNING COMMISSION
OCTOBER 30, 2017

TO:	Planning Commission
FROM:	Marti Brown, Community Development Director
SUBJECT:	Public Hearing – Arvin Municipal Code Text Amendment to Title 17-Zoning, Chapter 17.46 Oil and Gas Production - Repealing existing chapter and adoption of Chapter 17.46 – Text Amendment 2017-04, Oil and Gas Production Regulation of Petroleum Facilities and recommendation of CEQA Exemption Section 15308 – Actions by regulatory agencies for protection of natural resources.

RECOMMENDATION:

To Approve a Resolution of the City of Arvin Planning Commission recommending adoption of the proposed Text Amendment to Title 17-Zoning, Chapter 17.46 Oil and Gas Production - Repealing existing chapter and adoption of Chapter 17.46 – Text Amendment 2017-04, Oil and Gas Production Regulation of Petroleum Facilities and recommending adoption of Categorical Exemption under CEQA Section 15308 – Actions by regulatory agencies for protection of natural resources.

SUMMARY:

Approval of the Ordinance will provide an update to the City of Arvin’s Municipal Code for the regulation of petroleum facilities and operations.

BACKGROUND:

The City’s original petroleum facilities and operations code was adopted in 1965 and consisted of only a few pages of regulations. The current code allows oil drilling in residential neighborhoods with a CUP. At the time of the original oil code, the City’s population was approximately 5,000 residents. At that time the State Division of Oil and Gas was also actively regulating oil production, as well as the site redevelopment process, such that there was no role for a City inspection process. During the last 50+ years the character of the community has changed significantly, growing to over 20,000 residents and adding many high quality residential neighborhoods, as well as new commercial and business developments located in or adjacent to active oil fields.

The proposed oil code amendments deal with not only the changing character of Arvin, but changes in the science and technology of oil production in the last half century. These include the advent of 3-D Seismic Imaging technology, which is unlocking new deposits of oil and gas in previously declining and abandoned oil fields. Major technology advancements have been made in directional or slant drilling, now combined with GPS coordination and 3-D imaging to precisely locate and access gas and oil deposits. Arvin’s original oil code did not anticipate these technologies or uses.

As the technology and science improve in locating gas and oil deposits, as well as improvements in

production technology, it is conceivable that these reserves will increase. This improvement in technology and science make a compelling case that Arvin requires a comprehensive petroleum code amendment that can deal with decades of future oil production.

There have also been changes in oil field production techniques which warrant the proposed amendments to the Arvin Oil Code. These include changes in pumping technology and efficiencies, including more energy efficient pumps. There have also been changes in sound attenuation technology, for both oil drilling equipment and well servicing equipment, since the existing code was adopted. Air quality standards have also evolved since 1965, including new regulations from the San Joaquin Air Quality Management District to control odors and emissions. Natural gas vapor recovery is now common place in the local oil fields, where in 1960's natural gas was routinely a waste product that was vented to atmosphere or flared. Drilling muds have evolved into water based muds rather than oil based muds, which are less impactful to the environment. There have been changes in pipeline technology, leak detection and pipeline repairs, where the majority of oil production can now be conveyed by pipeline, instead of tanker trucks.

Important regulations have been developed in other jurisdiction to address issues such as decommissioning of oil facilities once they have reached the end of their economic life and appropriate clean up and remediation to allow for appropriate future use of the land. In addition, regulations have evolved to address the potential change of ownership that could occur at oil fields and the importance of addressing such changes to protect the local jurisdictions on financial responsibility and insurance.

The original water flood systems relied on potable water in the 1970s, when water was relatively inexpensive. With the population growth in the region and State, potable water has been substituted by production or reclaimed water. This water must be carefully monitored for environmental and public health reasons. The original Oil Code did not anticipate the use of production or reclaimed water and the need for careful water quality monitoring. Other environmental science and technology advancements have been made in the areas of ground water cleanup, soil clean-up and remediation actions. The original Oil Code did not anticipate any of these environmental advancements, which when employed improve the public health and safety.

The National Environmental Policy Act (NEPA) was adopted in 1969 and California followed suit by adopting the California Environmental Quality Act (CEQA) in 1970. These two landmark pieces of environmental legislation were not anticipated by Arvin's Oil Code in 1965. Part of the necessary amendments in the proposed oil code deal with the increasing the environmental indemnification and insurance coverage requirements. These environmental insurance needs could not have been foreseen by the original authors of the 1965 code.

Without financial assurances to ensure site remediation and compliance with heightened environmental standards, redevelopment of a former oil or gas site may be precluded or unnecessarily restricted. This can result in parcels of land with limited (if any) development potential throughout the City, which can not only displace other desirable uses, but also affects the City's ability to provide services to the public through decreased tax revenue. Additionally, this can increase the likelihood of blight, nuisances, vandalism and other undesirable conditions. These financial assurances to address environmental needs could not have been foreseen by the original authors of the 1965 code.

Another of the key changes that necessitates a comprehensive amendment to the Arvin Oil Code is the major change in the role of the State Division of Oil, Gas and Geothermal Resources since 2011. Oil production and site development in the area was carefully regulated by DOGGR until 2011, when DOGGR notified several cities that they would no longer be involved in the site development process. Several local cities, were required to amend their oil codes to deal with this State policy

change. In part, Arvin's proposed amendments to the oil code are in response to the willingness of DOGGR to withdraw from the site development process. The proposed code amendment will ensure environmentally sound, and community protective, operational standards. The proposed code ensures oil well and facilities abandonment requirements that will result in the protection of the public health and safety, overall environmental protection and the safe redevelopment of property.

The City's original oil code was adopted in 1965 and consisted of only a few pages of regulations. The current code allows oil drilling in residential neighborhoods with a CUP.

On January 10, 2017, the City Council provided initial direction to City Staff to commence a complete and comprehensive review to update the Municipal Code regarding oil and gas operations and to study and address all modern-day drilling issues and applications. Staff have since completed a comprehensive review of the oil and gas code.

On September 19, 2017, the City Council adopted Resolution No. 2017-92 Initiating Code Amendments to Title 17 -Zoning which included amendment to Chapter 17.46 Oil and Gas Production.

Overview of Proposed Ordinance:

The proposed Ordinance is one of the comprehensive ordinances in the State, and is divided into three Parts as follows:

Part 1 (Administrative Procedures):

This Part identifies where operations may occur, and what approvals are necessary for the types of operations. This could include:

- o Prohibiting new operations in residential and other sensitive areas (such as schools and medical facilities).
- o All other areas require conditional use permits or development agreements (complete with a public review process).
- o Regulation of facility closure and abandonment.
- o Impose insurance and bonding requirements. This could include general liability (including environmental impairment (or seepage and pollution) coverage), automotive liability, worker's compensation, control of well insurance and umbrella insurance.
- o Require the applicant shall be fully responsible for all reasonable costs and expenses incurred by the City to review, approve, implement, inspect, monitor, or enforce the ordinance or any CUP, DA, or permit related to oil and gas production.
- o Establish monitoring and enforcement procedures (including substantial fines and penalties, etc.).

Part 2 (Development Standards for Petroleum Operations):

This Part establishes how the sites may be operated. This includes:

- o Banning expansion of existing uses in residential and other sensitive use areas.

- o Prohibiting new operations within a certain radius (600 feet) of sensitive uses unless they can comply with a variety of requirements, including an odor minimization plan, air monitoring plan, community alert system, quiet mode operations plan, photometric analysis (lighting and glare), etc.
- o Prohibiting the development of new uses closer than 300 feet (a football field) from sensitive uses under any conditions.
- o Regulations to address lighting, aesthetics, water quality (including groundwater), air quality, greenhouse gas, inspection and monitoring, safety standards, and other items.

Part 3 (Development Standards for Site Abandonment and Redevelopment):

This Part addresses conditions under which a site must be assessed and remediated prior to redevelopment of a current or oil or gas site (e.g., prior to building structures over an abandoned site).

This includes leak testing, inspections, ensuring all wells are properly abandoned and recording of documents on the property to give notice to future owners and occupants of the land's prior use as an oil or gas site, results of testing, etc.

CEQA:

The proposed Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. Staff has determined that the Ordinance is exempt from CEQA pursuant Class 8, Section 15308 of the Guidelines for actions taken by regulatory agencies to assure the maintenance, restoration, enhancement, or protection of the environment. This Categorical Exemption is applicable as this Ordinance is intended to further regulate oil and gas production in the City in such a way as to better protect the environment. Such a finding and determination is warranted as the proposed Ordinance addresses the maintenance, restoration, enhancement and protection of the environment and the public health, safety, welfare of the citizens of Arvin as related to potential impacts from petroleum operations and facilities within the City. The variety of environmental issues addressed include air, water, soil, geology, storm water and wastewater infrastructure, transportation, noise, emergency response, aesthetic issues, and petroleum operations near potentially sensitive receptors. The Ordinance does not provide for the relaxation of standards as compared to the current regulations in the Arvin Municipal Code. Instead, the Ordinance strengthens environmental standards related to petroleum operations and facilities, and thereby advances the protection of environmental resources within the City of Arvin. No exception to the exemption under CEQA Guideline Section 15300.2 applies.

FINANCIAL IMPACT:

The proposed Ordinance is designed such that the applicants would pay for all impacts and costs associated with monitoring, permitting, testing, etc.

EXHIBITS AND ATTACHMENTS:

1. Resolution - Resolution of the City Of Arvin Planning Commission Recommending adoption of the proposed Text Amendment to Title 17-Zoninf, Chapter 17.46 Oil and Gas Production - Repealing existing chapter and adoption of Chapter 17.46 – Text Amendment 2017-04, Oil and Gas Production Regulation of Petroleum Facilities and recommending adoption of Categorical Exemption under CEQA Section 15308 – Actions by regulatory

agencies for protection of natural resources.

2. Exhibit A – Proposed Ordinance Amendment – Title 17-Zoning, Chapter 17.46 Oil and Gas Production
3. Exhibit B – Notice of Exemption.

RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ARVIN RECOMMENDING ADOPTION OF THE PROPOSED TEXT AMENDMENT TO TITLE 17-ZONING, CHAPTER 17.46 OIL AND GAS PRODUCTION - REPEALING EXISTING CHAPTER AND ADOPTION OF CHAPTER 17.46 – TEXT AMENDMENT 2017-04, OIL AND GAS PRODUCTION REGULATION OF PETROLEUM FACILITIES AND RECOMMENDING ADOPTION OF CATEGORICAL EXEMPTION UNDER CEQA SECTION 15308 – ACTIONS BY REGULATORY AGENCIES FOR PROTECTION OF NATURAL RESOURCES.

WHEREAS, the City Council adopted Resolution No. 2017-92 on September 19, 2017 authorizing various code amendments to Title 17 Zoning; and

WHEREAS, the City Council authorized the Community Development Director to prepare necessary reports and prepare appropriate environmental documents for needed code amendments to Title 17-Zoning and present same to the Planning Commission wherein their recommendation would be forwarded to the City Council for consideration; and

WHEREAS, the Planning Commission on October 30, 2017 at a Special Planning Commission meeting, recommended the adoption of the proposed code amendments; and

WHEREAS, the Planning Commission recommends that the City Council adopt said amendments and further recommends the adoption of the Notice of Exemption as the appropriate environmental document for said amendments.

NOW THEREFORE BE IT RESOLVED the Planning Commission of the City of Arvin hereby finds and adopts the following findings:

1. The Community Development Director is authorized by Resolution No. 2017-92 dated September 19, 2017 to present reports and recommendations to the Planning Commission for various code and text amendments to Title-17 Zoning for Planning Commission consideration and provide recommendations to the City Council for their action.
2. The Planning Commission public hearing date was duly noticed date in accordance with local requirements and state requirements.
3. The Planning Commission conducted a public hearing on October 30, 2017 providing an opportunity for all interested persons to give testimony and the Planning Commission duly considered all relevant testimony.
4. The Planning Commission recommends the adoption of the Notice of Exemption as the appropriate environmental document for said amendments.
5. The Planning Commission recommends adoption of the proposed ordinance amendments as shown on Exhibit A of this resolution.

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the Arvin Planning Commission at a special meeting thereof held on the 30th day of October 2017 by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST:

CECILIA VELA, Secretary

ARVIN PLANNING COMMISSION

By: _____
OLIVIA TRUJILLO, Chairperson

APPROVED AS TO FORM:

By: _____
SHANNON L. CHAFFIN, General Counsel
Aleshire & Wynder, LLP

I, _____, Secretary of the Planning Commission 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 Planning Commission of the City of Arvin on the date and by the vote indicated herein.

EXHIBIT A

ORDINANCE NO. 2017- XX

EXHIBIT B
NOTICE OF EXEMPTION

ORDINANCE NO. _____

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF ARVIN, CALIFORNIA, TO ADOPT TEXT AMENDMENT NO. 2017-04, AN OIL AND GAS ORDINANCE FOR REGULATION OF PETROLEUM FACILITIES AND OPERATIONS, BY REPEALING CHAPTER 17.46, TITLE 17, AND ADDING CHAPTER 17.46 TO TITLE 17, OF THE ARVIN MUNICIPAL CODE

WHEREAS, all oil and gas operations have the potential for significant and immediate impacts on the health, safety, and welfare of the citizens of Arvin through increased noise, odor, dust, traffic, and other disturbances, as well as the potential to significantly impact the City's air, water, soil, biological quality, geology, storm water and wastewater infrastructure, transportation, noise exposures, emergency response plans, aesthetic values, environmental and community resources; and

WHEREAS, the City of Arvin zoning and land use standards and regulations on oil and gas drilling have not been updated in several years, and have not been updated prior to various changes in oil and gas production practices and changes to state statutes and regulations; and

WHEREAS, the City Council held a variety of public meetings regarding these and related issues associated with petroleum operations on October 18, 2016, and January 10, 2017; and

WHEREAS, on September 19, 2017, the City Council adopted Resolution No. 2017-92, initiating various code amendments, deletions, and additions to Title 17 – Zoning, including updates to the oil and gas ordinance; and

WHEREAS, the City Council directed City Staff to commence a complete and comprehensive review to update the Municipal Code, which included Section 17.46 Oil and Gas Ordinance regarding oil and gas operations and to study and address all modern-day drilling issues and applications; and

WHEREAS, the City of Arvin has reviewed and studied revisions as necessary to the City's laws, rules, procedures and fees related to petroleum operations and facilities, to enable the City to adequately and appropriately balance the rights of existing operators and future applicants who wish to develop oil and gas drilling and extraction facilities in the City, with the preservation of the health, safety and

welfare of the communities surrounding the oil and gas drilling and extraction facilities in the city including exposure to nuisances; and

WHEREAS, as part of this review process, the City of Arvin has engaged in community outreach regarding this matter, including hearings, publishing notices in the newspaper, etc.; and

WHEREAS, City of Arvin Staff prepared a proposed Oil and Gas Ordinance, including modifications to the Arvin Zoning Ordinance, which was available on the internet on October 6, 2017; and

WHEREAS, the Planning Commission received and reviewed Text Amendment No. 2017-04 proposing and Oil and Gas Ordinance at a duly noticed meeting on October 30, 2017; and

WHEREAS, the public was provided an opportunity to comment on the Oil and Gas Ordinance, and any public testimony and evidence, both written and oral, was considered by the Planning Commission; and

WHEREAS, after considering all public testimony and receiving information provided to date, the Planning Commission recommended approval of Text Amendment No. 2017-04, as amended in its meeting of October 30, 2017, which proposes an updated Oil and Gas Ordinance for regulation of petroleum facilities and operations, to the City Council; and

WHEREAS, as part of this recommendation, the Planning Commission of the City of Arvin reviewed Text Amendment No. 2017-04, including all associated amendments and repeals of the relevant portions of the Arvin Municipal Code in order to enact the Oil and Gas Ordinance, for consistency with the General Plan and any applicable Specific Plans; and

WHEREAS, the Planning Commission of the City of Arvin also reviewed and recommended approval of a finding of a Class 8 Categorical Exemption under CEQA Guidelines §15308, Actions By Regulator Agencies For Protection of Natural Resources as the Ordinance is an action taken by a regulatory agency for the protection of the environment; and

WHEREAS, a stated purpose of said recommendation of adoption was to protect the health, safety, public welfare, physical environment and natural resources of

the City of Arvin, and to prevent nuisances, by the reasonable regulation of certain petroleum operations; and

WHEREAS, the City Council desires to proceed with the adoption of Text Amendment No. 2017-04; and

WHEREAS, it is the intent of the City Council that petroleum operations shall be permitted within the City of Arvin, except where expressly prohibited, subject to the application the Arvin Municipal Code and all other applicable laws, regulations and requirements; and

WHEREAS, it is a purpose of the adoption of the Ordinance is to protect the health, safety, public welfare, physical environment and natural resources of the City of Arvin, and to prevent nuisances, by the reasonable regulation of certain petroleum operations; and

WHEREAS, the City Council has duly considered all information presented to it, including the Planning Commission findings, Planning Commission Resolution, written staff reports, studies, research, testimony and other evidence provided at the public hearings and received by the City, as well as its prior legislative approvals and enactments.

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

Section 1. Findings.

A. Recitals: The City Council of the City of Arvin finds that the above recitals are true and correct.

B. Plan Consistency: The City Council of the City of Arvin has reviewed Text Amendment No. 2017-04, an oil and gas ordinance for regulation of petroleum facilities and operations, and hereby finds it is consistent with the General Plan and all applicable Specific Plans.

C. Findings of Fact: The City Council of the City of Arvin, based on its own independent judgment, finds that Text Amendment No. 2017-04 promotes and protects the health, safety, welfare, and quality of life of City residents, including protection against nuisances, and adopts the Findings of Fact, attached as Exhibit “A” and incorporated in full by reference, any one of which findings would be sufficient to support adoption of this Text Amendment.

Section 2. CEQA. Text Amendment No. 2017-04 was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The City Council hereby finds and determines that the adoption of Text Amendment No. 2017-04 is exempt from CEQA pursuant to Section 15308 of the Guidelines for actions taken by regulatory agencies to assure the maintenance, restoration, enhancement, or protection of the environment. This Categorical Exemption is applicable as this Ordinance is intended to further regulate oil and gas production in the City in such a way as to better protect the environment. Such a finding and determination is warranted as the proposed Ordinance addresses the maintenance, restoration, enhancement and protection of the environment and the public health, safety, welfare of the citizens of Arvin as related to potential impacts from petroleum operations and facilities within the City. The variety of environmental issues addressed include air, water, soil, geology, storm water and wastewater infrastructure, transportation, noise, emergency response, aesthetic issues, and petroleum operations near potentially sensitive receptors. The Ordinance does not provide for the relaxation of standards as compared to the current regulations in the Arvin Municipal Code. Instead, the Ordinance strengthens environmental standards related to petroleum operations and facilities, and thereby advances the protection of environmental resources within the City of Arvin. No exception to the exemption under CEQA Guideline Section 15300.2 applies.

Section 3. Enactment. The Arvin Municipal Code is hereby amended to read, in its entirety, as is set forth in the attached Exhibit “B” and incorporated in full by reference, which repeals Chapter 17.46 of Title 17, and adds Chapter 17.46 of Title 17, consisting of sections 17.46.01 through 17.46.038, of the Arvin Municipal Code.

Section 4. Severability. If any provision(s) of this Ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end the provisions of this ordinance are declared to be severable. The City Council hereby declares that they would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

Section 5. Posting. The City Clerk shall certify to the passage and adoption of this Ordinance by the City Council of the City of Arvin and shall cause this ordinance to be published or posted in accordance with Government Code Section 36933 as required by law.

Section 6. Effective Date. This ordinance shall be effective thirty (30) days following its adoption.

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 XX[rd/th] day of [Month] , 2017, and adopted the Ordinance after the second reading at a regular meeting held on the XX[rd/th] day of [Month] 2017, by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

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 Ordinance passed and adopted by the City Council of the City of Arvin on the date and by the vote indicated herein.

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EXHIBIT “A”

FINDINGS OF FACT

The City Council of the City of Arvin, based on its own independent judgment, finds that Text Amendment No. 2017-04 promotes and protects the health, safety, welfare, and quality of life of City residents and reduces nuisances as set forth in these Findings of Fact, any one of which findings would be sufficient to adopt this Text Amendment, and any one of which may rely upon evidence presented in the other, including as follows:

I. Limited Water Supplies Should Be Preserved

A. Extreme Drought Conditions Throughout State Result In Water Shortages

The City, region and State of California are experiencing extreme drought conditions, and have been struggling to preserve potable water resources for most of the decade. On June 12, 2008, the Governor issued Executive Order S-06-08 calling for a State of Emergency regarding water shortages and availability. The State of Emergency was again called on February 27, 2009. Additionally, the Water Conservation Bill of 2009 SBX7-7 was passed, which requires every urban water supplier that either provides over 3,000 acre-feet of water annually, or serves more than 3,000 urban connections, to assess the reliability of its water sources over a 20-year planning horizon, and report its progress on 20% reduction in per-capita urban water consumption by the year 2020. Executive Order S-06-08 was not rescinded until March 30, 2011. Even then the Governor urged Californians to continue to conserve water.

Shortly thereafter extreme drought conditions once again resulted in water shortages. On January 17, 2014, the Governor again proclaimed a State of Emergency regarding water shortages and availability. On April 25, 2014, the Governor issued an executive order to speed up actions necessary to reduce harmful effects of the drought, and called on all Californians to redouble their efforts to conserve water. On December 22, 2014, Governor Brown issued Executive Order B-28-14, citing to the January 17, 2014 Proclamation and the April 25, 2014 Proclamation, and extending the operation of those proclamations until May 31, 2016.

During this period of time the State Water Resources Control Board (SWRCB) has been adopting new water conservation regulations. On July 15,

2014, SWRCB adopted emergency regulations prohibiting all individuals from engaging in certain water use practices and require mandatory conservation-related actions of public water suppliers during the current drought emergency. On March 17, 2015, the SWRCB amended and re-adopted the emergency drought conservation regulations, and they became effective on March 27, 2015.

Following the lowest snowpack ever recorded and with no end to the drought in sight, on April 1, 2015, the Governor directed the SWRCB to implement mandatory water reductions in cities and towns across California to reduce water usage by 25 percent. This is the first time in state history such drastic steps have ever been ordered due severe drought conditions. The SWRCB continues to adopt new water and emergency conservation regulations for all of California to address systemic water shortages.

The drought exacerbated the depletion of groundwater resources, which led to subsidence and other issues throughout the area. To address this issue on a state-wide level, the legislature adopted the Sustainable Groundwater Management Act (SGMA). SGMA established a new structure for managing California's groundwater resources at a local level by local agencies. SGMA requires the formation of locally-controlled groundwater sustainability agencies (GSAs) in the State's high- and medium-priority groundwater basins and subbasins (basins). A GSA is responsible for developing and implementing a groundwater sustainability plan (GSP) to meet the sustainability goal of the basin to ensure that it is operated within its sustainable yield, without causing undesirable results. The community of Arvin relies upon groundwater for its water resources, and is located in a high-priority groundwater basin.

Subsequently, the Governor issued Executive Order B-37-16, on May 9, 2016. The executive order established a new water use efficiency framework for California. The order established longer-term water conservation measures that include permanent monthly water use reporting, new urban water use targets, reducing system leaks and eliminating clearly wasteful practices, strengthening urban drought contingency plans and improving agricultural water management and drought plans.

After many years of drought, rain and snow finally came to many regions of the State. As a result, the Governor of the State of California issued declared the state of the drought at an end effective April 7, 2017. However, the executive order did not lift the drought state of emergency in Fresno, Kings, Tulare, and Tuolumne counties, where emergency drinking water projects will continue to help

address diminished groundwater supplies. As a result, Kern County is still operating under a drought state of emergency.

B. Oil and Gas Operations Can Impact Water Quality and Resources

Oil and gas operations have the potential to impact water quality, surface water and groundwater supplies.

Without the appropriate regulations, or a mechanism to confirm compliance with existing regulations, oil and gas operations can result in an increased level of freshwater pollution or groundwater contamination in the immediate area, or cause regulatory water standards at an existing water production well to be violated. Impacts can occur through a variety of sources, whether through construction, operations, abandonment or redevelopment to another use. Until the appropriate facilities have been built, construction activities can result in storm water pollution. Produced water and wastewater, if not properly contained, transported and disposed, can contaminate both surface water and groundwater supplies. Water quality can also be impacted by operations, and the appropriate steps cannot be taken to address the issue unless water quality is sufficiently monitored for both surface and groundwater monitoring locations. Oil and gas are located at varying depths, often below underground sources of drinking water. The well bore, however, must be drilled through these drinking water sources in order to gain access to the oil and gas. Depending on field conditions, chemicals and natural gas can escape the well bore if it is not properly sealed and cased. While there are state requirements for well casing and integrity, accidents and failures can still occur. Wellbore leakage can lead to the deterioration of the quality of groundwater.¹ Inadequately abandoned wells risk surface and subsurface contamination, which can impact water quality, surface water and groundwater supplies.

Without the adequate financial assurances, there may be insufficient funding available to ensure regulatory compliance, enforcement, and safety measures are implemented to protect the environment including water supplies.

Contamination of surface water and groundwater supplies is nuisance, requiring substantial infrastructure and expense to render such water potable – if at all. Given the community of Arvin’s heavy reliance on groundwater, groundwater contamination could have devastating impacts on the local economy and water

¹ "Towards a Road Map for Mitigating the Rates and Occurrences of Long-Term Wellbore Leakage," University of Waterloo, Geofirma Engineering Ltd., May 22, 2014.

supplies. Vulnerable water supplies should be preserved for municipal and other critical uses.

Based on these considerations and other impacts found in the administrative record, the City Council finds Text Amendment No. 2017-04 promotes and protects against potential pollution and water quality impacts and nuisances activities from oil and gas operations, including those articulated herein, for the benefit of the public health, safety, welfare, and quality of life.

II. Transportation of Water Required for Operations Creates Land Use and Nuisance Activities

As evidence by the City of Arvin Pavement Management Plan dated July 2017 was approved by the City Council on July 18, 2017, the condition of a significant number of roadways in the City are marginal or poor. Significant traffic, especially truck traffic, could effectively destroy marginal or poor roadways.

Oil and gas operations generate a significant amount of truck traffic. All of the materials and equipment needed for activities associated with bringing a well into production are typically transported to the site by trucks. Additionally, wastewater and waste materials from certain operations is usually removed by tanker truck to the disposal site or to another well for reuse. Much of the truck traffic is concentrated over the first 50 days following well development. Wastewater disposal may require additional trips.

Transport associated with oil and gas operations through the City to well locations will result in potential adverse land use and nuisance activities including traffic loads, increased risk of truck accidents including releases chemical or wastewater spills, air emissions, noise, traffic congestion, degraded road quality, vibration, and aesthetics - each of which is detrimental to the public health, safety and welfare.

Based on these considerations and other impacts found in the administrative record, the City Council finds Text Amendment No. 2017-04 promotes and protects against potential land use, impacts and nuisances activities from oil and gas operations, including those articulated herein, for the benefit of the public health, safety, welfare, and quality of life.

III. Surface Spills and Leaks

All extraction activities come with some risk of surface or groundwater contamination from the accidental or intentional release of wasted. Fluids released into the ground from spills or leaks can run off into surface water and/or seep into the groundwater.

Spills can occur at any stage during the drilling lifecycle. Accidents and equipment failure during on-site mixing of the fluids can release chemicals into the environment. Above-ground storage pits, tanks, or embankments can fail. Vandalism and other illegal activities can also result in spills and improper wastewater disposal. Given the large volume of truck traffic associated with petroleum operations, truck accidents can also lead to chemical or wastewater spills.

A recent study noted that reported wellbore leakage in active onshore drilling ranged from approximately 7% to 64% across a wide variety of locations.² The likelihood of leakage is significant given the potentially high level of risk that can associate with petroleum operations. Leakage can impact groundwater, air quality, cause odors, contaminate soil, and result in a variety of other nuisance, health, safety and welfare issues.

Given the uncertainty of the frequency, severity, cause and impact of spills associated with petroleum operations, regulations designed to mitigate potential impacts, and provide assurance adequate financial resources are available to address the impacts, are warranted given the severity of the risks associated with such operations.

IV. Air Pollution, Particulate Matter and Odors

Odors, air pollution and particulate matter can be produced as a result of oil and gas operations, whether from mobile or stationary sources. These impacts are not localized, but can be spread by natural air flow cause by weather or physically generated outside a site by truck and other traffic. Odors have been known impact locations around an oil and gas site at distances of approximately 1,500 feet.

