



**SPECIAL MEETING  
ARVIN PLANNING COMMISSION**

**WEDNESDAY MAY 30, 2018 6:00p.m.  
CITY HALL COUNCIL CHAMBERS  
200 CAMPUS DRIVE, ARVIN**

**CALL TO ORDER**

Chair Olivia Trujillo

**PLEDGE OF ALLEGIANCE**

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<b>ROLL CALL:</b>	Olivia Trujillo	Chairperson
	Janett Zavala	Vice Chairperson
	Yesenia Martinez	Planning Commissioner
	Miguel Rivera	Planning Commissioner
	Gerardo Tinoco	Planning Commissioner

<b>STAFF:</b>	Jake Raper	City Planner
	Shannon L. Chaffin	City Attorney – Aleshire & Wynder
	Cecilia Vela	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.

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### **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. Approval of 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 Regular Meeting of May 08, 2018.

Staff recommends approval of the Minutes of the Regular Meeting of May 08, 2018.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_  
Roll Call: PC Tinoco \_\_\_\_\_ PC Rivera \_\_\_\_\_ PC Martinez \_\_\_\_\_ VC Zavala \_\_\_\_\_ Chair Trujillo \_\_\_\_\_

**4. PUBLIC HEARING(S)**

**A.** Consideration and Approval of A Resolution of the Planning Commission of the City of Arvin Recommending that the City Council Adopt an Ordinance Amending Chapter 17.56 (“Conditional Use Permits”) of Title 17 (“Zoning”) of the Arvin Municipal Code to Add Commercial Cannabis Businesses as a Conditionally Permitted Use in Specific Zones and to Add Express Procedures for Suspension and Revocation of Conditional Use Permits.

Staff recommends opening the hearing, allowing for public testimony, closing the hearing and approving the Resolution.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_  
Roll Call: PC Tinoco \_\_\_\_\_ PC Rivera \_\_\_\_\_ PC Martinez \_\_\_\_\_ VC Zavala \_\_\_\_\_ Chair Trujillo \_\_\_\_\_

**B.** Consideration and Approval of A Resolution of the Planning Commission of the City of Arvin Recommending that the City Council Adopt an Ordinance Amending and Renumbering Chapter 17.62 (“Commercial Cannabis Activity”) of Title 17 (“Zoning”) of the Arvin Municipal Code and Thereby Adding Chapter 17.64 (“Commercial Cannabis Activity”) to Title 17 (“Zoning”) of the Arvin Municipal Code to Establish Comprehensive Regulations Pertaining to Commercial Cannabis Activity.

Staff recommends opening the hearing, allowing for public testimony, closing the hearing and approving the Resolution.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_  
Roll Call: PC Tinoco \_\_\_\_\_ PC Rivera \_\_\_\_\_ PC Martinez \_\_\_\_\_ VC Zavala \_\_\_\_\_ Chair Trujillo \_\_\_\_\_

- C.** Consideration and Approval of A Resolution of the Planning Commission of the City of Arvin Approving Conditional Use Permit (CUP) 2017-Petro-Lud – Stockton Project - Oil And Gas Exploratory And Production Well - APN 189-351-36 Southwest Corner of Sycamore Road and Meyer Street; Establishment of A Drill Pad 300’-0” X 500’-0” And Four (4) Exploratory Well Sites Which May Be Converted Into Production Wells and Adoption of A Related CEQA Exemption Findings Pursuant To The California Environmental Quality Act.

Staff recommends opening the hearing, allowing for public testimony, closing the hearing and approving 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: May 24, 2018.



\_\_\_\_\_  
Cecilia Vela, Secretary

**REGULAR MEETING MINUTES  
ARVIN PLANNING COMMISSION**

**MAY 08, 2018**

**CALL TO ORDER @ 6:00PM**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL: Vice Chair Zavala and PC Tinoco absent; All others present.**

**1. Approval of Agenda As To Form.**

**Motion to approve the Agenda.**

Motion Chair Trujillo                      Second PC Rivera                      Vote 3-0

**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.*

**NONE**

**3. CONSENT AGENDA ITEM(S)**

**A. Approval of the Minutes of the Special Meeting of April 19, 2018.**

Staff recommends approval of the Minutes of the Special Meeting of April 19, 2018.

**Motion to approve Minutes of the Special Meeting of April 19, 2018.**

Motion PC Rivera                      Second PC Martinez                      Vote 3-0

**4. PUBLIC HEARING(S)**

**A. Consideration and Approval of A Resolution of the Planning Commission of the City of Arvin Recommending that the City Council Amend Title 16, "Subdivisions," and Title 17, "Zoning," of the Arvin Municipal Code such that the Setting of Certain Fees May Be Done By City Council Resolution and that the City Council Adopt Related CEQA Exemption Findings and A Related Notice of Exemption Pursuant to CEQA Guidelines.**

Staff recommends opening the hearing, allowing for public testimony, closing the hearing and approving the Resolution.

Hearing opened.

No public testimony.

Hearing closed.

Motion to approve the Resolution.

Motion PC Rivera

Second PC Martinez

Vote 3-0

Resolution No. APC 2018-07

**5. REPORTS FROM STAFF**

**6. PLANNING COMMISSIONER COMMENTS**

NONE

**7. ADJOURNED @ 6:13PM**

Respectfully submitted,

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Cecilia Vela, Secretary

**DRAFT**



**CITY OF ARVIN  
PLANNING COMMISSION**

**Agenda Report**

**Meeting Date: 5-30-2018**

**TO:** Planning Commission

**FROM:** Jake Raper, Senior Planner  
Jerry Breckinridge, Interim City Manager

**SUBJECT:** **An Ordinance of the City Council of the City of Arvin Amending Chapter 17.56 (“Conditional Use Permits”) of Title 17 (“Zoning”) of the Arvin Municipal Code to Add Commercial Cannabis Businesses as a Conditionally Permitted Use in Specific Zones and to Add Express Procedures for Suspension and Revocation of Conditional Use Permits**

**Background:**

In late 2017, the City adopted Ordinance No. 443, adding Chapter 17.62 (“Commercial Cannabis Activities”) to the Arvin Municipal Code (“AMC”). Said chapter authorizes certain types of commercial cannabis businesses to operate in the City’s M-1, M-2, M-3, A-1, and A-2 zoning districts, subject to issuance of City permits.

The City is now considering, concurrently with the proposed ordinance attached hereto (the “Ordinance”), an ordinance that would amend and renumber AMC Chapter 17.62 (“Commercial Cannabis Activities”), and thereby add Chapter 17.64 (“Commercial Cannabis Activities”) to the AMC, to establish new and amended permitting requirements and associated regulations applicable to commercial cannabis activities in the City (the “Proposed Cannabis Ordinance”). The Proposed Cannabis Ordinance, consistent with Ordinance No. 443, would allow commercial cannabis activities only in M-1, M-2, M-3, A-1, and A-2 zones. However, the Proposed Cannabis Ordinance would also expressly designate such uses as conditionally permitted uses and would require all such uses to obtain a conditional use permit prior to operation.

**Environmental Review:**

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

### **Discussion:**

The Ordinance would add commercial cannabis businesses to the list of conditionally permitted uses in specific zones set forth in AMC Chapter 17.56, in order to ensure consistency between AMC Chapter 17.56 and the provisions of the AMC which directly regulate commercial cannabis activities, as referenced above.

The Ordinance would also add express provisions to AMC Chapter 17.56 to govern the process for suspension and revocation of all City-issued conditional use permits. The City will likely soon experience an increase in the total number of conditional use permits issued, given the permitting of cannabis businesses and the requirement that such businesses obtain conditional use permits. In the event a commercial cannabis business obtains a conditional use permit and subsequently violates a condition of approval of the permit or a provision of the AMC, the City will likely deem it necessary to suspend or revoke the conditional use permit to protect public health, safety and welfare and make it clear that commercial cannabis uses in violation of the City's land use regulations will not be tolerated (note, however, that the conditional use permit is just one of multiple City and State entitlements that a cannabis business must maintain in a current and valid status in order to operate legally).

However, holders of conditional use permits have certain procedural due process rights that must be respected in any proceeding to modify or revoke a conditional use permit. In other words, the City must afford the permit holder notice and a hearing prior to taking such action. This requirement is codified in State law at Government Code Section 65905.

Because of the rights implicated and the likelihood of an increase in the need to take adverse action with respect to a conditional use permit, it is important to have a clear process in place to guide City staff and officials throughout the suspension and revocation process to ensure that, if a City elects to suspend or revoke a conditional use permit, the City does so while adhering to the due process rights of the permit holder. This will help to insulate the City from exposure to legal liability. To date, the City does not have any process in place to govern such proceedings. The proposed ordinance would establish such a process, consistent with current state law.

### **Recommendation:**

It is recommended that the Planning Commission: 1) review and consider the Ordinance; 2) conduct a public hearing regarding the Ordinance; 3) approve the Ordinance with the associated findings of CEQA exemption; and 4) approve the proposed resolution recommending that the City Council approve the Ordinance.

### **Fiscal Impact:**

There were minor staff and legal costs involved in preparation of the proposed Ordinance, which staff believes can be funded within the existing budget appropriations.

### **Attachments:**

- 1) Proposed Ordinance of the City Council of the City of Arvin Amending Chapter 17.56 ("Conditional Use Permits") of Title 17 ("Zoning") of the Arvin Municipal Code to Add Commercial Cannabis Businesses as a Conditionally Permitted Use in Specific Zones and to Add Express Procedures for Suspension and Revocation of Conditional Use Permits.
- 2) Resolution No. 2018-\_\_\_\_, recommending that the City Council adopt the proposed Ordinance of the City Council of the City of Arvin Amending Chapter 17.56 ("Conditional Use Permits") of Title 17 ("Zoning") of the Arvin Municipal Code to Add Commercial Cannabis Businesses as a Conditionally Permitted Use in Specific Zones and to Add Express Procedures for Suspension and Revocation of Conditional Use Permits.

**RESOLUTION NO. \_\_\_\_\_**

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

**WHEREAS**, on May 7, 2018, notice of a public hearing to take place on May 30, 2018, at 6:00 p.m. or as soon thereafter as the agenda permits, in the City Council Chambers of the Arvin City Hall, identifying the Planning Commission of the City of Arvin (“Planning Commission”) as the hearing body, and containing a general explanation of the matter to be considered (this resolution and the proposed ordinance attached hereto), was published in the Bakersfield Californian, a newspaper of general circulation in the City; and

**WHEREAS**, at the date, time and place specified in the notice of public hearing, the Planning Commission opened and conducted the duly noticed public hearing, and received testimony and other evidence during the public hearing.

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

1. The foregoing recitals are true and correct and are incorporated herein.
2. The Planning Commission hereby makes and adopts the following findings:
  - a. Notice of the public hearing has been given in the time and in the manner required by State Law, including Government Code Sections 65090 and 65854.
  - b. The proposed ordinance, a copy of which is attached hereto as Exhibit “A” (the “Proposed Ordinance”), would amend Chapter 17.56 (“Conditional Use Permits”) of Title 17 (“Zoning”) of the Arvin Municipal Code (“AMC”) to:
    - i. Add commercial cannabis businesses as a conditionally permitted use in the City’s M-1, M-2, M-3, A-1 and A-2 zones. This addition is consistent with City Ordinance No. 443, which added Chapter 17.62 (“Commercial Cannabis Activity”) to the AMC, providing that certain types of commercial cannabis businesses may operate in the foregoing zones subject to issuance of certain required City permits. The City, concurrently with the Proposed Ordinance, is also considering a proposed cannabis ordinance which would amend and renumber AMC Chapter 17.62, and thereby add Chapter 17.64 to the AMC (the “Proposed Cannabis Ordinance”). The Proposed Cannabis Ordinance would preserve the provision established by City Ordinance No. 443 to the effect that commercial cannabis businesses may operate only in the City’s M-

1, M-2, M-3, A-1 and A-2 zones, but would also add an express statement that commercial cannabis uses are conditionally permitted in said zones and an express requirement that all commercial cannabis businesses must obtain a City-issued conditional use permit prior to commencing operation. Accordingly, the Proposed Ordinance's addition of commercial cannabis businesses to the list of conditionally permitted uses in specified zones set forth in AMC Chapter 17.56 is intended to ensure internal consistency between AMC Chapter 17.56 and the commercial cannabis provisions of the AMC.

- ii. Add express procedures for suspension and revocation of conditional use permits. The new procedures will provide a clearer and more efficient process whereby the City may pursue revocation and suspension of conditional use permits where necessary based on violations of the AMC or any condition of approval of a conditional use permit, while ensuring the due process rights of the permit holders are protected throughout the suspension or revocation process.
  - c. The Proposed Ordinance is exempt from California Environmental Quality Act ("CEQA") review pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment. Although the Proposed Ordinance adds commercial cannabis businesses as a conditionally permitted use in specific zones, this addition is merely reflective of the provisions of the AMC which directly regulate commercial cannabis activities, and any such use will be subject to environmental review on a project-specific basis pursuant to those provisions in conjunction with the existing provisions of AMC Chapter 17.56. Otherwise, this Ordinance merely adds express procedures to the AMC for revocation and suspension of conditional use permits by the City, an action which relates only to the applicable process for termination of conditionally permitted land uses. Furthermore, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines Section 15300.2 apply to this project.
  - d. The Proposed Ordinance is consistent with State law, the Arvin General Plan and purpose and standards of Arvin's M-1, M-2, M-3, A-1 and A-2 zones.
  - e. The Proposed Ordinance will not have an adverse impact on the public health, safety, or welfare, or property values in the City. The Proposed Ordinance does not authorize new or different types of land uses. Instead, it provides procedures to facilitate the City's ability to ensure that land uses in violation of applicable permit conditions or local laws are terminated as necessary to protect public health, safety and welfare.
3. Based on the findings set forth herein, the Planning Commission hereby recommends that the City Council adopt the Proposed Ordinance, including the findings contained therein that the Proposed Ordinance is exempt from CEQA review pursuant to CEQA Guidelines Section 15061(b)(3).

**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 30<sup>th</sup> day of May, 2018 by the following vote:

AYES: \_\_\_\_\_

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

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

ABSENT: \_\_\_\_\_

ATTEST

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

**ARVIN PLANNING COMMISSION**

By: \_\_\_\_\_  
**OLIVIA TRUJILLO**, Chair

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”**

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

**[TO BE ADDED]**

**ORDINANCE NO. \_\_\_\_\_**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Chapter 17.56**

#### **CONDITIONAL USE PERMITS**

##### **17.56.010 – Applicability.**

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

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

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

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

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

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

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

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

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

#### **17.56.050 – Suspension and Revocation.**

- A. Suspension and Revocation Authority. The Planning Commission may suspend or revoke a conditional use permit when the permit holder or anyone acting on the permit holder's behalf has committed any of the following acts or maintained any of the following conditions:

1. Any action or condition which would be grounds for denial of a conditional use permit.
2. Any action or condition which constitutes a violation of this Chapter, any other applicable provision of the Arvin Municipal Code, or any applicable condition of approval of the conditional use permit.

B. Suspension and Revocation Procedures.

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

4. The notice of public hearing shall include the information required by Government Code Section 65094, as may be amended.
5. At the date, time and place set forth in the notice of public hearing, the Planning Commission shall conduct the public hearing and shall entertain all relevant evidence and objections presented. The technical rules of evidence shall not apply. At the conclusion of the public hearing, the Planning Commission shall render its decision.
6. The decision of the Planning Commission shall be appealable to the City Council by filing a notice of appeal with the City Clerk within thirty (30) days of the date of the decision. The notice of appeal shall specify the grounds for filing an appeal and shall be accompanied by any applicable fee established by resolution of the City Council to cover the costs of processing the appeal.
7. Within 15 days of the City Clerk's receipt of a completed notice of appeal and payment of any required fees, the appeal shall be set for a hearing before the City Council. Notice of the hearing shall be mailed or delivered, at least ten (10) calendar days prior to the hearing, to the persons specified in subsection (B)(2). The notice shall also be published and posted in accordance with subsection (B)(3).
8. The hearing shall be conducted within 45 days of the City Clerk's receipt of the completed appeal and payment of any required fees.
9. At the date, time and place set forth in the notice, the City Council shall conduct the public hearing and shall entertain all relevant evidence and objections presented. The technical rules of evidence shall not apply. At the conclusion of the public hearing, the City Council shall render its decision.
10. The City Council's decision shall constitute a final administrative decision, while shall be subject to judicial review pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within ninety (90) calendar days of the date of the decision.

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

**SECTION 5.** This Ordinance shall take effect thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the Ordinance, or a summary of the Ordinance, shall be published once in a newspaper of general circulation.

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

AYES: \_\_\_\_\_

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

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

ABSENT: \_\_\_\_\_

**ATTEST**

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

**CITY OF ARVIN**

By: \_\_\_\_\_  
**JOSE GURROLA, Mayor**

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

**NOTICE OF PUBLIC HEARING**  
**Arvin Municipal Code Amendment – Chapter 17.56 Conditional Use Permits**

Notice is hereby given that the Planning Commission of the City of Arvin, California, will conduct a public hearing, at which time you may be present and be heard, to consider a recommendation to the City Council that it adopt an ordinance amending Chapter 17.56 (“Conditional Use Permits”) of Title 17 (“Zoning”) of the Arvin Municipal Code (AMC) to update the list of conditionally permitted uses in specified zones to include commercial cannabis businesses and to adopt procedures and requirements for suspension and revocation of conditional use permits, and making associated findings pursuant to the California Environmental Quality Act (CEQA).

**Arvin Planning Commission Public Hearing Information**

Date: **May 30, 2018**  
Time: 6:00 PM or as the Agenda permits  
Place: City of Arvin Council Chambers  
200 Campus Drive, Arvin, CA 93203

The purpose of the hearing is to consider a proposed ordinance amending AMC Chapter 17.56 to update the list of conditionally permitted uses in specified zones to include commercial cannabis businesses and to adopt procedures and requirements for suspension and revocation of conditional use permits by the City.

Preliminary environmental determination: The proposed ordinance is exempt from CEQA review because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment. (CEQA Guidelines Section 15061(b)(3)). Although the proposed ordinance adds commercial cannabis businesses as a conditionally permitted use in specific zones, any such use will be subject to environmental review on a project-specific basis pursuant to provisions of the AMC regulating commercial cannabis activities. Otherwise, the proposed ordinance merely adds express procedures to the AMC for revocation and suspension of conditional use permits by the City, an action which relates only to the applicable process for termination of conditionally permitted land uses.

Additional information on the proposed ordinance, including copies in hard copy or electronic format, may be obtained from the City Clerk’s office at Arvin City Hall, 200 Campus Drive, Arvin, California, 93203, or the City’s web site at [www.arvin.org](http://www.arvin.org). All interested persons who would like to provide feedback or ask questions are invited to attend. Written comments on this matter may be submitted to the City Clerk’s office until 4:00 p.m. on the hearing date. If you challenge the approval or denial of these matters in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk, at or prior to the public hearing. Address any communications or comments regarding the project to Cecilia Vela, City Clerk, 200 Campus Drive, Arvin, CA 93203, (661) 854-3134, [cvela@arvin.org](mailto:cvela@arvin.org).

Cecilia Vela, City Clerk  
Published: May 07, 2018, Bakersfield Californian



**CITY OF ARVIN  
PLANNING COMMISSION**

**Agenda Report**

**Meeting Date: 5-30-2018**

**TO:** Planning Commission

**FROM:** Jake Raper, Senior Planner  
Jerry Breckinridge, Interim City Manager

**SUBJECT:** **A Resolution of the Planning Commission of the City of Arvin Recommending that the City Council Adopt an Ordinance Amending and Renumbering Chapter 17.62 (“Commercial Cannabis Activity”) of Title 17 (“Zoning”) of the Arvin Municipal Code and Thereby Adding Chapter 17.64 (“Commercial Cannabis Activity”) to Title 17 (“Zoning”) of the Arvin Municipal Code to Establish Comprehensive Regulations Pertaining to Commercial Cannabis Activity.**

**Background:**

In 1996, California voters approved Proposition 215, the Compassionate Use Act (codified at Health and Safety Code § 11362.5) to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes without fear of criminal prosecution under limited, specified circumstances.

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

In 2015, the Governor signed the Medical Cannabis Regulation and Safety Act (“MCRSA”), creating 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 MMRSA was to ensure uniformity among jurisdictions that wished to allow commercial cannabis operations.

Proposition 64, 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. Under AUMA, adults, age 21 and older, are legally entitled to possess and grow certain amounts of cannabis at home for personal use.

On June 27, 2017, the Governor signed SB 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), effectively repealing MCRSA and merging certain provisions of MCRSA into the provisions of AUMA to create a comprehensive state law licensing and regulatory framework applicable to all types of commercial cannabis activities. Under MAUCRSA, three state licensing authorities, the Bureau of Cannabis Control, the Department of Food and Agriculture, and the Department of Public Health, are empowered to issue state licenses authorizing the various types of commercial cannabis uses, and to promulgate regulations applicable to the licensing process. All three state licensing authorities have promulgated regulations and are now issuing annual state licenses.

MAUCRSA preserves the dual licensing scheme applicable to commercial cannabis uses, authorizing cities to adopt their own ordinances permitting, regulating and/or prohibiting the various types of commercial cannabis uses. Under MAUCRSA, cannabis businesses are required to comply with local ordinances and obtain any required local permits in addition to obtaining the necessary state licenses.

Local ordinances regulating commercial cannabis activities are not only authorized under MAUCRSA, they are necessary to the protection of public health, safety and welfare. State law requirements applicable to commercial cannabis activities under MAUCRSA are minimum standards and are not tailored to the needs of any specific locality.

There are numerous studies and reports that demonstrate that unregulated or under-regulated 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, insufficiently-regulated cannabis cultivation has been shown to involve avoidance of environmental laws and regulations, and to 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 persons and property. There are numerous well publicized studies and reports, as well as numerous documented incidents throughout the State, which show that unregulated cannabis activities have a significant adverse effect on the community.

Absent local land use regulations, commercial cannabis activities holding state licenses would be free to operate in nearly any area or zone of the City, with the exception of areas located in close proximity to certain sensitive land uses such as schools and youth centers. Local ordinances can expand the areas and zones in which commercial cannabis uses are prohibited, and can establish rules and regulations that are more stringent than the state law minimum standards, in order to better protect public health, safety and welfare in the local community.

In late 2017, to address the foregoing risks to local public health, safety and welfare, the City adopted Ordinance No. 443, adding Chapter 17.62 to the Arvin Municipal Code (“AMC”) pertaining to commercial cannabis activities.

The proposed ordinance attached hereto (the “Proposed Ordinance”) would renumber AMC Chapter 17.62 to Chapter 17.64 (to avoid numerical duplication of another existing Chapter 17.62 of the AMC pertaining to sign regulation) and would also amend the chapter to establish new and amended permitting requirements and associated regulations applicable to commercial

cannabis activities in the City, to establish a comprehensive and up-to-date permitting and regulatory scheme pertaining to such activities.

### **Environmental Review:**

The Proposed Ordinance is exempt from the California Environmental Quality Act (“CEQA”) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment, as the Proposed Ordinance merely amends the Arvin Municipal Code to establish new and amended procedures and requirements for the permitting and regulation of certain commercial cannabis activities, the environmental impacts of which will be assessed on a use-specific basis. (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.) Furthermore, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines Section 15300.2 apply to the Proposed Ordinance.

### **Discussion:**

The Proposed Ordinance regulates the establishment, operation and maintenance cannabis businesses, including businesses selling medicinal and recreational cannabis and cannabis products, in the City. The Proposed Ordinance prohibits outdoor commercial cannabis cultivation activities and retail sales from storefront dispensaries. All other types of commercial cannabis activities, including indoor cultivation, manufacturing, distribution, delivery, testing and microbusiness are permitted, subject to issuance of a “commercial cannabis permit,” a City business license, a conditional use permit, employee work permits for all employees, and the required State license. Permitted commercial cannabis businesses would be obligated to pay an annual permit fee to cover the City’s costs of administering the mandatory functions of Chapter 17.64, in addition to application fees for each of the required City entitlements.

The commercial cannabis permit is a regulatory permit issued by the City Manager upon confirming compliance with requirements of AMC Chapter 17.64. The permit expires after one year from the date of issuance, at which point it must be renewed upon a showing that the business remains in compliance with all applicable laws and regulations, and upon payment of the requisite renewal application fee. Any denial of a commercial cannabis permit application is subject to an administrative appeal to the City Manager, and subsequently to the Planning Commission. The decision of the Planning Commission constitutes a final administrative decision, subject to judicial petition for writ of mandate. Commercial cannabis permits may also be revoked by the City Manager based on a violation of Chapter 17.64. Revocation may be challenged only by petition for writ of mandate.

Some other key aspects of the Ordinance are as follows:

- Commercial cannabis uses are prohibited in all zones of the City except M-1, M-2, M-3, A-1 and A-2 zones, in which such uses are conditionally permitted;
- Commercial cannabis uses are prohibited within 200 feet of a residential zone, absent approval by the City Manager upon a finding that the operation in such location would not tend to cause a public nuisance or have a negative impact on the nearby residential units or dwellings;

- Commercial cannabis uses are prohibited within one thousand feet (1,000') of any school, day care center, youth center, public park, or public library;
- No person under the age of 21 may enter or work for a commercial cannabis business;
- Consumption of cannabis is prohibited on the premises of a commercial cannabis business;
- No commercial cannabis business may sell or dispense alcoholic beverages from its premises, no alcohol may be consumed on the premises, and no commercial cannabis business may operate adjacent to a business that sells alcoholic beverages at retail;
- All commercial cannabis businesses must pass inspections by the City's Code Enforcement Division, Building Official, Police Department, and Fire Department for compliance with applicable laws and regulations prior to obtaining a commercial cannabis permit;
- All commercial cannabis businesses are also subject to suspicionless biennial inspections conducted by the foregoing officials to confirm continuing compliance with all applicable laws and regulations;
- All commercial cannabis businesses are subject to certain mandatory security requirements, including maintaining security cameras with 24-hour surveillance video recording, to be retained for at least 45 days and subject to City inspection upon request, and having at least one licensed security guard on the premises during all operating hours (or more if deemed necessary by the City Manager);
- All cannabis and cannabis products must be kept secured and out of public view at all times.
- All commercial cannabis businesses are subject to certain mandatory operating requirements, including tracking all cannabis products, sales, and inventory, having a sufficient odor absorbing ventilation and exhaust system so that cannabis odors are not detectable outside of the facility, packaging and labeling of cannabis and cannabis products, and storage and disposal of waste.
- Additional special operating requirements apply depending on the type of permitted commercial cannabis business (e.g., cultivation, delivery, manufacturing, testing, distribution, etc). For instance, where the business engages in manufacturing using volatile solvents, strict requirements apply to the equipment used to conduct such activities.
- All employees and independent contractors of cannabis businesses must obtain an employee work permit prior to commencing work for any cannabis business, and to obtain such permit they must pass annual criminal background checks. Owners of cannabis businesses also must pass criminal background checks as part of the commercial cannabis application/renewal process.

- Commercial cannabis businesses or applicants may, at their option, apply to enter into a development agreement with the City. The ordinance provides criteria to govern the development application process for those who elect to apply.

The land use and location-related requirements of the commercial cannabis business, many of which are set forth above, are the subject of the conditional use permit requirement. Another function of the conditional use permit requirement is to ensure CEQA compliance on a project-specific basis. The City's conditional use permit ordinance, AMC Chapter 17.56, is being proposed for amendment concurrently with the Proposed Ordinance to enumerate commercial cannabis businesses as a conditionally permitted use in the City's M-1, M-2, M-3, A-1 and A-2 zones, consistent with the Proposed Ordinance, and to establish express procedures for suspension and revocation of conditional use permits.

Violations of the Proposed Ordinance are punishable by permit suspension and revocation, criminal misdemeanor prosecution, civil injunctive relief, administrative public nuisance abatement, and imposition of administrative penalties.

Personal cannabis activity, both recreational and medical, remains governed by the requirements of Chapter 8.29 of Title 8 of the Arvin Municipal Code.

### **Recommendation:**

It is recommended that the Planning Commission: 1) review and consider the Proposed Ordinance; 2) conduct a public hearing regarding the Proposed Ordinance; 3) approve the proposed Ordinance with the associated findings of CEQA exemption; and 4) adopt the attached resolution recommending approval of the Proposed Ordinance to the City Council.