Odor impacts depend on the process. For small leaks associated with normal operations, odors typically would not reach beyond a few hundred feet. For accidental releases, distances could be higher than 1,500 feet. For projects that would have high levels of hydrogen sulfide, impact distances are larger. The EIR for SB4 indicated that impact distances could be as high as 1,500 feet.

² See "Towards a Road Map for Mitigating the Rates and Occurrences of Long-Term Wellbore Leakage," University of Waterloo, Geofirma Engineering Ltd., May 22, 2014.

Air quality in the City and region already falls below state standards for pollutants related to production activities. Enactment of the Oil and Gas Ordinance provides a regulatory framework to reduce these risks. Based on these considerations and other impacts found in the administrative record, the City Council finds Text Amendment No. 2017-04 promotes and protects against potential air pollution, particulate matter and odor impacts and nuisance activities from oil and gas operations, including those articulated herein, for the benefit of the public health, safety, welfare, and quality of life of City.

V. Deleterious Public Health Effects

Development and production of oil and gas operations involve multiple sources of physical stressors such as noise, light, vibrations, toxicants, and impacts on air emissions. Many chemicals used during drilling and other stages of gas operations may have long-term health effects not immediately expressed.³ Enactment of the Oil and Gas Ordinance provides a regulatory framework to reduce these risks, including setbacks from residential and other sensitive uses. Based on these considerations and other impacts found in the administrative record, the City Council finds Text Amendment No. 2017-04 promotes and protects against potential deleterious public health effects from oil and gas operations, including those articulated herein, for the benefit of the public health, safety, welfare, and quality of life of City residents.

VI. Oil and Gas Operations Impact Aesthetics

Oil and gas operations utilize unsightly derricks and rigs for drilling, re-drilling, workovers and other operations. This impact can be compounded by the large trucks and traffic traveling on the City's roadways through the community, dust, and light pollution from stadium-type lighting from around-the-clock drilling rigs. These aesthetic impacts are contrary to the urban nature of the City, are a nuisance and create a risk to the public, health and safety.

Based on these considerations and other impacts found in the administrative record, the City Council finds Text Amendment No. 2017-04 promotes and protects against potential deleterious aesthetic impacts from oil and gas operations, including those articulated herein, for the benefit of the public health, safety, welfare, and quality of life of City residents.

VII. Oil and Gas Operations Are Incompatible With Residential Uses

³ Colborn, Theo, C. Kwiatkowski, K. Schultz and M. Bachran, "Natural Gas Operations from a Public Health Perspective," Human Ecological Risk Assessment, September 2011, pp. 1309-1056.

The City is urbanized area with a denser residential population as compare to the surrounding County. Oil and gas development projects are industrial operations that are incompatible with residential uses and quality of life. Petroleum operations often generate noise, odor, visual effects, significant heavy truck traffic, and other impacts noted in these Findings that are incompatible with residential areas. For these reasons, all petroleum operations should be directed away from areas with residential land use designations, and other sensitive uses, and the operations regulated to reduce adverse impacts on residents and the community. Requiring additional measures as operations are located closer to residential and sensitive uses reduces the impacts caused by those incompatible operations upon residential uses. These can include landscaping, walls, sanitation, noise barriers and noise reduction devices, odor monitoring, air monitoring and other control issues.

Based on these considerations and other impacts found in the administrative record, the City Council finds Text Amendment No. 2017-04 promotes and protects against potential incompatible impacts with residential uses, including those articulated herein, for the benefit of the public health, safety, welfare, and quality of life of City residents.

VIII. Oil and Gas Operations, Closure, Abandonment and Other Uses

Land uses change. Over the past several decades the City of Arvin has been changing from agricultural uses to more residential and commercial uses. Former oil and gas operations sites are being utilized for other uses, including commercial and residential uses. These types of sites pose unique challenges to redevelopment, including potential contamination, locations of and impacts of abandoned facilities, potential for well leaks and the need for remedial access to address the same.

Prior to redevelopment or re-use of the site for another use, closed or abandoned sites that have not been properly cleaned and remediated can contribute to adverse impacts and nuisances including aesthetics, air quality, odor, graffiti, vandalism, weeds, contaminants, trash, and other items noted in the administrative record. Wells and sites can be left in an unsafe condition without being properly abandoned. Financial assurances posted with other agencies are often insufficient to address remediation and compliance efforts.

Based on these considerations and other impacts found in the administrative record, the City Council finds Text Amendment No. 2017-04 promotes and

protects against potential impacts and nuisances caused by site abandonment and re-development, including those articulated herein, for the benefit of the public health, safety, welfare, and quality of life of City residents.

IX. Need for Financial Assurances and Identification of Responsible Parties

Accidents happen, and the nature of oil and gas operations can cause unique and potentially significant impacts upon the community not associated with other uses as has been noted in the administrative record. Financial assurances, to the extent they may be required by other agencies, are often insufficient to assure the impacts have been fully addressed. This leaves the public to pay either through unaddressed impacts on the community (aesthetics, odors, noise, risk of contamination, etc.) or to provide money to address the issue. Additionally, without the appropriate mechanisms in place, it can be difficult or impossible to effectively identify responsible parties. Based on these considerations and other impacts found in the administrative record, the City Council finds Text Amendment No. 2017-04 promotes and protects against potential impacts and nuisances caused by insufficient financial assurance and identification issues for the benefit of the public health, safety, welfare, and quality of life of City residents.

X. Need for Enforcement, Compliance Monitoring, and Oversight Mechanisms

Regulations are only as stringent as their enforcement, compliance monitoring, and oversight mechanisms. Without adequate enforcement and oversight, there is an uneven playing field, bad operators are effectively rewarded to the detriment of good operators, and the community as a whole suffers. Given the complexity of oil and gas operations, the potential for significant environmental and other impacts upon the community identified in these Findings including nuisances, as well as the finite public resources available to address those impacts, strong enforcement and oversight mechanisms are warranted. The City Council finds Text Amendment No. 2017-04 promotes and protects against potential impacts and nuisances caused by inadequate enforcement compliance monitoring and oversight mechanisms for the benefit of the public health, safety, welfare, and quality of life of City residents.

XI Changing Technologies, Regulatory Oversight Roles, Environmental Standards and Operations Within a Highly Urbanized Setting Warrant Adoption of the Ordinance

The City's original oil code was adopted in 1965 and consisted of only a few pages of regulations. The current code allows oil drilling in residential neighborhoods with a CUP. In 1970, the City's population was 5,199 residents. At that time the State Division of Oil and Gas was also actively regulating oil production, as well as the site redevelopment process, such that there was no role for a City inspection process. During the last 50+ years the character of the community has changed significantly, growing to over 20,000 residents and adding many high quality residential neighborhoods, as well as new commercial and business developments located in or adjacent to active oil fields.

The proposed oil code amendments deal with not only the changing character of Arvin, but changes in the science and technology of oil production in the last half century. These include the advent of 3-D Seismic Imaging technology, which is unlocking new deposits of oil and gas in previously declining and abandoned oil fields. Major technology advancements have been made in directional or slant drilling, now combined with GPS coordination and 3-D imaging to precisely locate and access gas and oil deposits. Arvin's original oil code did not anticipate these technologies or uses.

As the technology and science improve in locating gas and oil deposits, as well as improvements in production technology, it is conceivable that these reserves will increase. This improvement in technology and science make a compelling case that Arvin requires a comprehensive oil code amendment that can deal with decades of future oil production.

There have also been changes in oil field production techniques which warrant the proposed amendments to the Arvin Oil Code. These include changes in pumping technology and efficiencies, including more energy efficient pumps. There have also been changes in sound attenuation technology, for both oil drilling equipment and well servicing equipment, since the existing code was adopted. Air quality standards have also evolved since 1965, including new regulations from the San Joaquin Air Quality Management District to control odors and emissions. Natural gas vapor recovery is now common place in the local oil fields, where in 1960's natural gas was routinely a waste product that was vented to atmosphere or flared. Drilling muds have evolved into water based muds rather than oil based muds, which are less impactful to the environment. There have been changes in pipeline technology, leak detection and pipeline repairs, where the majority of oil production can now be conveyed by pipeline, instead of tanker trucks.

Important regulations have been developed in other jurisdiction to address

issues such as decommissioning of oil facilities once they have reached the end of their economic life and appropriate clean up and remediation to allow for appropriate future use of the land. In addition, regulations have evolved to address the potential change of ownership that could occur at oil fields and the importance of addressing such changes to protect the local jurisdictions on financial responsibility and insurance.

The original water flood systems relied on potable water in the 1970s, when water was relatively inexpensive. With the population growth in the region and State, potable water has been substituted by production or reclaimed water. This water must be carefully monitored for environmental and public health reasons. The original oil code did not anticipate the use of production or reclaimed water and the need for careful water quality monitoring. Other environmental science and technology advancements have been made in the areas of ground water cleanup, soil clean-up and remediation actions. The original oil code did not anticipate any of these environmental advancements, which when employed improve the public health and safety.

The National Environmental Policy Act (NEPA) was adopted in 1969 and California followed suit by adopting the California Environmental Quality Act (CEQA) in 1970. These two landmark pieces of environmental legislation were not anticipated by Arvin's Oil Code in 1965. Part of the necessary amendments in the proposed oil code deal with the increasing the environmental indemnification and insurance coverage requirements. These environmental insurance needs could not have been foreseen by the original authors of the 1965 code.

Without financial assurances to ensure site remediation and compliance with heightened environmental standards, redevelopment of a former oil or gas site may be precluded or unnecessarily restricted. This can result in parcels of land with limited (if any) development potential throughout the City, which can not only displace other desirable uses, but also affects the City's ability to provide services to the public through decreased tax revenue. Additionally, this can increase the likelihood of blight, nuisances, vandalism and other undesirable conditions. These financial assurances to address environmental needs could not have been foreseen by the original authors of the 1965 code.

Another of the key changes that necessitates a comprehensive amendment to the Arvin Oil Code is the major change in the role of the State Division of Oil, Gas and Geothermal Resources since 2011. Oil production and site development in the area was carefully regulated by DOGGR until 2011, when DOGGR notified

several cities that they would no longer be involved in the site development process. Several local cities, were required to amend their oil codes to deal with this State policy change. In part, Arvin’s proposed amendments to the oil code are in response to the willingness of DOGGR to withdraw from the site development process. The proposed code amendment will ensure environmentally sound, and community protective, operational standards. The proposed code ensures oil well and facilities abandonment requirements that will result in the protection of the public health and safety, overall environmental protection and the safe redevelopment of property.

The City Council finds Text Amendment No. 2017-04 promotes and protects against potential impacts and nuisances caused by changing technologies, regulatory oversight (including the withdrawal of DOGGR from the site development process), and development within a highly urbanized setting for the benefit of the public health, safety, welfare, and quality of life of City residents.

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EXHIBIT “B”

Section 1. Chapter 17.46 (Oil and Gas Production), of Title 17 of the Arvin Municipal Code is hereby repealed in its entirety.

Section 2. Chapter 17.46 (Oil and Gas ordinance of the City of Arvin) is hereby added to Title 17 of the Arvin Municipal Code, in its entirety, as follows:

CHAPTER 17.46

Part 1. Administrative Procedures

17.46.01 Purpose

17.46.02 Ordinance Applicability

17.46.03 Allowable Uses

17.46.04 Definitions

17.46.05 Consistency with Other Laws, Rules and Regulations

17.46.06 Appeals

17.46.07 Well Drilling Permit

17.46.08 Required Procedures for Conditional Use Permits

17.46.08.1 Conditional Use Permit (CUP) Filing Requirements

17.46.08.2 Processing and Review

17.46.08.3 Findings and Permitting Conditions

17.46.08.4 Modifications and Extensions

17.46.08.5 Change of Ownership/Operators Criteria

17.46.09 Procedures for Development Agreements

17.46.09.1 Filing Requirements

17.46.09.2 Processing and Review

17.46.09.3 Findings and Development Agreement Conditions

17.46.09.4 Modifications and Extensions

17.46.010 Periodic Review

17.46.011 Facility Closure, Site Abandonment, and Site Restoration Procedures

17.46.011.1 Purpose and Intent

17.46.011.2 Applicability

- 17.46.011.3 Application Process
 - 17.46.011.3.1 Requirement to File an Application
 - 17.46.011.3.2 Content of Application
 - 17.46.011.3.3 Permitting Specifications
 - 17.46.011.3.4 Findings Required for Approval
- 17.46.012 Operational Noticing
- 17.46.013 Complaints
- 17.46.014 Injunctive Relief
- 17.46.015 Notice of Violation and Administrative Fines
- 17.46.016 Nuisance Procedures
 - 17.46.016.1 High-Risk Operations
- 17.46.017 Compliance Monitoring
- 17.46.018 Financial Assurances Applicability
- 17.46.019 Operator's Financial Responsibilities
- 17.46.020 Securities and Bond Requirements
- 17.46.021 Operator Liability Insurance

Part 2. Development Standards for Petroleum Operations

- 17.46.022 Setback Requirements
- 17.46.023 Site Access and Operation
 - 17.46.023.1 Deliveries
 - 17.46.023.2 Construction Time Limits
 - 17.46.023.3 Oil and Gas Site Parking
- 17.46.024 Lighting
- 17.46.025 Aesthetics
 - 17.46.025.1 Landscaping/Visual Resources
 - 17.46.025.2 Walls
 - 17.46.025.3 Sanitation
 - 17.46.025.4 Architecture
- 17.46.026 Roads
 - 17.46.026.1 Construction of Site Access Roads
- 17.46.027 Signage

- 17.46.028 Steaming
- 17.46.029 Utilities
- 17.46.030 On-Site Storage and Placement of Equipment
- 17.46.031 Safety Assurances and Emergency/Hazard Management
 - 17.46.031.1 Fire Prevention Safeguards
 - 17.46.031.2 Blowout Standards and Testing
 - 17.46.031.3 Earthquake Shutdown
 - 17.46.031.4 Storage Tank Monitoring
 - 17.46.031.5 Safety Measures and Emergency Response Plan
 - 17.46.031.6 Transportation of Chemicals and Waste On and Off-site
 - 17.46.031.6.1 Natural Gas Liquids (NGLs)
 - 17.46.031.6.2 Transportation Risk Management and Prevention Program (TRMPP)
 - 17.46.031.6.3 Pipeline Leak Detection
- 17.46.032 Environmental Resource Management
 - 17.46.032.1 General Environmental Program
 - 17.46.032.2 Air Quality
 - 17.46.032.3 Greenhouse Gas Emissions and Energy Efficiency Measures
 - 17.46.032.4 Air Quality Monitoring and Testing Plan
 - 17.46.032.5 Water Quality
 - 17.46.032.5.1 Water Management Plan
 - 17.46.032.5.2 Stormwater Runoff
 - 17.46.032.5.3 Groundwater Quality
 - 17.46.032.6 Noise Impacts
- 17.46.033 Standards for Wells
- 17.46.034 Standards for Pipelines
 - 17.46.034.1 Pipeline Installations and Use
 - 17.46.034.2 Pipeline Inspection, Monitoring, Testing and Maintenance
- 17.46.035 Temporary Buildings
- 17.46.036 [Reserved]
- 17.46.037 [Reserved]

Part 3. Development Standards for Site Abandonment and Redevelopment
17.46.038 Development Standards

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CHAPTER 5
OIL AND GAS CODE

Part 1. Administrative Procedures

17.46.01 Purpose

- A. This Chapter shall be known as the Oil and Gas ordinance of the City of Arvin.
- B. It is the purpose of this ordinance, amongst other things, to protect the health, safety, public welfare, physical environment and natural resources of the city by the reasonable regulation of oil and gas facilities, equipment, and operations, including but not limited to: exploration; production; storage; processing; transportation; disposal; plugging abandonment and re-abandonment of wells; of operations and equipment accessory and incidental thereto and development and redevelopment of oil and gas sites. It is further the intent of the City that oil and gas operations shall be permitted within this city (except where expressly prohibited herein), subject to the application of this ordinance and all other applicable laws, regulations and requirements.
- C. It is not the intent of this ordinance to regulate public utility operations for the storage or distribution of natural gas under the jurisdiction of the California Public Utilities Commission (CPUC). Any well or site related operations, however, shall be subject to this ordinance.

17.46.02 Ordinance Applicability

- A. The regulations in this ordinance shall apply, insofar as specifically provided herein, to oil and gas production and related sites and facilities, equipment, structures, or appurtenances including, but not limited to:
 - 1. Drilling, and abandonment operations of any new or existing well or re-entry of a previously abandoned well for the production of oil and gas.
 - 2. Sites, infrastructure, structures, equipment, and/or facilities necessary and incidental to processing of oil, produced water, gas, and condensate obtained from an oil and gas field, zone, subsurface lease or area.

3. Injection wells and incidental equipment necessary for enhanced oil recovery or disposal of produced water.
4. Equipment and facilities necessary for enhanced oil recovery including water flooding, steam flooding, air injection, carbon dioxide injection, or introduction of polymers, or other techniques.
5. Pipelines located within an oil and gas lease area that are necessary for oil and gas production operations.
6. Pipelines that transport oil or gas to another location for sale or transfer to a third party.
7. Storage tanks and equipment necessary or incidental to gathering, separation or treatment of oil, water, and gas, and/or temporary storage of separated fluids and gases, and transfer of the produced hydrocarbons to pipelines or tanker trucks.
8. Oil spill containment and recovery equipment, and facilities including offices, storage spaces, and vehicles for the storage of floating oil and water separators, pumps, generators, hosing, assorted absorbent materials, steam cleaners, storage tanks, and other land and wildlife cleanup and recovery equipment.

B. All portions of this ordinance are applicable to new or existing oil and gas sites and operators if they have or are required to obtain a CUP. For oil and gas sites lawfully existing at the time of adoption of this ordinance which do not have or are not required to obtain a new CUP, only the following sections are applicable:

- 17.46.07 Well Drilling Permit
- 17.46.08.4(B) Modifications and Extensions
- 17.46.011 Facility Closure, Site Abandonment, and Site Restoration Procedures
- 17.46.022 (C) Setbacks
- 17.46.023 Site Access and Operations
- 17.46.024 Lighting

- 17.46.027 Signage
- 17.46.028 Steaming
- 17.46.031 Safety Assurances and Emergency/Hazard Management (except 17.46.31.4)
- 17.46.032 Environmental Resource Management (except 17.46.32.3 and 17.46.32.5.1)
- 17.46.033 Standards for Wells (except subsection G)

Violations of these sections shall also be subject to enforcement mechanisms contained in this ordinance and Code.

To the extent the ordinance applies to existing oil and gas sites, it is not intended to apply in such manner as to interfere with any vested rights that have accrued to property owners.

C. The provisions of this ordinance which impose any limitation, prohibition, or requirement, or confer a right on the basis of the distance between a well or any other use or improvement and another zone classification, use or improvement, shall be applied solely with reference to zone classification uses and improvements within the City.

17.46.03 Allowable Uses

Table 1-1 below specifies what City zoning designations allow for oil and gas sites and, if allowable, what type of authorization is required for the use.

TABLE 1-1

* In addition to the zones listed in the table below, oil and gas sites shall be permitted in any specific plan area where such uses are specifically allowed in accordance with the requirements of this ordinance.

**CUP indicates a requirement for a Conditional Use Permit, while DA indicates a development agreement.

	Zoning Designation	Oil and Gas Facility/Site Permit Required by Zone
R-1	One-family dwelling zone	Prohibited
R-2	Two-family dwelling zone	Prohibited
R-3	Limited multiple-family dwelling zone	Prohibited
R-4	Multiple-family dwelling zone	Prohibited
R-S	Suburban residential zone	Prohibited
E	Estate zone	Prohibited
E-1	Estate zone	Prohibited
E-2	Estate zone	Prohibited
E-3	Estate zone	Prohibited
E-4	Estate zone	Prohibited
E-5	Estate zone	Prohibited
C-O	Professional office zone	Prohibited
N-C	Neighborhood commercial zone	Prohibited
C-1	Restricted commercial zone	Prohibited
C-2	General commercial zone	CUP or DA ¹
M-1	Limited manufacturing zone	CUP or DA ¹
M-2	Light manufacturing zone	CUP or DA ¹
M-3	General manufacturing zone	CUP or DA ¹
A-1	Light agricultural zone	CUP or DA ¹
A-2	General agricultural zone	CUP or DA ¹
OS	Open space	Prohibited

P	Automobile parking zone	Prohibited
D	Architectural design zone	Prohibited
B	Buffer zone	CUP or DA ¹
P-D	Precise development zone	Prohibited
MUO	Pedestrian-oriented mixed-use overlay zone	Prohibited

¹ Development agreement provisions apply as specified in Section 17.46.09.

17.46.04 Definitions

Unless the context otherwise requires, the definitions hereinafter set forth shall govern the construction of this ordinance.

“**Abandoned Well**” means a non-producing well DOGGR so designates after it has been demonstrated that all steps have been taken to protect underground or surface water suitable for irrigation or other domestic uses from the infiltration or addition of any detrimental substance, and to prevent the escape of all fluids to the surface.

“**API**” refers to the American Petroleum Institute.

“**ASTM**” ASTM shall mean the American Society of Testing and Materials.

“**City Manager**” is the City’s administrative official, and the City Manager's designated assistants, inspectors and deputies having the responsibility for the enforcement of this ordinance. The City Manager is authorized to consult experts qualified in fields related to the subject matter of this ordinance and codes adopted by reference herein as necessary to assist in carrying out duties. The City Manager may also appoint such number of officers, inspectors, assistants and other employees and/or to appoint a Petroleum Administrator to assist in carrying out duties. If the City Manager determines it is necessary based on public health, safety or welfare, he or she may require any information as deemed reasonably necessary for a CUP or an abandonment application.

“**DOGGR**” is the Division of Oil, Gas and Geothermal Resources which is part of the Department of Conservation of the State of California. DOGGR oversees the

drilling, operation, maintenance, and plugging and abandonment of oil, natural gas, and geothermal wells.

"DOGGR Statutes and Regulations" are the California statutes and regulations related to or governing DOGGR, at California Public Resources Code, Division 3, and Oil and Gas and the California Code of Regulations, Title 14, Division 2.

"Drill" or "Drilling" is to bore a hole in the earth, usually to find and remove subsurface formation fluids such as oil and gas. Drilling, under this ordinance, includes re-drilling and re-working of wells.

"Enforcement action" is any administrative, injunctive, or legal action (either civil or criminal), to enforce, cite or prosecute a violation or efforts to abate or correct a violation (or dangerous or hazardous situation caused by a violation), including investigation, research, legal action, physical abatement, law enforcement and other necessary acts.

"EPA" refers to the U.S. Environmental Protection Agency.

"Existing" as applied to oil and gas sites, wells or other facilities and operations, refers to and includes all that were lawfully in existence at the effective date of this ordinance

"Exploratory Well" is defined in the DOGGR Statutes and Regulations and means any well drilled to extend a field or explore a new, potentially productive reservoir.

"Facilities" include tanks, compressors, pumps, vessels, and other equipment or structures pertinent to oil field operations located at an oil and gas site.

"Gas" means any natural hydrocarbon gas coming from the earth.

"Gas Plant" means processing equipment for produced gas to separate, recover, and make useful natural gas liquids (condensate, natural gasoline [e.g., pentenes], and liquefied petroleum gas, etc.), to separate, remove, and dispose of other non-hydrocarbon substances, such as water, sulfur, carbon dioxide, ammonia, etc., and to produce utility-grade gas suitable for delivery and sale.

"High risk operation" means an oil or gas production, processing or storage facility which: (a) has been in violation of any applicable section of this ordinance for more than 30 consecutive days and resulted in the issuance of a notice of determination of fines pursuant to Section 17.46.012 of this ordinance during the

preceding twelve months; or (b) has had three separate unauthorized releases of oil, produced water and/or other hazardous materials of a quantity not less than fifteen barrels (six hundred thirty gallons) other than within secondary containment for each incident during the preceding twelve months

"Idle well" is defined in the DOGGR Statutes and Regulations and is any well that has not produced oil or natural gas or has not been used for injection for six consecutive months of continuous operation during the last five or more years. An idle well does not include an active observation well.

"Natural gas liquids" (NGLs) include propane, butane, pentane, hexane and heptane, but not methane and ethane, since these hydrocarbons need refrigeration to be liquefied.

"NFPA" refers to the National Fire Protection Agency.

"New Development" means any of the following: 1) development of new buildings, structures or wells for oil and gas operations on a site that has either not previously been used for such activities, or where the previous use was abandoned, or a CUP expired or was revoked; 2) the expansion by 3 or more wells at an existing site used for oil and gas operations and which conforms to setback requirements; 3) the placement or erection of tanks for holding produced substances or substances intended for subsurface injection in connection with oil and gas operations exceeding by 25% or more the capacity of existing tanks as of the effective date of this ordinance. New development does not include the like-kind replacement of facilities required for legally operating oil and gas operations that are damaged, failed, are at risk of failure, or are at the end of their useful life at an existing site. New development does not include workovers or other maintenance for legally operating oil and gas operations, including replacement-in-kind, or re-drills of existing active or idle wells. Re-drills of abandoned wells are considered new wells under this ordinance.

"New Well" is defined by the DOGGR Statutes and Regulations as the drilling of a well that requires the submission of the DOGGR form OG105 - Notice of Intention to Drill New Well – Oil and Gas, as may be updated or amended. For the purposes of this ordinance, the re-drilling of an abandoned well is considered a new well.

"Oil" is a simple or complex liquid mixture of hydrocarbons that can be refined to yield gasoline, kerosene, diesel fuel, and various other products.

“Oil and Gas Site” or **"Site"** is a oil drilling site and all associated operations and equipment attendant to oil and gas production or injection operations including but not limited to, pipelines, tanks, exploratory facilities (including exploratory wells), flowlines, headers, gathering lines, wellheads, heater treaters, pumps, valves, compressors, injection equipment, drilling facilities, and production facilities.

"Oil and Gas Operations" are all activities in connection with the exploration, drilling for and the production of oil and gas and other hydrocarbons, together with all incidental equipment and appurtenances thereto.

"Operator" means the person, who by virtue of ownership or under the authority of a lease or any other agreement, has the right to drill, operate, maintain, or control a well or production facility.

“OSHA” refers to the California Occupational Safety and Health Administration.

"Person" encompasses any individual, firm, association, corporation, joint venture or any other group or combination acting as an entity.

"Petroleum" is a substance occurring naturally in the earth in a solid, liquid, or gaseous state and composed mainly of mixtures of chemical compounds of carbon and hydrogen, with or without other nonmetallic elements such as sulfur, oxygen, and nitrogen.

"Pipelines" for the purposes of this ordinance, shall mean all flow lines associated with wells located within the City of Arvin used for the transportation of petroleum or petroleum by-products or of materials used in the production of petroleum.

"Produced water" is a term used to describe the water that is produced along with crude oil and gas.

“PSM” refers to process safety management.

“Redevelopment” for the purposes of this ordinance is the development of all of a portion of a current or former oil or gas site to another authorized use other than petroleum operations.

"Re-drilling" is defined in the DOGGR Statutes and Regulations and is the deepening of an existing well or the creation of a partial new well bore including plugging of the original bore and casings and requires the submission of DOGGR form OG107 - Notice of Intention to Rework/Redrill Well, as may be updated or amended.

"**Re-entry**" is the process of cleaning a plugged and abandoned well by drilling, jetting, or other method.

"**Re-work**" is defined in the DOGGR Statutes and Regulations and means any operation subsequent to initial drilling that involves re-drilling, plugging, or permanently altering in any manner the casing of a well or its function and requires the filing of a notice of intent to rework/re-drill a well with DOGGR. Altering a casing includes such actions as a change in well type, new or existing perforations in casing, running or removing of cement liners, placing or drilling out any plug (cement, sand, mechanical), running a wireline tool that has the ability to drill through a cased borehole, or any other operation which permanently alters the casing of a well. For the purposes of this ordinance, re-work includes a well abandonment.

"**Refining**" shall mean any industrial process facility where crude oil is processed and refined into more useful products and sold to others without further treatment or processing.

"**Regional Water Quality Control Board**" shall mean the Central Valley Regional Water Quality Control Board.

"**Secondary containment**" means containment, which is external to and separate from the primary containment, typically constructed of masonry block or poured concrete walls which incorporates an impervious barrier, including but not limited to dikes, berms, or retaining walls sufficiently impervious to contain oil.

"**Shut down**" or "**Shut Down Order**" is an order by the City Manager, Kern County Fire Department Chief, California State Fire Marshall, or DOGGR official, to restrict or prohibit certain (or all) functions or operations at a facility or by an operator pursuant to authority of this ordinance.

"**SJVAQMP**" refers to the San Joaquin Air Quality Management District/

"**SPCC**" refers to Spill Prevention, Control, and Countermeasures.