### **Fiscal Impact:**

There were consultant staff costs involved in preparation of the Proposed Ordinance, which staff believes can be funded within the existing budget appropriations. The overall impact of the Ordinance is anticipated to have a positive financial impact by encouraging business and economic development and creating new job opportunities in the City.

### **Attachments:**

- 1) Proposed Ordinance of the City Council of the City of Arvin Amending and Renumbering Chapter 17.62 ("Commercial Cannabis Activity") of Title 17 ("Zoning") of the Arvin Municipal Code and Thereby Adding Chapter 17.64 ("Commercial Cannabis Activity") to Title 17 ("Zoning") of the Arvin Municipal Code.
- 2) Resolution recommending approval of the proposed Ordinance of the City Council of the City of Arvin Amending and Renumbering Chapter 17.62 ("Commercial Cannabis Activity") of Title 17 ("Zoning") of the Arvin Municipal Code and Thereby Adding Chapter 17.64 ("Commercial Cannabis Activity") to Title 17 ("Zoning") of the Arvin Municipal Code.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ARVIN RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING AND RENUMBERING CHAPTER 17.62 (“COMMERCIAL CANNABIS ACTIVITY”) OF TITLE 17 (“ZONING”) OF THE ARVIN MUNICIPAL CODE AND THEREBY ADDING CHAPTER 17.64 (“COMMERCIAL CANNABIS ACTIVITY”) TO TITLE 17 (“ZONING”) OF THE ARVIN MUNICIPAL CODE TO ESTABLISH COMPREHENSIVE REGULATIONS PERTAINING TO COMMERCIAL CANNABIS ACTIVITY**

**WHEREAS**, on May 7, 2018, notice of a public hearing to take place on May 30, 2018, at 6:00 p.m. or as soon thereafter as the agenda permits, in the City Council Chambers of the Arvin City Hall, identifying the Planning Commission of the City of Arvin (“Planning Commission”) as the hearing body, and containing a general explanation of the matter to be considered (this resolution and the proposed ordinance attached hereto), was published in the Bakersfield Californian, a newspaper of general circulation in the City; and

**WHEREAS**, on May 30, 2018, at the time and place specified in the notice of public hearing, the Planning Commission opened and conducted the public hearing, and received testimony and other evidence during the public hearing.

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

1. The foregoing recitals are true and correct and are incorporated herein.
2. The Planning Commission hereby makes and adopts the following findings:
  - a. Notice of the public hearing has been given in the time and in the manner required by State Law, including Government Code Section 65090 and 65854.
  - b. The proposed ordinance, a copy of which is attached hereto as Exhibit “A,” (the “Proposed Ordinance”) would amend and renumber Chapter 17.62 (“Commercial Cannabis Activity”) of Title 17 (“Zoning”) of the Arvin Municipal Code (“AMC”), and thereby add Chapter 17.64 (“Commercial Cannabis Activity”) to Title 17 (“Zoning”) of the AMC, to comprehensively regulate all types of commercial cannabis activity within the City of Arvin. Under the Proposed Ordinance, certain specified types of commercial cannabis activity, including manufacturing, testing, indoor and mixed-light cultivation, distribution, and delivery would be allowed in the M-1, M-2, M-3, A-1 and A-2 zoning districts of the City, subject to issuance and maintenance of a City-issued commercial cannabis permit, a conditional use permit, the required state license, and employee work permits for all employees. Outdoor cultivation and storefront sales of cannabis would be prohibited.
  - c. The Proposed Ordinance is exempt from review under the California Environmental

Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment, as the Ordinance merely amends the Arvin Municipal Code to establish new and amended procedures and requirements for the permitting and regulation of certain commercial cannabis activities, the environmental impacts of which will be assessed on a use-specific basis. Furthermore, the Proposed Ordinance would also be subject to Categorical Exemptions under CEQA Guidelines sections 15307 and 15308, as it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of natural resources and the environment by prohibiting environmentally destructive components of unregulated cannabis cultivation. Finally, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines Section 15300.2 apply to the Proposed Ordinance. Therefore, Categorical Exemptions are also to be adopted for the Proposed Ordinance, pursuant to CEQA Guidelines sections 15307 and 15308. The Proposed Ordinance contains findings in accordance with this paragraph.

- d. The Proposed Ordinance is consistent with the Arvin General Plan and the purpose and standards of the City’s M-1, M-2, M-3, A-1 and A-2 zones.
- e. The Ordinance will not adversely affect property values or be detrimental to any area or neighborhood of the City. Commercial cannabis uses may be permitted only in M-1, M-2, M-3, A-1 and A-2 zones and are subject to issuance of a conditional use permit to ensure compatibility with surrounding land uses. Commercial cannabis uses are prohibited in residential zones. Commercial cannabis uses are also prohibited adjacent to or within 200 feet (200’) of residential zones, except upon express authorization by the City Manager based on a finding that the use will take place in an existing building or facility and will not tend to cause a public nuisance, a situation which may result in repeated police department responses, or a negative impact on the adjacent residential units or dwellings.
- f. The Proposed Ordinance is consistent with State law. The Proposed Ordinance imposes permit requirements and associated regulations on commercial cannabis businesses in accordance with the local control possessed by all cities to regulate commercial cannabis land uses pursuant to the police power and the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”). The Proposed Ordinance also requires that all cannabis businesses possess the required State license issued pursuant to MAUCRSA as a prerequisite to obtaining a City-issued commercial cannabis permit, to ensure that such businesses are operating in accordance with State law.
- g. The Proposed Ordinance will protect and promote public health, safety, and welfare. The Proposed Ordinance contains extensive regulatory criteria specific to each type of permitted commercial cannabis operation, which criteria must be satisfied by all applicants in order to obtain a City-issued commercial cannabis permit. The commercial cannabis permit is a regulatory permit issued by the City Manager upon confirming compliance with all such requirements. The Proposed Ordinance also

requires all commercial cannabis businesses to obtain a conditional use permit issued by the Planning Commission pertaining to the land use and location of the commercial cannabis business, approval of which requires a finding that the use is in compliance with CEQA. Further, the Proposed Ordinance contains strict security-related operational requirements and requires all employees and owners of commercial cannabis businesses to pass criminal background checks to ensure that the establishment of the commercial cannabis industry to prevent crime and ensure that cannabis businesses are positive members of the community. Collectively, the provisions of the Proposed Ordinance, which are in addition to the minimum state law standards, will enable the City to ensure that commercial cannabis operations are conducted in a manner that is safe and does not adversely affect public health, safety or welfare. Instead, such operations will bring high quality job opportunities to the City and will stimulate further economic development in the City.

3. Based on the findings set forth herein, the Planning Commission hereby recommends that the City Council adopt the Proposed Ordinance, including the findings contained within the Proposed Ordinance that the Proposed Ordinance is exempt from CEQA review pursuant to CEQA Guidelines Sections 15061(b)(3), 15307, and 15308.

AYES: \_\_\_\_\_

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

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

ABSENT: \_\_\_\_\_

**ATTEST**

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

**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.

**EXHIBIT “A”**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN AMENDING AND RENUMBERING CHAPTER 17.62 (“COMMERCIAL CANNABIS ACTIVITY”) OF TITLE 17 (“ZONING”) OF THE ARVIN MUNICIPAL CODE AND THEREBY ADDING CHAPTER 17.64 (“COMMERCIAL CANNABIS ACTIVITY”) TO TITLE 17 (“ZONING”) OF THE ARVIN MUNICIPAL CODE TO ESTABLISH COMPREHENSIVE REGULATIONS PERTAINING TO COMMERCIAL CANNABIS ACTIVITY**

**[TO BE ADDED]**

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN AMENDING AND RENUMBERING CHAPTER 17.62 (“COMMERCIAL CANNABIS ACTIVITY”) OF TITLE 17 (“ZONING”) OF THE ARVIN MUNICIPAL CODE AND THEREBY ADDING CHAPTER 17.64 (“COMMERCIAL CANNABIS ACTIVITY”) TO TITLE 17 (“ZONING”) OF THE ARVIN MUNICIPAL CODE TO ESTABLISH COMPREHENSIVE REGULATIONS PERTAINING TO COMMERCIAL CANNABIS ACTIVITY**

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

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

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

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

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

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

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

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

**WHEREAS**, MAUCRSA, at Business & Professions Code §26200(a)(1), provides that local jurisdictions may adopt and enforce local ordinances to regulate or prohibit any or all types of medicinal and adult-use business operations licensed by the state under Business & Professions Code §26050, including, but not limited to, by imposing local zoning and land use requirements; and

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

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

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

**WHEREAS**, the Regulations were approved by the State Office of Administrative Law on December 7, 2017; and

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

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

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

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

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

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

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

**WHEREAS**, unregulated indoor cultivation of cannabis has potential adverse effects on the structural integrity of the buildings in which cannabis is cultivated, and the use of high wattage grow lights and excessive use of electricity in such buildings increases the risk of fire, which presents a risk of property damage to the building and neighboring buildings, and endangers the building's occupants and nearby residents; and

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

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

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

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

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

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

**WHEREAS**, based on the foregoing and pursuant to the above-described express statutory authority and its police power, the City desires to explicitly prohibit certain cannabis activities, including storefront sales and outdoor cultivation (for both medicinal and adult-use), and to enact reasonable regulations for other commercial cannabis activities in order to protect and promote public health, safety and welfare; and

**WHEREAS**, under U.S. Supreme Court precedent, government agencies generally may conduct regulatory inspections of "closely regulated" businesses without reasonable suspicion that the business subject to inspection has violated a statute or regulation, provided that the governmental

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

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

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

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

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

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

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

**WHEREAS**, on November 21, 2017, the City Council adopted Ordinance No. 443, which added Chapter 17.62 “Commercial Cannabis Activity” to Title 17 of the Arvin Municipal Code, and which repealed Sections 17.02.435 and 17.07.01 of Title 17 of the Arvin Municipal Code pertaining to Medical Marijuana Dispensaries; and

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

**WHEREAS**, the City Council now sees fit to renumber and relocate the duplicative Chapter 17.62 “Commercial Cannabis Activity” to Chapter 17.64 of the Arvin Municipal Code, and to amend and supplement the regulations imposed by said chapter on commercial cannabis businesses and applicants in the City; and

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

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

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

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

**SECTION 2.** The City Council finds and determines that the Ordinance is exempt from the California Environmental Quality Act (“CEQA”) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment, as this Ordinance merely amends the Arvin Municipal Code to establish new and amended procedures and requirements for the permitting and regulation of certain commercial cannabis activities, the environmental impacts of which will be assessed on a use-specific basis. (CEQA Guidelines § 15061(b)(3)). Furthermore, the City Council finds and determines the Ordinance would also be subject to Categorical Exemptions under CEQA Guidelines sections 15307 and 15308, as it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of natural resources and the environment by prohibiting environmentally destructive components of unregulated cannabis cultivation. (CEQA Guidelines §§ 15307 and 15308.) Finally, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines Section 15300.2 apply to this Ordinance. Therefore, the City Council also adopts Categorical Exemptions for this Ordinance, pursuant to CEQA Guidelines sections 15307 and 15308.

**SECTION 3.** Chapter 17.62 of the Arvin Municipal Code, entitled “Commercial Cannabis Activity,” as added to the Arvin Municipal Code by City Ordinance No. 443, is hereby renumbered to Chapter 17.64 and is amended to read in its entirety as follows:

## Chapter 17.64

### COMMERCIAL CANNABIS ACTIVITY

#### Section 17.64.010 Purpose and Intent.

- (a) It is the purpose and intent of this Chapter to adopt local prohibitions and regulations applicable to commercial cannabis activity as may be permitted by the Medicinal and Adult-Use Cannabis Regulation and Safety Act and other applicable State law, as amended, pertaining to regulation of commercial cannabis and the use of land, in order to protect the City's neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter to regulate the cultivation, manufacturing and testing of cannabis and cannabis products in a manner which is responsible and which protects the health, safety, and welfare of the residents of the City, and to enforce rules and regulations consistent with applicable state law including, but not limited to, the Medicinal and Adult-Use Cannabis Regulation and Safety Act, the Adult Use of Marijuana Act, the Compassionate Use Act of 1996, and the Medical Marijuana Program Act. In furtherance of these objectives, this Chapter imposes an annual regulatory permit requirement, a conditional use permit requirement, employee work permit requirements, and operating requirements applicable to persons who seek to own, operate, or engage in commercial cannabis businesses within the City as authorized under this Chapter or the Arvin Municipal Code. Nothing in this Chapter is intended to authorize any activity which is in violation of state or federal law. The provisions of this Chapter are in addition to the business license requirements applicable to business conducted in the City, and to all other applicable requirements of the Arvin Municipal Code.
- (b) Pursuant to Section 7 of Article XI of the California Constitution, the City is authorized to adopt ordinances that establish standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Any standards, requirements, and regulations regarding commercial cannabis activity, including health and safety, testing, laboratory operations and safety, security, and worker protections established by the State, or any of its agencies, departments or divisions, shall be the minimum standards applicable in the City, and the provisions of this ordinance shall apply in addition thereto.

#### Section 17.64.020 Definitions.

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

- (a) "*Building Official*" means the Building Official for the City or his/her designee.
- (b) "*Cannabis*" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

“*Cannabis*” also means the separated resin, whether crude or purified, obtained from marijuana. “*Cannabis*” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. “*Cannabis*” also does not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. For the purpose of this Chapter, “*Cannabis*” does not mean industrial hemp as that term is defined by Section 11018.5 of the California Health and Safety Code.

- (c) “*Cannabis concentrate*” means manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Chapter. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health & Safety Code, or a drug, as defined by Section 109925 of the Health & Safety Code.
- (d) “*Cannabis products*” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- (e) “*Chief of Police*” means the Chief of Police for the Arvin Police Department or his/her designee.
- (f) “*City Manager*” means the City Manager for the City or his/her designee.
- (g) “*Commercial cannabis activity*” or “*commercial cannabis business*” includes cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale (including retail and wholesale) of cannabis or cannabis products conducted or engaged in by any person, except cultivation and possession of cannabis for personal use as governed by Arvin Municipal Code Chapter 8.29 and/or as preempted by State law.
- (h) “*Commercial cannabis permit*” means a permit issued by the City pursuant to this Chapter to a commercial cannabis business.
- (i) “*Cultivation*” means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (j) “*Cultivation site*” means a facility where cannabis is propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or where all or any combination of those activities occur.
- (k) “*Day care center*” means, as the term is understood in Business & Professions Code Section 26001(o), as may be amended, any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers.

- (l) “*Delivery*” means the commercial transfer of cannabis or cannabis products to a customer at the customer’s home or other location remote from the premises of the commercial cannabis business making the delivery, and includes the use by a retailer of any technology platform. “*Delivery*” does not mean or include storefront sales.
- (m) “*Distribution*” means the procurement, sale and transport of cannabis and cannabis products between licensees.
- (n) “*Distributor*” means a licensee engaged in distribution.
- (o) “*Edible cannabis product*” means a cannabis product that is intended to be used, in whole or in part, for human consumption. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.
- (p) “*Fire Chief*” means the Fire Chief for the City as designated by the Kern County Fire Department, or his or her designee.
- (q) “*HIPAA*” means the Health Insurance Portability and Accountability Act of 1996.
- (r) “*Labeling*” means any label or other written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.
- (s) “*License*” or “*State License*” means a license issued by the State of California, or one of its departments or divisions, pursuant to Division 10 of the California Business & Professions Code. “*Licensee*” means a person holding a State License.
- (t) “*Live plants*” means living cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.
- (u) “*Manufacture*” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.
- (v) “*Manufacturer*” means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container; “*Manufacturer*” includes the activity of manufacturing.
- (w) “*Manufacturer 1*” means a licensee that manufactures cannabis products using nonvolatile solvents, or no solvents.
- (x) “*Manufacturer 2*” means a licensee that manufactures cannabis products using volatile solvents.

- (y) “*Nursery*” means a licensee that produces only cannabis clones, immature cannabis plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- (z) “*Owner*” means any person who has an ownership interest in a commercial cannabis business.
- (aa) “*Package*” means any container or receptacle used for holding cannabis or cannabis products.
- (bb) “*Person*” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, nonprofit organization, or any other group or combination acting as a unit, and includes the plural as well as the singular.
- (cc) “*Premises*” means the designated structure or structures and the surrounding land that is owned, leased or otherwise held under the control of a commercial cannabis permit applicant or permittee where commercial cannabis activity will be or is conducted. This definition does not alter the meaning of the term “Premises” as utilized by the State of California for commercial cannabis licensing.
- (dd) “*Responsible person*” means any person who is responsible for, or who will oversee or participate in, the direction, control, management, or supervision of a commercial cannabis business.
- (ee) “*Retailer*” means a person who engages in the retail sale of cannabis or cannabis products to customers.
- (ff) “*Sell,*” “*sale*” and “*to sell*” include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting and receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased.
- (gg) “*School*” means, as the term is understood in Business & Professions Code Section 26054(b), as may be amended, a place of instruction in kindergarten or any grades 1 through 12.
- (hh) “*State*” means the State of California and all of its departments, divisions and agencies, including but not limited to the Bureau of Cannabis Control, the Department of Public Health, and the Department of Food and Agriculture.
- (ii) “*Stacking*” means cultivating cannabis plants on platforms or tables and stacking them in multiple layers on top of each other.
- (jj) “*Storefront sales*” means the retail sale of cannabis or cannabis products directly to customers from a storefront, dispensary, or other permanent building or structure, or

in any manner that does not constitute delivery. “*Storefront sales*” does not include delivery.

- (kk) “*Testing Laboratory*” means a laboratory, facility or entity that offers or performs tests of cannabis or cannabis products and that is both: (1) accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity; and (2) a State licensee.
- (ll) “*Topical cannabis*” means a cannabis product intended for external application. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.
- (mm) “*Volatile solvent*” means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.
- (nn) “*Youth center*” means, as the term is understood in Business & Professions Code Section 26001(av), as may be amended, any public or private facility that is primarily used to host recreational or social activities for minors, including but not limited to private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

#### **Section 17.64.030 Applicability to Personal Cannabis Activity.**

This Chapter applies only to commercial cannabis activities. Except as otherwise provided by this Chapter, cultivation of cannabis for personal use is governed by Section 8.29.03 of the Arvin Municipal Code, as may be amended from time to time, and consumption of cannabis is governed by Section 8.29.06 of the Arvin Municipal Code, as may be amended from time to time. To the extent any provision of Chapter 8.29 of the Arvin Municipal Code conflicts with this Chapter, this Chapter shall govern.

#### **Section 17.64.040 Permitted Types of Commercial Cannabis Businesses**

- (a) Commercial cannabis operations within the City, which comprise the activities of indoor cultivation, mixed-light cultivation, nursery cultivation, retailer (delivery only), manufacturer, testing laboratory, distributor, and microbusiness (other than storefront sales) are allowed subject to issuance and maintenance of the permits and entitlements set forth in Section 17.64.060(a), continuing compliance with this Chapter and all other applicable City and State laws and regulations, and issuance and maintenance of a valid and current State license of a classification listed below, as provided for in Business & Professions Code Section 26050 and applicable State regulations:
  - (1) Type 1A = Cultivation; Specialty Indoor; Small.
  - (2) Type 1B = Cultivation; Specialty Mixed-Light; Small.
  - (3) Type 2A = Cultivation; Indoor; Small.

- (4) Type 2B = Cultivation; Mixed-Light; Small.
  - (5) Type 3A = Cultivation; Indoor; Medium.
  - (6) Type 3B = Cultivation; Mixed-Light; Medium.
  - (7) Type 4 = Cultivation; Nursery.
  - (8) Upon authorization by the State of California, Type 5A = Cultivation; Indoor; Large.
  - (9) Upon authorization by the State of California, Type 5B = Cultivation; Mixed-Light; Large.
  - (10) Type 6 = Manufacturer 1.
  - (11) Type 7 = Manufacturer 2.
  - (12) Type N = Manufacturer (i.e. no extractions, pursuant to 17 CCR § 40118, as may be amended).
  - (13) Type P = Manufacturer (i.e. packaging and labeling only, pursuant to 17 CCR § 40118, as may be amended).
  - (14) Type 8 = Testing Laboratory.
  - (15) As authorized by California Code of Regulations, Type 9 = Non-Storefront Retailer (i.e. retail sales by delivery only, pursuant to 16 CCR § 5414, as may be amended).
  - (16) Type 10 = Retailer (subject to Section 17.64.050, i.e. delivery only).
  - (17) Type 11 = Distributor.
  - (18) Type 12 = Microbusiness (subject to Sections 17.64.040(c) and 17.64.050).
  - (19) Type 13 = Distributor (i.e. transport only, pursuant to 16 CCR § 5315, as may be amended).
  - (20) Cultivation License Types for Indoor or Mixed-Light pursuant to 3 CCR § 8201, as may be amended).
- (b) Any commercial cannabis activity not expressly authorized by this Chapter is prohibited.
- (c) The number of commercial cannabis permits authorizing the operation of a microbusiness requiring a Type-12 State License that may be active or valid in the

City at any given time shall not exceed ten (10) permits, or a lower number as may be established by the City Council.

**Section 17.64.050 Prohibited Types of Commercial Cannabis Businesses**

- (a) Commercial cannabis businesses within the City which involve the activities of outdoor cultivation and storefront sales are prohibited in the City. This prohibition includes, but is not limited to, commercial cannabis activities licensed by the State license classifications listed below, as provided for in Business & Professions Section 26050 and applicable State regulations:
  - (1) Type 1= Cultivation; Specialty Outdoor; Small.
  - (2) Type 1C = Cultivation; Specialty Cottage; Small.
  - (3) Type 2 = Cultivation; Outdoor; Small.
  - (4) Type 3= Cultivation; Outdoor; Medium.
  - (5) Type 5 = Cultivation; Outdoor; Large.
  - (6) Types 10 and 12 (storefront sales prohibited).
- (b) Except as otherwise expressly provided in this Chapter, the prohibition of subsection (a) includes any similar commercial cannabis activities authorized under new or revised State licenses, or any other State authorization, for any type, category, or classification of commercial cannabis activities which involve the above-referenced or similar activities or operations.
- (c) Notwithstanding any provision of this Chapter or the Arvin Municipal Code, storefront sales are prohibited in the City. No commercial cannabis permit issued to any person, including but not limited to a person holding a Type 10 “Retailer” or Type 12 “Microbusiness” State license, shall include any authorization to engage in storefront sales. This prohibition applies to both adult-use and medicinal cannabis and cannabis products. As such, no medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider, within the meaning of Health & Safety Code Section 11362.768, shall be permitted to engage in storefront sales. The term “storefront sales” shall include making available, tendering, offering, bartering, gifting, releasing, delivering, providing or exchanging any cannabis or cannabis products. However, this subsection does not prohibit the issuance of commercial cannabis permits authorizing non-storefront sales, by delivery only, of cannabis or cannabis products in the City.
- (d) Consistent with Business & Professions Code Section 26080, nothing in this Chapter shall be interpreted to prohibit the use of the public roads of the City by a State

licensee in the course of making cannabis deliveries to and from areas outside of the City.

**Section 17.64.060 Required Licenses and Permits.**

- (a) It shall be unlawful to own, establish, operate, use, or allow the establishment or activity of a commercial cannabis business, or to participate in a commercial cannabis business as an employee, contractor, agent, volunteer, or in any manner or capacity, other than as provided in this Chapter and pursuant to the following:
  - (1) A valid and current commercial cannabis permit(s) issued by the City pursuant to this Chapter;
  - (2) The equivalent State license(s) for such commercial cannabis business issued pursuant Division 10 of the Business & Professions Code, as may be amended;
  - (3) A conditional use permit pertaining to the location of the business, issued by the City pursuant to Section 17.64.210 and Chapter 17.56; and
  - (4) Employee work permits pursuant to Section 17.64.090; and
  - (5) A valid City business license.
- (b) The City Manager is hereby authorized to issue commercial cannabis permits on behalf of the City. The City Manager, in his or her sole discretion, may issue a commercial cannabis permit only upon confirming that the applicant to whom the permit is to be issued has satisfied all of the requirements of this Chapter and the other applicable provisions of the Arvin Municipal Code, as may be amended from time to time, any regulations promulgated pursuant to this Chapter, and any law or regulation enacted by the State of California or any department of the State governing commercial cannabis activities.
- (c) Commercial cannabis permits shall be governed by the following requirements and limitations:
  - (1) Commercial cannabis permits may only permit the types of cannabis activity expressly authorized by this Chapter.
  - (2) No commercial cannabis permit shall authorize public access to any commercial cannabis business. Only persons involved in the bona fide business activities of a commercial cannabis business shall be authorized to access the premises of a commercial cannabis business.
  - (3) Commercial cannabis businesses shall not employ or grant access to any individual who is under twenty-one (21) years of age.
  - (4) Each commercial cannabis permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance and must thereupon be renewed. Continued operation of a commercial cannabis business after

expiration of a commercial cannabis permit shall be unlawful and a violation of this Chapter.

- (5) Prior to issuance of any commercial cannabis permit, each proposed commercial cannabis business shall be subject to the mandatory inspections provided by Section 17.64.150 and shall obtain all required permits or approvals which are otherwise required for the premises by applicable law, including, but not limited to, building permits, California Fire Code approvals, and planning-level permit(s) required by Title 17 Zoning of the Arvin Municipal Code.
  - (6) Consistent with Business and Professions Code Section 26053, a commercial cannabis business conducting multiple commercial cannabis activities shall obtain a commercial cannabis permit authorizing each type and location of commercial cannabis activity prior to engaging in that activity. A commercial cannabis business licensed by the State to conduct multiple commercial cannabis activities shall not receive a commercial cannabis permit authorizing any commercial cannabis activity within the City that is not expressly authorized by this Chapter. An applicant may be issued a commercial cannabis permit authorizing multiple different types of commercial cannabis activities as defined by applicable State license classifications, consistent with the requirements of Business and Professions Code Section 26053 and/or a Type 12 “Microbusiness” State license.
  - (7) Revocation, termination, denial, non-issuance or suspension of a State license shall immediately and automatically terminate the commercial cannabis permit, and all commercial cannabis activity shall immediately cease. Upon reinstatement or receipt of a new State license, the commercial cannabis activity may file for a new permit from the City. While a new application for a commercial cannabis permit is pending, the applicant shall not engage in any commercial cannabis activity. Violations of this Section shall be grounds for denial of an application for a commercial cannabis permit and for the enforcement, penalties and cost recovery prescribed within Section 17.64.170 and any other applicable provisions of the Arvin Municipal Code.
  - (8) The issuance of a commercial cannabis permit shall constitute a revocable privilege and shall not create or establish any vested rights for the development or use of any property.
- (d) Renewals of commercial cannabis permits shall be governed by the following requirements and limitations:
- (1) Applications for renewal of commercial cannabis permits shall be filed with the City Manager at least sixty (60) calendar days prior to the expiration date of the permit and shall be subject to all requirements applicable to an applications for initial issuance of a commercial cannabis permit.

- (2) An application for renewal of a commercial cannabis permit shall be denied if any of the following exists:
- i. The application is filed less than sixty (60) calendar days before expiration of the commercial cannabis permit. Notwithstanding the foregoing, the City Manager, in his discretion, may accept an application filed between thirty (30) and sixty (60) days before expiration based upon a showing of good cause by the applicant for the late filing.
  - ii. The commercial cannabis permit, or any of the other entitlements required for the commercial cannabis to operate in compliance with this Chapter, is suspended or revoked at the time the application for renewal is submitted, or is suspended or revoked while the application for renewal is pending.
  - iii. The commercial cannabis business or activity has not been in regular and continuous operation during the four (4) months prior to the submission of the application for renewal.
  - iv. The commercial cannabis business is in noncompliance with any provision of this Chapter, any regulation promulgated pursuant hereto, any other provision of the Arvin Municipal Code applicable to the commercial cannabis business, or any condition of approval of the commercial cannabis permit or any other entitlement issued by the City to the commercial cannabis business.
  - v. The applicant for renewal of the commercial cannabis permit has failed to obtain or renew any required State license, or is in violation of any applicable provision of State law or any applicable State regulation.
  - vi. The applicant for renewal has failed to pay in full all fees, administrative fines, penalties and/or charges imposed by the City relating to the commercial cannabis business, unless assessment of the fees, administrative fines, penalties and/or charges are being appealed.
- (3) If a renewal application is denied, the applicant may file an appeal. The appeal must be in writing, must identify the grounds for reversing the denial, and must be submitted to the City Clerk within ten (10) days from the date of the denial. The appeal shall be conducted pursuant to Section 17.64.190(j). In the alternative, the applicant may file a wholly new application for a commercial cannabis permit pursuant to this Chapter. Upon expiration of the commercial cannabis permit and regardless of a pending appeal or new application for a commercial cannabis permit, all of the applicant's commercial cannabis activity shall immediately cease. Violations of this Section shall subject the violator to denial of the appeal or new application

for a commercial cannabis permit and/or the enforcement, penalties and cost recovery mechanisms prescribed within this Chapter and/or the Arvin Municipal Code.