"**Structure**" means anything constructed or erected which requires location on the ground or is attached to something having a location on the ground, except outdoor areas such as walks, paved areas, tennis courts, and similar open recreation areas. This definition includes buildings, but does not include wells.

"**Supervisor**" means the DOGGR Supervisor.

“Toxic Air Contaminants” means an air pollutant which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health as defined in California Health and Safety Code Section 39655, as may be amended from time to time. Title 17, Section 93000, of the California Code of Regulations, lists substances defined as Toxic Air Contaminants.

"USEPA" refers to the United States Environmental Protection Agency.

"Regional Water Quality Control Board" shall mean the Central Valley Regional Water Quality Control Board.

"Well" is defined in the DOGGR Statutes and Regulations and means any oil or gas well or well for the discovery of oil or gas; any well on lands producing or reasonably presumed to contain oil or gas; any well drilled for the purpose of injecting fluids or gas for stimulating oil or gas recovery, repressuring or pressure maintenance of oil or gas reservoirs, or disposing of waste fluids from an oil or gas field; any well used to inject or withdraw gas from an underground storage facility; or any well drilled within or adjacent to an oil or gas pool for the purpose of obtaining water to be used in production stimulation or repressuring operations.

“Workover is the process of major maintenance or remedial treatments on an oil or gas well without changing the physical design of the well. Workovers include all operations that do not involve the initial drilling or re-working of wells and is regulated by DOGGR but without requirements for notices of intent or permits.

17.46.05 Consistency with Other Laws, Rules and Regulations

This ordinance, insofar as it regulates oil and gas operations also regulated by the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR), is intended to supplement such state regulations and to be in furtherance and support thereof. Some definitions in Section 17.46.04 are based on DOGGR Statutes and Regulations and the intent of this ordinance is to utilize those definitions, as they may be amended from time to time by the California Legislature or by DOGGR, as applicable. In all cases where there is conflict with state laws or regulations, such state laws or regulations shall prevail over any contradictory provisions, or contradictory prohibitions or requirements, made pursuant to this ordinance. Additionally, the approving body, whether the City Manager, Planning Commission or City Council, may grant an exception or modification to the requirements of this ordinance to the minimal extent necessary to prevent a compensable taking. Such exception or modification shall be as

consistent with the intent and purpose of this ordinance as possible given the specific factual circumstances of the particular project.

17.46.06 Appeals

Unless otherwise specified in this ordinance, any discretionary decision of the City Manager shall be final unless within fifteen (15) days after the decision by the City Manager, or ten (10) days after the mailing of the required notice(s), whichever date is later, any aggrieved person appeals therefrom in writing to the planning commission by timely presenting such appeal to the city clerk. At its next regular meeting after the filing of such appeal with the city clerk, the planning commission shall set a date for a hearing thereon. The decision appealed from shall be affirmed unless reversed by a vote of not less than a majority of all the members of the planning commission. An appeal of the planning commission to the city council shall follow the same process. Mandatory requirements of this ordinance are not subject to appeal.

- A. Any court action or proceeding to attack, review, set aside, void or annul any decision or any matter mentioned in this ordinance or concerning any of the proceedings, acts or determinations taken, done or made prior to such decision, shall not be maintained by any person unless such action or proceeding is commenced within sixty (60) days after the date on which such decision becomes final. Thereafter all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of such decision or of such proceedings, acts or determinations.
- B. Any court action brought pursuant to Code of Civil Procedure Section 1094.5 to attack, review, set aside, void or annul any decision approving or denying an application for a permit or revoking a previously granted permit, shall not be maintained by any person unless such action is commenced within ninety (90) days after the date on which such decision becomes final. This subsection has been adopted pursuant to Code of Civil Procedure Section 1094.6.
- C. Nothing in this section shall expand or otherwise extend any shorter statute of limitation set by State or federal law, including any statute of limitation under the California Environmental Quality Act.

17.46.07 Well Drilling Permit

Prior to commencing drilling or re-working of any oil and gas well, the operator must receive a well drilling or re-work permit from DOGGR. Well permits from

DOGGR shall be provided to the City Manager prior to commencement of drilling or re-working activities.

17.46.08 Required Procedures for Conditional Use Permits

- A. New development to which this ordinance applies (see Section 17.46.02) shall be required to receive a Conditional Use Permit (CUP), from the city planning commission in order to receive authorization for, and proceed with, the construction and operation of new development. No permits shall be considered or approved without such permits being consistent with provisions of the CUP.
- B. All procedures for CUPs to which this ordinance applies shall be the same as provided in the Arvin Municipal Code except appeals as noted above. Additionally all procedures for CUPs to which this ordinance applies shall comply with the following additional requirements:

17.46.08.1 Conditional Use Permit (CUP) Filing Requirements

In addition to the filing requirements required by use permits of this Code, for projects within the City to which this ordinance is applicable, the following materials are also required as part of a CUP application for the consideration of the Planning Commission, or the City Council on appeal:

- A. A complete statement of the proposed project including, but not limited to, activities, facilities, and sites.
- B. A new or updated emergency response plan to deal with potential consequences and actions to be taken in the event of floods, earthquakes, hydrocarbon leaks or fires for the site. The emergency response plan shall be approved by the City's Engineer and the Kern County Fire Department.
- C. A phasing plan for the staging of development that includes the estimated timetable for project construction, operation, completion, restoration, and, where applicable, the location and amount of land reserved for future expansion.
- D. A site plan showing:
 - 1. Surface property, easement, rights-of-way and pipeline right-of-way boundaries within the site.
 - 2. Proposed access road constructions or modifications and connections with City streets and roads and any existing private roads.

3. Areas to be used for construction.
 4. Areas to be used for access and maintenance during pipeline operation within and adjacent to the site.
 5. Existing roads, and pipelines and pipeline rights-of-way, if any.
 6. Location and type of existing and proposed structures within 50 feet of pipeline right-of-way.
 7. Location of existing and proposed wells and oil or gas containing equipment and their measured distance from nearby uses, including the closest residential or school property line.
 8. Proposed alteration of surface drainages within the site.
 9. A contour map showing existing and proposed contours.
 10. A plan for parking on or off site.
 11. A map of all known, historic, or suspected active, idle and abandoned oil and gas wells or wellheads within the site and within 750 feet of the surface location of any existing or proposed new well within the site.
- E. Site operations plan containing process flow diagrams, piping and instrumentation diagrams, expected process flows (rates, pressures, composition, and shut-down/start-up procedures, quarterly/annual production, disposition, injection, and disposal).
- F. Plans with measures to be used to prevent or reduce nuisance effects (e.g., dust, fumes, glare, noise, odor, air pollutants, and vibration) and to prevent danger to life, environmental quality, and property, consistent with the Development Standards in this ordinance.
- G. Estimates of the amount of cut and fill required by the proposed project.
- H. If the site is within 600 feet of any prohibited zoning as listed in Table 1-1, a plan for a community alert system (including new or utilizing existing systems, including but not limited to, those operated by the Police, Sheriff or Fire Department) to automatically notify area residences and businesses in the event of an emergency at an oil or gas site that would require residents to take shelter or take other protective actions.

- I. If any grading is proposed that results in the loss of vegetated, sandy, permeable ground areas, which could alter surface runoff at the site, a site-specific hydrologic analysis to evaluate anticipated changes in drainage patterns and associated increased runoff at the site.
- J. If the site is within 600 feet of any prohibited zoning as listed in Table 1-1, a quiet mode operation plan which includes, but is not limited to, the following noise reduction measures:
1. Using signalers for all backup operations instead of backup alarms and turning off backup alarms;
 2. Using radios instead of voice communication;
 3. Minimizing crane use and pipe handling operations, pipe offloading from trucks and board loading to the maximum extent feasible and nighttime loading only for safety reasons;
 4. Prohibiting material and supply deliveries to the Project Site, other than along designated truck routes, between the hours of 6 p.m. and 8 a.m. on weekdays and prohibiting deliveries on weekends and holidays, with exceptions only for safety; and
 5. Limiting process alarms and communications over the broadcast system to the maximum extent feasible during all operations and use only for safety reasons.
- K. If the site is within 600 feet of any prohibited zoning as listed in Table 1-1, a photometric analysis, which compares the baseline of the existing light measurements with the proposed light spill that will result from the oil and gas site.
- L. An Environmental Quality Assurance Program ("EQAP"). (Ref. Section 17.46.32.1).

17.46.08.2 Processing and Review

Processing of CUPs shall comply with California's Permit Streamlining Act requirements as consistent with this Code.

- A. The applicant may apply for:
1. The drilling operations only;

2. The production facilities only; or
3. Both the drilling and production facilities.

B. The City Manager will review the submitted application(s) for completeness in compliance with the filing requirements of Section 17.46.08.1 and any other applicable sections of the Code, and shall refer the filed CUP to appropriate City departments or local and state agencies, as appropriate, for review and comment.

17.46.08.3 Findings and Permitting Conditions

A. In addition to the requirements of a use permit by this Code, the planning commission shall approve a Conditional Use Permit only if it is able to make affirmative findings of the following criteria:

1. The proposed project shall be in conformance with requirements of other local, regional, or State entities;
2. The project shall not be detrimental to the comfort, convenience, health, safety, and general welfare of the community, and will be compatible with the uses in the surrounding area;
3. The project shall be in compliance with the Development Standards contained in Part 2 of this ordinance, commencing with Section 17.46.22; and
4. The project shall not result in an increased level of freshwater pollution or groundwater contamination in the immediate area or cause regulatory water standards at an existing water production well to be violated as defined in the California Code of Regulations, Title 22, Division 4, Chapter 15 and in the Safe Water Drinking Act, as they may be amended.

B. As a condition of approval of a CUP, the planning commission shall consider and impose appropriate conditions as deemed reasonable and necessary to find consistency with the findings 1 through 4 above.

17.46.08.4 Modifications and Extensions

A. The provisions of this Section shall apply for all modifications or extensions requested for oil and gas operations.

B. Any existing oil and gas operation that does not have a CUP or development agreement for the operation shall be required to comply with this ordinance if any new development occurs at the existing oil and gas site.

17.46.08.5 Change of Ownership/Operators Criteria

A. Listing on Permit. Any person who operates an oil or gas site that is subject to this ordinance shall be listed as a permittee on the permit(s) issued for that facility.

B. Acceptance of Permit. Prior to being listed on a permit, any operator of an oil or gas site that is subject to this ordinance shall provide the City with a letter from an authorized agent or officer of the operator formally accepting all conditions and requirements of the permit.

C. Permits Transferable. Any CUP issued to any oil and gas site authorized pursuant to this Code shall be transferable to a new operator provided that the new operator accepts and meets all of the conditions and requirements of the CUP and this ordinance.

D. Ongoing Notification. All operators, and guarantors shall, as an ongoing requirement, notify the City Manager in writing of any change in the information required by this Section within thirty days of such change.

E. Change of Operator. A change of operator shall require an application filed with the City within thirty days prior to a change of operator. Upon approval by the City Manager, such change of operator will become effective upon joint notice from the prior and new operators that the change of operator has become effective. An application is not required when the change of operator does not entail a substantive change to operations or personnel of the oil or gas site as determined by the City Manager.

F. Liability for Compliance with Permit Conditions. Any operator listed on a permit pursuant to this ordinance shall comply with all conditions of such permit. Failure to comply with such permit conditions shall subject the operator to the applicable penalty and enforcement provisions of this Code or other applicable ordinance for such permits.

G. Liability for Abandonment. The operator, as determined by the records of the City Manager, of a facility or site subject to this ordinance shall be responsible for the proper abandonment of the facility or site.

17.46.09 Procedures for Development Agreements

Projects appropriate for development agreements are subject to the requirements of this Section, which establishes procedures for adoption. The procedures for development agreements will comply with Government Code Division 1, Chapter 4, Article 2.5 and the following additional requirements:

17.46.09.1 Filing Requirements

- A. Only a qualified applicant may file an application to enter into a development agreement. A qualified applicant is a person(s) who has a legal or equitable interest in the real property of the oil or gas site. The qualified applicant shall provide proof of ownership interest, proof of interest in the real property, and proof of the authority of the agent or representative, to act for the applicant. Said proof of interest and proof of authority shall be subject to review and approval by the City Attorney.
- B. The City Manager shall prescribe the form for each application, notice and documents provided for or required under these regulations 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 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.
- C. The City Manager shall require an applicant to submit such information and supporting data as the City Manager considers necessary to process the application.
- D. A community benefit assessment to evaluate the benefits the DA will provide to the community.

17.46.09.2 Processing and Review

- A. 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. If within 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 30 day period shall commence once the required material is received by the City Manager. If the City Manager finds that the application is complete it shall be accepted for filing and the Applicant so notified. The City Manager shall review the application and determine the additional requirements necessary to complete processing of the agreement. After receiving the required information and the application is determined to be 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 ordinance and any applicable general or specific plan. The City Attorney shall review the proposed development agreement as to legal form.

- B. Notice of a hearing regarding the development agreement shall be given by the City Manager and shall comply with the requirements of Government Code Section 65867, as may be amended, except that the City Manager, not the Director, shall be responsible for providing notice.
- C. 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 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 60th day.
- D. The proposed development agreement shall be set for hearing and consideration before the Council within 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 Council.
- E. Within 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 Government Code Section 65868, or if the City terminates or modifies the agreement as provided in Government Code Section 65865.1 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.

17.46.09.3 Findings and Development Agreement Conditions

- A. After the City Council completes the public hearing, the 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 zoned district 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 not adversely affect the orderly development of property or the preservation of property values; and
 5. Provides for a penalty for any violation of the development agreement consistent with the provisions of Section 17.46.015.

17.46.09.4 Modifications and Extensions

- A. The provisions of Government Code Section 65868 shall apply for all modifications, extensions or other amendments of the terms of a development agreement subject to this ordinance.
- B. Either party may propose an amendment or termination of an approved development agreement subject to the following:
1. The procedure for amending or terminating, the development agreement is the same as the procedure for entering into an agreement in the first instance.
 2. The development agreement may be amended or cancelled only by the mutual consent of the parties, as provided in California Government Code section 65868.

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

17.46.010 Periodic Review

The City may choose to conduct a comprehensive review of any oil or gas drilling permit, CUP or DA every five years from the date of approval to determine if the project and the associated CUP or DA are adequately mitigating significant environmental impacts caused by the drilling and operations. Nothing in this section shall limit the City's authority to conduct a review at more frequent intervals, engage in mitigation monitoring as required by CEQA, or otherwise act as directed or authorized by law.

A. Within 30 days from the request by the City, the operator shall deposit to the City the funds necessary for the City to retain a third party entity to prepare a periodic review, which includes all records, drawings, specifications, permits from state agencies, and analysis of the effectiveness of this ordinance, enforcement activity, and any other issues associated with potentially adverse effects of and complaints about oil and gas site operations. A periodic review will be funded by the operator at most once every 5 year period following approval. If the periodic review identifies significant deficiencies in an oil and gas drilling permit, a CUP or DA that are resulting in unmitigated adverse impacts then the City Manager may identify these deficiencies and bring forward recommendations of corrective actions to the Planning Commission for consideration and prospective amendments of oil and gas drilling permits and CUPs, and to the Planning Commission for recommendation to the City Council for consideration and prospective amendments of DAs.

B. A permit, CUP, or DA may also be reviewed by the City Manager at any time, if more than three violations occur within a twelve month period and the City Manager determines that resolution of the violations may be addressed by a new permit and/or an amendment to the CUP or DA. The City Manager shall make a recommendation of amendments to the Planning Commission for CUPs and permits, and the Planning Commission and City Council for DAs, as deemed necessary. Nothing in this Section shall preclude the City from taking any other enforcement action authorized by this Code

C. Nothing in this Section shall limit the requirements of an operator with a DA to demonstrate to the City Manager good faith compliance with the terms of the agreement at least every 12 months as required by Government Code section

65865.1. If as a result of that review the City Manager believes there is substantial evidence that the operator has not complied in good faith with the terms or conditions of the agreement, the City Manager shall present the matter to the Commission for a recommendation to the City Council. The Commission shall set the matter for public hearing within 40 days of receipt of the matter from the City Manager. If the Commission fails to act upon such request within a reasonable time, the Council may, by written notice, require the Commission to render its recommendation within 40 days. Failure to so report to the Council within the above time period shall be deemed to be a recommendation against modification or termination. After the Commission has rendered its recommendation, the matter shall be set for hearing before the City Council, who may terminate or modify the agreement if it finds and determines, on the basis of substantial evidence, that the operator or successor in interest has not complied in good faith with the terms and conditions of the DA.

17.46.011 Facility Closure, Site Abandonment, and Site Restoration Procedures

The following provisions and procedures shall be implemented at the end of life of an oil and gas site, subject to a CUP, and govern the site (including well) facility closure and site restoration procedures:

17.46.011.1 Purpose and Intent

- A. Section 17.46.11 et seq. establishes procedures and provisions to achieve the timely abandonment of oil and gas related activities and land uses, and following the abandonment, the timely and proper removal of applicable oil and gas facilities (including wells, equipment and gas-related structures), reclamation and remediation of host sites, and final disposition of pipelines, in compliance with applicable laws and permits.
- B. The procedures ensure appropriate due process in differentiating idled from abandoned facilities and protecting the vested rights of permittees while also ensuring that sites with no reasonable expectation of restarting are removed, in compliance with the intent of abandonment permits. These procedures also ensure a process for abandoning or re-abandonment of portions of sites where oil and gas operations will continue on the site, as well as procedures for restoration and redevelopment of a site to other uses at the end of the economic life of oil and gas production.

17.46.011.2 Applicability

Oil and gas sites and operations subject to Section 17.46.11 and its subsections, shall include all permitted uses identified in Section 17.46.02.A of this Code, regardless of whether these uses were permitted in compliance with this ordinance or any preceding ordinance. This includes, all pipeline systems, except for public utility natural gas transmission and distribution systems, that either transport or at one time transported natural gas, oil, produced water, or waste water that originated from a reservoir, regardless of whether these uses were permitted in compliance with this Code or any preceding ordinance.

17.46.011.3 Application Process

The procedures for processing an abandonment and site restoration permit shall utilize the notice, hearing and appeal process for a CUP as set forth in the Code, as refined herein by Section 17.46.06. For any item required to be submitted less than 180 days in advance, the City Manager has the discretion to process and approve the application. Any person may submit an appeal to the City Manager or the Planning Commission within 15 days of the City Manager's notice of decision consistent with Section 17.46.06. Mandatory requirements of the Code are not subject to appeal. All procedures shall be consistent with the following requirements:

17.46.011.3.1 Requirement to File an Application

- A. Complete Abandonment of oil and gas operations: The operator shall submit an application to the City Manager upon intentional abandonment of the entire oil and gas operation or site. The application for abandonment and site restoration proceedings shall be submitted 180 calendar days prior to the planned shutdown of all the facilities.
- B. Partial Abandonment of oil and gas operations: If any portion of the oil or gas site is being abandoned, or if a well is being re-abandoned, the operator shall submit an application to the City Manager for partial abandonment of oil or gas operations. Said application shall be submitted not later than 30 calendar days prior to abandonment or re-abandonment of wells involving no more than 10% of the total number of wells on site or 10 wells, whichever is more; all other applications shall be submitted not later than 180 calendar days prior to abandonment, re-abandonment or restoration.

C. Other Events Requiring an Application. The operator shall submit an application for abandonment, re-abandonment, and site restoration proceedings to the City Manager upon any of the following:

1. Any event or condition designated in an existing City permit or entitlement that would require consideration of abandonment. The Application shall be submitted 90 days in advance of the event or condition. If the event or condition cannot be known until after it occurs, the application must be submitted within 15 days of the event or condition.
2. Upon order of DOGGR. The application shall be submitted within 30 days of a DOGGR order to abandon, re-abandon, and restore the site, provided, however, that if the operator timely appeals such an order of the DOGGR, it shall have no obligation hereunder until 30 days after a final decision affirming such order.

D. Nothing in this ordinance shall limit the City's police powers. The City may require those measures reasonably necessary to address specific site or operational conditions that threaten public health, morals, safety or general welfare, which measures could include partial or complete abandonment.

17.46.011.3.2 Content of Application

The application shall be in a form and content specified by the City Manager and this Section. The application shall contain the following:

- A. Name, address, and contact information for the permittee.
- B. Name, address, and general description of the permitted land use.
- C. Gross and net acreage and boundaries of the subject property.
- D. Location of all structures, above and underground, proposed to be removed.
- E. Location of all structures, above and underground, proposed to remain in-place.
- F. Locations of all structures, above and underground, proposed for development, if any.
- G. Location of all wells, including active, idled, abandoned or re-abandoned wells, including distances from site boundaries, and existing structures. Each

well shall include the DOGGR well name and number, as well as the American Petroleum Institute (API) well number. If available, the location of the wells shall be identified with the name of the operator and well designation.

- H. An American Land Title Association (A.L.T.A) survey of the site, showing all improvements, easements, rights-of-way, and other elements impacting the ownership of land.
- I. Location of all utilities on the subject property.
- J. Location of all easements on or adjacent to the subject property that may be affected by demolition or reclamation.
- K. To the extent known, the type and extent of all contamination and proposed remedial actions to the level of detail that can be assessed through environmental review. This information does not require a new or modified Phase 2 site assessment in advance of any requirement by the Fire Department or State agencies with regulatory oversight of site assessments.
- L. Location of areas of flood, geologic, seismic, and other hazards.
- M. Location of areas of archeological sites, habitat resources, prime scenic quality, water bodies, and significant existing vegetation.
- N. Location and use of all structures within 100 feet of the boundaries of the subject property.
- O. A proposed abandonment and restoration plan that details the activities for the proposed action, including the following details: hours of operation, estimated number of workers required on site to decommission facilities and structures or to otherwise abandon or re-abandon wells, disposition of equipment and structures proposed for decommissioning, projected method and routes of transporting equipment, structures, and estimated debris from the site to the place of disposition as well as the number of trips required, and an estimated schedule for decommissioning the facilities or completion of the work.
- P. A proposed waste-management plan to maximize recycling and minimize wastes.
- Q. Other permit applications that may be required by the Code to retain any existing structures, roadways, and other improvements to the property that were ancillary to the oil or gas operations and are proposed to be retained to support

other existing or proposed uses of the property following abandonment of the oil or gas operations.

- R. A proposed grading and drainage plan.
- S. A proposed plan to convert the site to natural condition or convert to other proposed land use, including a detailed schedule for restoring the site. In the latter case, include other applicable permit applications required, if any, for the proposed land use.
- T. A statement of intent regarding the disposition of utilities that served the oil and gas operations, including fire protection, power, sewage disposal, transportation, and water.
- U. Measures proposed to be used to prevent or reduce nuisance effects (e.g., dust, fumes, glare, noise, odor, smoke, traffic congestion, vibration) and to prevent danger to life and property.
- V. A copy of DOGGR approval to abandon, re-abandon or remediate well(s).
- W. A leak test report for each abandoned well on the site that meets the requirements of Section 17.46.38.
- X. For abandonment or restoration in any circumstances where the permit is approved by the City Manager without Planning Commission action, proof of mailed notice of intent to seek a permit to abandon or restore to the owner of record on the latest assessment roll for neighboring parcels within 300 feet of the oil and gas site property boundaries. The notice shall generally describe the scope of the activity being proposed.
- Y. Any other information deemed reasonably necessary by the City Manager to address site-specific factors.

17.46.011.3.3 Permitting Specifications

- A. **Application Filing.** The City Manager shall process complete applications for permits after determining the applications to be complete in compliance with Section 17.46.011.3.2 of this ordinance, and submit applications subject to initial Planning Commission review to the Planning Commission with a recommendation regarding approval if the findings in Section 17.46.011.3.4 are met. An application shall not be complete unless the applicant has made a deposit for the estimated direct and indirect costs of processing the application.

The applicant shall deposit any additional amounts for the costs to process the application, including legal review, within 15 days of request by the City Manager. Upon either completion of the permitting process or withdrawal of the application, the City shall refund any remaining deposited amounts in excess of the direct and indirect costs of processing.

- B. Independent or concurrent processing of applications. For applications subject to initial Planning Commission review, the Planning Commission shall process complete applications for abandonment and site restoration permits independently of any other permit applications to develop the site in question, unless the City Manager makes the determination that the concurrent processing of abandonment and site restoration permits and development permits for the same site do not unduly hinder timely restoration of abandoned sites or result in long delays in securing approval of development permits.
- C. Demolition and restoration permit shall supersede. Upon approval of a demolition and restoration permit subject to initial approval by the Planning Commission, or upon abandonment of operations, whichever occurs later, the demolition and reclamation permit shall supersede any inconsistencies in the discretionary permit approved for construction and operation of the facilities.
- D. Conditions of Permit. In addition to any other requirements of this Code, any permit for abandonment, re-abandonment or restoration shall be subject to the following requirements regardless whether initially approved by the City Manager or the Planning Commission:
1. Oil well abandonment shall be performed by oil service company contractors licensed to do business in the city.
 2. All equipment and surface installations used in connection with the well that are not necessary, as determined by the City Manager or Planning Commission, for the operation or maintenance of other wells on the drill or operation site shall be removed from the site.
 3. The abandoned site or portions of the oil and gas site shall be restored to its original condition or as nearly as is practical given the nature of the location and continuing uses for an oil and gas site, so long as the restoration will not adversely impact ongoing oil and gas production operations.

4. All sumps, cellars, and ditches which are not necessary for the operation or maintenance of other wells on the oil or gas site shall be cleaned out and all oil, oil residue, drilling fluid, and rubbish shall be removed to reduce hydrocarbons to standards acceptable to federal, state, or local agencies. All sumps, cellars, and ditches shall be leveled or filled. Where such sumps, cellars, and ditches are lined with concrete, the operator shall cause the walls and bottoms to be broken up and all concrete shall be removed.
5. The portions of the site not necessary for continuing oil or gas site operations shall be cleaned and graded and left in a clean and neat condition free of oil, rotary mud, oil-soaked earth, asphalt, tar, concrete, litter, and debris.
6. All public streets, alleys, sidewalks, curbs and gutters, and other places constituting public property which may have been disturbed or damaged in connection with any operation, including operations for the abandonment or re-abandonment of the well shall be cleaned, and, except for ordinary wear and tear, shall be repaired and restored to substantially the same condition thereof as the same existed at the time of issuance of the permit, or at the time operations were first commenced in connection with the drilling, operation, or maintenance of the well.
7. A copy of written approval of DOGGR confirming compliance with all state abandonment proceedings for all abandoned facilities must be furnished to the City Manager.
8. Proposed restoration will leave the subject site in a condition that is compatible with any existing easements or dedications for public access through, or public use of a portion of the property.

17.46.011.3.4 Findings Required for Approval

In addition to the findings specified in the Code for a use permit, for permits the City Manager or Planning Commission shall also make affirmative findings based on the following criteria:

- A. The subject site will be restored and remediated to its pre-project conditions unless areas within the site are subject to approved development, in which case restoration and landscaping of these areas will conform to the permitted development. In cases where development is proposed but not yet permitted,

restoration of affected areas to natural conditions may be waived by the Planning Commission; provided, the development is permitted within five years and the permittee has posted financial assurances acceptable to the City Manager to ensure restoration to natural conditions if the proposed development is not permitted.

- B. The proposed restoration will leave the subject site in a condition that is compatible with any existing easements or dedications for public access through, or public use of a portion of the property
- C. The permit conditions comply with Section 17.46.011.3.3 and contain specific enforceable requirements to ensure the timely completion of any abandonment or re-abandonment of wells, restoration activities or cessation of other oil and gas site operations subject to the permit.

17.46.012 Operational Noticing

- A. Each operator shall submit copies of notices provided to or received from DOGGR, to the City Manager, within ten business days of transmission or receipt of such notices, as applicable. These shall include: designation of agents, notice of intent to drill a new well, division approvals (permit to conduct well operations, notice and permit to drill, permit to rework/redrill well (p-report), enhanced recovery project approval, water-disposal project approval, commercial water-disposal approval), notice of intention to rework/redrill well, notice of intention to abandon/re-abandon well, supplementary notices, report of property transfer forms and any inspection reports or notices of violation, as these notices may be updated or amended. All other DOGGR notices or other DOGGR communications shall be submitted at the discretion of the City Manager.
- B. The operator of (or any person who acquires) any well, property, or equipment appurtenant thereto, whether by purchase, transfer, assignment, conveyance, exchange or otherwise, shall each notify the City Manager within ten business days of the transaction closing date. The notice shall contain the following:
 - 1. The names and addresses of the person from whom and to whom the well(s) and property changed.
 - 2. The name and location of the well(s) and property.
 - 3. The date of acquisition.