- (4) Any unpaid fees, administrative fines, penalties and/or costs imposed by the City relating to the commercial cannabis business shall be added to the fee for renewal of the commercial cannabis permit, unless assessment of the fees, administrative fines, penalties and/or costs are being appealed.
- (5) A commercial cannabis permit shall not be renewed until the City receives payment in full of the fee for the commercial cannabis permit renewal application. Said fee shall be governed by and subject to the provisions of Section 17.64.190(b), unless otherwise provided by resolution of the City Council.
- (e) Failure of a commercial cannabis business to obtain and maintain a valid City business license, and to remain in compliance with all applicable provisions and requirements of that license, shall constitute grounds for denial of an application for renewal of a commercial cannabis permit, suspension or revocation of a current commercial cannabis permit.

**Section 17.64.070 Existing Commercial Cannabis Businesses.**

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

**Section 17.64.080 Security Measures.**

- (a) A permitted commercial cannabis business, regardless of building type utilized, shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products at the premises. These security measures shall include, but shall not be limited to, all of the following, in addition to any other security measures deemed necessary by the City Manager or required pursuant to any regulations as may be promulgated by the City Manager in furtherance of the purposes of this Chapter:
  - (1) Preventing persons from remaining on the premises of the commercial cannabis business if they are not engaging in bona fide business activity of the commercial cannabis business.

- (2) Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
- (3) Ensuring that live growing plants which are being cultivated are kept in a secured cultivation site, and that all cannabis and cannabis products are stored in a secured and locked room, safe, or vault at all times. All cannabis and cannabis products, including live plants which are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.
- (4) Installing twenty-four (24) hour security surveillance cameras with night vision capability and of at least HD-quality to monitor all entrances and exits to and from the premises and to monitor all interior spaces, excluding all restroom and changing room facilities, within the commercial cannabis business. The security surveillance system shall be compatible with software and hardware utilized by the Arvin Police Department. The security surveillance system shall be capable of providing the Arvin Police Department with remote real-time/live access to the video footage during emergency situations, including but not limited to armed robbery, active shooter, hostage, and exposure to hazardous or volatile substances. Video recordings shall be maintained for a minimum of forty-five (45) days. Upon request by the Chief of Police, video recordings will provided to the Arvin Police Department within twenty-four (24) hours. If the commercial cannabis business refuses to provide the Chief of Police access to the real-time/live video feed or the requested video recordings, the City Attorney shall be authorized to seek reimbursement of all costs, including but not limited to court costs, attorney's fees, filing fees, administrative time and fees and employee time, incurred by the City while seeking a warrant and/or judicial intervention granting the requested access. The requirements of this Section shall be in addition to any other applicable provision of the Arvin Municipal Code.
- (5) Sensors shall be installed to detect entry and exit from all secure areas.
- (6) Panic buttons shall be installed in all commercial cannabis businesses.
- (7) A professionally installed, maintained, and monitored alarm system shall be maintained in operable condition at all times.
- (8) Any bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building and shall be installed in compliance with all applicable requirements of the Arvin Municipal Code, California Building Code and California Fire Code.
- (9) Each commercial cannabis business shall have the capability to remain secure and operational during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.

- (10) All security personnel to be hired or used by each commercial cannabis business shall be licensed by and in good standing with the State Bureau of Security and Investigative Services and shall obtain an Employee Work Permit pursuant to Section 17.64.090. At least one such security guard shall be on the premises of each commercial cannabis business during all operating hours. The City Manager may increase the number of security guards required to be on the premises of any commercial cannabis business as a condition of approval of any commercial cannabis permit application, if he or she deems such additional security guards necessary to adequately protect the premises based on the size or other characteristics of the commercial cannabis business or its premises.
- (b) Each commercial cannabis business shall provide the City Manager with the identity and contact information for a liaison who shall be reasonably available to meet and discuss compliance with the requirements of the Arvin Municipal Code, state law and/or any other laws and regulations applicable to the commercial cannabis business.
- (c) As part of the application and permitting process, each commercial cannabis business shall provide the City Manager with a detailed transportation plan describing the procedures for safely and securely transporting cannabis, cannabis products and/or currency.
- (d) A commercial cannabis business shall notify the Chief of Police within twenty-four (24) hours after discovering any of the following:
  - (1) Significant discrepancies identified in inventory. The level of significance may be determined by regulations promulgated by the City Manager.
  - (2) Diversion, theft, loss or any criminal activity involving the commercial cannabis business, an employee or any agent of the commercial cannabis business.
  - (3) The loss or unauthorized alteration of records referring or related to cannabis, cannabis products, employees or agents of the commercial cannabis business.
  - (4) Any other breach of security.

**Section 17.64.090 Employee Work Permits.**

- (a) Every employee or independent contractor working at or for a commercial cannabis business or involved in security, delivery or distribution, or other services for a commercial cannabis business shall obtain an annual Employee Work Permit prior to commencing work for the commercial cannabis business, and shall maintain such permit at all times while working for such business. 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 and renewed on an annual basis thereafter. Persons who are listed as commercial cannabis permit holders or owners thereof, who are subject to

criminal history records checks pursuant to Section 17.64.240(k), shall not be required to obtain an Employee Work Permit if such person also serves as an employee or contractor for the permit holder's commercial cannabis business.

- (b) Prior to commencing work for a commercial cannabis business, each prospective employee or independent contractor of a commercial cannabis business shall be required to submit an application to the City Manager so that a criminal history records check can be performed by the City or an agency authorized or requested to do so by the City. The application shall contain the following:
  - (1) Name, current resident address, and telephone number.
  - (2) Date of birth.
  - (3) Social security number, tax identification number, and/or a photocopy of the person's California Driver's license or equivalent identification card as approved by the City Manager.
  - (4) Height, weight, eye color and hair color.
  - (5) Photographs for identification purposes (photographs shall be taken by the Arvin Police Department or another source deemed reliable and appropriate by the City Manager in his or her discretion).
  - (6) Signed consent to a fingerprint-based state and federal criminal history records check conducted by the City or an agency authorized or requested to do so by the City, including but not limited to fingerprint analysis conducted utilizing the California Department of Justice Live Scan system or any other system deemed necessary or appropriate in the discretion of the City Manager.
  - (7) Such other identification and information as deemed necessary and pertinent to the Employee Work Permit by the City Manager in his or her discretion.
  - (8) Authorization for the City Manager to seek verification of the information contained within the application.
  - (9) The name of the commercial cannabis business and commercial cannabis permit holder for which the applicant is seeking to work.
- (c) Every applicant for an Employee Work Permit shall provide the City with a non-refundable fee, as established by resolution of the City Council, to cover the City's costs of general review and processing Employee Work Permit Applications. The fee may also be established as a trust deposit for actual costs. The fee, or the initial trust deposit, shall be in an amount the City Manager estimates will cover the costs of reviewing and processing the application. If a trust deposit-based fee is established, the trust deposit shall be used and drawn upon as a retainer to cover the actual costs incurred by the City. If the initial amount of the trust deposit is not sufficient, the applicant shall provide additional amounts as necessary within thirty (30) days of a

request from the City. If the applicant fails to do so, application review and processing shall cease and shall not continue until such additional amounts are paid. The fee may be paid by the commercial cannabis business on behalf of an applicant for an employee work permit.

- (d) A state and federal criminal history records check fee, pursuant to Section 17.64.240(k)(4), shall also be required in connection with the employee work permit application, except that the applicant may provide the City Manager with a completed state and federal criminal history records check performed by a third party vendor, as deemed necessary or appropriate in the discretion of the City Manager, in which case no criminal history records check fee shall be required except as otherwise stated in Section 17.64.240(k). When the fee is required, it may be paid by the commercial cannabis business on behalf of the applicant.
- (e) The City Manager, upon receiving a properly completed application, payment of the application fee, and payment of the criminal history records check fee or a completed third party criminal history records check, shall conduct an investigation into the information provided by the applicant. In connection with the criminal history records check, the City Manager is authorized to request subsequent notification service, if Live Scan is used, or an equivalent service, if another system is used, sufficient to obtain ongoing notifications of criminal offenses committed by the employee-applicant after the work permit is approved. In the event the City Manager does so, and such subsequent notification or equivalent service reveals any conviction or other conduct specified in subsection (g) at any time, such conviction or other conduct shall constitute grounds for immediate revocation of the employee work permit.
- (f) The investigation shall be completed within thirty (30) days of receiving the properly completed required application materials and fees, unless a longer period is required to complete the criminal history records 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 criminal history records check and investigation. The City Manager, in his or her sole discretion, may conditionally approve the issuance of an Employee Work Permit pending completion of the criminal history records check and investigation. Notice of the decision shall be personally served or mailed to the applicant via U.S. mail. Notice of the decision is presumed served upon the applicant at the time it is deposited within the U.S. mail. The decision of the City Manager on an Employee Permit shall be final, subject to judicial review pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within ninety (90) calendar days of the date of the decision.
- (g) An Employee Work Permit shall be denied based upon any of the following grounds:
  - (1) The employee-applicant has, at any time, been issued a local or state permit or license to conduct commercial cannabis activities in California or another state and the permit or license has been suspended or revoked, or the applicant has otherwise been sanctioned by or subjected to disciplinary action by any licensing authority or court relating to the permit or license.

- (2) The employee-applicant has been convicted of a serious or violent offense as listed within California Penal Code Sections 667.5 and 1192.7(c), or has been convicted of any other offense listed within Business and Professions Code Section 26057.
  - (3) The employee-applicant has been convicted of a misdemeanor involving theft, dishonesty, fraud, narcotics sales or narcotic trafficking within the five (5) years preceding the date of the application.
  - (4) The employee-applicant has been convicted of a felony involving the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined within the Federal Controlled Substance Act, unless the applicant received a Certificate of Rehabilitation as defined in said Act.
  - (5) The employee-applicant has engaged in misconduct related to the qualifications, functions or duties of his or her position with the commercial cannabis business.
  - (6) The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business practices as defined by the Arvin Municipal Code and/or state or federal law.
  - (7) The employee-applicant is under the age of twenty-one (21), or any age as may be set by state law.
  - (8) The employee-applicant meets any of the conditions identified within Business and Professions Code Section 26057(b).
- (h) Each employee work permit shall expire twelve (12) months after the date of its issuance and must thereupon be renewed. The procedures and requirements for applying for and obtaining a renewal of an employee work permit shall be the same as for initial issuance of such permit. It shall be unlawful and a violation of this Chapter for any person to act as an employee or independent contractor for a commercial cannabis at any time without a valid and current Employee Work Permit issued pursuant to this Section.
- (i) 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.
- (j) 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, which notice shall be given in the same manner applicable to the notice of hearing. 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.

- (k) The City Manager may immediately suspend an Employee Work Permit without notice or a hearing, subject to a subsequent hearing prior to reinstatement or revocation pursuant to subsection (j), under the following circumstances:
  - (1) The employee or independent contractor is convicted of a public offense in any court for the violation of any law which would be grounds for denial of an Employee Work Permit.
  - (2) The City Manager or Chief of Police determines that immediate suspension is necessary to protect the public health, safety and welfare of the community. The City Manager shall provide notice of the grounds for immediate suspension of the Employee Work Permit and the suspension shall only be for as long as reasonably necessary to address the grounds which led to the suspension.

**Section 17.64.100 Right to Occupy and to Use Property.**

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

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

- (a) Commercial cannabis activity shall be a conditional use within the following zoning districts of the City: M-1, M-2, M-3, A-1 and A-2 zoning districts. Commercial cannabis activity is prohibited in all other zoning districts of the City.
- (b) No commercial cannabis business shall be located within one thousand feet (1,000') from any school, day care center, youth center, public park, or public library.
- (c) No commercial cannabis business may operate within any residential zoning district or area of the City.
- (d) A commercial cannabis business generally may not operate adjacent to, across a street or alley from, or within two hundred feet (200') of, any residential zoning

district or area of the City. However, if an existing building or facility in a City zoning district enumerated in subsection (a) is located adjacent to or across a street or alley from a residential zoning district or area of the City, a commercial cannabis business may be permitted to operate in such location if, in the opinion of City Manager, the operation of a commercial cannabis business in such location would not tend to cause a public nuisance, nor a situation which may result in repeated police department responses or a negative impact on the adjacent residential units or dwellings. Any subsequent expansion of a commercial cannabis business permitted to operate in such a location, which expansion requires a new or amended commercial cannabis permit, shall also be subject to a determination by the City Manager that the expansion would not tend to cause a public nuisance or a situation which may result in repeated police department responses or a negative impact on the adjacent residential units or dwellings.

- (e) Commercial cannabis businesses shall be required to comply with all zoning, land use, and development regulations applicable to the underlying zoning district in which they are permitted to establish and operate as set forth in Title 17 of the Arvin Municipal Code.
- (f) Any commercial cannabis business which has been determined by the City Manager to be an existing commercial cannabis business on the effective date of this Chapter shall be exempt from compliance with the limitations prescribed in this Section, unless such location is otherwise determined to constitute a public nuisance or otherwise a disturbance to the adjacent or neighboring uses as determined by the provisions of this Chapter.

**Section 17.64.120 Alcohol and Tobacco Restrictions.**

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

**Section 17.64.130 Concurrent Regulation with State.**

It is the stated intent of this Chapter to regulate commercial cannabis activity in the City concurrently and consistently with State law. Except where an express provision of this

Ordinance applies to create an obligation that is more stringent than the minimum standards established by State law, this Chapter shall be construed in accordance with that intent.

**Section 17.64.140 Compliance with Laws.**

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

**Section 17.64.150 Inspections and Enforcement.**

- (a) No commercial cannabis business shall commence operation, and no commercial cannabis permit application or conditional use permit application shall be approved for any commercial cannabis business, unless and until:
  - (1) The City Manager and Police Chief have inspected the premises of the commercial cannabis business and reviewed all written procedures, standards and protocols developed by such business pursuant to this Chapter, and have confirmed in writing that the business is in compliance with all applicable requirements of this Chapter and other applicable provisions of the Arvin Municipal Code, any applicable local regulations, and any applicable state laws, administration or enforcement of which is within their jurisdiction; and
  - (2) The Fire Chief and Building Official have inspected the premises of the commercial cannabis business and reviewed all written procedures, standards and protocols developed by such business pursuant to this Chapter, and have confirmed in writing that the premises are in compliance with the California Building Standards Code and the State Fire Marshal regulations, as adopted by the City, and all other applicable building and fire safety-related requirements, administration or enforcement of which is within their jurisdiction.
- (b) In addition to the initial permit inspections pursuant to subsection (a) and after permitted commercial cannabis business activities have commenced, the City Manager, the Building Official, the Police Chief, and the Fire Chief are authorized to conduct reasonable unannounced and suspicionless inspections of the interior and exterior premises of any commercial cannabis businesses at any time during regular business hours (generally eight (8:00) a.m. and seven (7:00) p.m., Monday through

Sunday), for the purpose of ensuring compliance with this Chapter and applicable state law as specified in subsection (a).

- (c) Each commercial cannabis business shall be subject to two mandatory inspections conducted pursuant to subsection (b) per calendar year. Notwithstanding the foregoing, further inspections may be conducted at any time in response to complaints received by the City relating to violations on the premises of a commercial cannabis business.
- (d) During all inspections conducted pursuant to this Section, the inspecting officials are authorized to photograph and otherwise document the conditions on the premises, and to take such other measures as are reasonably necessary to ascertain whether the business is in compliance with this Chapter, subject to adherence to all HIPAA rights and all other applicable privacy rights unrelated to the purpose and intent of the inspection. Samples of cannabis and cannabis products may be temporarily taken from the commercial cannabis business and retained for the minimum time and to the minimum extent necessary to ascertain compliance with this Chapter, provided that any such samples shall be logged, recorded, and maintained in accordance with the Arvin Police Department standards for evidence.
- (e) For all inspections required by this Section (not including complaint-based inspections), inspection fees sufficient to cover the costs of such inspections shall be paid by each commercial cannabis business as part of such business' commercial cannabis permit application fees or annual permit fees.
- (f) Failure or refusal of a commercial cannabis business, or any owner, manager, employee or agent thereof, to grant access to the premises of the commercial cannabis business to facilitate any inspection pursuant to this Section shall constitute a violation of this Chapter, and shall constitute grounds for the City to obtain an inspection warrant to inspect the commercial cannabis business in accordance with State law.
- (g) All inspections shall be subject to adherence to applicable HIPAA rights and other applicable privacy rights unrelated to the purpose and intent of the inspections.
- (h) The requirements and remedies set forth in this Section shall be in addition to all other applicable provisions of the Arvin Municipal Code.

**Section 17.64.160 Fees and Charges.**

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

**Section 17.64.170    Violations and Enforcement.**

- (a) It is unlawful for any person to violate any provision of this Chapter.
- (b) Each and every violation of this Chapter constitutes a misdemeanor punishable in accordance with Chapter 1.08.010 of the Arvin Municipal Code.
- (c) Each and every violation of this Chapter constitutes a public nuisance which may be abated by the City pursuant to the Arvin Municipal Code.
- (d) Violations of this Chapter may be redressed by any and all applicable civil remedies available to the City, including but not limited to civil actions for injunctive relief.
- (e) Violations of this Chapter are subject to all applicable administrative remedies under the Arvin Municipal Code, including but not limited to issuance of administrative citations. Notwithstanding the foregoing, the administrative citation penalty for all violations of this Chapter, within a rolling twelve (12) month period, shall be as follows: one thousand dollars and no cents (\$1,000.00) per violation.
- (f) 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 the violation exists. and shall be penalized pursuant to this Chapter and the applicable provisions of the Arvin Municipal Code.
- (g) The remedies set forth in this Section are cumulative of each other and of any other legal remedies available at law.
- (h) The City Manager may suspend or revoke a commercial cannabis permit when the permit holder or anyone acting on its behalf has committed any of the following acts or maintained any of the following conditions:
  - (1) Any action or condition which would constitute grounds for denial of a commercial cannabis permit.
  - (2) Any violation of this Chapter, the Arvin Municipal Code, any applicable state law governing the commercial cannabis business or activity, or any applicable condition of approval of the commercial cannabis permit or any other entitlement pertaining to the operation of the commercial cannabis business.
- (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 in the same manner applicable to the notice of hearing. The decision of the City Manager shall be final, subject to judicial review pursuant to Code of Civil

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

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

**Section 17.64.180 Limitations on City’s Liability.**

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

- (a) Execute an agreement indemnifying, defending (at its sole cost and expense), and holding the City and its officers, employees, representatives, and agents harmless from any and all claims, losses, damages, injuries or liabilities associated with permitting or approving the operation of a commercial cannabis activity or the operation thereof or associated with the commercial cannabis business or its members’ violation of any federal, state or local laws.
- (b) Maintain insurance at coverages, limits, and with conditions thereon determined necessary by the City Manager, in consultation with the City Attorney. Commercial General Liability insurance shall be maintained at all times with coverage limits that meet or exceed two million dollars (\$2,000,000.00) per occurrence and in the aggregate. In the alternative to maintaining Commercial General Liability insurance, a commercial cannabis permit holder may post a bond, in a form subject to approval by the City Attorney, with the City in the minimum amount of two million dollars (\$2,000,000.00). The City Manager may, in his or her sole discretion, increase the minimum bond amount required by a commercial cannabis permit holder.
- (c) Reimburse the City for any and all costs and expenses, including attorneys’ fees and costs and court costs, that the City may be required to pay as a result of any legal challenge related to the City’s approval of a commercial cannabis permit pursuant to this Chapter or the City’s approval of the operation of a commercial cannabis

activity. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the obligations imposed under this Section.

The City may revoke a commercial cannabis permit for failure to maintain the required insurance or bond. The City may provide a commercial cannabis permit holder with written notice of its intent to revoke the commercial cannabis permit and for failure to maintain the required insurance or bond. Within seven (7) calendar days from the date upon the notice of intent to terminate, a commercial cannabis permit holder shall tender to the City proof that it has obtained the required insurance or posted the required bond. If a commercial cannabis permit holder fails to timely provide proof of the required insurance or bond to the City, the commercial cannabis permit shall be revoked and the commercial cannabis permit holder shall immediately cease all commercial cannabis business activities. Failure to immediately cease all commercial cannabis business activities shall subject the commercial cannabis permit holder to the penalties, enforcement and cost recovery provisions established within the Arvin Municipal Code and any other legal remedies available to the City.

**Section 17.64.190 Commercial Cannabis Permit Application Procedures and Requirements.**

- (a) In addition to the authority granted pursuant to the express provisions of this Section and Chapter, to the extent consistent with this Chapter and other applicable law, the City Council may by resolution adopt such fees, and the City Manager may adopt such forms and procedures, as are necessary to implement this Chapter with respect to the review, processing, evaluation, selection, investigation, approval, denial, renewal, suspension, and revocation of commercial cannabis permits and related appeals.
- (b) The owner of a proposed commercial cannabis operation shall file an application with the City Manager upon a form provided by the City and shall pay an application filing fee as established by resolution of the City Council, as may be amended from time to time. The fee may be established as a trust deposit for actual costs. The fee, or the initial trust deposit, shall be in an amount the City Manager estimates will cover the costs of reviewing and processing the application. If a trust deposit-based fee is established, it shall be used and drawn upon as a retainer to cover the actual costs incurred by the City. If the initial amount of the trust deposit is not sufficient, the applicant shall provide additional amounts as necessary within thirty (30) days of a request from the City. If the applicant fails to do so, application review and processing shall cease and shall not continue until such additional amounts are paid.
- (c) Each commercial cannabis permit application shall contain, at minimum, the following:
  - (1) The printed full name, signature, date of birth, social security number, a color photocopy of the California Driver's license or equivalent form of identification approved by the City Manager, and current address and telephone number of all owners of and responsible persons for the commercial cannabis business that is the subject of the application.

- (2) Signed consent of each owner and responsible person, who is identified pursuant to subsection (c)(1) and who is not required to obtain an employee work permit pursuant to Section 17.64.090, to a fingerprint-based state and federal criminal history records check conducted by the City or an agency authorized or requested to do so by the City, including but not limited to fingerprint analysis conducted utilizing the California Department of Justice Live Scan system or any other system deemed necessary or appropriate in the discretion of the City Manager.
- (3) The address of the commercial cannabis business to which correspondence from the City is to be sent, if other than the permitted premises.
- (4) The names and addresses of all businesses operated by, and the employment of, the applicant and its owners for the five (5) years immediately preceding the date of the application.
- (5) 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.
- (6) The address of any commercial cannabis business currently being operated by the applicant or any of its owners, or which has been previously operated by any of them.
- (7) The existing and/or anticipated supply sources and product supply chain for all cannabis and cannabis products entering and leaving the commercial cannabis business, including the site(s) where cultivation occurs, where the cannabis or cannabis products are processed or manufactured, where any required testing of cannabis or cannabis products occurs, and distribution information. Packaging and labelling information and criteria, demonstrating compliance with Section 17.64.240(w), shall also be included.
- (8) The names, telephone numbers, and color photocopies of California driver's licenses or other identification cards as approved by the City Manager, of all employees, volunteers and independent contractors to be regularly engaged in the operation of the commercial cannabis business.
- (9) Odor control devices and techniques demonstrating compliance with Section 17.64.240(i), sufficient to prevent odors from cannabis from being detectable off of the premises.
- (10) Procedures for safety and adequately identifying, storing, managing, and disposing of all litter, waste, hazardous materials, contaminants, or adulterated, deteriorated or excess cannabis or cannabis products or

byproducts of the commercial cannabis business, and demonstrating compliance with Section 17.64.240(t).

- (11) Information reflecting adequate capitalization of the commercial cannabis business.
- (12) 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.
- (13) A detail of the operating procedures to be utilized at the facility, including a description of how chemicals and fertilizers will be stored, handled, used and disposed of, manufacturing methods, the transportation process, inventory procedures, and quality control procedures.
- (14) A site plan and floor plan of the premises of the commercial cannabis business denoting the property lines and the layout of all structures and areas of the commercial cannabis business including storage, cultivation, manufacturing, testing, distributing, reception or waiting areas, and all ancillary support spaces, and the relationship of the facility to adjacent properties and land uses, indicating compliance with the California Building Standards Code and Title 17 of the Arvin Municipal Code.
- (15) A plan for the proposed signage at the site, including size, height, colors and design of all signage, demonstrating compliance with Section 17.64.240(g). A City sign permit issued pursuant to applicable provisions of the Arvin Municipal Code shall be required.
- (16) A security plan satisfactorily addressing all required security measures identified in Section 17.64.080 and lighting as required by Section 17.64.240(x).
- (17) 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.
- (18) Proposed days and hours of operation.
- (19) Recycling and waste disposal procedures reflecting, to the extent practicable, efficiency and conservation of materials and resources used in the commercial cannabis business.
- (20) Youth access restriction procedures demonstrating compliance with Section 17.64.240(h).
- (21) A transportation plan providing procedures for safely and securely transporting all cannabis, cannabis products and currency to and from the premises.

- (22) A detailed description of energy and water usage plan enumerating best practices and leading industry practices in efficient utilization of both resources.
  - (23) Evidence of compliance with all applicable insurance-related requirements of this Chapter and State law, including but not limited to Section 17.64.180. Endorsements reflecting the City's status as an additional insured on all required policies shall also be included.
  - (24) A copy of the valid and current City business license held by the applicant.
  - (25) A copy of the valid and current seller's permit issued by the California Department of Tax and Fee Administration (formerly the Board of Equalization) to the applicant, or confirmation from said agency that a seller's permit is not required. If a seller's permit is required but the applicant has not yet received it, an attestation that the applicant is currently applying for a seller's permit shall suffice, provided that a copy of the permit shall be provided to the City immediately upon being obtained by the applicant, and the applicant shall not commence activities for which a seller's permit is required until it is obtained.
  - (26) Identification of any and all other licenses and permits currently or formerly held by the applicant, and any other applications pending review for the applicant, relating to commercial cannabis activities, from any licensing or permitting authority, and specific identification of any licenses or permits denied to, suspended for, or revoked from the applicant.
  - (27) Signed acknowledgment of the requirements of this Chapter, including bi-annual inspections as established within Section 17.64.150.
  - (28) Signed authorization for the City Manager to seek verification of the information contained in the application.
  - (29) A signed statement by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
  - (30) Any other information deemed necessary by the City Manager.
- (d) A commercial cannabis permit application may be denied based upon any of the following grounds:
- (1) The applicant has been issued a state or local permit or license to conduct commercial cannabis activities (in California or another state) and the permit or license has been suspended or revoked, or the applicant has otherwise been sanctioned or subjected to administrative disciplinary action relating to the permit or license by any licensing or permitting authority, or the applicant has been involved in a cannabis business that was ordered closed by a civil injunction or other court order based on a violation of law.

- (2) The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, has been convicted of a serious or violent offense as listed within California Penal Code Sections 667.5 and 1192.7(c), or the applicant has been convicted of any other offense listed within Business and Professions Code Section 26057.
- (3) The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, has been convicted of a misdemeanor involving theft, dishonesty, fraud, narcotics sales or narcotic trafficking within the five (5) years preceding the date of the application.
- (4) The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, has been convicted of a felony involving the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined within the Federal Controlled Substance Act, unless the applicant received a Certificate of Rehabilitation as defined in that Act, within the ten (10) years preceding the date of the application.
- (5) The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, has engaged in misconduct related to the ownership, qualifications, functions or duties of their position with the commercial cannabis business.
- (6) The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, has engaged in unlawful, fraudulent, unfair, or deceptive business practices as defined by the Arvin Municipal Code and/or state or federal law.
- (7) The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, is under the age of twenty-one (21).
- (8) The applicant has violated or failed to comply with any of the requirements of this Chapter or other applicable state or local laws or regulations, or any condition of any entitlement issued to the commercial cannabis business, as determined by the City Manager.
- (9) The applicant has not been issued a conditional use permit pertaining to the location of the commercial cannabis business pursuant to Section 17.64.210 and Chapter 17.56.