4. The date possession changed.
5. A description of the properties and equipment transferred.
6. The new operator's agent or person designated for service of notice and his address.

C. The operator of any well shall notify the City Manager, in writing, of the idling of any well. The operator shall notify the City Manager in writing upon the resumption of operations of an idle well giving the date thereof.

D. The operator shall report any violations of state or federal laws that occur on an oil and gas site to the City Manager within 30 days of their date of documentation by a state or federal agency.

17.46.013 Complaints

All complaints related to activities regulated by this ordinance received by the operator shall be reported within two business days to the City Manager. In addition, the operator shall maintain a written log of all complaints and provide that log to the City Manager on a quarterly basis.

17.46.014 Injunctive Relief

In addition to any administrative remedies or enforcement provided in this Code, the City may seek and obtain temporary, preliminary, and permanent injunctive relief to prohibit violation or mandate compliance with this Code. All remedies and enforcement procedures set forth herein shall be in addition to any other legal or equitable remedies provided by law.

17.46.015 Notice of Violation and Administrative Fines

- A. The operator shall also be subject to a fine for violation of any requirement of a CUP or this ordinance as determined by the City Manager, subject to the following:
 1. Depending on the specific type and degree of the violation, the operator in violation may be penalized at a rate of up to \$10,000 per day, per violation, until it is cured, but in no event, in an amount beyond that authorized by state law. The City Manager will develop a violation fine schedule for Council approval to specifically identify the fines associated

with oil or gas site violations. This violation fine schedule may also include nuisance violations.

2. In the event of a violation of any of the City's permitting actions, a written notice of violation and the associated fine determination will be sent to the operator by the City Manager. The operator shall deposit the sum of \$5,000 per well, up to \$100,000, in an interest-bearing trust fund with the City within thirty days of the date of the second violation notice sent to the operator by the City Manager, to establish a draw down account. If the noted violation is not corrected within thirty calendar days to the satisfaction of the City Manager, or if steps satisfactory to the City Manager have not been initiated during that period to affect a cure or to seek modification of the condition, the fine amount cited in the written notice will be deducted from the account. The operator shall reimburse the City for any additional reasonable costs above the amount of the original deposit.
3. The operator has a right of appeal to the City Manager or Planning Commission within 15 days of the written notice or contested determination of compliance. Decisions of the City Manager not appealed within 15 days become final. If the operator appeals to the City Manager or the Planning Commission such that the decision is ultimately reversed and the operator is specifically designated the "prevailing party" by the City Manager or Planning Commission, then the City shall refund the operator the deposit related to the challenged determination.

B. Nothing in this Section or ordinance shall limit the City's ability to pursue other enforcement procedures, including CUP revocation proceedings, actions to enforce a DA, or other legal or equitable remedies provided by this Code or available under the law. Revocations of a permit or CUP may be done pursuant to Title 17-Zoning, except that the Commission may choose to amend rather than revoke, and any references to "Director" shall be replaced with "City Manager."

17.46.016 Nuisance Procedures

Any violation of this ordinance is hereby declared to be a public nuisance for the purposes of Section 8.12.020, and may be abated pursuant to the procedures set forth in Section 8.12.030 of this Code. The procedures for abatement shall not be exclusive, and shall not in any manner limit or restrict the City from otherwise enforcing this ordinance or abating public nuisances in any other manner as

provided by law, including the institution of legal action by the City Attorney to abate the public nuisance at the request of the City Manager.

17.46.016.1 High-Risk Operations

A. Upon determination that any oil and gas production, processing or storage operation meets the definition of high risk operation from Section 17.46.004, the City Manager shall give the operator written notice of the City Manager's intent to determine the operation a high risk operation under this Section. The intent of this Section shall be to remediate the high-risk operation and bring the oil or gas site and the operator within normal, safe operating standards and protect the public safety, health and environment. The written notice of the intent to determine the operation a high-risk operation shall include:

1. Facts substantiating the determination; and
2. A notice regarding the right to appeal the determination to the Commission within 15 days. During the pendency of any such appeal, the City Manager's determination shall remain in full force and effect until affirmatively set aside by the Planning Commission. The Planning Commission's decision shall be supported by substantial evidence, and refusal by the operator to provide access to the operation to allow inspection or investigation to determine compliance as authorized by this Code or other law shall be deemed evidence the definition of a high risk operation has been met.

B. Along with the determination of the site being a high risk operation, the City Manager may take either or both of the following actions:

1. An investigation of the causes leading up to the high risk determination;
2. Require a mandatory restoration plan to be submitted by the operator. Such plan shall include, but is not limited to:
 - i. A mandatory restoration schedule for bringing the site and operator within normal, safe operating standards. Such schedule does not supersede any timeline for abatement otherwise established for individual outstanding violations.
 - ii. An audit of overall site operation(s):

- a. The audit shall be conducted by an independent third party approved by the City Manager. Costs associated with the audit shall be borne by the operator;
 - b. The audit shall identify and analyze the root causes leading to the high risk designation;
 - c. The audit shall further identify and analyze other potential areas in overall site operation that could impact the site's ability to operate within safe and normal standards (e.g. personnel training, operational policies, internal procedures, etc.);
 - d. Provide a plan for remediating all issues identified in the audit, including a mandatory schedule for remediating those issues. Such restoration plans shall be subject to approval by the City Manager.
 - e. The audit may be ordered in lieu of, or in addition to the investigation undertaken by the City Manager.
- iii. Any other requirements the City Manager deems necessary to bring the site and operation within normal, safe operating standards for the purposes of protecting the public safety, health and environment.
- C. The operator of the high risk operation shall carry out the approved restoration plan and shall be responsible for paying all reasonable costs associated with the implementation of the plan, including:
- 1. City staff time in enforcing these provisions at an hourly rate that provides for full cost recovery of the direct and indirect costs. Staff time shall include, but is not limited to, the ongoing monitoring and verification of compliance with the approved restoration plan;
 - 2. Investigative, research (including legal research) and consulting costs associated with preparation of the restoration plan;
 - 3. Third party costs for investigation, consultation, engineering, clean-up, operator staff training, operations and all other related costs necessary to carry out the restoration plan;

4. Any other costs necessary to remediate the high risk operation as ordered by the City Manager.

D. At the sole discretion of the City Manager, at any time during which a site or operator is subject to this Section, the City Manager may require a bond be posted to cover the cost of remediating the causative problems of the high risk operation.

E. The determination of high risk operations shall continue to apply until the goals and guidelines of the restoration plan established hereunder is achieved. The high risk operator shall notify the City Manager when a milestone in the restoration plan has been satisfied. The City Manager may conduct independent verification of the compliance upon such notification. The restoration plan may be amended from time to time as necessary to achieve the purposes of this Section. Upon a determination by the City that the goals and guidelines of the restoration plan have been achieved, the City shall notify the operator in writing that the site is no longer a high risk operation.

F. Failure of the operator of a high risk operation to post a bond required under this Section, prepare the restoration plan within a reasonable timeframe as ordered by the City Manager, or to reasonably achieve the goals and guidelines of an approved restoration plan under this Section, may be cause for a shutdown of the high risk operation(s) or any other petroleum operations located in the City that are co-owned or co-operated by the high risk operator, at the discretion of the City Manager.

G. The operator of a high risk operation shall compensate the City for any costs associated with the enforcement of this Section within 30 days of written demand by the City Manager. Any City costs associated with enforcement of this Section, which are not promptly paid by the operator shall be subject to enforcement by tax bill lien or other collection methods at the discretion of the City.

H. The City may institute legal proceedings to require compliance provisions with this Section.

17.46.017 Compliance Monitoring

A. Environmental Compliance Coordinator(s). The City may hire Environmental Compliance Coordinators as needed to oversee the monitoring and condition compliance requirements of the City's permitting actions subject to

regulation under this ordinance, the costs of which shall be reimbursed by operator. The number of Environmental Compliance Coordinators shall be determined by the City and shall take into account the level of oil and gas operations associated with the project site. The Environmental Compliance Coordinator(s) shall be approved by, and shall report to, the City Manager consistent with the City Manager's authority under Section 2.06.070 of this Code. The responsibilities of the Environmental Compliance Coordinator(s) shall be determined by the City for the project site and shall generally include:

1. Monitoring of oil and gas sites for compliance with this ordinance as it relates to construction, drilling, operational or abandonment and site restoration activities as determined by the City Manager.
2. Taking steps to ensure that the operator, and all employees, contractors and other persons working in the project site, have knowledge of, and are in compliance with all applicable provisions of the conditional use permit or development agreement.
3. Reporting responsibilities to the various City departments with oversight responsibility at the project site, as well as other agencies such as DOGGR, and SCAQMD.

B. Compliance Deposit Account. An applicant must establish a compliance deposit account with the City within 30 days of receiving authorization for a CUP or DA from the City. The compliance security deposit amounts shall be determined by the City Manager, and shall be based on the nature and extent of the compliance actions required.

17.46.018 Financial Assurances Applicability

- A. Sections 17.46.019 through 17.46.021 shall apply to any person who operates any oil or gas site involved in exploration, production, processing, storage or transportation of oil or gas extracted from reserves in the City of Arvin:
- B. This ordinance shall not apply to the change of operator of the following:
1. Sales gas pipelines operated by a public utility and regulated by the California Public Utilities Commission;
 2. A change of ownership consisting solely of a change in percentage ownership of a site and which does not entail addition or removal of an

owner or affect any financial guarantee or bonds for a permit, CUP, and/or DA.

17.46.019 Operator's Financial Responsibilities

The applicant shall be fully responsible for all reasonable costs and expenses incurred by the City or any City contractors, consultants, or employees, in reviewing, approving, implementing, inspecting, monitoring, or enforcing this ordinance or any CUP, DA, or permit, including but not limited to, costs for permitting, permit conditions implementation, mitigation monitoring (including well abandonment and re-abandonment), reviewing and verifying information contained in reports, inspections, administrative support, and including the fully burdened cost of time spent by City employees, City Attorney, or third-party consultants and contractors on such matters.

17.46.020 Securities and Bond Requirements

The operator or any contractor of any oil and gas operation subject to this ordinance shall provide, or cause to be provided, the securities and bond requirements described below

- A. The operator shall file a faithful performance bond with the City Manager consistent with the following bonding requirements:
 1. The City Manager shall determine the amount of the bond based on the total number of wells, proposed operations, size and nature of the property, appropriate environmental studies on the property, including a Phase I, II or Human Health Risk Assessment Reports and other relevant conditions related to the proposed wells or operations at a specific oil or gas site, and recognized commercial standards.
 2. The amount of the bond shall be sufficient to assure the completion of the abandonment, necessary re-abandonment, site restoration, to the extent not fully covered by DOGGR bonds, and remediation of contamination of the oil or gas site if the work had to be performed by the City in the event of forfeiture. The performance bond shall be inflation indexed to ensure the amount of the bond shall be sufficient to assure completion of the abandonment, restoration and remediation of contamination of the oil or gas site. The bond shall be available within a time frame to allow the City to undertake related activities in a timely manner, including at least

half for immediate access and use in the event of an emergency as determined by the City Manager.

3. Prior to expansion of an oil or gas site, the operator shall apply to the City Manager for a determination of the amount of the bond necessary to ensure completion for both the existing and expanded operations. In addition, every bond shall be re-assessed by the City Manager every 5 years to ensure the amount is sufficient to ensure the completion of the abandonment, site restoration, and remediation of contamination of the oil or gas site.
4. Upon application by the operator, the City Manager may reduce bonding amounts based upon change of physical circumstances, completion or partial completion of work, or significant reduction in cost to perform the work. In no event shall the amount of the bond be reduced to an amount insufficient to complete any remaining work, nor shall the bond be reduced due to economic hardship or similar considerations.
5. After completion of all abandonment and site restoration requirements, the bond shall be maintained in a sufficient amount to ensure remediation of contamination at the oil or gas site for a period not less than 15 years.
6. In no event shall the bonding amount required by the City be less than \$10,000 per well.
7. The bond may be drawn only from a qualified entity without any economic interests or relationship with the operator and any related economic entities related thereto, and bonds must and must be rated “A” or better by a nationally recognized bond rating organization. The City Manager shall receive all pertinent information related to the bond and bonding entity prior to issuance of a final approved permit, CUP, or DA.

B. In lieu of these bonding requirements, an operator may also submit any other legally adequate and binding financial mechanism, subject to City Attorney approval, to satisfy the monetary assurance requirements set by the City Manager to assure completion of the abandonment, restoration and remediation of contamination of the oil or gas site.

C. For any evaluation of bonding amounts by the City Manager in this Section, or evaluation of a financial mechanism proposed in lieu of a bond by the City Attorney, the operator shall deposit the estimated costs with the City Manager

with the application, and shall also make any additional deposit(s) within 30 days of written request by the City Manager. The City Manager may retain consultants or other experts in the industry to assist in deriving a commercially reasonable bond amount.

17.46.021 Operator Liability Insurance

The operator of any oil and gas operation subject to this ordinance shall provide, or cause to be provided, the insurance described below for each oil and gas site during the pendency of oil and gas operations. The operator or contractor must provide to the City sufficient documentation that the insurance complies with the minimum requirements and coverage amounts of this Section before a permit may be issued.

A. General provisions regarding insurance:

1. The operator or any contractor shall pay for and maintain in full force and effect all policies of insurance described in this Section with an insurance company(ies) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide.
2. In the event any policy is due to expire, the operator or any contractor shall provide a new certificate evidencing renewal of such policy not less than 10 calendar days prior to the expiration date of the expiring policy. Upon issuance by the insurer, broker, or agent of a notice of cancellation in coverage, operator or any contractor shall file with the City Manager a new certificate and all applicable endorsements for such policy.
3. Liability policies shall name as "additional insured" the City, including its officers, officials, agents, employees and authorized volunteers.
4. All policies shall be endorsed to provide an unrestricted 30 calendar day written notice in favor of City of policy cancellation of coverage, except for: 1) non-payment, which shall provide a 10-day written notice of such cancellation of coverage, and 2) the Workers' Compensation policy which shall provide a 10 calendar day written notice of such cancellation of coverage.
5. The operator shall present to the City Manager copies of the pertinent portion of the insurance policies evidencing all coverage and endorsements required by this Section before the issuance of any permit subject to this ordinance, and the acceptance by the City of a policy

without the required limits or coverage shall not be deemed a waiver of these requirements. The City may, in its sole discretion, accept a certificate of insurance in lieu of a copy of the pertinent portion of the policy pending receipt of such document by the City. After the issuance of the permit, the City may require the operator to provide a copy of the most current insurance coverage and endorsements for review at any time. The operator will be responsible for paying an administration fee to cover the costs of such review as may be established by the City's fee schedule.

6. Claims-made policies shall not be accepted except for excess policies and environmental impairment (or seepage and pollution) policies.
7. Insurance coverage shall be reviewed by the City Manager as required by Section 17.46.010 to ensure adequate insurance is maintained.

B. Required insurance coverage:

1. Commercial or comprehensive general liability insurance:
 - i. Bodily injury and property damage coverage shall be a minimum combined single limit of \$2,000,000 per occurrence \$2,500,000 in the aggregate. This coverage must include premises, operations, blowout or explosion, products, completed operations, blanket contractual liability, underground property damage, underground reservoir (or resources) damage, broad form property damage, independent contractor's protective liability and personal injury.
 - ii. Environmental impairment (or seepage and pollution) coverage shall be either included in the comprehensive general liability coverage or as separate coverage. Such coverage shall not exclude damage to the lease site. If environmental impairment (or seepage and pollution) coverage is written on a "claims made" basis, the policy must provide that any retroactive date applicable precedes the effective date of the issuance of the permit. Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, oil and gas, waste material, or other irritants, contaminants or pollutants. Such policy shall provide for minimum combined single limit coverage of \$2,000,000 per occurrence and \$2,500,000 in the aggregate. A

discovery period for such peril shall not be less than ten years after the occurrence.

2. Commercial automobile liability insurance: Minimum combined single limit of \$1,000,000 per occurrence for bodily injury and property damage. The policy shall be at least as broad as the most current version of Insurance Services Office (ISO) Business Auto Coverage Form CA 00 01 and shall include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Section 1, subsection A.1 entitled “Any Auto”)
3. Worker's compensation insurance: Maintain the minimum statutory requirements, coverage which shall not be less than \$1,000,000 for each occurrence.
4. Excess (or umbrella) liability insurance: Minimum limit of \$5,000,000 providing excess coverage for each of the perils insured by the preceding liability insurance policies, except for underground reservoir (or resources) damage.
5. Control of well insurance (only during drilling or re-working):
 - i. Minimum limit of \$2,000,000 per occurrence, with a maximum deductible of \$100,000 per occurrence.
 - ii. Policy shall cover the cost of controlling a well that is out of control, drilling or restoration expenses, and seepage and pollution damage. Damage to property in the operator's care, custody and control with a sub-limit of \$500,000 may be added.
6. Self-Insurance: The operator shall have the option to self-insure if insurance is not commercially feasible to obtain and maintain in the commercial insurance market, as certified by a written report prepared by an independent insurance advisor of recognized national standing, for the following types of insurance required by this Subsection: Excess (or umbrella) liability insurance, control of well insurance, and environmental impairment (or seepage and pollution) coverage. The operator shall provide a certificate for self insurance subject to approval by the City Manager and Risk Management, and to the City Attorney for approval as to legal sufficiency. To the extent said insurance is limited to amounts less than that required by this ordinance, the operator must first

obtain available insurance coverage to the extent it is commercially feasible, and then shall self insure for the remaining amount.

7. **Commercially Available:** If the City Manager determines that certain types of insurance identified herein are not reasonably commercially available or necessary given specific field conditions, the City Manager has the discretion to authorize substitute or equivalent types of insurance, to the extent there is a reasonable and relevant risk, or modifications to an amount that is commercially available, all subject to approval as to legal form by the City Attorney.

C. **Failure to maintain coverage:** Upon failure of the operator, or contractors to provide that proof of insurance as required by this Section when requested, the City Manager may order the suspension of any outstanding permits and petroleum operations of the operator until the operator provides proof of the required insurance coverage.

Part 2. Development Standards for Petroleum Operations

The following Sections of Part 2 apply only to those operations subject to a CUP or DA, except for those existing operations as noted in Section 17.46.02.B.

17.46.022 Setback Requirements

- A. The surface locations of wells and tanks within an oil and gas site shall not be located within:
 1. Three hundred feet (300 feet) of the property boundaries of any public school, public park, clinic, hospital, long-term health care facility.
 2. Three hundred feet (300 feet) of the property boundaries of any residence or residential zone, as established in this Code, except the residence of the owner of the surface land on which a well might be located and except a residence located on the land which, at the time of the drilling of the well, is under lease to the person drilling the well.
 3. Three hundred feet (300 feet) of the property boundaries of the commercially designated zone C-O, N-C, C-1, C-2, MUO, PUD (see Table 1-1), as established by this Code and as may be amended.
 4. Fifty feet (50 feet) of any dedicated public street, highway, public walkway, or nearest rail of a railway being used as such.

B. For all injection wells, the Applicant shall provide a copy of the area of review (AOR) study, consistent with the requirements of Title 14 California Code of Regulations Section 1724.7, as per DOGGR.

C. Legally existing oil and gas operations that do not meet the setback requirements and were conforming immediately before the effective date of this ordinance are not considered non-conforming uses and are not made subject to Chapter 17.52 (Nonconforming Buildings and Uses) of this Code by this ordinance. Such operations may continue to lawfully operate to the extent the operations can demonstrate to the City vested rights as of the effective date of this ordinance, but are prohibited for expanding operations beyond those demonstrated vested rights. Vested rights for a particular well may be demonstrated by the existence of an installed conductor in a cellar for that well or any other method established by law. The operator can replace structures and equipment required for oil and gas operations that are damaged, have failed, are at risk of failure, or are at the end of their useful life. Said replacements shall be made with like-kind structures and equipment that does not expand capacity or structural footprint. If the operator can demonstrate that such structure or equipment is not reasonably available or appropriate for current operational practices, the City Manager may approve minor expansion of equipment or structure upon findings the proposed changes are minor and do not constitute or tend to produce an expansion or intensification of capacity for the site. For existing oil and gas facilities and operations that do not meet the setback requirements as of the effective date of this ordinance, drilling of new wells is prohibited unless the operator can demonstrate vested rights for each new well.

D. Consolidation and Relocation Incentives.

1. Existing Uses in Setback: For existing wells legally operating within the prohibited setback identified in Section 17.46.022.A, an operator can exchange wells, either existing or vested, at a 1:2 ratio to another (existing) receiving site(s) without counting toward new development that would require a CUP or DA. The contributing well(s) must be completely abandoned before wells can be constructed at any receiving site.
2. Existing Uses Outside Setback: For existing wells legally operating outside the prohibited setback, an operator can exchange only wells actually existing at the time of the ordinance (not vested or hypothetical wells) at a 1:1 ratio to another existing receiving site(s) without counting toward "new development" that would require a CUP or DA. The

contributing site must be completely abandoned before wells can be constructed at any receiving site. The operator must completely abandon all surface rights to the contributing site (i.e., no future oil and gas operations to occur at the site) and provide acceptable proof to the City of the same. All receiving sites must exist and have active operations as of the date of approval of this ordinance.

3. For All Consolidation or Relocation: The operator must provide the City with notice of intent to transfer prior to abandonment of any well(s) or contributing site intended to be consolidated or relocated. Transfers may occur at any time after abandonment is complete and the rights may be "banked" and assigned to another operator upon notice to the City. No well can be transferred more than one time. The receiving well location or site must be located outside the boundaries identified in Section 17.46.022.A.1-3, and comply with Section 17.46.022.A.4 outside of the prohibited setback. The receiving site cannot expand by more than 10 wells from any source or exchange, in addition to those existing or vested, without being considered new development. All receiving sites must comply with Section 17.46.02.B for sites not required to obtain a new CUP.

17.46.23 Site Access and Operation

The following measures shall be implemented throughout the operation of any oil and gas site or project subject to this ordinance:

17.46.23.1 Deliveries

For oil and gas sites located in non-industrial areas or for delivery routes, other than designated truck routes, that pass through or adjacent to prohibited zones as listed in Table 1-1, (a) deliveries to the oil or gas sites shall not be permitted after 9:00 p.m. and before 6:00 a.m. (Chapter 9.08 Noise Disturbances), except in cases of emergency and (b) no deliveries shall be permitted on Saturdays, Sundays or legal holidays, except in cases of emergency.

17.46.23.2 Construction Time Limits

Construction of permanent structures, workovers and other maintenance, including replacement in kind, shall not be permitted after 9:00 p.m. and before 6:00 a.m. (Chapter 9.08 Noise Disturbances), or during Saturdays, Sundays, or legal

holidays, except in the event of an emergency as approved by the City Manager. The drilling or re-drilling of wells is not subject to construction time limits.

17.46.23.3 Oil and Gas Site Parking

- A. At all times during the construction and operation of any oil and gas site, parking facilities shall be provided for all vehicles associated with the oil or gas site at a rate of 1 parking space per shift-employee. If approved as part of a CUP or a DA, parking for vehicles of employees or workers engaged in any oil or gas site activities can also be provided by the operator at off-site parking lots or in parking facilities, other than public streets, at locations other than the oil or gas site. The operator shall prohibit personal parking on City streets by operator, permittees, contractors, or consultant staff. If the parking lot or parking facilities are not located within a reasonable walking distance of the controlled drill site, the operator shall provide transportation to and from the parking site for employees and workers.
- B. At all times vehicular access to an oil and gas drill site shall be provided in accordance with the plans for vehicular access reviewed and approved by the City Engineer, except for operations existing prior to the effective date of this ordinance.
- C. All entrances to an oil and gas site shall be equipped with sliding or swinging gates which shall be kept closed at all times except when authorized vehicles are entering or leaving the oil and gas site.
- D. When traffic lanes on any public street are closed or impaired by the operator's operations, flagmen, and safety officers as required by the City Engineer or Police Department shall be provided by the operator at all such times to control traffic and maintain traffic flow.

17.46.024 Lighting

Except for oil and gas sites located within industrial zones, and located farther than 600 feet from any prohibited zone as listed in Table 1-1, all lighting sources that may be introduced on a site in support of nighttime operations, at the onset and throughout all operations at an oil and gas site shall be screened and directed to prevent light or glare from passing beyond site boundaries. Outdoor lighting shall be restricted to only those lights that may otherwise be required by this Code for lighting building exteriors and safety and security needs.

17.46.025 Aesthetics

The following measures shall be implemented for all projects that are subject to this ordinance:

17.46.026 Landscaping/Visual Resources

- A. Prior to any new development, the operator shall implement a landscaping plan prepared by a licensed landscape architect, that has been approved as part of a CUP or a DA, which provides adequate screening and blending of the facilities so that the site shall not appear unsightly or aesthetically deficient compared with the surrounding character of the area. Except for oil and gas sites located within industrial zones, all tanks shall not extend more than twenty feet above the surface of any site, unless otherwise approved in a CUP or DA.
- B. Within six months after the completion of activities related to the drilling or re-drilling of a well and the removal of the drilling well mast/rig, any oil and gas site shall be landscaped with suitable shrubbery and trees in accordance with a plan approved by the Planning Commission, unless the site is to be otherwise developed in such a manner that would preempt re-vegetation requirements.
- C. If the site is within 600 feet of any prohibited zoning as listed in Table 1-1, if any drilling masts are in place on an oil and gas site for a time period of more than one year and are visible from public viewing points, then the operator shall wrap all such masts to reduce their visibility prior to the onset of operations at an oil and gas site.

17.46.025.2 Walls

Prior to commencement of operations at an oil or gas site the following development standards shall be satisfied:

- A. All oil and gas sites shall be enclosed with a wall not less than six feet (6 feet) high, which shall be of a material and texture that blends in with the surrounding environment and is not visually obtrusive. There shall be no aperture below the wall larger than one foot (1 foot) in height.
- B. The wall enclosure around the oil and gas site shall have a setback of twenty-five feet from all property lines. The gate or entrance through the wall shall remain locked at all times and constructed in a manner to prevent the public from coming closer than twenty-five feet to the pumping facilities. Pursuant to the approval of the CUP, the location of the wall may be modified subject to

compliance with the California Fire Code as approved in a CUP or DA with modifications as applicable.

- C. The entire outside facing length of the wall must be coated with anti-graffiti paint or solutions.

17.46.025.3 Sanitation

The oil and gas site shall be maintained in a clean, sanitary condition, free from accumulations of garbage, refuse, and other wastes.

17.46.025.4 Architecture

The architectural design of any oil or gas site buildings, equipment, drilling mechanisms or other associated structures shall be consistent with the character of the surrounding community and shall utilize finishing materials and colors which blend in with the surrounding environment and are not visually obtrusive.

17.46.026 Roads

The following policies specific to streets or other roads shall apply to all projects for which this ordinance is applicable:

17.46.026.1 Construction of Site Access Roads

Private roads and other excavations required for the construction of access roads shall be designed, constructed, and maintained to provide stability of fill, minimize disfigurement of the landscape, prevent deterioration of vegetation, maintain natural drainage, and minimize erosion. Prior to construction of any new road, the operator shall prepare and submit to the Department of Public Works for review and approval a private road construction plan. The operator shall thereafter comply with all provisions of the approved private road construction plan. All new private access roads leading off any surfaced public street or highway shall be paved with asphalt or concrete not less than three inches thick for the length of said access road from the public street or highway.

17.46.027 Signage

The following policies apply only to signs visible from the public right of way.

- A. Signage as required by DOGGR or law shall be kept in good legible condition at all times.

B. No sign other than that described in this ordinance or required by law shall be allowed, other than informational signs, no smoking signs, and other signs as reasonably required for safe operation of the project.

C. Identification signs shall be posted and maintained in good condition along the outer boundary line and along the walls adjoining the public roads that pass through the oil or gas site. Each identification sign shall prominently display current and reliable emergency contact information that will enable a person to promptly reach, at all times, a representative of the operator who will have the expertise to assess any potential problem and recommend a corrective course of action. Each sign shall also have the telephone number of the City department of planning or zoning enforcement section and the number of SJVAQMD that can be called if odors are detected. For existing oil and gas sites, the signs shall be updated when they are replaced or repaired.

17.46.028 Steaming

The installation of any surface equipment designed to produce steam shall be prohibited without the approval of the City Manager. The operator shall submit a steaming plan addressing equipment sizing and design to the City Manager for review and approval. The operator shall also submit well casing and cementing design specifications as required by DOGGR.

17.46.029 Utilities

A. Each oil or gas site shall be served by and utilize only reclaimed water, aside from potable water used for human consumption, unless the use of reclaimed water is deemed infeasible by the City Manager, in which case the following criteria apply:

1. The operator must prepare and submit a supply assessment study of all water resources available for use and submit the study for review to the City Manager.
2. If the study indicates that potable water is the only feasible alternative then the operator may utilize such a water source only if the operator provides an equal and measurable benefit to the community for such use, as determined by the City Manager.

B. New electrical power shall be routed underground from the nearest source adequate to meet the needs of the well site.

17.46.030 On-Site Storage and Placement of Equipment

No equipment shall be stored or placed on the site, which is not either essential to the everyday operation of the oil or gas well located thereon or required for emergency purposes.

17.46.031 Safety Assurances and Emergency/Hazard Management

The following measures shall be implemented throughout the operation of any oil or gas site or project subject to this ordinance:

17.46.031.01 Fire Prevention Safeguards

- A. All oil and gas site operations shall conform to all applicable fire and safety regulations, codes, and laws.
- B. The oil and gas site shall be kept free of debris, pools of oil, water or other liquids, weeds, and trash.
- C. Land within twenty-five (25) feet of the facilities shall be kept free of dry weeds, grass, rubbish or other combustible material at all times.
- D. All equipment, facilities, and design shall be approved by the Kern County Fire Department, as applicable, prior to approval of a CUP or DA.

17.46.031.02 Blowout Standards and Testing

The operator shall comply with DOGGR regulations for blowout prevention and will provide all equipment as stipulated in the DOGGR regulations during the drilling operations of any well.

17.46.031.03 Earthquake Shutdown

- A. The operator shall immediately inspect all oil and gas-related facilities, equipment, and pipelines following any seismic event with a magnitude of 4.0 or greater with an epicenter within 10 kilometers (km) of the oil and gas site, magnitude 4.5 or greater within 30 km, or magnitude 6.0 within 100 km.
- B. The operator shall either, (1) Operate and maintain an accelerometer at the project site or (2) Obtain real time data from the USGS to determine the earthquake magnitude of any seismic event in the area. The operator shall immediately inspect all project site pipelines, facilities, equipment, storage tanks, and other infrastructure following any seismic event above the thresholds defined

in 17.46.31.03.A and promptly notify the City Engineer and the City Manager of the results of the inspection within 24 hours of the seismic event. Shall there be any structural damage or equipment failure as a result of any seismic event, the operator shall isolate and address any damage or equipment failure as appropriate to minimize environmental or safety impacts. The operator shall prepare and submit a written report of all inspections and findings to the City for review within one week of the seismic event.

C. The operator shall not reinstitute operations at those portions of the project site and associated pipelines damaged by a seismic event until the damage has been repaired and confirmed by the operator to be structurally sound and safe for operation, and has passed any otherwise required inspection. Before returning any damaged structure, fixture or equipment to operation, the operator shall prepare and submit to the City Manager a written report of inspections and repairs of that structure, fixture or equipment, and the results of any required inspection.

17.46.031.04 Storage Tank Monitoring

The operator shall install tank leak detection monitoring system that will indicate the physical presence of a leaked product underneath storage tanks on site that have the potential to result in soil contamination. The results of the monitoring shall be submitted to the City Manager upon request. The monitoring system required by 14 California Code of Regulations Section 1773.2 is sufficient. This section does not apply to existing facilities.

17.46.031.05 Safety Measures and Emergency Response Plan

The operator is responsible for compliance with safety and emergency response requirements.

A. Copies of all Emergency Response Plans, Emergency Action Plans, Oil Spill Plans, inspections, reports and any emergency response drill training as required by DOGGR, CalEPA, OSHA, Kern County Fire Department, SJVAQMD or any other agency shall be submitted to the City.

B. Safety Audit. The operator shall cause to be prepared an independent third-party audit, under the direction and supervision of the City, of all facilities, once constructed or within 1 year of the adoption of this ordinance, including the well pads, to ensure compliance with the California Fire Code (as may be adopted by the City with modifications as applicable), applicable API and NFPA codes, EPA

RMP, OSHA PSM, DOGGR and SPCC and emergency response plans requirements. All audit items shall be implemented in a timely fashion, and the audit shall be updated annually, as directed by the City and the Kern County Fire Department. The operator shall also cause to be prepared a seismic assessment, including walkthroughs, of equipment to withstand earthquakes prepared by a registered structural engineer in compliance with Local Emergency Planning Committee Region 1 CalARP guidance and the seismic assessment shall be updated, with walkthrough inspections, annually to ensure compliance with the codes and standards at the time of installation.

C. Community Alert System. If the site is within 600 feet of any prohibited zoning as listed in Table 1-1, the operator shall implement a community alert notification system, or utilize an existing system operated by the Police, Sheriff or Fire Department, to automatically notify area residences and businesses in the event of an emergency at an oil or gas site that would require residents to take shelter or take other protective actions.

17.46.031.06 Transportation of Chemicals and Waste On and Off-site

The operator shall implement the following measures throughout the operations of any oil and gas site subject to this ordinance:

- A. Solid Waste Disposal. Solid waste generated on the site shall be transported to a permitted landfill or hazardous waste disposal site as may be appropriate for the life of the operation. The operator shall provide written notice to the City Manager of the landfill or hazardous waste disposal facility being utilized.
- B. Site Waste Removal. The operator shall comply with the following provisions:
1. All drilling and workover waste shall be collected in enclosed bins. Any drilling and workover wastes that are not intended to be injected into a Class II Well, as permitted by DOGGR, shall be removed from the project site no later than thirty days following completion of the drilling and workover.
 2. No site waste shall be discharged into any sewer unless permitted by the Sanitation District, or into any storm drain, irrigation system, stream, or creek, street, highway, or drainage canal. Nor shall any such wastes be discharged on the ground.

C. Storage of Hazardous Materials. The operator shall submit to the City Manager a copy of the Hazardous Material Business Plan, as reviewed by the Kern County Fire Department, annually. This plan shall include a complete listing and quantities of all chemicals used onsite, and provide the location of where hazardous materials are stored at the site. Hazardous materials shall be stored in an organized and orderly manner, and identified as may be necessary to aid in preventing accidents, and shall be reasonably protected from sources of external corrosion or damage to the satisfaction of the Fire Chief of the Kern County Fire Department or designee.

17.46.031.06.01 Natural Gas Liquids (NGLs)

Throughout the operation of any oil and gas site subject to this ordinance, NGLs, as defined by this code, shall be blended with crude oil for shipment by pipeline to the maximum extent allowable within the technical specifications of the pipeline. Oil transportation pipelines and gas processing facilities shall be designed to maximize the blending of NGLs into the crude oil stream.

17.46.031.06.02 Transportation Risk Management and Prevention Program (TRMPP)

If the transportation routes of any product from oil and gas development in the City passes through or adjacent to any prohibited zoning as listed in Table 1-1, excluding designated truck routes, the operator shall prepare and maintain a Transportation Risk Management and Prevention Program which shall be provided to the City Manager upon request. The TRMPP may contain the following components including, but not limited to:

- A. Provisions for conducting comprehensive audits of carriers biennially to assure satisfactory safety records, driver hiring practices, driver training programs, programs to control drug and alcohol abuse, safety incentive programs, satisfactory vehicle inspection and maintenance procedures, and emergency notification capabilities. The operator shall submit to the City any audits that were conducted each calendar year.
- B. Provisions for allowing only carriers which receive a satisfactory rating under the above audit process to transport oil and gas.
- C. Truck loading procedures for ensuring that the loading rack operator and the truck driver both conduct, and document in writing, a visual inspection of the

truck before loading and procedures to specify actions to be taken when problems are found during the visual inspection.

17.46.031.06.03 Pipeline Leak Detection

All new offsite DOT oil pipelines shall use a supervisory control and data acquisition (SCADA-type) monitoring system for leak detection; unless the City Manager determines that there is better available technology that shall be utilized instead. Flow meters used on the SCADA system shall be accurate to within one percent. If a leak is detected the operator shall be responsible for immediately reporting it to the City Manager.

17.46.032 Environmental Resource Management

Throughout operation of an oil and gas site, the operator shall comply with the following environmental resource management policies:

17.46.032.1 General Environmental Program

A. Environmental Quality Assurance Program ("EQAP"). The operator shall comply with all provisions of an environmental quality assurance program that has been accepted by the City Manager and approved as part of a CUP or DA. For oil and gas sites that are existing at the time of the adoption of this ordinance and are not required to have a CUP, completion of the requirements of section 17.46.31.5.B satisfies the requirements of section 17.46.032.1. The following provisions relate to the EQAP:

1. EQAP Requirements. The EQAP shall provide a detailed description of the process, individual steps, and submissions, the operator shall take to assure compliance with all provisions of this Section, including but not limited to, all of the monitoring programs called for by this Section.
2. Annual EQAP Reports. Within sixty days following the end of each calendar year, the operator shall submit to the City Manager an annual EQAP report that reviews the operator's compliance with the provisions of the EQAP over the previous year and addresses such other matters as may be requested by the City Manager. The annual EQAP report shall include the following:
 - i. A complete list and description of any and all instances where the provisions of the EQAP, or any of the monitoring programs referred to therein or in this Section, were not fully and timely complied with,

and an analysis how compliance with such provisions shall be improved over the coming year.

- ii. Results and analyses of all data collection efforts conducted by the operator over the previous year pursuant to the provisions of this Section.
 3. EQAP Updates. Proposed updates to the EQAP shall be submitted to the City Manager for approval along with the annual EQAP report. The City Manager shall complete the review of EQAP updates as soon as practicable, and shall either approve the updated EQAP or provide the operator with a list of specific items that must be included in the EQAP prior to approval. The operator shall respond to any request for additional information within thirty days of receiving such request from the City Manager and shall modify the proposed EQAP update consistent with the City Manager's request.
- B. Publicly Available Monitoring Data. The operator shall be responsible for making current monitoring results and data available to the public unless otherwise required by law. The up-to-date monitoring data and results shall be maintained by the operator. The monitoring results and data shall include the following information:
1. Air quality data (if required to be collected);
 2. Wind direction speed (if required to be collected);
 3. Seismic events;
 4. Water quality monitoring results for both surface and groundwater monitoring locations at an oil or gas site, or from nearby groundwater monitoring location(s) as authorized by the City Manager;
 5. Pipeline testing and monitoring results;
 6. Vibration (if required to be collected); and
 7. Ambient noise levels (if required to be collected).

17.46.032.2 Air Quality

The operator shall at all times conduct oil or gas site operations to prevent the unauthorized release, escape, or emission of dangerous, hazardous, harmful and/or

noxious gases, vapors, odors, or substances, and shall comply with the following provisions:

- A. **Odor Minimization.** If the site is within 1,000 feet of any prohibited zoning as listed in Table 1-1, or if three (3) odor complaints from three (3) different citizens of the City have been confirmed by the SJVAQMD or the City within any 12-month period, at all times the operator shall comply with the provisions of an odor minimization plan that has been approved by the City Manager. The plan shall provide detailed information about the site and shall address all issues relating to odors from oil or gas operations. Matters addressed within the plan shall include setbacks, signs with contact information, logs of odor complaints, method of controlling odors such as flaring and odor suppressants, and the protocol for handling odor complaints. The odor minimization plan shall be reviewed and updated by the operator on an annual basis to determine if modifications to the plan are required. Any modifications to the odor minimization plan shall be submitted to the City Manager for review and approval. Any operator's submissions to the SJVAQMD shall be provided to the City Manager and shall be consistent with Section 17.46.031.2. An odor minimization plan is not required for facilities existing at the time of the adoption of this ordinance if the operator can demonstrate that the facility has not experienced a confirmed odor complaint within the previous 5 years.
- B. **Portable Flare for Drilling.** If the well is within 1,000 feet of any prohibited zoning as listed in Table 1-1, and either the historical operations of the producing zone have exhibited a gas-oil ratio (scf/bbl) of more than 400 or no data is available on the producing zone targeted, the operator shall have a gas buster and a portable flare, approved by the SJVAQMD, at the oil and gas site and available for immediate use to remove any gas encountered during drilling and abandonment operations from well muds prior to the muds being sent to the shaker table, and to direct such gas to the portable flare for combustion. The portable flare shall record the volume of gas that is burned in the flare. The volume of gas burned in the flare shall be documented in the operations logs. The operator shall notify the Fire Chief of the Kern County Fire Department and the SJVAQMD within forty-eight hours in the event a measurable amount of gas is burned by the flare, and shall specify the volume of gas that was burned in the flare. All other drilling and abandonment operations shall be conducted so that any measurable gas that is encountered can, and will, be retained in the wellbore until the gas buster and portable flare are installed on the rig, after which the gas will be run through the system to flare. The operator shall immediately notify the Fire Chief of the Kern County Fire Department and the SJVAQMD in the event

any gas from operation is released into the atmosphere without being directed to and burned in the flare.

C. Odor Control for Drilling Operations. If the well is within 1,000 feet of any prohibited zoning as listed in Table 1-1 and either the historical operations of the producing zone have exhibited a gas-oil ratio of more than 400 (scf/bbl) or no data is available on the producing zone targeted, the operator shall use an enclosed mud system that directs all mud vapors through an odor capturing system, such as a carbon bed, to prevent odorous pollutants from passing the site boundaries and impacting the area. An odor suppressant spray system may be used on the mud shaker tables for all drilling operations to ensure that no odors from said operations can be detected at the outer boundary line of the oil and gas site.

D. Closed Systems. The operator shall ensure that all produced water, gas and oil associated with production, processing, and storage, except those used for sampling only, are contained within closed systems at all times and that all pressure relief systems, including tanks, vent to a closed header and flare-type system to prevent emissions of pollutants. This subsection does not apply to existing facilities.

E. No open pits are allowed.

F. Off-Road Diesel Construction Equipment Engines. All off road diesel construction equipment shall comply with the following provisions:

1. Utilize California Air Resources Board ("CARB") EPA Certification Tier III or other methods approved by the CARB as meeting or exceeding the Tier III standard.
2. Utilize a CARB Level 3 diesel catalyst. The catalyst shall be capable of achieving an eighty-five percent reduction for diesel particulate matter. Copies of the CARB verification shall be provided to the City Manager. Said catalysts shall be properly maintained and operational at all times when the off-road diesel construction equipment is in use. Use of an EPA Certification Tier 4i engine will also satisfy this requirement.

G. Drill Rig Engines. All drilling rig diesel engines shall comply with the following provisions:

1. Utilize CARB/EPA Certification Tier III or better certified engines

2. Utilize a CARB Level 3 diesel catalyst. The catalyst shall be capable of achieving an 85 percent reduction for diesel particulate matter. Copies of the CARB verification shall be provided to the City Manager. Said catalysts shall be properly maintained and operational at all times when the off-road diesel construction equipment is in use. Use of an EPA Certification Tier 4i engine will also satisfy this requirement.

17.46.032.3 Greenhouse Gas Emissions and Energy Efficiency Measures

- A. The operator of an oil and gas site shall completely offset all emissions from the oil and gas site through participation in the statewide cap and trade program, if applicable, or obtaining credits from another program as approved by the City Manager. On an annual basis, the operator shall provide the City Manager with documentation of the operator's participation in the program. This section does not apply to existing facilities.
- B. Throughout the oil and gas site life, as equipment is added or replaced, cost-effective energy conservation techniques shall be incorporated into project design.

17.46.032.4 Air Quality Monitoring and Testing Plan

If the site is within 1,000 feet of any prohibited zoning as listed in Table 1-1, at all times the operator shall comply with the provisions of an air monitoring plan that has been approved by the City Manager. During all well operations, including but not limited to drilling, re-drilling and workover operations, the operator shall continuously monitor for hydrogen sulfide, in a manner that allows for detection of pollutants from all wind directions, as approved by the City Manager. Total hydrocarbon vapors shall be monitored at drilling, workover and processing plant areas as specified in the approved plan. Such monitors shall provide automatic alarms that are triggered by the detection of hydrogen sulfide or total hydrocarbon vapors. The alarms shall be audible and/or visible to the person operating the equipment. Actions to be taken shall be as follows when specified alarm levels are reached:

- A. At a hydrogen sulfide concentration of equal to or greater than five parts per million but less than 10 parts per million, the operator shall immediately investigate the source of the hydrogen sulfide emissions and take prompt corrective action to eliminate the source. The corrective action taken shall be documented in the drilling or workover log. If the concentration is not reduced to less than five parts per million within four hours of the first occurrence of such

concentration, the operator shall shut down the drilling or workover operations and equipment in a safe and controlled manner, until the source of the hydrogen sulfide emissions has been eliminated, unless shutdown creates a health and safety hazard.

- B. At a hydrogen sulfide concentration equal to or greater than 10 parts per million, the operator shall promptly shut down the drilling or workover operations and equipment in a safe and controlled manner until the source of the hydrogen sulfide emissions has been eliminated, unless shutdown creates a health and safety hazard. The corrective action taken shall be documented in the drilling or workover log. When an alarm is received, the operator shall promptly notify the Kern County Fire Department, the City Manager, and the SJVAQMD.
- C. At a total hydrocarbon concentration equal to or greater than 500 parts per million but less than 1,000 parts per million, the operator shall immediately investigate the source of the hydrocarbon emissions and take prompt corrective action to eliminate the source. The corrective action taken shall be documented in the drilling log for drilling or workover and in the log for the oil and gas site. If the concentration is not reduced to less than 500 parts per million within four hours of the first occurrence of such concentration, the operator shall shut down the drilling or workover, or site operations in a safe and controlled manner, until the source of the hydrocarbon emissions has been eliminated, unless shutdown creates a health and safety hazard.
- D. At a total hydrocarbon concentration equal to or greater than 1,000 parts per million, the operator shall promptly shut down the drilling or workover or operations in a safe and controlled manner, until the source of the hydrocarbon emissions has been eliminated, unless shutdown creates a health and safety hazard. The corrective action taken shall be documented in the drilling log for drilling or workover and in the log. When an alarm is received, the operator shall promptly notify the Kern County Fire Department - Health Hazardous Materials Division, and the SJVAQMD.
- E. The City Manager may also require additional monitoring at the closest residential receptor periodically for hydrogen sulfide, hydrocarbons or Toxic Air Contaminants. All the monitoring equipment shall keep a record of the levels of total hydrocarbons and hydrogen sulfide detected at each of the monitors, which shall be retained for at least five years. The operator shall, on a quarterly basis, provide a summary of all monitoring events where the hydrogen sulfide concentration was at five parts per million or higher and the total hydrocarbon concentration was at 500 parts per million or higher to the Fire Chief of the Kern

County Fire Department. At the request of the Fire Chief, the operator shall make available the retained records from the monitoring equipment.

17.46.032.5 Water Quality

The operator shall at all times conduct operations to avoid any adverse impacts to surface and groundwater quality, and shall comply with the following provisions:

17.46.032.5.1 Water Management Plan

The operator shall comply with all provisions of a potable water management plan that has been approved by the City Manager. The plan shall include best management practices, water conservation measures, and the use of a drip irrigation system. The water management plan shall be reviewed by the operator every three years to determine if modifications to the plan are required. Any modifications to the water management plan shall be submitted to the City Manager for review and approval. This Section does not apply to existing facilities.

17.46.032.5.2 Stormwater Runoff

Construction Storm Water Pollution Prevention Plan ("SWPPP"). The operator shall maintain and implement all provisions of a storm water pollution prevention plan ("SWPPP") that has been submitted to the Regional Water Quality Control Board, if required. The operator shall provide the City Manager with a copy of the SWPPP, and any future modifications, revisions, or alterations thereof, or replacements therefore upon written or verbal request of the City Manager. The SWPPP shall be updated prior to new construction activities as required by the Regional Water Quality Control Board.

17.46.032.5.3 Groundwater Quality

- A. Prior to any new development, the operator shall prepare and submit a baseline study of all groundwater resources located within and beneath the project site or directly adjacent to the site, to specifically include an analysis of the location and reservoir characteristics of all existing groundwater resources, a chemical analysis of the groundwater, and an overall assessment of the groundwater quality.
- B. The operator shall not inject any water spoils/wastewater derived from the any oil or gas operations into any non-exempt or DOGGR exempt freshwater aquifers.

- C. Within 30 days of request by the City, the operator shall deposit funds with the City necessary to retain a third party to prepare a hydrological analysis Groundwater Testing Program prior to any construction activities, or alternately, provide comparable analyses performed through the Groundwater Ambient Monitoring and Assessment Program or other reliable source as determined by the City Manager. Depending on the results of the geo-hydrological analyses the City Manager has the discretion to require the operator to install one or more groundwater monitoring wells to allow for confirmation that groundwater is not being affected by oil and gas activities. As part of the Groundwater Testing Program the operator is required to provide the City Manager with annual monitoring and testing results.
- D. The operator shall be responsible for obtaining a field/site study from DOGGR. If DOGGR does not provide this to the operator then the operator shall submit evidence detailing DOGGR's response to their field/site study request to the City Manager for review.
- E. The operator shall provide to the City Manager a copy of the DOGGR Annual Injection Project Review (if the operator is operating a water injection or water disposal well) upon written or verbal request by the City Manager. The operator shall provide to the City Manager the results of any DOGGR required cement casing integrity testing, including radial cement evaluation logs or equivalent upon written or verbal request by the City Manager, before any wells are put into production.

17.46.032.6 Noise Impacts

All facilities at an oil or gas site located within 600 feet of any prohibited zones, as indicated in Table 1-1, or if noise levels exceed City thresholds as confirmed by the City Manager, operations shall comply with the following provisions:

- A. All noise produced from the site shall conform to the noise thresholds specified in Table 4 – Noise Standards For Land Use Compatibility. Backup alarms on all vehicles operating within 600 feet of the prohibited zone in Table 1-1, shall be disabled between the hours of 6:00 p.m. and 8:00 a.m. During periods when the backup alarms are disabled, the operator shall employ alternative low-noise methods for ensuring worker safety during vehicle backup, such as the use of spotters.
- C. Any and all operations, construction, or activities on the site between the hours of 6:00 p.m. and 8:00 a.m. shall be conducted in conformity with a quiet mode

operation plan that has been approved by the City Manager. The quiet mode operation plan shall be reviewed by the operator every year to determine if modifications to the plan are required. Any modifications to the quiet mode drilling plan shall be submitted to the City Manager for review and approval. Operations that are existing at the time this ordinance is adopted are exempt from the quiet mode plan submittal requirements but are required to comply with the quiet mode provisions listed in section 17.46.08.1.J.

D. All noise producing oil and gas site equipment shall be regularly serviced and repaired to minimize increases in pure tones and other noise output over time. The operator shall maintain an equipment service log for all noise-producing equipment.

E. All construction equipment shall be selected for low-noise output. All construction equipment powered by internal combustion engines shall be properly muffled and maintained.

F. Unnecessary idling of construction equipment internal combustion engines is prohibited.

G. The operator shall instruct employees and subcontractors about the noise provisions of this ordinance. The operator shall prominently post quiet mode policies at every oil and gas site if applicable.

H. All oil operations on the oil and gas site shall be conducted in a manner that minimizes vibration. Additionally, vibration levels from oil or gas operations at the site, as measured from the perimeter of the oil or gas site, shall not exceed a velocity of 0.25 mm/s over the frequency range 1 to 100 Hz.

I. For all oil and gas operations if noise levels exceed the levels prescribed in Table 4 – Noise Standards For Land Use Compatibility or the vibration thresholds specified in Subsection (H) of this Section, including those outside of 600 feet as indicated above, within 30 days of request by the City Manager, the operator shall deposit funds for the City Manager to retain an independent qualified acoustical engineer to monitor (1) ambient noise levels and (2) vibration levels in the areas surrounding the oil or gas site as determined necessary by the City Manager. The monitoring shall be conducted unannounced and within a time frame specified by City Manager. Should noise or vibrations from the oil or gas site exceed the noise thresholds specified in Table 4 – Noise Standards for Land Use Compatibility of the Noise Element of the General Plan or the vibration thresholds specified in Subsection (H) of this Section, operation can also be

subject to enforcement under this ordinance including notices of violation per Section 17.46.015. No new drilling permits, CUPs, or DAs shall be issued by the City until the operator in consultation with the City Manager identifies the source of the noise or vibration and the operator takes the steps necessary to assure compliance with thresholds specified in this ordinance. The results of all such monitoring shall be promptly posted on the website for the oil or gas site and provided to the City Manager.

17.46.33 Standards for Wells

The operator shall comply with all of the following provisions:

- A. All DOGGR regulations related to drilling, workovers, operations and abandonment operations.
- B. No more than two rigs shall be present within the oil or gas site at any one time.
- C. All derricks and portable rigs and masts used for drilling and workovers shall meet the standards and specifications of the American Petroleum Institute as they presently exist or as may be amended.
- D. All drilling and workover equipment shall be removed from the site within ninety days following the completion of drilling or workover activities unless the equipment is to be used at the site within thirty days for drilling or workover operations.
- E. All drilling sites shall be maintained in a neat and orderly fashion.
- F. Belt guards shall be required over all drive belts on drilling and workover equipment. Guarding shall be as required by Title 8 of the California Code of Regulations, Section 6622, or as may be subsequently amended.
- G. Aboveground pumpjack assemblies are prohibited for new wells located in non-industrial areas, and new wells in non-industrial areas sites are restricted to the exclusive use of submersible downhole pumping mechanisms for extraction. However, any well already lawfully existing at the time of implementation of this ordinance using a pumpjack assembly may continue to do so. The requirements of this subsection are applicable to all oil and gas sites in all non-industrial zones except where the City Manager determines that the use of submersible downhole pumping mechanisms is infeasible due to technical reasons or other circumstances which would specifically preclude the use of such technology.

17.46.034 Standards for Pipelines

The operator shall comply with the following provisions related to pipelines throughout operation of an oil or gas site:

17.46.034.1 Pipeline Installations and Use

- A. Pipelines shall be used to transport oil and gas off-site to promote traffic safety and air quality, unless it can be demonstrated to the satisfaction of the City Manager that a pipeline is infeasible and that transportation of products do not pass through or adjacent to prohibited areas as defined in Table 1-1, except on designated truck routes. Trucking on a temporary basis is allowed with approval of the City Manager.
- B. The use of a pipeline for transporting crude oil or gas may be a condition of approval for expansion of existing facilities or construction of new facilities unless it can be demonstrated to the satisfaction of the City Manager that a pipeline is infeasible and that transportation of products do not pass through or adjacent to prohibited areas as defined in Table 1-1, except on designated truck routes.
- C. New pipeline corridors shall be consolidated with existing pipeline or electrical transmission corridors where feasible, unless there are overriding technical constraints or significant social, aesthetic, environmental or economic reasons not to do so, as approved by the City Manager.
- D. New pipelines shall be routed to avoid residential, recreational areas, and schools if possible. Pipeline routing through recreational, commercial or special use zones shall be done in a manner that minimizes the impacts of potential spills by considering spill volumes, durations, and projected spill paths. New pipeline segments shall be equipped with automatic shutoff valves, or suitable alternatives approved by the City Manager, so that each segment will be isolated in the event of a break.
- E. Upon completion of any new pipeline construction, the site shall be restored to the approximate previous grade and condition. All sites previously covered with vegetation shall be reseeded with the same or recovered with the previously removed vegetative materials, and shall include other measures as deemed necessary to prevent erosion until the vegetation can become established, and to promote visual and environmental quality, unless there are approved development plans for the site, in which case re-vegetation would not be necessary.

F. Gas from wells shall be piped to centralized collection and processing facilities, rather than being flared, to preserve energy resources and air quality, and to reduce fire hazards and light sources, unless the SJVAQMD approves the flaring of gas during the temporary operation of an well. Oil shall also be piped to centralized collection and processing facilities, in order to minimize land use conflicts and environmental degradation, and to promote visual quality.

17.46.034.2 Pipeline Inspection, Monitoring, Testing and Maintenance

- A. Operators shall visually inspect all aboveground pipelines for leaks and corrosion on a monthly basis.
- B. The operator shall install a leak detection system for all offsite DOT regulated oil and gas pipelines. The leak detection system for oil shall include pressure and flow meters, flow balancing, supervisor control and data acquisition system, and a computer alarm and communication system in the event of a suspected leak. The leak detection system for gas pipelines shall include pressure sensors. The accuracy shall be defined once the system is established and tested and approved by the City Manager. The City Manager may deviate from these requirements to address system specific operating requirements.
- C. Pipe clamps, wooden plugs or screw-in plugs shall not be used for any permanent repair approved by the City Manager.
- D. Pipeline abandonment procedures shall be submitted to the City Manager for review and approval prior to any pipeline abandonment.
- E. Copies of pipeline integrity test results required by any statute or regulation shall be maintained in a local office of the operator and posted online on the same website that provides the monitoring results required in Section 17.46.032.1 for five years and shall also made available to the City, upon request. The City shall be promptly notified in writing by the operator of any pipeline taken out of service due to a test failure.