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

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

- (e) The City Manager shall review each application to determine whether it contains all of the required information. If the application does not contain all of the required information, it shall be returned to the applicant for completion. The City Manager shall endeavor to conclude his or her review within ninety (90) days of the filing of the application. If additional time is necessary, the City Manager will advise the applicant of an estimated review time.
- (f) In reviewing an application for a commercial cannabis permit, the City Manager may request whatever additional information is deemed necessary to determine whether the application meets the requirements of this Chapter or other applicable local laws or regulations.
- (g) The City Manager shall have the authority to either approve or deny the application for a commercial cannabis permit. The City Manager shall approve the application if and only if it meets all applicable requirements of this Chapter. Notwithstanding any other provision of this Chapter, the City Manager, when approving a commercial cannabis permit, may place any additional limitations and conditions on the operation of a commercial cannabis business as he or she deems necessary, consistent with the with this Chapter and any regulations promulgated pursuant hereto.
- (h) Payment of an annual commercial cannabis permit fee, in an amount set by resolution of the City Council sufficient to cover the City's annual costs of administering the mandatory regulatory functions of this Ordinance in regards to the permitted commercial cannabis business, including but not limited to inspections, audits and investigations, shall be required before issuance or renewal of any commercial cannabis permit pursuant to this Chapter. The fee may be established as a trust deposit for actual costs. The fee, or initial trust deposit, shall be in an amount the City Manager estimates will cover the City's annual costs as described in this paragraph. If a trust deposit-based fee is established, the trust deposit shall be used and drawn upon as a retainer to cover the actual costs incurred by the City. If the initial amount is not sufficient, the applicant shall provide additional amounts as necessary upon request from the City. Failure to pay such additional amounts within thirty (30) days of a request by the City shall constitute a violation of this Ordinance and grounds for denial, non-renewal or revocation of the subject commercial cannabis permit.
- (i) 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.
- (j) 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, the aggrieved party may appeal such action by filing with the City Clerk a

written appeal setting forth the grounds for reversing the denial. The time requirement for filing an appeal shall be deemed jurisdictional and may not be waived. Appeals not timely filed or not setting forth the basis for the appeal are defective and shall be dismissed.

- (2) Upon receipt of such written appeal, the City Clerk shall set the matter for a hearing before the City Manager. The hearing shall be conducted pursuant to the following procedures:
- i. All hearings shall be recorded. Any party may, at their sole expense, have the hearing transcribed by a certified shorthand reporter;
  - ii. Hearings need not be conducted according to the technical rules of evidence;
  - iii. Any relevant evidence shall be admitted, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state;
  - iv. Oral evidence shall be taken only on oath or affirmation. The City Manager shall have the power to administer oaths;
  - v. Irrelevant and unduly repetitious evidence shall be excluded;
  - vi. Each party shall have the right to: call and examine witnesses on any matter relevant to the issues of the hearing; introduce documentary and physical evidence; cross-examine opposing witnesses on any matter relevant to the issues of the hearing, subject to the control of the City Manager, including the imposition of reasonable alternatives to cross-examination; impeach any witness regardless of which party first called the witness to testify; rebut the evidence; and be represented by anyone who is lawfully permitted to do so;
  - vii. The City Manager may take official notice, either during the hearing or after submission of the matter for decision, of any fact which may be judicially noticed by the courts of this state or of official records, regulations, rules, and decisions of state and local agencies, boards and departments and of City ordinances. In addition, the City Manager may take official notice of matters in its own files and of prior proceedings under this chapter involving the same issues. If applicable, the City Manager may also take official notice of any generally accepted technical or scientific matter within their expertise. The parties present at the hearing shall be informed of the matters to be noticed, and those matters should be noted in the record, referred to therein, or appended thereto. Any such party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority; and

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

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

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

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

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

#### **Section 17.64.200 Development Agreement.**

A qualified applicant, pursuant to subsection (b) of this Section, may apply to enter into a development agreement with the City pertaining to a commercial cannabis operation. The provisions of this Section shall apply to such applications.

- (a) Content and Procedures.
  - (1) Development agreements entered into pursuant to this Chapter shall set forth the terms and conditions under which the commercial cannabis business will

operate that are in addition to the requirements of this Chapter, including, but not limited to, public outreach and education, community benefit, community service, payment of fees and other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety, and welfare of the City.

- (2) The procedures for commercial cannabis development agreements shall comply with this Chapter, Chapter 16.40 of the Arvin Municipal Code, and Article 2.5 of Chapter 4 of Division 1 of Title 7 of the California Government Code. To the extent there is a conflict between this Chapter and Chapter 16.40 of the Arvin Municipal Code with respect to a development agreement for a commercial cannabis business, this Chapter shall govern.
- (b) **Qualified Applicant.** Development agreements are for substantial development projects, often requiring an investment in infrastructure and/or improvements, and payment of development impact fees. Such agreements are special contracts to be negotiated with property owners or those with an interest in the land. A qualified applicant is a person who meets all of the following criteria, with satisfaction of each criterion to be determined in the sole discretion of the City Manager:
- (1) The applicant has a pending or approved application for a commercial cannabis permit and a pending or approved application for a conditional use permit pursuant to Section 17.64.210 and Chapter 17.56 on file with the City pertaining to the real property that will be subject to the development agreement;
  - (2) The applicant holds a legal or equitable interest in the real property that will be the site of the commercial cannabis business. If the applicant does not own the property, the applicant must have a legal right to purchase or develop the property and/or notarized written consent from the owner of the property to operate a commercial cannabis business on the property and to enter into a development agreement with the City pertaining to the property.
- (c) **Filing Requirements.**
- (1) Only a qualified applicant may file an application to enter into a development agreement. An applicant shall provide, to the satisfaction of the City Manager, written proof of meeting the criteria in subsection (b) above, as well as proof of the authority of any agent or representative to act for the applicant.
  - (2) The City Manager shall prescribe the form for each application, notice and documents provided for or required under this Section for the preparation and implementation of development agreements. The applicant shall complete and submit such an application form to the City Manager, along with a deposit for the estimated direct and indirect costs of processing the development agreement. Each applicant pursuant to this Section shall be required to pay a development agreement application fee, in an amount

established by resolution of the City Council, sufficient to cover the City's costs of review and processing of the development agreement application pursuant to this Section and/or Chapter 17.56. The fee may be established as a trust deposit for actual costs. The fee, or the initial trust deposit, shall be in an amount the City Manager estimates will cover the costs of reviewing and processing the application. If a trust deposit-based fee is established, the trust deposit shall be used and drawn upon as a retainer to cover the actual costs incurred by the City. If the initial trust deposit is not sufficient, the applicant shall provide additional amounts as necessary within thirty (30) days upon of a request from the City. If the applicant fails to do so, the application review and processing shall cease and shall not continue until such additional amounts are paid.

- (3) The City Manager shall require an applicant to submit such information and supporting data as the City Manager considers necessary to process the application, including but not limited to a community benefit assessment to evaluate the benefits the development agreement will provide to the community.

(d) Processing Requirements.

- (1) The City Manager shall endorse on the application the date it is received. An application or related document shall not be complete until an estimated deposit for the cost of processing has been paid to the City. The City Manager shall review the application and determine any additional requirements necessary to complete processing of the application. If within thirty (30) days of receiving the application the City Manager finds that all required information has not been submitted or the application is otherwise incomplete or inaccurate, the processing of the application and the running of any limits shall be suspended upon written notice to the applicant and a new thirty (30) day period shall commence once the required material is received by the City Manager.
- (2) If the City Manager finds that the application is complete, it shall be accepted for filing and the applicant so notified. After receiving the required information and determining that the application is complete, the City Manager shall prepare a staff report and recommendation to the Planning Commission and City Council stating whether or not the agreement as proposed or in an amended form would be consistent with policies of the City, this Chapter and any applicable general or specific plan. The City Attorney shall review the proposed development agreement as to legal form.
- (3) Notice of a hearing regarding the development agreement shall be given by the City Manager and shall comply with the requirements of Section 65867 of the California Government Code, as may be amended, as well as in the manner set forth in this Code.

- (4) The Planning Commission shall review the proposed development agreement and provide a recommendation to the City Council to approve, approve with modifications or deny the proposed development agreement. If the Planning Commission fails to take action within sixty (60) days of opening the hearing on the matter, such failure shall be deemed to have made a recommendation of denial to the City Council unless the applicant has requested an extension of time, either in writing or on the record, which has been approved by the Planning Commission prior to the running of the sixtieth day.
  - (5) The proposed development agreement shall be set for hearing and consideration before the City Council within sixty (60) days of the recommendation of the Planning Commission, unless the applicant agrees in writing to an extension of time with the City Manager prior to the matter being heard by the City Council.
  - (6) Within ten (10) calendar days after the City enters into any development agreement pursuant to this Section, the City Clerk shall have the agreement recorded with the County Recorder. If the parties to the agreement or their successors in interest amend or cancel the agreement as provided in Section 65868 of the California Government Code, or if the City terminates or modifies the agreement as provided in Section 65865.1 of the California Government Code for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the City Clerk shall have notice of such action recorded with the County Recorder.
- (e) Findings and Development Agreement Conditions. After the City Council completes the public hearing, the City Council may not approve the development agreement unless it finds that the provisions of the agreement:
- (1) Are consistent with the goals, objectives, and policies of the general plan and any applicable specific plan;
  - (2) Are compatible with the uses authorized in and the regulations prescribed for the zoning district and area in which the real property is located;
  - (3) Will not be detrimental to the health, safety, environmental quality, and general welfare of the community;
  - (4) Will provide for or result in contributions, services or facilities that benefit the community, which may include, but are not limited to, public facilities, improvements, and services, parks, recreation and open space improvements, public art, youth sports programs, other public youth benefit programs, substance abuse awareness and recovery programs, and other public service programs.
  - (5) Will not adversely affect the orderly development of property or the preservation of property values;

- (6) Provides for payment by the applicant of all costs associated with preparing and entering into the agreement; and
  - (7) Provides for a reasonable penalty for any violation of the development agreement.
- (f) Effectiveness of a development agreement pursuant to this Section shall be contingent upon issuance of a commercial cannabis permit and all other entitlements necessary to operate a commercial cannabis business on the subject property.
- (g) Modifications and Extensions.
- (1) The provisions of Section 65868 of the California Government Code shall apply for all modifications, extensions or other amendments of the terms of a development agreement subject to this Chapter.
  - (2) Either party may propose an amendment or termination of an approved development agreement subject to the following:
    - (i) The procedure for amending or terminating the development agreement is the same as the procedure for entering into an agreement in the first instance.
    - (ii) The development agreement may be amended or cancelled only by the mutual consent of the parties, as provided in Section 65868 of the California Government Code.
  - (3) Nothing herein shall limit the City's ability to terminate or modify the agreement consistent with Section 65865.1 or 65865.3 of the California Government Code, or as may be amended.

**Section 17.64.210 Conditional Use Permits.**

- (a) Except as otherwise stated herein, the procedure for filing of applications, payment of filing fees, investigations, notices, public hearings, findings, and appeals of denials of conditional use permits required for commercial cannabis businesses pursuant to this Chapter shall be as stated in Section 17.56.020, as may be amended.
- (b) Applications. In addition to the application requirements pursuant to Section 17.56.020, as amended, applications for conditional use permits for commercial cannabis businesses pursuant to this Chapter shall contain the following information:
  - (1) The City zoning district, street address, legal description, and assessor's parcel number of the subject real property to be used as the site of the commercial cannabis operation.
  - (2) A general description of the subject property and the area surrounding the subject property, including proposed and existing land uses and existing physical characteristics.

- (3) Payment of the required application fee pursuant to subsection (c).
  - (4) A statement of whether the subject property is located within 1,000 feet of any school, day care center, youth center, park or library.
  - (5) A statement of whether the subject property is located adjacent to or across a street or alley from any residential zoning district of the City.
  - (6) An agreement by the applicant to comply with all state and local laws and regulations applicable to the operation of the proposed commercial cannabis business on the subject property, including but not limited to the prohibitions of Section 17.64.120 relating to the sale and consumption of alcohol on the premises of the proposed commercial cannabis business.
  - (7) An agreement by the applicant to comply with the terms of any and all mitigation measures adopted, imposed or adhered to by the City pursuant to the California Environmental Quality Act relating to or affecting the operation of a commercial cannabis business on the subject property.
  - (8) An agreement by the applicant to indemnify, defend (at its sole cost and expense), and hold harmless the City and its officers, employees, representatives, and agents from any and all claims, losses, damages, injuries or liabilities associated with permitting or approving the operation of a commercial cannabis activity or the operation thereof on the site, or associated with the commercial cannabis business or its members' violation of any federal, state or local laws.
  - (9) A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
  - (10) Any other deemed necessary, by the City Manager, in his or her discretion, to determine whether the applicant meets the requirements of this Chapter or other applicable requirements of state or local laws or regulations, or to further the purpose and intent of this Chapter.
- (c) Each applicant for a conditional use permit pursuant to this Section shall be required to pay a conditional use permit application fee, as established by resolution of the City Council, sufficient to cover the City's costs of review and processing of the conditional use permit application pursuant to this Section and/or Chapter 17.56. The fee may be established as a trust deposit for actual costs. The fee, or the initial trust deposit, shall be in an amount the City Manager estimates will cover the costs of reviewing and processing the application. If a trust deposit-based fee is established, the trust deposit shall be used and drawn upon as a retainer to cover the actual costs incurred by the City. If the initial trust deposit is not sufficient, the applicant shall

provide additional amounts as necessary within thirty (30) days of a request from the City. If the applicant fails to do so, the application review and processing shall cease and shall not continue until such additional amounts are paid.

(d) Conditions of Approval.