17.46.035 Temporary Buildings

During full production of an oil or gas site no temporary buildings are allowed to be constructed or maintained anywhere at the site.

17.46.036 [Reserved]

17.46.037 [Reserved]

Part 3. Development Standards for Site Abandonment and Redevelopment

17.46.038 Development Standards

The following development standards shall be applied to all redevelopment projects within the footprint of an oil or gas site, including any building permit involving a current or former oil or gas site:

- A. Any demolition, abandonment, re-abandonment, or restoration shall be adequately monitored by a qualified individual, funded by the permittee or operator and retained by the City, to ensure compliance with those conditions designed to mitigate anticipated significant adverse effects on the environment and to provide recommendations in instances where effects were not anticipated or mitigated by the conditions imposed on the permit or entitlement. Pre-restoration and post-restoration surveys of sensitive biological resources shall be employed as appropriate to measure compliance.
- B. The site shall be assessed for previously unidentified contamination.
 - 1. The permittee shall ensure that any discovery of contamination shall be reported to the City Manager and the Kern County Fire Department.
- C. The permittee shall diligently seek all necessary permit approvals, including revisions to an entitlement or the demolition. Abandonment, re-abandonment and restoration permit, if any are required, in order to remediate the contamination.
- D. The permittee shall be responsible for any cost to remediate the contamination on the site. This ordinance is not intended to limit the permittee or operator's rights under the law to seek compensation from parties who have contributed to contamination of the site.
- E. The permittee shall ensure that appropriate notification has been recorded with the County Recorder to describe the presence and location of any contamination left in place under the authority of the Kern County Fire Department.
- F. All abandoned or re-abandoned wells shall be leak tested subject to the following requirements:

1. All abandoned wells located within on the oil and gas site must be tested for gas leakage and visually inspected for oil leakage. The operator shall apply to the City Manager for an inspection permit to witness the well testing. The leak test shall be completed utilizing a gas detection meter approved in advance by the City Manager, and shall be conducted by a state licensed geotechnical or civil engineer or a state registered environmental assessor, Class II, or the City Manager, or a designee, as determined necessary by the City Manager.
2. The permittee shall prepare and submit a methane assessment report for each tested well prepared per the City of LA Department of Building and Safety "Site Testing Standards for Methane" (P/BC 2014-101), as may be amended. The operator may use the City's consultant to observe the leak test or be responsible for City consultant test fees. Following satisfactory test results as per the City Building and Safety standards, a well vent and vent cone shall be installed to the satisfaction of the City Manager and in compliance with the recommendations contained in the methane assessment report.
3. The submitted methane assessment report shall be prepared by a state licensed geotechnical or civil engineer. A well shall be considered leaking if the leak test report indicates the meter read is greater than Level II as defined by the City of LA Department of Building and Safety "Site Testing Standards for Methane", which is set at 1,000 parts per million.
4. An approved methane assessment report is valid for 24 months from approval by the City Manager. If an abandonment permit has not been issued by this time, retesting shall be required. Following all testing and inspection, the test area shall be returned to its previous state to the satisfaction of the City building official.
5. If there has not been a change to the well, no leak test is required if a valid methane assessment report, accepted by the City Manager and showing no leaks in excess of the leak limit, has been completed for an abandoned or re-abandoned well within the prior 24 months.

G. Prior to any development or redevelopment of a current or former oil or gas site, or prior to abandoning or re-abandoning any well, the operator shall:

1. Obtain permit(s) and abandon all idled wells consistent with Section 17.46.011.3 and provide a certificate of compliance to show that the wells and/or sites are abandoned consistent with standards recommended or required by DOGGR to the satisfaction of the City Manager. Permits shall not be required if the idled well is scheduled to produce oil or natural gas, or to be used for injection, as part of the development or redevelopment of a former oil or gas site and if said production or injection occurs within 5 years of issuance of a CUP or DA under this ordinance.
2. Obtain permit(s) consistent with Section 17.46.011.3 to re-abandon all previously abandoned wells that do not meet standards recommended or required by DOGGR for abandonment in effect at the time of re-abandonment, and provide a certificate of compliance that the wells and/or sites are re-abandoned consistent with current conditions and standards recommended or required by DOGGR to the satisfaction of the City Manager. Permits shall not be required if re-entry of an abandoned well is scheduled to occur within 5 years of issuance of a CUP or DA under this ordinance, and if re-entry actually occurs within that period of time.
3. In lieu of Subsections (1) and (2), above, obtain a deferral covenant from the City requiring abandonment or re-abandonment to standards recommended or required by DOGGR, or equivalent standards as determined by the City Manager, at a specific time or upon the occurrence of a future event. The deferral covenant shall be approved as to form by the City Attorney, contain a provision to indemnify and hold harmless the City for damages related to wells not abandoned or re-abandoned consistent with standards recommended or required by DOGGR, and shall be recorded by the operator with the County Clerk prior to approval.

H. Other Development Standards:

1. Permanent structures, or other construction that would be difficult or expensive to demolish, shall not be located on top of any abandoned oil or gas well such that access for a well abandonment rig or other well maintenance equipment is constrained or inhibited from access to the well in the event of a future oil or gas leak, unless it can be demonstrated to the satisfaction of the City Manager that it is not feasible or, within an industrial zone, the developer proposing such construction provides

written assurances to the satisfaction of the City Manager, to be included in the recorded declaration of covenant prescribed in Subsection 3, below, that they are aware of and accept the risks associated with such construction. Pervious improvements, such as landscaping and porous parking areas with adequate landscape buffers, may be located on top of an abandoned or re-abandoned well which has passed the leak test consistent with this Section.

2. **Redevelopment of a Former Oil and Gas Site:** If redevelopment of an oil and gas site for use other than an oil and gas operation is proposed at a completely or partially abandoned oil or gas site, the applicant shall submit an application to be processed as a Conditional Use Permit consistent for that use under this Code. Said application shall include the content required by Section 17.46.11.3.2, and the Conditional Use Permit shall comply with the development standards of Section 17.46.038.
3. Prior to issuance of a permit or entitlement for redevelopment of a former oil and gas site, the owner shall record a declaration of a covenant, in a form subject to the review and approval of the City Attorney, putting future owners and occupants on notice of the following: the existence of abandoned oil wells on the site; that the wells within the site have been leak tested and found not to leak; description of any methane mitigation measures employed; a statement as to whether or not access to these wells has been provided to address the fact that they may leak in the future causing potential harm; acknowledgment that the state may order the re-abandonment of any well should it leak in the future; acknowledgment that the state does not recommend building over wells; and releasing and indemnifying the City for issuing any project permit or entitlement for the project, along with notice of the assurances, if any, required by Subsection 1, above. The covenant shall run with the land, apply to future owners, and may only be released by the City.

NOTICE OF EXEMPTION Filing of Notice of Exemption in Compliance with Section 15062 of the California Environmental Quality Act. Place in project file until approved – then file with Kern County Clerk		AFFIDAVIT OF FILING AND POSTING Court Records Supervisor Office of the County Clerk I declare that I received and posted this notice on the filing date as required by California Public Resources Code Section 21152(c). Said Notice will remain posted for 30 days for the filing date.	
TO: COUNTY CLERK County of Kern, 1115 Truxtun Ave. 1 st Floor, Bakersfield, CA 93301		FROM: City of Arvin City Clerk, P.O. Box 548 300 Campus Drive, Arvin, CA 93203 661-854-3134 Office, 661-854-0817 Fax	
Project title: Oil and Gas Ordinance	Description of Nature, Purpose, and Beneficiaries of Project: The City is amending the City of Arvin Municipal Code – Title 17, Zoning, Chapter 17.46 Oil and Gas Production.		
Project location: Assessor Parcel Number(s): N/A			
Description of nature, purpose, and beneficiaries of project: City of Arvin Title 17 Zoning Code Amendment: Code Amendment to Title 17-Zoning, Chapter 17.46 Oil and Gas Production is intended to further regulate in the City of Arvin in such a way as to better protect the environment. The proposed ordinance amendment addresses the maintenance, restoration, enhancement and protection of the environment and the public health, safety, welfare of the city as related to potential impacts from petroleum operations and facilities within the City.			
Name of public agency approving project:		City of Arvin, CA - City Council.	
Name and person or agency carrying out the project	Marti Brown, Community Development Director		
Exempt status:	SECTION 15308, CLSAS 8 - ACTIONS BY REGULATORY AGENCIES FOR PROTECTION OF NATURAL RESOURCES		
Reasons why project is exempt:	Pursuant to Title 14 of the California Code of Regulations, Section 15308 – Actions by regulatory agencies for protection of natural resources, that this project is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment. See Attachment to Notice of Exemption.		
Contact person:	Marti Brown, Community Development Director, Community Development Department, 141 Plumtree Drive, Arvin, CA 93203		
Signature/Title/ Date:	_____ / _____ Marti Brown, Community Development Director		
Record available to General Public:	This is to certify that the environmental document and record of project approval is available to the General Public at City of Arvin, City Clerk's Office, 300 Campus Drive, Arvin, California, 93203. This Notice of Exemption and its supporting documents may be reviewed/obtained during normal working hours at the above address.		

Note: The filing of a Notice of Exemption and the posting on the list of notices start a 35-day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. If a Notice of Exemption is not filed, a 180-day statute of limitations will apply. Refer to Section 15061(d) for filing instructions.

ATTACHMENT TO NOTICE OF EXEMPTION

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS PURSUANT TO CEQA GUIDELINES SECTION 15308.

APPLICANT: City of Arvin, Community Development Department, 300 Campus Drive, Arvin, CA 93203

LEAD AGENCY: City of Arvin

PROJECT LOCATION: City of Arvin (city-wide application)

APN: Not Applicable

PROJECT TITLE: Ordinance By The City Council Of The City Of Arvin, California, To Adopt Text Amendment No. 2017-04, An Oil And Gas Ordinance For Regulation Of Petroleum Facilities And Operations, By Repealing Chapter 17.46, Title 17, And Adding Chapter 17.46 To Title 17, Of The Arvin Municipal Code (Adoption of an Oil and Gas Ordinance)

PROJECT DESCRIPTION: This project involves the consideration and adoption of an Oil and Gas Ordinance to the Arvin Municipal Code regarding regulation of petroleum facilities and operations. The Ordinance will repeal Chapter 17.46, Title 17, and add Chapter 17.46 to Title 17, of the Arvin Municipal Code.

The Oil and Gas Ordinance updates the Arvin Municipal Code and provides for regulations governing petroleum operations and facilities. The Ordinance addresses administrative procedures, development standards for operations, and development standards for well or site abandonment, re-abandonment, site restoration and redevelopment designed to minimize the environmental effects of such operation.

EXEMPTION: CEQA Guideline §15308, Actions by Regulatory Agencies for Protection of the Environment

EXPLANATION: The California Environmental Quality Act (CEQA) provides several “categorical exemptions” for certain projects and activities that do not have a significant adverse effect on the environment. A Lead Agency may approve and rely on a categorical exemption to satisfy the requirements of CEQA, as long as there is substantial evidence in the record that the project fits within the categorical exemption description and that there is no exception to the categorical exemption.

Here, adoption of the Ordinance is categorically exempt under Class 8 (Actions by Regulatory Agencies for Protection of the Environment) pursuant to CEQA Guidelines section 15308. That section applies to:

“[A]ctions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.”

The Ordinance addresses the maintenance, restoration, enhancement and protection of the environment and the public health, safety, welfare of the citizens of Arvin as related to potential impacts from petroleum operations and facilities within the City of Arvin, as well as protection from nuisances. The variety of environmental issues addressed include air, water, soil, geology, storm water and wastewater infrastructure, transportation, noise, emergency response, aesthetic issues, and petroleum operations near potentially sensitive receptors. Mechanisms have been included to regulate compliance and ensure environmental issues are addressed. The Ordinance does not provide for the relaxation of standards as compared to the current regulations in the Arvin Municipal Code. Instead, the ordinance strengthens environmental standards related to petroleum operations and facilities with the City of Arvin. The Ordinance would advance the protection of environmental resources within the City of Arvin.

There is no substantial evidence in the record that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts that threaten the environment. Specifically, the exceptions to the categorical exemptions articulated in Section 15300.2 of the State CEQA Guidelines are not applicable as:

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. These classes are considered to apply in all instances, except where the project may impact an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

Here, the Categorical Exemption applied is a Class 8; therefore, this exception does not apply to the proposed Ordinances.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of

successive projects of the same type in the same place, over time is significant.

Here, the Categorical Exemption applied is Class 8; therefore, this exception does not apply to the proposed Ordinance. Additionally, the Ordinance does not relax standards for environmental protection, but instead enhance procedures and prohibitions that provide for further maintenance, restoration, enhancement, and protection of the environment from petroleum operations and facility uses which are currently allowed, or are not fully regulated by, the Arvin Municipal Code. As such, such a reduction to the impact of petroleum operations and facilities would not have substantial adverse impact on the environment, cumulative or otherwise.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

Here, the Oil and Gas Ordinance update clarifies and expands regulation of the permit process and procedure for any petroleum extraction or production projects and require that such projects obtain approval authority from the City Planning Commission or the City Council. Prior to such approval, these bodies must consider the potential environmental impacts related to petroleum operations or facilities and make appropriate determinations regarding potential impacts as required by CEQA.

The proposed Ordinance also further enhances the ability of the City of Arvin to protect the environment and avoid significant effects by ensuring that petroleum extraction and production operations are subject to a more comprehensive permitting process with CEQA review and regulatory oversight to ensure appropriate compliance. Additionally, the Ordinance further limits – not relaxes – the environmental impacts petroleum operations may potentially have on the environment including air quality, greenhouse gas emissions, water resources, geology, noise, traffic and public health and safety.

As such, there are no “unusual circumstances” that would create a reasonable possibility that adoption of the Ordinance would have a significant adverse effect on the environment.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements, which are required as mitigation by an adopted negative declaration or certified EIR.

Here, the Ordinance does not involve the approval of petroleum extraction and production operations in a manner that damages scenic resources. There are no state-designated scenic highways located within or immediately adjacent to the City of Arvin and, as such, the Ordinance does not have the potential to impact any of these state designated scenic resources. As an additional matter, expansion of the regulatory oversight and permitting requirements will require additional discretionary approvals for petroleum operations and facilities by the City, which in turn will also require expanded CEQA review and protections for any potential scenic resources as compared to the current process. Finally, prohibition of certain activities would limit, not expand, environmental protections for scenic resources.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site, which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

Here, the Ordinance is proposed to apply city-wide, and does not propose construction on “a site.” Likewise, the Ordinance does not negatively impact approval of any petroleum operations or facilities in a location listed as a hazardous waste site as compared to the current regulatory process. Instead, the Ordinance provides additional regulatory grounds to ensure the maintenance, restoration, enhancements and protection of the environment, as well as a regulatory process for the protection of the environment.

(f) Historical Resources. A categorical exemption shall not be used for a project, which may cause a substantial adverse change in the significance of a historical resource.

Here, the proposed Ordinance does not negatively impact any approval of petroleum operations and facilities in a manner that causes substantial adverse change in the significant of a historical resource. As noted above, the Ordinance provides for enhanced - not relaxed - regulations for protection of the environment as compared to the current regulatory process. The proposed Ordinance does not modify the current restrictions and protections put into place by the City of Arvin regarding historical resources, nor is there substantial information in the record that the ordinance may cause a substantial adverse change in the significance of a historical resource.



**CITY OF ARVIN
PLANNING COMMISSION
Agenda Report**

Meeting Date: October 30, 2017

TO:	Planning Commission
FROM:	Marti Brown, Community Development Director
SUBJECT:	Public Hearing – Code Amendment to Title 17 – Zoning, Definitions Section 17.02.310 – Home Occupation, Section 17.02.520 – Quasi-home occupation, and Section 17.080.020 Permitted Uses, Subsection D Home Occupation standards and adoption of Notice of Exemption per Section 15061(b)(3).

RECOMMENDATION

Motion to Approve Resolution of the City of Arvin Planning Commission recommending adoption of the proposed code amendments to Title 17 - Zoning, Definitions for Section 17.02.310 - Home occupation, Section 7.02.520 - Quasi-home occupation, and amendment to Section 17.080.020 Permitted Uses, Subsection D Home Occupation standards and to adopt Notice of Exemption per Section 15061 (b) (3).

BACKGROUND

The Planning Commission on June 22, 2017 adopted Resolution No. APC 2017-14 which authorized the Community Development Director to prepare proposed amendments relating to home base businesses within residential units. The purpose of the proposed amendments were to expand the criteria and standards for a home business, clarify the existing review and approval process by substituting the approval or conditional approval of a home business from an Administrative Permit process to a Home Occupation Permit process. The proposed amendments to the Home Occupation definitions and standards would allow a more liberal diverse activity for residents wishing to conduct home businesses from a residential dwelling.

The City of Arvin's listing of Home Occupation standards and conditions are typical of many communities which limit home occupations to a very low key and non-intrusive activity within the residential neighborhood. The typical types of home occupations and business that are able to meet the existing conditions are office activity, such as tax preparer, accountant, and other activities that do not require vehicles, trailers, or storage of equipment. The current ordinance limits the use of the residential dwelling to one room, no storage of materials in the garage which impedes the parking of vehicles and no storage of supplies and equipment in accessory buildings such as a storage shed. In addition, Home Occupation activities cannot create conflict with other city ordinances.

Some highlights of the proposed amendments include the use of the garage while maintaining the primary purpose of the garage and use of accessory structures for storage of supplies and equipment used for the delivery of home business services, clarifying the parking of utility trailers in association with a home business may be utilized under limited restrictions, parking and storage of vans and trailers associated with a home business may be permitted under limited circumstances. The proposed amendments will eliminate one of the two step process that is currently required by the City ordinance.

The current process in reviewing Home Occupation Permits is as follows: The Community Development Department reviews the proposed business with the City's Zoning Code, Section 17.02.310 Home Occupation defined, Section 17.02.520 Quasi-home Occupation, and Section 17.08.020 Permitted Uses, Subsection D Home Occupations to verify compliance. If the proposed Home Occupation meets these definitions and standards. This is the first step in the review process. After this step is completed, the current code requires the Community Development Director to review the proposed Home Occupation Permit via an Administrative Permit review process in accordance with Section 17.05.080 (G). This creates a twostep process. By first reviewing the existing Home Occupation Permit criteria under the existing code, then referring to a different code section for issuing an Administrative Permit.

As noted, the new process, upon adoption of the proposed amendments, will simplify the process by allowing the Community Development Director to review and to issue a home business occupation via a Home Occupation Permit code section, thus eliminating the second review and approval process.

Environmental Review: The amendments and additions to Chapter 17 Zoning of the Arvin Municipal Code constitute a project the California Environmental Quality Act. The Community Development Director researched the Public Resources Code and CEQA Guidelines and found the project falls within the definition and criteria to be exempt from CEQA. This determination and recommendation is based upon the CEQA Guidelines, Section 15061(b) (3) the activity is covered under the General Rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

EXHIBITS AND ATTACHMENTS

Resolution - Resolution of the City Of Arvin Planning Commission Recommending Adoption of Ordinance of the City Council of the City of Arvin, 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).

Exhibit A – Proposed Ordinance Amendments – Home Occupation Permits

Exhibit B – Notice of Exemption.

RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ARVIN RECOMMENDING ADOPTION OF THE PROPOSED CODE AMENDMENTS TO TITLE 17 - ZONING, DEFINITIONS FOR SECTION 17.02.310 - HOME OCCUPATION, SECTION 7.02.520 - QUASI-HOME OCCUPATION, AND AMENDMENT TO SECTION 17.080.020 PERMITTED USES, SUBSECTION D HOME OCCUPATION STANDARDS AND TO ADOPT NOTICE OF EXEMPTION PER SECTION 15061 (B) (3).

WHEREAS, the Planning Commission is 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 authorizes the Community Development Director to prepare a report and present recommendations relating to the possible amendment to the City's Zoning Code, Title 17 – Zoning, Definitions for Section 17.02.310 - Home occupation, and Section 7.02.520 - Quasi-home occupation, and amendment to Section 17.080.020 Permitted Uses, Subsection D Home Occupation standards.

WHEREAS, the Planning Commission on October 30, 2017, at a Special Planning Commission meeting, recommended the adoption of the proposed code amendments.

WHEREAS, the Planning Commission recommends that the City Council adopt said amendments and further recommends the adoption of the Notice of Exemption as the appropriate environmental document for said amendments.

NOW THEREFORE BE IT RESOLVED the Planning Commission of the City of Arvin hereby finds and adopts the following findings:

1. The Planning Commission is authorized by Title 17 Zoning, Section 17.54.040 (A) and (B) by its own motion may initiate amendments to Title 17 Zoning whenever the public necessity, convenience, general welfare, or good zoning practices justify such action.
2. The Planning Commission duly noticed the public hearing date in accordance with local requirements and state requirements.
3. The Planning Commission conducted a public hearing on October 30, 2017 providing an opportunity for all interested persons to give testimony and the Planning Commission duly considered all relevant testimony.
4. The Planning Commission recommends the adoption of the Notice of Exemption as the appropriate environmental document for said amendments.

5. The Planning Commission recommends adoption of the proposed ordinance amendments as shown on Exhibit A of this resolution.

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the Planning Commission of the City of Arvin at a special meeting thereof held on the 30th day of October 2017 by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST:

CECILIA VELA, Secretary

ARVIN PLANNING COMMISSION

By: _____
OLIVIA TRUJILLO, Chairperson

APPROVED AS TO FORM:

By: _____
SHANNON L. CHAFFIN, General Counsel
Aleshire & Wynder, LLP

I, _____, Secretary of the Planning Commission 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 Planning Commission of the City of Arvin on the date and by the vote indicated herein.

EXHIBIT A
ORDINANCE NO. 2017- XX

ORDINANCE NO. _____

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-XX 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 September 26, 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 **Month Day, 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 **Month day, 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 _____ day of _____ 2017, and adopted the Ordinance after the second reading at a regular meeting held on the _____ day of _____ 2017, by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

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.

NOTICE OF EXEMPTION Filing of Notice of Exemption in Compliance with Section 15062 of the California Environmental Quality Act. Place in project file until approved – then file with Kern County Clerk		AFFIDAVIT OF FILING AND POSTING Court Records Supervisor Office of the County Clerk I declare that I received and posted this notice on the filing date as required by California Public Resources Code Section 21152(c). Said Notice will remain posted for 30 days for the filing date.	
TO: COUNTY CLERK County of Kern, 1115 Truxtun Ave. 1 st Floor, Bakersfield, CA 93301		FROM: City of Arvin City Clerk, P.O. Box 548 300 Campus Drive, Arvin, CA 93203 661-854-3134 Office , 661-854-0817 Fax	
Project title:	Description of Nature, Purpose, and Beneficiaries of Project: The City is amending Title 17 Zoning, Sections 17.02.310 Home Occupation, 17-02-520 Quasi-Home Occupation, and Section 17.080.020 (D) Home Occupations to simplify the existing two-step process to one step process, clarify storage utilization, parking, and providing for an Administrative Approval for proposed Home Uses that may require additional outreach to insure that the residential unit and neighborhood are not affected by such use.		
Project location: Assessor Parcel Number(s): N/A	City of Arvin Municipal Code – Title 17, Sections 17.02.310, 17-02-520 and 17.080.020 (D)		
Description of nature, purpose, and beneficiaries of project: City of Arvin Title 17 Zoning Code Amendment: Code Amendment to Title 17-Zoning, Definition Sections 17.0.310 – Home occupation, Section 17.02.520 Quasi-Home occupation, and Section 17.080.020 Permitted Uses, Subsection D Home Occupation standards. The purpose of the proposed amendments was to expand the criteria and standards for a home business, clarify the existing review and approval process by substituting the approval or conditional approval of a home business from an Administrative Permit process to a Home Occupation Permit process. The proposed amendments to the Home Occupation definitions and standards would allow a more liberal diverse activity for residents wishing to conduct home businesses from a residential dwelling. The new conditions and criteria, as well as, the new process, upon adoption of the proposed amendments, will simplify the process by eliminating a two-step process and by allowing more residents to establish a a home base business within the community.			
Name of public agency approving project:		City of Arvin, CA - City Council.	
Name and person or agency carrying out the project	Marti Brown, Community Development Director		
Exempt status:	General Rule Exemption (Section 15061(b)(3))		
Reasons why project is exempt:	Pursuant to Title 14 of the California Code of Regulations, Section 15061 (b)(3), that this project is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment. The City Council therefore directs that the Notice of Exemption be filed with Kern County Clerk in accordance with the City of Arvin's Guideline for the implementation of CEQA.		
Contact person:	Marti Brown, Community Development Director, Community Development Department, 141 Plumtree Drive, Arvin, CA 93203		
Signature/Title/ Date:	_____ / _____ Marti Brown, Community Development Director		
Record available to General Public:	This is to certify that the environmental document and record of project approval is available to the General Public at City of Arvin, City Clerk's Office, 300 Campus Drive, Arvin, California, 93203. This Notice of Exemption and its supporting documents may be reviewed/obtained during normal working hours at the above address.		

Note: The filing of a Notice of Exemption and the posting on the list of notices start a 35 day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. If a Notice of Exemption is not filed, a 180 day statute of limitations will apply. Refer to Section 15061(d) for filing instructions.

RESOLUTION NO. APC 2017-14

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ARVIN INITIATING AN AMENDMENT TO ARVIN MUNICIPAL CODE SECTIONS 17.02.310 (HOME OCCUPATION), 7.02.520 (QUASI-HOME OCCUPATION), AND 17.08.020(D) (PERMITTED USES)

WHEREAS, the Planning Commission is 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 authorizes the Community Development Director to prepare a report and present recommendations relating to the possible amendment to the City's Zoning Code, Title 17 – Zoning, Definitions for Section 17.02.310 - Home occupation, and Section 7.02.520 - Quasi-home occupation, and amendment to Section 17.08.020 Permitted Uses, Subsection D Home Occupation standards.

NOW THEREFORE BE IT RESOLVED by the Planning Commission of the City of Arvin as follows:

1. The Planning Commission is authorized by Title 17 Zoning, Section 17.54.040 (A) and (B) by its own motion may initiate amendments to Title 17 Zoning whenever the public necessity, convenience, general welfare, or good zoning practices justify such action.
2. The Planning Commission finds that public necessity, convenience, general welfare, or good zoning practices justify an amendment to the City of Arvin's land use zoning ordinance, and based thereon, hereby initiates an amendment to Arvin Municipal Code Sections 17.02.310 (Home Occupation), 7.02.520 (Quasi-home Occupation), and 17.08.020(D) (Permitted Uses).
3. The Community Development Director is directed to take action consistent with this initiation and the requirements of the Arvin Municipal code.

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I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the Planning Commission of the City of Arvin at a special meeting thereof held on the 22nd day of June 2017 by the following vote:

AYES: PC Rivera, PC Martinez, VC Zavala, Chair Trujillo

NOES: _____

ABSTAIN: _____

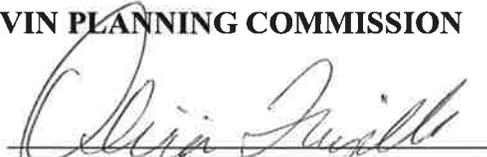
ABSENT: PC Tinoco

ATTEST:

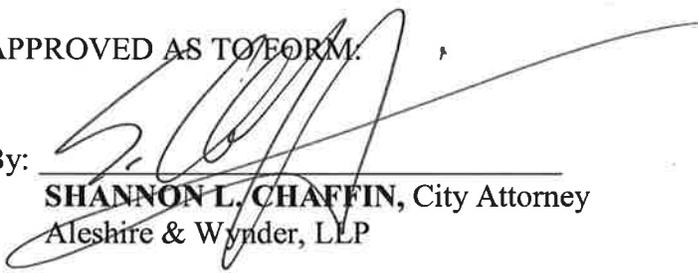


CECILIA VELA, Secretary

ARVIN PLANNING COMMISSION

By: 
OLIVIA TRUJILLO, Chairperson

APPROVED AS TO FORM:

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

I, _____, Secretary of the Planning Commission 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 Planning Commission of the City of Arvin on the date and by the vote indicated herein.

EXHIBIT A
EXCERPT FROM TITLE 17 – ZONING

CHAPTER 17.08 - R-1 ONE-FAMILY DWELLING ZONE

17.08.020 - Permitted uses. Uses permitted in any type of R-1 zone are as follows:

D. Home occupations by **administrative approval**, subject to the following conditions:

1. There shall be no external alteration of appearance of the dwelling in which a home occupation is conducted,
2. The existence of a home occupation shall not be apparent beyond the boundaries of the site except for non-illuminated nameplate not to exceed one (1) square foot in area,
3. A home occupation shall not create any radio or television interference or noise audible beyond the boundaries of the site,
4. A home occupation shall not create pedestrian, automobile or truck traffic significantly in excess of the normal amount in the district,
5. A home occupation shall not be conducted in an accessory structure, and there shall be no storage of equipment or supplies in an accessory structure or outside the dwelling,
6. A home occupation shall not involve the use of any material or mechanical equipment not recognized as being part of normal household or hobby uses,
7. No direct commercial services shall be allowed to occur at the location of a home occupation,
8. No more than one (1) room of the main dwelling shall be used for the conduct of a home occupation,
9. Direct sales shall not be made on the premises;

17.02.310 - Home occupation.

"Home occupation" 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.

(Ord. 51 §128, 1965).

17.02.520 - Quasi-home occupation

"Quasi-home occupation" means 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.

(Ord. 51 §129, 1965).

EXHIBIT B
EXCERPT FROM TITLE 17 – ZONING

Chapter 17.05 – Uses Permitted Subject to Administrative Approval
Sections:

17.05.010 - Purpose of provisions.

The purpose of requiring administrative approval of certain enumerated uses is to enable the planning director to determine whether or not, in any particular case, a use listed under a section of district regulations entitled "permitted uses: administrative approval" should be treated as a conditional use because of the peculiar circumstances and conditions of the case. The provisions of this chapter set forth a procedure for approval of such use by an administrative act where findings can be made by the planning director that such use is in conformance with the intent and provisions of this chapter and take cognizance of the impracticality of listing certain uses as categorically possessing the characteristics of those listed under individual district.

(Ord. 146 §3 (part), 1979).

17.05.020 - Application for approval—Review procedure.

- A. An application for administrative approval shall be submitted to the planning director on a form prescribed by the planning director. The application shall include a statement of the use proposed and a site plan prepared in accordance with, and subject to, the provisions of Section 17.60.020.
- B. The planning director shall review the proposed use to ascertain all the facts pertinent thereto and, in writing, shall state either approval or disapproval of the proposed use, together with his findings and reasons for such decision, within ten (10) days, excluding Saturday, Sundays, and legal holidays, of the filing of the application.
- C. In approving the use, the planning director shall impose such conditions and requirements as may be applicable as set forth in Sections 17.60.040 and 17.60.050 of this title.

(Ord. 146 §3(part), 1979).

17.05.030 - Grant of application—Findings required.

- A. The planning director may grant an application for administrative approval as the permit was applied for, or in modified form, if, on the basis of the application and evidence submitted, he is able to make the findings set forth in **Section 17.60.050**, *(Note should be Section 17.60.040)* plus the following additional findings:
 1. That the use will not involve any process, equipment or materials which, in the opinion of the planning 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.

B. In making such findings, the planning director shall consult with the city engineer to assure that approvals will be consistent with established legislative policies relating to traffic safety, street dedications, and street improvements.

(Ord. 146 §3(part), 1979).

17.05.040 - Decision on application—Notice required.

One copy of the written decision of the planning director approving or disapproving the application shall be signed and dated by the planning director and mailed to the applicant.

(Ord. 146 §3(part), 1979).

17.05.050 - Appeal to the commission.

The applicant or any aggrieved person may appeal, in writing, setting forth his reason for such appeal to the commission. Such appeal shall be filed with the planning director within fifteen (15) days after the mailing of the notice of such decision. The appeal shall be placed on the agenda of the commission's next regular meeting after the planning director's decision; provided, however, if the planning director's decision occurs within ten (10) days of the next regular meeting of the commission, the appeal shall be placed on the agenda of the commission's second regular meeting following the decision of the planning director. The commission shall review the site plan and shall approve, approve with conditions, or disapprove, based on the findings set forth in Section 17.05.030. The decision of the commission shall be final unless appealed to the council.

(Ord. 146 §3(part), 1979).

17.05.060 - Appeals to the council.

The applicant or any aggrieved person may appeal, in writing, setting forth his reason for such appeal to the council. Such appeal shall be filed with the city clerk within fifteen (15) days after the commission's decision. The appeal shall be placed on the agenda of the council's next regular meeting after the appeal is filed. The council shall review the site plan and shall approve, approve with conditions, or disapprove, based on the findings set forth in Chapter 17.60 of this Code. The decision of the council shall be final.

(Ord. 146 §3 (part), 1979).

17.05.070 - Building permits—Conditions.

Before a building permit shall be issued for any building or structure proposed as part of an approved application for administrative approval, the building department shall secure written approval from the planning department that the proposed building location is in conformity with the site plan and conditions approved by the planning director. Before a building may be occupied, the building inspector shall certify to the planning director that the site has been developed in accordance with the site plan and conditions approved by the planning director.

(Ord. 146 §3(part), 1979).

17.05.080 - Permitted uses designated—Administrative approval.

The following uses may be permitted in accordance with the provisions of Chapter 17.60 of this title:

- A. All permitted uses in the R-1 and R-2 zones, the estate zones, and agriculture zones;
- B. Apartments of less than four (4) units in the R-2, R-3 and R-4 districts;
- C. Enclosed temporary construction materials storage yards required in connection with the development of subdivisions, temporary subdivision sales offices and signs, and model home display areas, in accordance with the regulations set forth in Chapter 17.48;
- D. Swimming pools for either individual, family or communal use on an exclusive noncommercial basis; provided, however, no swimming pool or accessory mechanical equipment shall be located in a required front yard, or less than five (5) feet from a property line, or within a utility easement except that a swimming pool may extend into the required front yard within the area permitted, and shall be enclosed by a fence six (6) feet in height.
- E. Accessory buildings and uses located on the same site as a permitted use;
- F. **Quasi home occupation and home occupation permits in accordance with the regulations set forth in sections 17.08.020 and 17.02.310 of this title; *(Note: Highlighted for emphasis – for June 22, 2017 Planning Commission initiation for code amendment)***
- G. Additions of less than one thousand (1,000) square feet in the R residential and C commercial districts, and one thousand five hundred (1,500) square feet in the M manufacturing districts;
- H. City, county, state and federal administrative offices, libraries, and police and fire stations.

(Ord. 146 §3(part), 1979).

END

EXHIBIT C
EXCERPT FROM TITLE 17 – ZONING

Chapter 17.60 - SITE DEVELOPMENT PERMITS

Sections:

17.60.010 - Intent and purpose—Affected zones.

- A. To insure that certain types of proposed developments will serve to achieve a group of facilities which will be well related one to another, and which, taken together, will result in a well-composed design, and to meet the city ordinances, site development permits shall be required for the development or expansion of the following:
1. Mobile home parks, travel trailer parks, airports and building complexes encompassing more than one (1) acre;
 2. Building projects costing more than fifty thousand dollars (\$50,000) in any C commercial or M industrial or more than twenty-five thousand dollars (\$25,000) in any R-3 and R-4 multiple-family residential or PUD planned unit development district;
 3. Use of any structure vacant for more than ninety (90) days;
 4. Change of use from an existing use to an heretofore new use at that location.
- B. A site development permit shall be secured prior to the issuance of a building permit for any of the items listed in 1, 2, 3, and 4 above.

(Ord. 174 §2(part), 1982).

17.60.020 - Application—Filing and fee.

The owner or his agent may make application for a site development permit. Such application shall be submitted to the planning department in writing on a form prescribed by the city planner, and shall be accompanied by the required fee and such plans as required in Section

17.60.030 - .

(Ord.

174 §2(part), 1982).

17.60.030 - Application—Information required.

The applicant shall submit three (3) prints of the site plan. The site plan shall contain plot plans drawn to scale, and shall indicate clearly and with full dimensions the following information, where applicable:

- A. Name and address of the applicant and of all persons owning any or all of the property proposed to be used;
- B. Location of property involved (address or vicinity);
- C. Legal description of property;

- D. Proposed facility or use;
- E. The lot dimensions;
- F. All buildings and structures and their location, size, height, and proposed uses;
- G. Location and design of recreation areas;
- H. Yards and spaces between buildings;
- I. Walls and fences and their location, height, and materials;
- J. Landscaping and sprinkling system, including location, type and plant names and proposed disposition of existing trees;
- K. Off-street parking, including the location, number of stalls, dimensions of the parking facility, and internal circulation system;
- L. Access, pedestrian, vehicular, and service, points of ingress and egress, and driveway locations and dimensions;
- M. Signs and their location, size and height;
- N. Loading, including the location, dimensions, number of berths, internal circulation, and means of accessibility to structure or use served;
- O. Lighting, including the location, general nature and hooding devices, if any;
- P. Street dedication and improvements;
- Q. Location of utilities and trash collection areas;
- R. An appropriate description legend and North point;
- S. Such other data or information as may be required by the city.

(Ord. 174 §2(part), 1982).

17.60.040 - Application—Criteria for review.

A. Site development permits may be granted by the city planner, the planning commission or the city council. Within forty-five (45) days of the receipt of any application for a site development permit, the city planner shall review the application and render his decision to approve, conditionally approve, or deny the application. **In reviewing any such application, the following should be considered:**

1. Compliance with all applicable laws and ordinances;
2. Compliance with all applicable city policies duly adopted by a majority vote of the planning commission or the city council;
3. Conformance to latest accepted planning and engineering standards covering the following area: site layout, building appearance and structural design, landscaping, water and sewer service and other utilities, surface drainage and erosion control, fire protection, access, traffic circulation and parking.

B. Before approving or conditionally approving any such application, the city planner 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.

(Ord. 174 §2(part), 1982).

17.60.050 - Appeals.

If the applicant or any aggrieved party is dissatisfied with the decision of the city planner, he may appeal the decision in accordance with the procedures outlined in this chapter for the appeal of decisions on use permits.

(Ord. 174 §2(part), 1982).

17.60.060 - Attachment of conditions.

In granting a site development permit, the city planner, planning commission or city council shall attach whatever conditions are reasonable and necessary to fulfill the intent and purposes of this chapter. Such conditions and the application as approved shall be a part of such site development permit, and all changes in the use of appearance of land or buildings permitted by such permit shall be in accordance with the specified conditions and application as approved. Issuance of a site development permit may be made subject to guarantees and evidence that attached conditions are being or will be complied with.

(Ord. 174 §2(part), 1982).

17.60.070 - Expiration.

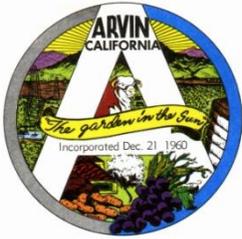
If the change in the use of land or buildings for which a site development permit is granted is not begun within one (1) year of the date of final approval of the permit application, such site development permit shall be deemed to be expired and of no further effect. Thereafter, before such change in the use of land or buildings may be carried out, a new site development permit shall first be secured.

(Ord. 174 §2(part), 1982).

17.60.080 - Fees.

A nonrefundable fee of one-tenth (1/10) of one (1) percent of the building price with a minimum of twenty-five dollars (\$25.00), but in no event more than the actual cost of the plan review shall be paid at the time of application for a site development permit.

(Ord. 174 §2(part), 1982).



**CITY OF ARVIN
PLANNING COMMISSION**

Agenda Report

Meeting Date: 10-30-2017

TO: Planning Commission

FROM: Marti Brown, Community Development Director
Alfonso Noyola, City Manager, ICMA-CM

SUBJECT: **An Ordinance Of The City Council Of The City Of Arvin Adopting Chapter 17.62 Of Title 17 Of The Arvin Municipal Code Pertaining To Commercial Medical and Recreational Cannabis Activity**

Background:

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. In 2004, the State Legislature enacted SB 420 to clarify the scope of the Compassionate Use Act and provide additional statutory guidance regarding medical cannabis use. These statutes are codified at Health and Safety Code section 11362.7 et seq. and allow cities and counties to adopt supplemental rules and regulations.

In October of 2015, the Governor signed the Medical Marijuana Regulation and Safety Act (“Act”). The Act created a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medical cannabis, all subject to local control. One of the purposes of the Act is to ensure uniformity among jurisdictions that wished to allow commercial cannabis operations.

The Adult Use of Marijuana Act (“AUMA”) was approved by a majority of California voters in the November 2016 election. The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis, including cannabis products. Adults, age 21 and older, will be allowed to possess cannabis and grow certain amounts at home for personal use.

There are numerous studies and reports that demonstrate that unregulated cannabis cultivation can be harmful to the health, safety and welfare of the surrounding community and constitute a public nuisance. Cannabis plants produce a strong odor, offensive to many people, and detectable

far beyond property boundaries without proper ventilation, odor control, and other regulations. 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. In addition, unregulated cannabis cultivation has been shown to involve avoidance of environmental laws and regulations, result in the pollution of waters. 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. In fact, there are numerous well publicized studies and reports, as well as numerous documented incident in Monterey County and throughout the State, which show that unregulated cannabis activities have a significant adverse effect on the community.

Health and Safety Code section 11362.2(b) explicitly allows a city to “enact and enforce reasonable regulations to reasonably regulate” the cultivation of cannabis. Countless 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). Given the continuing lack of formal regulation from the state, the City is considering amendment of the regulations governing commercial cultivation of cannabis. Without a formal regulatory framework, the adverse impacts frequently associated with commercial cannabis activities will occur, and would result in an unregulated and potentially significant negative impact upon the environment and upon public health, safety, and welfare of the community.

Environmental Review:

The Ordinances are 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.)

Discussion:

The Ordinance will consist of a regulatory ordinance that regulates the creation, operation and maintenance of commercial medical and recreational cannabis businesses. The proposed Ordinance adopts Title 17, Section 17.62 which defines and regulates the commercial medical and recreational cannabis activities and related uses that are to be allowed within the City of Arvin. All dispensaries will be banned within the City. Further adoption of the Ordinance establishes definitions, the work permit approval process, inspections and enforcement, violations, insurance coverage limits, application review and approval procedures, and limits to all volatile and non-volatile chemicals utilized in the testing and/or manufacturing process. All other commercial activity, including but not limited to cultivation, delivery, and dispensing, not specifically allowed by the Ordinance shall be prohibited. Personal cannabis activity, both

recreational and medical, shall remain governed by the requirements of Chapter 8.29 of Title 8 of the Arvin Municipal Code.

In addition, a thorough analysis of the evolving State of California legal regulations provided suggested language to bring the Ordinance into compliance with SB-94.

The proposed Ordinance includes, but is not limited to, the following items:

- The definition of Commercial Cannabis in the City – includes both medical and recreational cannabis in accordance with state law.
- Type 2A: Indoor cultivation with all artificial light from 0 to 10,000 square feet of plant canopy
- Type 3A: Indoor cultivation with all artificial light from 10,001 to 22,000 square feet of plant canopy
- Type 2B: Indoor cultivation with all artificial light from 0 to 10,000 square feet of plant canopy
- Type 3B: Indoor cultivation with all artificial light from 10,001 to 22,000 square feet of plant canopy
- Type 4: Nurseries (the City anticipates limiting this use to a maximum 25,000 sf of plant growth area).
- Type 6: Manufacturing (Level 1) Non-Volatile Solvents
- Type 7: Manufacturing (Level 2) Volatile Solvents
- Type 8: Testing
- Type 11: Distribution
- Type 12 Microbusiness
- Clarified prohibition of retail deliveries and dispensing
- Permit renewal requirements
- Edibles
- Minimum age for employees and site access now 21
- Limitations regarding Testing Permits and Employees
- Greenhouse Cultivation

Recommendation:

It is recommended that the Planning Commission: 1) review and consider the proposed Ordinance; 2) Conduct Public Hearing regarding the proposed Ordinance; 3) Approve Ordinances with Findings of CEQA Exemption; and 4) approve resolution providing recommendation to the City Council regarding the Ordinance.

Fiscal Impact:

There were consultant staff costs involved in preparation of the Ordinances, which staff believes can be funded within the existing budget appropriations. The overall impact of the Ordinance are anticipated to have a positive financial impact by encouraging more manufacturing and cultivation activities.

Attachments:

- 1) Proposed Ordinance Of The City Council Of The City Of Arvin Adopting Chapter 17.62 Of Title 17 Of The Arvin Municipal Code Pertaining To Commercial Medical and Recreational Cannabis Activity.
- 2) Resolution No. 2017-____, recommending approval of an Ordinance Of The City Council Of The City Of Arvin Adopting Chapter 17.62 Of Title 17 Of The Arvin Municipal Code Pertaining To Commercial Medical and Recreational Cannabis Activity.

RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ARVIN, COUNTY OF KERN, STATE OF CALIFORNIA, RECOMMENDING TO THE CITY COUNCIL THE APPROVAL OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN ADOPTING CHAPTER 17.62 OF TITLE 17 OF THE ARVIN MUNICIPAL CODE PERTAINING TO COMMERCIAL CANNABIS ACTIVITY AND RELATED PLANNING AND ZONING DOCUMENTS TO REGULATE COMMERCIAL CANNABIS ACTIVITY; AND RELATED CEQA DETERMINATION

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, which was codified as “The Compassionate Use Act of 1996,” at California Health and Safety Code, section 11362.5 (“CUA”) which had the stated intent to ensure that seriously ill individuals have the right to obtain and use marijuana for medical purposes when recommended by a physician. The Proposition further provides that “nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes, and

WHEREAS, the ballot arguments supporting Proposition 215 expressly acknowledged that “Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere”, and

WHEREAS, in 2004, the Legislature enacted Senate Bill 420 (codified as California Health & Safety Code § 11362.7 et seq. and referred to as the “Medical Marijuana Program” or “MMP” to clarify the scope of Proposition 215 and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the MMP to expressly recognize the authority of counties and cities to “adopt local ordinances that regulate the location, operation, or establishment of a medical, and

WHEREAS, in the *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal.4th 729 (2013), the California Supreme Court upheld the right of local public agencies to regulate medical marijuana operations through their land use powers, and

WHEREAS, on November 26, 2013, the Third District Court of Appeal issued its opinion in *Maral v. City of Live Oak* 221 Cal.App.4th 975, which held cities have the authority to ban marijuana cultivation within their boundaries consistent with their local regulations; and

WHEREAS, on October 9, 2015, California Governor Brown approved the Medical Marijuana Regulation and Safety Act (“MMRSA”), which goes into effect on January 1, 2016, and establishes a comprehensive State licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of medical marijuana, also known as cannabis, through Assembly Bills 243 and 266 and Senate Bill 643, and

WHEREAS, on June 27, 2016, the Governor signed SB 837, effective immediately, changing the terms in the Act from “medical marijuana” or “marijuana” to “Commercial Cannabis” or “cannabis”, and making other technical changes to the Act. SB 83 7 also adopted regulations relating to the use and diversion of water in connection with the cultivation of cannabis; and

WHEREAS, the Commercial Cannabis Ordinance places complete bans and regulations on commercial cannabis activity in the City based upon various health, safety and welfare and land use findings relating to cannabis cultivation, dispensing, and consumption, which findings are incorporated herein by reference; and

WHEREAS, in November of 2016 the Adult Use of Marijuana Act (“AUMA”) was approved by a majority of California voters. The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of non-commercial cannabis, including cannabis products. Adults, age 21 and older, will be allowed to possess cannabis and grow certain amounts at home for personal use; and

WHEREAS, the AUMA did not provide for a specific effective date, thus the provisions of the AUMA regarding personal use, possession, and cultivation of cannabis became effective the day after the November 8, 2016; and

WHEREAS, the AUMA’s proposed Health & Safety Code section 11362.1(a)(3), will make it lawful under state and local law for any person twenty-one (21) years of age or older to “Possess, plant, cultivate, harvest, dry, or process not more than six living cannabis plants and possess the cannabis produced by the plants”; and

WHEREAS, the City wishes to enact regulations governing commercial cannabis activities at this time; and

WHEREAS, the AUMA’s proposed Health & Safety Code section 11362.2(b) explicitly allows a city to “enact and enforce reasonable regulations to reasonably regulate” the cultivation of cannabis so long as the City does not prohibit the cultivation of up to six plants “inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure”; and

WHEREAS, the City intends to regulate and maintain local control over any dispensing, delivery, manufacturing, testing and/or cultivation of commercial cannabis in accordance with this ordinance; and

WHEREAS, mindful of the fact that marijuana possession and use is prohibited under federal law and partially decriminalized under state law, it is the City’s intention that nothing in these ordinances shall be construed, in any way, to expand the rights of anyone to use or possess marijuana under state law; engage in any public nuisance; violate federal law, or engage in any activity in relation to the cultivation, distribution, or consumption of marijuana that is otherwise illegal. It is further the intent of the City of Arvin to maintain local control over these matters to the fullest extent permitted by law.

WHEREAS, the Ordinance establishes regulations for all Commercial Cannabis Activities or Businesses and Nurseries, Manufacturing, Testing, and Microbusinesses; and,

WHEREAS, on October 30, 2017, the Planning Commission held a public hearing to receive oral and written testimony relative to the proposed amendments; and,

WHEREAS, the proposed ordinances address the following items including: the Establishment, Operation and Regulation of Commercial Cannabis Activity or Business, Nurseries, Manufacturing, Testing, and “Microbusiness;” and,

WHEREAS, these uses are consistent with underlying zoning and consistent with the General Plan; and,

WHEREAS, the Planning Commission desires to recommend approval of the ordinances and associated findings under the California Environmental Quality Act (“CEQA”) to the City Council.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Arvin as follows:

Section 1: The Planning Commission has reviewed the project and recommends that the City Council adopt a finding that the attached ordinances will not create potentially significant environmental impacts pursuant to 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.) Finally, no exceptions to the Categorical Exemptions are applicable under CEQA Guidelines section 15300.2.

Section 2. After reviewing the proposed zoning and specific plan amendments and considering all oral and written information regarding the text amendments, that the Planning Commission does recommend the City Council approve “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN ADOPTING CHAPTER 17.62 OF TITLE 17 OF THE ARVIN MUNICIPAL CODE PERTAINING TO COMMERCIAL CANNABIS ACTIVITY” (*attached hereto as Attachment 1*).

Section 3. The Planning Commission Chairman of the City of Arvin is hereby authorized to affix his signature to this Resolution signifying its adoption by the Planning Commission. The Community Development Director is directed to forward this Resolution to the City Council with the recommendations of the Planning Commission.

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the Planning Commission of the City of Arvin at a special meeting thereof held on the 30th day of October 2017 by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST:

CECILIA VELA, Secretary

ARVIN PLANNING COMMISSION

By: _____
OLIVIA TRUJILLO, Chairperson

I, _____, Secretary of the Planning Commission 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 Planning Commission of the City of Arvin on the date and by the vote indicated herein.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN
ADOPTING CHAPTER 17.62 OF TITLE 17 OF THE ARVIN MUNICIPAL
CODE PERTAINING TO COMMERCIAL CANNABIS ACTIVITY**

WHEREAS, the City of Arvin (“the City”) has the authority, under its police power, to enact regulations for the public peace, morals, and welfare of the City, California Constitution Article XI, section 7; 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 to clarify the scope of the Compassionate Use Act and provide additional statutory guidance regarding medical cannabis use. These statutes are codified at Health and Safety Code § 11362.7 et seq. and allow cities and counties to adopt supplemental rules and regulations; and

WHEREAS, on October 9, 2015, almost 20 years after passage of the Compassionate Use Act, the Governor signed the Medical Marijuana Regulation and Safety Act (“MMRSA”), comprised of California legislative bills AB 243, AB 266, and SB 643. The Act creates a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medical cannabis, all subject to local control. One of the purposes of the Act is to ensure uniformity among jurisdictions that wished to allow commercial cannabis operations; and

WHEREAS, on June 27, 2016, the Governor signed SB 837, effective immediately, changing the terms in the MMRSA from “medical marijuana” or “marijuana” to “medical cannabis” or “cannabis”, and making other technical changes to the MMRSA. SB 837 also adopted regulations relating to the use and diversion of water in connection with the cultivation of cannabis; and

WHEREAS, in November of 2016 the Adult Use of Marijuana Act (“AUMA”) was approved by a majority of California voters. The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis, including cannabis products. Adults, age 21 and older, will be allowed to possess cannabis and grow certain amounts at home for personal use; and

WHEREAS, the AUMA did not provide for a specific effective date, thus the provisions of the AUMA regarding personal use, possession, and cultivation of cannabis became effective the day after the November 8, 2016; and

WHEREAS, the AUMA’s proposed Health & Safety Code section 11362.1(a)(3), will make it lawful under state and local law for any person twenty-one (21) years of age or older to “Possess, plant, cultivate, harvest, dry, or process not more than six living cannabis plants and possess the cannabis produced by the plants”; and

WHEREAS, the City wishes to enact regulations governing commercial cultivation of cannabis at this time; and

WHEREAS, the AUMA's proposed Health & Safety Code section 11362.2(b) explicitly allows a city to "enact and enforce reasonable regulations to reasonably regulate" the cultivation of cannabis so long as the City does not prohibit the cultivation of up to six plants "inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure;" 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 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 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, MMRSA and AUMA mandated comprehensive state licensing and regulatory framework for cultivation, manufacturing, distribution, transporting, testing and

dispensing cannabis and cannabis products; however, implementing regulations have yet to be written and state licenses may not be available until 2018; and

WHEREAS, the City is required pursuant to MMRSA, AUMA and SB 94 to enact an ordinance governing the permitting and regulatory framework for cultivation, manufacturing, distribution, transporting, testing and dispensing cannabis and cannabis products prior to January 1, 2018; and

WHEREAS, if the City fails to enact an ordinance governing the permitting and regulatory framework for cultivation, manufacturing, distribution, transporting, testing and dispensing cannabis and cannabis products prior to January 1, 2018, all such rights would be under the sole authority of the State of California; and

WHEREAS, in 2010, the City adopted Title 17, Sections 17.02.435 and 17.07.01, of the Arvin Municipal Code pertaining to Medical Marijuana Dispensaries (“Marijuana Ordinance”). The Marijuana Ordinance places 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, which findings are incorporated herein by reference; and

WHEREAS, at the time the City adopted the Marijuana Ordinance, the issue of commercial medical and recreational cannabis operations, such as manufacturing, testing and distribution, were not considered an area of concern in need of regulation. Now, with the adoption of the MMRSA, AUMA and SB 94, commercial cannabis operations licensed by the State of California are imminent; and

WHEREAS, clear guidance is required in the Arvin Municipal Code so there is no ambiguity; and

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

WHEREAS, the City finds that the absence of a formal regulatory framework the adverse impacts frequently associated with commercial cannabis activities will occur, resulting in an unregulated and 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 generate these negative effects on the public health, safety, and welfare in the City, based on the experiences of other cities; and

WHEREAS, pursuant to the above-described express statutory authority and its police power, the City desires to explicitly prohibit the outdoor cultivation of commercial cannabis for both recreational and medical use; and

WHEREAS, pursuant to the above-described express statutory authority and its police power, the City also desires to enact reasonable regulations for the indoor cultivation, manufacturing, testing, distribution, or consumption of commercial recreational and medical cannabis; and

WHEREAS, absent clear regulation, cannabis cultivation in the City poses a potential threat to the public peace, health, and safety, and, unless the City takes action to regulate it, the secondary impacts described above are likely to occur given the passage of the AUMA; 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 recreational and medical cannabis; 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, it is the intent of the City to regulation commercial cannabis activities, both recreational and medical, within the boundaries of the City.

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

SECTION 1. The above recitals are incorporated are hereby 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 17.62, of Title 17, of the Arvin Municipal Code and the Sections specifically identified below are adopted to read as follows:

Chapter 17.62

COMMERCIAL CANNABIS ACTIVITY

Section 17.62.010 Purpose and Intent.

- (a) It is the purpose and intent of this Chapter to adopt local regulations applicable to commercial cannabis activity as may be permitted by Medical Marijuana Regulation and Safety Act (“MMRSA”) and Adult Use of Marijuana Act (“AUMA”), or subsequently enacted State law pertaining to the same or similar uses for commercial cannabis and imposing regulations on the use of land to protect City of Arvin 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-related products in a manner which is responsible and which protects the health, safety, and welfare of the residents of the City of Arvin; to enforce rules and regulations consistent with state law including, but not

limited to, the Compassionate Use Act, the Medical Marijuana Program Act, the MMRSA, AUMA and SB 94. In part to meet these objectives, an annual permit shall be required in order to own and to operate a commercial cannabis business within the City of Arvin as authorized under this Ordinance or the Arvin Municipal Code. Nothing in this Chapter is intended to authorize the cultivation, possession or use of cannabis in violation of state or federal law. The provisions of this Chapter are in addition to the business license otherwise required to conduct business in the City of Arvin and in addition to permits and approvals otherwise required by the Arvin Municipal Code.

- (b) Pursuant to Section 7 of Article XI of the California Constitution, the City of Arvin 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 of Arvin to commercial cannabis activity.

Section 17.62.020 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) “*Cannabis*” means all parts of the medical or recreational Cannabis sativa Linnaeus, medical or recreational Cannabis indica, and/or medical or recreational 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*” also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. “*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. For the purpose of this Chapter, “*Cannabis*” does not mean recreational marijuana, cannabis or industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

- (b) “*Cannabis concentrate*” means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product’s potency. 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.
- (c) “*Cannabis product*” means live unharvested cannabis, dried cultivated cannabis, live plants and/or a product containing cannabis, including, but not limited to, concentrates and extractions. For purposes of this Chapter, “*cannabis product*” does not include industrial hemp as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
- (d) “*Chief of Police*” means the Chief of Police for the Arvin Police Department or his/her designee.
- (e) “*City Manager*” means the City Manager for the City of Arvin or his/her designee.
- (f) “*Commercial cannabis activity*” or “*commercial cannabis business*” includes any business or operation which engages in cultivation, nursery, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, or sale of cannabis or a cannabis product, except as set forth in California Business and Professions Code Section 19319, related to qualifying patients and primary caregivers.
- (g) “*Commercial cannabis permit*” means a permit issued by the City of Arvin pursuant to this Chapter to a commercial cannabis business.
- (h) “*Cultivation*” means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (i) “*Cultivation site*” means a facility where cannabis is propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, which holds both a valid state license and a permit issued by the City of Arvin.
- (j) “*Delivery*” means the commercial transfer of cannabis or cannabis products from a cultivation site, up to an amount determined by the State of California, or any of its departments or divisions, to a dispensary, wholesale retail purchaser, collective, cooperative manufacturer or a testing laboratory.

- (k) “*Dispensary*” means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment (whether fixed or mobile) that delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail sale.
- (l) “*Dispensing*” means making cannabis or cannabis products available to, delivering to, or distributing to two (2) or more persons and/or any activity involving the wholesale of cannabis or cannabis products.
- (m) “*Distribution*” means the sale or transportation of cannabis or cannabis products between entities licensed pursuant to the MMRSA, AUMA and/or any subsequent State of California legislation regarding cannabis and/or cannabis products.
- (n) “*Distributor*” means a person licensed under the MMRSA, AUMA and any subsequent State of California legislation to engage in the business of selling wholesale cannabis or cannabis products for sale to a licensed dispensary.
- (o) “*Dried flower*” means all cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- (p) “*Edible cannabis product*” means manufactured cannabis 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.
- (q) “*License*” means a license issued by the State of California, or one of its departments or divisions, under the MMRSA and/or AUMA to engage in commercial cannabis activity.
- (r) “*Live plants*” means living cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.
- (s) “*Manufacturer*” means a person that conducts the production, preparation, propagation, or compounding of manufactured cannabis, as defined in this Section, 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, that holds a valid state license and holds a permit issued by the City of Arvin.

- (t) “*Manufactured cannabis*” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate or manufactured product, including but not limited to products intended for internal consumption or topical application.
- (u) “*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.
- (v) “*Nursery*” means a licensed facility which produces only cannabis clones, immature cannabis plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- (w) “*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 number.
- (x) “*Topical cannabis*” means a 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.
- (y) “*Transport*” means the transfer of cannabis or cannabis products from a licensed and permitted commercial cannabis business location to another licensed and permitted commercial cannabis business location, for the purposes of the wholesale delivery of cannabis and/or cannabis products and/or the transfer of cannabis to a manufacturing site or testing site as authorized pursuant to state law and/or the Arvin Municipal Code.
- (z) “*Transporter*” means a person who transports commercial cannabis or cannabis products to and from a commercial cannabis business licensed by the State of California or one of its departments or divisions and permitted by the City of Arvin.

Section 17.62.030 Non-Commercial Cannabis Activity.

All non-commercial cannabis activities shall be governed by the mandatory regulations established within Chapter 8.29 of Title 8 of the Arvin Municipal Code or 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 17.62.040 Licenses and Permits.

- (a) Commercial cannabis activity shall be authorized in the City of Arvin only as expressly provided in this Chapter and within the following zoning districts: M-1, M-2, M-3, A-1 and A-2 zoning districts. A commercial cannabis activity or business shall be at least one thousand (1,000') feet from any school, park and/or library, and shall be prohibited from being located across a street or alley from any residential properties. Further, any commercial cannabis activity not expressly authorized by this Chapter shall be prohibited.
- (b) Cannabis dispensaries, cooperatives and/or collectives shall be prohibited in all zoning districts within the City. Further, no retail deliveries or dispensing of any cannabis or cannabis product shall be allowed within the jurisdictional boundaries of the City. The establishment, development, construction, maintenance, or operation of a cannabis dispensary, cooperative and/or collective are hereby prohibited, and is not an authorized or conditionally permitted use in any zoning district, even if located within an otherwise permitted use. No person shall establish, develop, construct, maintain, or operate a cannabis dispensary, cooperative and/or collective, and no application for a building permit, use permit, variance, or any other entitlement authorizing the establishment, development, construction, maintenance, or operation of any cannabis dispensary, cooperative and/or collective shall be approved by any officer or employee of the City. A violation of this Section is declared to be a public nuisance and punishable pursuant to the provisions of the Arvin Municipal Code.
- (c) The retail sale, gift, trade, barter or making available of cannabis or cannabis products by two or more persons shall be prohibited in all zoning districts of the City.
- (d) In addition to those other requirements which may be imposed pursuant to this Chapter, no person shall establish, develop, construct, maintain, or operate a commercial cannabis activity and/or open a commercial cannabis business without possessing both a commercial cannabis permit issued by the City and within one (1) year of the ability to obtain a license, a license issued by the State of California or one of its departments or divisions.
- (e) The City Manager is hereby authorized to issue commercial cannabis permits on behalf of the City. The City Manager, in their sole discretion, may issue a commercial cannabis permit pursuant to the mandatory requirements of this Chapter and the Arvin Municipal Code as may be repealed or amended by the City Council from time to time.
- (f) A commercial cannabis permit shall be governed by the following requirements and/or limitations:
 - (1) There shall be no retail sales of cannabis and/or cannabis products.

- (2) Excluding repair, maintenance and delivery services, there shall be no public access to the commercial cannabis business.
- (3) It shall be unlawful to employ or grant access to any individual under twenty-one (21) years of age, or another age as set by state law.
- (4) Each commercial cannabis permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance.
- (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.
- (6) An application for renewal of a commercial cannabis permit shall be denied if any of the following exists:
 - (A) The application for renewal of the commercial cannabis permit is filed less than sixty (60) calendar days before its expiration.
 - (B) The commercial cannabis permit is suspended or revoked at the time the application for renewal is submitted or suspended or revoked while the application for renewal is pending.
 - (C) 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.
 - (D) The commercial cannabis business or activity fails to conform to the requirements of this Chapter, any provision of the Arvin Municipal Code, any condition(s) imposed as part of a conditional use permit, and/or zoning requirement.
 - (E) The applicant for renewal of the commercial cannabis permit fails to renew its State of California license.
 - (F) The applicant for renewal has failed to pay in full any fees, administrative citation fines, penalties and/or costs issued by the City relating to the commercial cannabis business and/or activity, unless assessment of the fees, administrative citation 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, identify the grounds for reversing the denial and 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 as established within 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 within Business and Professions Code Section 19328. An applicant may hold multiple City issued commercial cannabis permit types, consistent with the requirements of Business and Professions Code section 26053 and a State of California Type 12 "Microbusiness" license. An applicant who holds a City issued testing permit and/or State of California issued testing license shall not hold any other City issued commercial cannabis permits. An applicant also shall not receive a commercial cannabis permit authorizing the establishment, development, construction, maintenance, or operation of a cannabis dispensary, cooperative and/or collective within the City. Further, the applicant shall apply and receive a City issued permit for each type of commercial cannabis activity prior to engaging in the commercial cannabis activity.
- (9) Any unpaid fees, administrative citation fines, penalties and/or costs issued by the City relating to the commercial cannabis business and/or activity shall be added to the fee for renewal of the commercial cannabis permit, unless assessment of the fees, administrative citation 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.
- (g) Prior to commencing operation, a commercial cannabis business shall obtain a City of Arvin business license and comply with all applicable provisions and requirements of that license.
- (h) Prior to commencing operation, a commercial cannabis business shall be subject to a mandatory building inspection and must obtain all required permits or approvals which would otherwise be required 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.

- (i) 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 permit for each type of commercial cannabis activity prior to engaging in that activity. A commercial cannabis business which holds a City issued testing permit shall not hold any other City issued commercial cannabis permits. In addition, a commercial cannabis business authorized to conduct multiple commercial cannabis activities, consistent with the requirements of Business and Professions Code section 26053, shall not receive a City issued permit authorizing the establishment, development, construction, maintenance, or operation of a cannabis dispensary, cooperative and/or collective within the City.
- (j) Revocation, termination, denial, non-issuance or suspension of a license issued by the State of California, or any of its departments or divisions, shall immediately terminate the commercial cannabis permit and all commercial cannabis activity shall immediately cease. Upon reinstatement or receipt of a new license from the State of California, or any of its departments or divisions, 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 subject to denial of the application for a commercial cannabis permit and/or the enforcement, penalties and cost recovery proscribed within this Chapter and/or the Arvin Municipal Code.

Section 17.62.050 Existing Commercial Cannabis Businesses.

Currently operating commercial cannabis businesses shall 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. Any facility or entity that can demonstrate to the City's satisfaction that it is in good standing and otherwise in compliance with all applicable local and state laws and regulations promulgated thereunder may be permitted to continue current operations while its application for a commercial cannabis permit and license issued by the State of California, or its departments or divisions, are pending.

Section 17.62.060 Security Measures.

- (a) The City Manager is authorized to promulgate additional regulations necessary to implement the requirements and fulfill the policies of this Chapter related to commercial cannabis activities.
- (b) 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. Except as may otherwise be determined by the City

Manager, these security measures shall include, but shall not be limited to, all of the following:

- (1) Preventing both non-employees and employees from remaining on the premises of the commercial cannabis business if they are not engaging in the activity expressly related to the operations of the commercial cannabis business.
- (2) Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
- (3) Except for live growing plants which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault. 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.

- (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 installed in compliance with all applicable requirements of the Arvin Municipal Code, California Building Code and California Fire Code.
 - (9) Security personnel hired by the commercial cannabis business shall be certified by the State of California and submit to and pass a background check conducted by the Arvin Police Department, including but not limited to finger print analysis utilizing the California Department of Justice Live Scan system. In the alternative, the security personnel or commercial cannabis permit holder may provide the City Manager with a completed background check performed by a third party vendor approved by the City.
 - (10) 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.
- (c) Each commercial cannabis business shall provide the Chief of Police 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.
 - (d) As part of the application and permitting process, each commercial cannabis business shall provide the Chief of Police with a detailed transportation plan describing the procedures for safely and securely transporting cannabis, cannabis products and/or currency.
 - (e) 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 shall be determined by the 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 17.62.070 Employee Work Permits.

- (a) Every employee or independent contractor working at the commercial cannabis business or involved in the transportation related services for the 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 the commercial cannabis permit holder shall not be required to obtain an Employee Work Permit if such person also serves as an employee or contractor.
- (b) Each prospective employee or independent contractor shall be required to submit an application to the City Manager so that a background check can be performed by the Chief of Police. 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).
 - (6) Be fingerprinted by the Arvin Police Department and agree to a criminal history records check conducted by the Arvin Police Department based upon their fingerprints.
 - (7) Such other identification and information as deemed necessary by the Chief of Police and pertinent to the Employee Work Permit.
 - (8) Authorization for the City Manager to seek verification of the information contained within the application.
 - (9) The name of the 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 process their application. The fee shall include an amount to cover the costs of fingerprinting, photographing, background checks as well as general review and processing of the application. In the alternative, the applicant may provide the City Manager with a completed background check performed by a third party vendor approved by the City.

- (d) The Chief of Police, upon receiving a properly completed application and payment of the application fee or a completed third party background check, shall conduct an investigation into the information provided by the applicant. The background check and investigation or review shall be complete within thirty (30) days of receiving the properly completed application and completed background check. 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 background check and investigation. The City Manager, in their sole discretion, may conditionally approve the issuance of an Employee Work Permit pending completion of the background 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 applicant has been issued a local or state permit or license to conduct commercial cannabis activities at any other location within the State of California or another state and the permit or license was suspended or revoked, or the applicant has had 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).
 - (3) The applicant has been convicted of any offense listed within Business and Professions Code section 19323.
 - (4) 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.
 - (5) 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 the Act.
 - (6) The applicant has engage in misconduct related to the qualifications, functions or duties of their position with the commercial cannabis business.

- (7) 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.
 - (8) The applicant is under the age of twenty-one (21), or any age as may be set by state law.
 - (9) The 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 Chief of Police determines immediate suspension is necessary to protect the 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 17.62.080 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 17.62.090 Location of Commercial Cannabis Business - Proximity to Sensitive Uses.

- (a) No commercial cannabis business may operate within any wholly residential area or district of the city or adjacent to a residential area or district if, in the opinion of City Manager, the operation of a commercial cannabis business in such location would tend to cause a public nuisance or a situation which may result in repeated police department response or a negative impact on the adjacent residential units.
- (b) 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.
- (c) 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 proscribed 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 17.62.100 Restriction on Alcohol Sales.

No person shall cause or allow the sale, dispensing, or consumption of alcoholic beverages on or about the premises of any commercial cannabis business. No commercial cannabis business may operate at the same location as an alcohol-related use as that term is defined pursuant to state law and/or the Arvin Municipal Code.

Section 17.62.110 Concurrent Regulation with State.

It is the stated intent of this Chapter to regulate commercial cannabis activity in the City of Arvin concurrently with the State of California.

Section 17.62.120 Compliance with Laws.

It is the responsibility of the commercial cannabis permit holder, owners and operators of the commercial cannabis business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions which violate state law or local law with respect to the operation of a commercial cannabis business. It shall be the responsibility of the commercial cannabis permit holder, owners and the operators of the commercial cannabis business to ensure that the commercial cannabis business is, at all times, operating in a manner compliant with all applicable state and local laws, any subsequently enacted ordinance, resolution, state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the commercial cannabis permit. Nothing in this Chapter shall be construed as authorizing any actions which violate state law with regard to the operation of a commercial cannabis business. Further, nothing in this Chapter shall be construed as the City, City Council (individually or collectively), City Employees (individually or collectively) and/or consultants authorizing any violation of federal law.

Section 17.62.130 Inspection and Enforcement.

- (a) The City Manager, upon twenty-four (24) hour notice, may enter the location of a commercial cannabis business at any time during the regular hours of operation and inspect the location of any commercial cannabis business.
- (b) The City Manager, upon twenty-four (24) hour notice, may enter the location of a commercial cannabis business at any time during the regular hours of operation to obtain samples of the cannabis to test for law enforcement and/or public safety purposes. Any samples obtained by the City Manager shall be logged, recorded, and maintained in accordance with the King City Police Department standards for evidence.
- (c) If, after twenty-four (24) hour notice is provided, the commercial cannabis permit holder or anyone acting on their behalf refuses to allow the City Manager to enter the commercial cannabis business to conduct an inspection and/or collect samples, the City is authorized to seek a warrant or judicial intervention to grant the requested access. Further, 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, attorney's fees, filing fees, administrative time and fees and employee time, incurred while obtaining a warrant and/or judicial intervention granting the requested access and for the return inspection. The requirements of this Section shall be in addition to any other provision provided for within the Arvin Municipal Code.

Section 17.62.140 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 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 17.62.150 Violation 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 and no/100ths dollar (\$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:
 - (1) Any action 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.
- (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 appeal the decision to the City.
- (h) 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 Chief of Police determines 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 17.62.160 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 pursuant to this Chapter 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 the 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 Attorney. The insurance coverage limits shall meet or exceed one million dollars (\$1,000,000.00) per occurrence. 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 one million dollars (\$1,000,000.00). The City Manager may, in their sole discretion, increase the minimum bond amount required by a commercial cannabis permit holder.

The City shall terminate a commercial cannabis permit and/or a conditional use 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/or the conditional use permit 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 they have 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, including but not limited to cultivation, harvesting, manufacturing, transporting and/or delivering cannabis or cannabis products. Failure to immediately cease all commercial cannabis business activity shall subject the commercial cannabis permit holder to the penalties, enforcement and cost recovery provisions established within the Arvin Municipal Code.

- (c) 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 of Arvin'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 17.62.170 Application Procedures and Application Requirements.

Permittee Selection Process; Criteria for Review; Renewal, Suspension or Revocation of a Permit; Appeals. In addition to those requirements set forth in this Section and elsewhere in this Chapter, the City Council may by resolution or ordinance adopt such forms, fees, and procedures as are necessary to implement this Chapter with respect to the initial selection, future selection, investigation process, renewal, revocation, and suspension of commercial cannabis business permits and appeals for the revocation or suspension of a commercial cannabis permit.

- (a) At a minimum, the application shall contain the following requirements:
 - (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 for all cannabis and cannabis products sold at the commercial cannabis business. Product supply

chain including the site(s) where cultivation occurs, the product is processed or manufactured, any required testing of cannabis or cannabis products, transportation, 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 an employee, volunteer or contractor. The application shall also have 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 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 area, 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) Detailed description of energy and water usage plan enumerating best practices and leading industry practices in efficient utilization of both resources.
- (b) An 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 at any other location within the State of California or another state and the permit or license was suspended or revoked, or the applicant has had 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).
 - (3) The applicant has been convicted of any offense listed within Business and Professions Code section 19323.
 - (4) 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.
 - (5) 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 the Act, within the ten (10) years preceding the date of the application.
 - (6) The applicant has engaged in misconduct related to the ownership, qualifications, functions or duties of their position with the commercial cannabis business.

- (7) 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.
- (8) The applicant is under the age of twenty-one (21), or any age as may be set by state law.

A conviction within the meaning of this Section 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 denying an application. The City Manager and/or the Planning Commission may identify any additional grounds for denying an application or conditional use permit.

- (c) 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 their 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.
- (d) In reviewing an application for a permit pursuant to this Chapter or in reviewing the proposed commercial cannabis business, the City Manager or designee may request whatever additional information is deemed necessary to carry out the purposes of this Chapter.
- (e) The City Manager shall have the authority to either grant or deny the application for a commercial cannabis permit. Notwithstanding what is otherwise provided in 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.
- (f) 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.
- (h) 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 if it is of the type of evidence in which reasonable persons are accustomed to rely on the conduct of serious affairs, 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 Code or 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 be final with no further administrative appeals. Unless the governing ordinance or statute provides otherwise, if the appellant seeks further relief, the appellant shall 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 17.03.180 Records and Reporting.

- (a) Subject to the Health Insurance Portability and Accountability Act (HIPAA) regulations, each commercial cannabis business shall allow City of Arvin officials to have access to the commercial cannabis business's 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 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 growing and production or manufacturing, laboratory testing and distribution processes until sold or delivered.

- (d) Each owner and/or operator of a 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.

All records required by this Chapter shall be maintained by the commercial cannabis business for a period of not less than seven (7) years and shall otherwise keep accurate records of all commercial cannabis business activity and provide such records for inspection consistent with California Business and Professions Code Section 26160 and any additional rules promulgated by the licensing authority pursuant to that section or the City Council by resolution or ordinance.

Section 17.62.190 Prohibition on Transfer of Commercial Cannabis Permits.

- (a) No person shall operate a commercial cannabis business under a commercial cannabis permit issued pursuant to this Chapter at any place or location other than that identified on the 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 is hereby declared void and the commercial cannabis permit deemed immediately revoked and no longer of any force or effect.

Section 17.62.200 Packaging and Labelling.

Prior to the sale or the delivery of any edible cannabis or edible cannabis product the same shall be labeled and in tamper-evident packaging which at least meets the requirements of California Business and Professions Code Section 19347, as the same may be amended from time to time or superseded or replaced by subsequent state legislation or by any department or division of the State of California. The City Council may impose additional packaging and labelling requirements on cannabis or cannabis products by resolution.

Section 17.03.210 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 access to the public only 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 within 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 transported by licensed facilities that maintain operations in full conformance with the state and local 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 other 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 marijuana are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the medical marijuana facility 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 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) Background Check. Every person listed as an owner, manager, supervisor or employee of the commercial cannabis business must submit fingerprints and other information deemed necessary by the Chief of Police for a

background check by the Arvin Police Department. In the alternative, the applicant can submit a completed background check from a City approved vendor which shall be reviewed by the Chief of Police. No person shall be issued a permit to operate a commercial cannabis business unless they have first cleared the background check, as determined by the Chief of Police, as required by this Section. A fee for the cost of the background investigation, which shall be the actual cost to the City to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial cannabis permit is submitted. The applicant(s) shall provide an initial deposit in an amount the Chief of Police estimates will cover the cost of the background investigation, 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 that are necessary and if the applicant is unable to provide the additional amounts necessary to complete the investigation, the investigation shall cease and shall not continue until such additional amounts are paid. Upon completion of the investigation or in the event the applicant withdraws their application, any unused amount will be refunded to the applicant within thirty (30) days.

- (l) Loitering. The owner and/or operator of a commercial cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.
- (m) 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.
- (n) 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.

Section 17.62.220 Cultivation, Manufacture, Waste, and Storage Requirements.

- (a) Any person issued a permit pursuant to this Chapter must follow all pesticide use requirements of local, state and federal law. The Kern County Agricultural Commissioner may inspect the commercial cannabis business at any time during regular business hours to ensure compliance with this Section.
- (b) All weighing devices must be maintained in compliance with local, state or federal law and comply with applicable regulations regarding device registration with the Agricultural Commissioner.
- (c) Any person issued a permit pursuant to this Chapter must follow all local, state and federal requirements for solid waste and hazardous waste disposal. The Kern County Environmental Health Bureau may inspect the commercial cannabis business at any time during regular business hours to ensure compliance with this Section.
- (d) In no case shall any hazardous, flammable or explosive substances be used to process or manufacture cannabis products on site. Food grade alcohol solely for the purposes of cleaning machinery and dissolving wax, unless otherwise prohibited by the State of California, is permitted. The City and Kern County Environmental Health Bureau may inspect the commercial cannabis business at any time during regular business hours to ensure compliance with this Section.
- (e) 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. The Kern County Environmental Health Bureau may inspect the commercial cannabis at any time during regular business hours to ensure compliance with this Section.
- (f) Stacking shall be allowed in a given structure but 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 state licensing. For purposes of this Section, “stacking” is defined as the practice of growing marijuana plants on platforms or tables and stacking them in multiple layers on top of each other.

Section 17.62.230 Limitation on the Number of Cultivation and Nursery Facilities.

No more than one million, three hundred fifty thousand (1,350,000) square feet of total canopy, whether under cultivation or nursery activity, will be allowed within the City at any one time and commercial cannabis permits shall be issued by the City for cultivation and nursery activity up to a maximum one million three hundred

fifty thousand (1,350,000) square feet of total canopy within the City. Nurseries shall be limited to a total of twenty-five thousand (25,000) square feet in size per Type 4 “Nursery” license issued by the City.

Section 17.62.240 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 17.62.250 Operating Requirements for Cultivation and Nurseries.

- (a) Outdoor Cultivation and Nursery activity Prohibited. All outdoor cultivation and nursery activity is prohibited.
- (b) In no case shall cannabis plants be visible from a public or private road, sidewalk, park or any common public viewing area.
- (c) If a premises includes nursery activities as defined in Business and Professions Code Section 19332, the premises may have only one nursery located on the premises and the nursery activity must be permitted pursuant to this Chapter and state law. The nursery shall be limited to a maximum size of twenty-five thousand (25,000) square feet of canopy for each premises.
- (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. Food grade alcohol solely for the purposes of cleaning machinery and dissolving wax, unless otherwise prohibited by the State of California, is permitted.
- (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 17.62.260 Cannabis Manufacturing - Edibles and other Cannabis Products - Sale or Distribution of Edible and other Cannabis Products.

The manufacturing of food or other products infused with or which otherwise contain cannabis may be manufactured within the appropriate zoning districts as identified within this Chapter, subject to the regulations set forth in this Section and subject to whatever additional regulations may be promulgated hereunder by an ordinance or resolution of the City Council or otherwise pursuant to this Chapter.

- (a) No edible cannabis products shall be sold or distributed on a retail basis at a commercial cannabis business operating under a permit issued pursuant to this Chapter. Edible cannabis products may be sold wholesale for retail sale outside of the City boundaries.
- (b) All items to be sold or distributed wholesale shall be individually wrapped at the original point of preparation. Labeling must include a warning if nuts or other known allergens are used, and must include the total weight (in ounces or grams) of cannabis in the package. A warning that the item is a medication and not a food must be clearly legible on the front of the package. The package must have a label warning that the product is to be kept away from children. The label must also state that the product contains cannabis and must specify the date of manufacture.

- (c) Any edible cannabis product that is made to resemble a typical food product must be in a properly labeled opaque (non-see-through) package before it leaves the commercial cannabis business. Deliveries must be in a properly labeled opaque package when delivered.
- (d) Preparation of commercial edible cannabis products and non-edible cannabis products shall comply with all applicable federal, state and local laws, regulations and/or guidelines governing manufacturing procedures and safety measures. The City Manager shall have authority, upon consultation with the City Attorney, to establish additional regulations and/or guidelines for preparing commercial edible cannabis products and non-edible cannabis products within the City.

Section 17.62.270 Cannabis Manufacturing and Testing.

- (a) Cannabis manufacturing facilities requiring a Type-6 state license (non-volatile manufacturing) as defined in Business and Professions Code Section 19341, may be permitted to operate within the appropriate zoning districts as identified within this Chapter. Cannabis manufacturing facilities requiring a Type-7 state license (volatile manufacturing), as defined in Business and Professions Code Section 19341, may be permitted to operate within the appropriate zoning districts as identified within this Chapter. No volatile fluid or material, shall be used in Type-6 licensed manufacturing facilities unless otherwise authorized and approved by the State of California. For purposes of this Chapter, within a permitted commercial cannabis testing facility food grade alcohol shall only be utilized to clean machinery and dissolve wax, unless otherwise prohibited by the State of California. No commercial cannabis business or facility 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 Chief of Police for the City of Arvin.
- (b) Commercial cannabis manufacturing facilities shall comply with all applicable federal, state and local laws, regulations and/or guidelines governing manufacturing procedures and safety measures. The City Manager shall have authority, upon consultation with the City Attorney, to establish additional regulations and/or guidelines for operating a commercial cannabis manufacturing facility within the City.
- (c) Any compressed gases used in the manufacturing process shall not be stored on any property within the City in containers which exceeds the maximum authorized amount determined by the Chief of Police for the City of Arvin.
- (d) No more than ten (10) commercial cannabis manufacturing businesses may operate within the City at any one time and no more than ten (10) commercial cannabis manufacturing permits shall be issued by the City for commercial cannabis manufacturing businesses to operate within the City.

- (e) Testing Facilities. Commercial cannabis testing facilities requiring a Type-8 state license may be permitted to operate within the appropriate zoning districts as identified within this Chapter. Commercial cannabis testing facilities shall comply with all applicable federal, state and local laws, regulations and/or guidelines governing testing procedures and safety measures. The City Manager shall have authority, upon consultation with the City Attorney, to establish additional regulations and/or guidelines for operating a commercial cannabis testing facility within the City.

Section 17.03.280 Promulgation of Regulations and Standards.

- (a) The City Manager is authorized to promulgate reasonable regulations necessary to implement the requirements and fulfill the policies of this Chapter related to cannabis and cannabis products.
- (b) Regulations may be published on the City's website.
- (c) Regulations promulgated by the City Manager shall have the same force and effect of law and become effective upon date of publication.

Section 17.03.290 Community Relations.

- (a) Each commercial cannabis business shall provide 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. Each commercial cannabis business shall also provide the above information to all businesses and residences located within one hundred (100) feet of the commercial cannabis business.
- (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 17.03.300 Fees Deemed Debt to City of Arvin.

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

Section 17.03.310 Permit Holder Responsible for Violations.

The person to whom a permit is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and the ordinances of the City, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the premises of the commercial cannabis business whether or not said violations occur within the permit holder's presence.

SECTION 4. Chapter 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 17.62, of Title 17.

SECTION 5. Chapter 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 17.62, of Title 17.

SECTION 6: 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.

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 _____ 2017, and adopted the Ordinance after the second reading at a regular meeting held on the ____ day of _____ 2017, by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST

CITY OF ARVIN

CECILIA VELA, City Clerk

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.