(1) No conditional use permit shall be granted to a commercial cannabis business unless and until:

(i) The applicant has submitted a completed application for a commercial cannabis permit to the City Manager pursuant to Section 17.64.190, including payment of all required application fees;

(ii) The applicant has paid the required conditional use permit application fee and submitted all information and documentation required pursuant to this section; and

All required inspections have been conducted pursuant to Section 17.64.150, and all inspection authorities have approved the proposed business and premises pursuant to said inspections.

(2) A conditional use permit pursuant to this Section may be issued contingent upon the applicant obtaining a commercial cannabis permit and all other necessary entitlements pertaining to the operation of a commercial cannabis business pursuant to this Chapter.

(3) The City Manager, the Building Official, the Fire Chief, and the Chief of Police may recommend conditions of approval which may be imposed by the Planning Commission in connection with any conditional use permit granted by the Planning Commission pursuant to this Section.

(e) Approval; Required Findings. The Planning Commission shall not approve any application for a conditional use permit pursuant to this Section unless and until it makes all of the following findings:

(1) The commercial cannabis business satisfies all requirements of this Section and all other requirements of this Chapter pertaining to the location of the commercial cannabis business.

(2) The commercial cannabis business satisfies all requirements of Chapter 17.56.

(3) The proposed land use will be compatible with the uses authorized in and the regulations prescribed for the zoning district and area in which the premises of the business is located.

- (4) The proposed land use not be detrimental to the health, safety, environmental quality, and general welfare of the community.
  - (5) Issuance of the conditional use permit is consistent with the terms of any development agreement entered into pursuant to Section 17.64.200.
  - (6) Issuance of the conditional use permit is in compliance with the California Environmental Quality Act (CEQA), and the applicant has agreed to comply with all applicable CEQA mitigation measures.
- (f) **Suspension and Revocation.** The City's Planning Commission may suspend or revoke a conditional use permit issued to a commercial cannabis business in accordance with Chapter 17.56. Notwithstanding the foregoing, in addition to the grounds set forth in Chapter 17.56 for suspension or revocation of a conditional use permit, failure to utilize the subject property for the use authorized in a conditional use permit within six months of its issuance, unless an extension is granted by the City Manager, shall constitute a basis for denial or suspension of the conditional use permit.

**Section 17.64.220 Records and Reporting.**

- (a) Commercial cannabis operations shall maintain on the permitted premises the following records either in paper or electronic form:
  - (1) The full name, address, and telephone numbers of the owner and lessee of the property.
  - (2) The name, date of birth, address, and telephone number of each employee and independent contractor of the commercial cannabis operation; the date each was hired or retained; and the nature of each person's participation in the commercial cannabis business.
  - (3) Copies of all required state licenses.
  - (4) An inventory record documenting the dates and amounts of cannabis and cannabis products received at the site, the daily amounts of cannabis and cannabis products on the site, and the daily amounts of cannabis and cannabis products leaving the site for any reason, including but not limited to cannabis that is sold, delivered, or distributed.
  - (5) A written accounting of all expenditures, costs, revenues and profits of the commercial cannabis operation, including but not limited to cash and in-kind transactions.
  - (6) A copy of all insurance policies related to the operation of the commercial cannabis operation.
  - (7) A copy of the commercial cannabis operation's most recent year's financial statement and tax return.

- (8) Proof of a valid and current permit issued by the City in accordance with this chapter, and the equivalent State of California license to operate the commercial cannabis business. Every commercial cannabis business shall display at all times during business hours the City permit issued pursuant to the provisions of this Chapter, and the equivalent State license, in a conspicuous place so that it may be readily seen by all persons entering the location of the commercial cannabis operation.
- (b) Subject to HIPAA rights and regulations unrelated to the purpose and intent of the inspection, each commercial cannabis business shall allow City officials, upon request, to inspect all books, accounts, records, information and data required to be maintained by the cannabis business pursuant to this Chapter or otherwise relevant to its permitted activities for the purpose of facilitating any inspection, audit or investigation deemed necessary by the City. Such records shall be produced within twenty-four (24) hours after receipt of the City's request.
- (c) By December 1 of each year, each commercial cannabis business shall file with the City Manager a complete audited report detailing its financial operations for the previous fiscal year, including its gross revenues, net profits, and total expenditures, which report shall be certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles. The report shall also include a discussion, analysis, and verification of each of the records required to be maintained pursuant to this Chapter. The information contained in the report shall be made available to the City 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, and shall be subject to audit by the City.
- (d) All records required by this Chapter shall be maintained by commercial cannabis businesses for a period of not less than seven (7) years, and commercial cannabis businesses shall maintain accurate records of all commercial cannabis activities. All such records shall be made available for immediate inspection by the City upon request consistent with California Business and Professions Code Section 26160.

**Section 17.64.230 Prohibition on Transfer of Commercial Cannabis Permits.**

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

- (c) Any attempt to transfer or any transfer of a commercial cannabis permit issued pursuant to this Chapter shall be void and the commercial cannabis permit shall be deemed immediately revoked and no longer of any force or effect.

**Section 17.64.240 General Operating Requirements for Commercial Cannabis Businesses.**

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:

- (a) **Hours of Operation.** Normal business hours for commercial cannabis businesses are eight (8:00) a.m. and seven (7:00) p.m., Monday through Sunday. Subject to the night-time operating restrictions applicable to deliveries set forth in Section 17.64.280, commercial cannabis businesses may operate outside normal business hours, provided that any business activity conducted outside of normal business hours shall be sensitive to surrounding land uses and occupants and shall not result in excessive light, noise or other impacts that could cause a nuisance to members of the surrounding community.
- (b) **Restriction on Consumption.** Cannabis shall not be consumed on the premises of any commercial cannabis businesses, except that medicinal cannabis may be consumed within a clinic, health care facility, residential care facility, or residential hospice licensed pursuant to applicable provisions of the California Health & Safety Code, as stated in Section 8.29.06 of the Arvin Municipal Code.
- (c) **No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the public right-of-way or other public area or any adjacent 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 tracking of cannabis and cannabis products, inventory data, and gross sales (by weight and by sale price) 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, cultivated, manufactured, delivered, distributed or tested shall be cultivated, manufactured, delivered, distributed or tested by State licensees that maintain operations in full conformance with the state and local laws and regulations.**
- (f) **Emergency Contact.** Each commercial cannabis business shall provide the City Manager with the name and telephone number (mobile preferred, if available) of an

on-site employee or owner to whom emergency notice can be provided on a 24-hour per day, 7-day per week basis.

(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 signage requirements of the Arvin Municipal Code, including, but not limited to, issuance of a City of Arvin sign permit.
- (2) Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis business or elsewhere including, but not limited to, the public right-of-way.
- (3) No signs placed on the premises of a commercial cannabis business shall obstruct any entrance or exit to the building or any window.
- (4) Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.
- (5) Signage shall not be directly illuminated, internally or externally. No banners, flags or other prohibited signs may be used at any time.

(h) Minors. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a commercial cannabis business. It is unlawful and a violation of this Chapter for any person to employ any person at a commercial cannabis business who is not at least twenty-one (21) years of age. The entrance to the commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the commercial cannabis business.

(i) Odor Control. Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected off the premises, 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 public, or within any other unit located inside the same building as the commercial cannabis business. As such, commercial cannabis businesses must install and maintain the following equipment or any other equipment which the City Manager determines has the same or better effectiveness:

- (1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
  - (2) An air system that creates negative air pressure between the commercial cannabis business's interior and exterior so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.
- (j) Display of Commercial Cannabis Permit, State License and City Business License. The original copy of the commercial cannabis permit issued by the City pursuant to this Chapter, the required State license, and the business license issued by the City pursuant to the Arvin Municipal Code shall be posted inside the commercial cannabis business in a location readily visible to the public.
- (k) Criminal History Records Check.
- (1) Every owner and responsible person of each commercial cannabis business must submit to annual fingerprint-based state and federal criminal history records checks, conducted by the City or another agency authorized or requested to do so by the City, as an application requirement in connection with each application for issuance or renewal of a commercial cannabis permit for the commercial cannabis business.
  - (2) The criminal history records check may be conducted utilizing the California Department of Justice Live Scan system or any other system deemed necessary or appropriate in the discretion of the City Manager. The City Manager is authorized to request subsequent notification service, if Live Scan is used, or an equivalent service, if another system is used, sufficient to obtain ongoing notifications of criminal offenses committed by owners or responsible persons of commercial cannabis businesses. In the event the City Manager does so, and such subsequent notification or equivalent service reveals a conviction or other conduct that would constitute grounds for denial of an employee work permit pursuant to Section 17.64.090(g), such conviction or other conduct shall constitute grounds for immediate suspension or revocation of the subject commercial cannabis permit.
  - (3) Owners and responsible persons shall be disqualified from involvement with a commercial cannabis business where the results of a criminal history records check would constitute grounds for denial of an employee work permits to a commercial cannabis business employee pursuant to Section 17.64.090(g).
  - (4) A fee for the City's costs of conducting the criminal history records check, as established by resolution of the City Council, shall be paid at the time the application for a commercial cannabis permit is submitted. The fee may be established as a trust deposit for actual costs. The fee, or the initial trust deposit, shall be in an amount the City Manager estimates will cover the costs of conducting the criminal history records check, including City review and

processing services and any third-party fees. If a trust deposit-based fee is established, it shall be used and drawn upon as a retainer to cover the actual costs of such investigation. If the initial trust deposit is not sufficient, the applicant shall provide additional amounts as necessary within thirty (30) days of a request from the City. If the applicant fails to do so, the investigation shall cease and shall not continue until such additional amounts are paid.

- (5) In the alternative to subsection (k)(4) above, the commercial cannabis business or the subject owner, manager or supervisor may provide the City Manager with a completed criminal history records check performed by a third party vendor, as deemed necessary or appropriate in the discretion of the City Manager. If this alternative is used, the fee established pursuant to subsection (k)(4) above shall not apply, except as may be necessary for the City to confirm the validity and the results of the records check used.
- (l) Upon completion of the investigation or in the event the applicant withdraws its application, any unused amount of any trust deposit made pursuant to this Chapter will be refunded to the applicant within thirty (30) days of request by the applicant.
- (m) Loitering. The owner and/or operator of a commercial cannabis business shall prohibit loitering on the premises of the commercial cannabis business.
- (n) Permits and other Approvals. Prior to the establishment or operation of any commercial cannabis business, the person intending to establish a commercial cannabis business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such commercial cannabis business intends to establish and to operate.
- (o) Greenhouses. Greenhouses may be utilized only for commercial cannabis cultivation businesses, including nurseries. Greenhouses used for cannabis cultivation shall be fully-enclosed permanent structures 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 use a combination of natural and supplemental artificial lighting. The cultivation 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 any other code adopted or incorporated by reference within the Arvin Municipal Code, as amended.
- (p) No commercial cannabis business may store food grade alcohol or any other volatile chemical, solvent or substance in an amount which exceeds the maximum authorized amount determined by the Fire Chief. Subject to the foregoing, use of food grade alcohol solely for the purposes of cleaning machinery and dissolving wax, unless otherwise prohibited by the State, is allowed.

- (q) Commercial cannabis businesses shall comply with all pesticide use requirements of local, state and federal law.
- (r) All weighing devices used by commercial cannabis businesses shall be maintained in compliance with local, state or federal law and applicable regulations regarding device registration with the Agricultural Commissioner.
- (s) Commercial cannabis businesses shall comply with all applicable provisions of the California Building Standards Code, as adopted or incorporated into the Arvin Municipal Code.
- (t) Commercial cannabis businesses shall comply with all local, state and federal laws and regulations and best practices applicable to storage and disposal of chemicals, solid waste, contaminants, hazardous materials, adulterated, deteriorated or excess cannabis and cannabis products, and all byproducts of the commercial cannabis business.
- (u) In no case shall any commercial cannabis business utilize any volatile solvents or other flammable, explosive or toxic substances to process or manufacture cannabis products in the City, except as expressly authorized pursuant to both a Type 7 State license and a City-issued commercial cannabis permit.
- (v) 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.
- (w) All cannabis and cannabis products, prior to leaving any licensed premises for transfer to any retailer, shall be properly labeled and placed in resealable, tamper-evident, child-resistant packaging, shall include a unique identifier for the purposes of identifying and tracking cannabis and cannabis products, and shall otherwise comply with applicable State laws, including Business and Professions Code Section 26120, and applicable State regulations, all as may be amended from time to time.
- (x) The premises of all commercial cannabis businesses shall have sufficient lighting such that all areas subject to monitoring by the security surveillance camera system shall be visible to all cameras of the system at all times.

**Section 17.64.250 Operating Requirements for Cultivation Businesses and Nurseries.**

- (a) Outdoor commercial cultivation and outdoor nursery activity is prohibited.
- (b) If a commercial cannabis business includes nursery activities, only one nursery may be located on the premises of the commercial cannabis business, and the nursery activity must be permitted pursuant to this Chapter and State law.

- (c) 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.
- (d) Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.
- (e) In no case shall any hazardous, flammable or explosive substances be used to process or manufacture cannabis products on site, except as otherwise stated in this Chapter pertaining to food grade alcohol.
- (f) 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.
- (g) Stacking shall be allowed in a given structure only to the point that measuring the total canopy of each level of stacking is cumulatively no greater than the maximum canopy size allowed under State laws or regulations applicable to the State cultivation license held by the commercial cannabis business.
- (h) All applicants for a commercial cannabis permit for cultivation or nursery activity shall submit the following, which shall be subject to approval by the City Manager prior to issuance of a commercial cannabis permit to the applicant, in addition to the information otherwise required for a commercial cannabis permit application:
  - (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, proper disposal of waste materials, 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 result from the nursery or cultivation site.

**Section 17.64.260 Cannabis Manufacturing Business Operating Requirements.**

- (a) Manufacturer 1 (Type 6) permittees shall utilize only manufacturing processes that are either solventless or that employ only nonflammable, nontoxic solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).
- (b) Manufacturer 2 (Type 7) permittees shall utilize only manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements:
  - (1) The system uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).
  - (2) The system is designed to recapture and contain solvents during the manufacturing process, and otherwise prevent the off-gassing of solvents into the ambient atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.
  - (3) A licensed engineer certifies that the system is commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, including, but not limited to, the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or OSHA Nationally Recognized Testing Laboratories (NRTLs).
  - (4) The system has a certification document that contains the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.
- (c) No compressed gases used in the manufacturing process shall be stored on the premises of any manufacturer in excess of the amount authorized by the Fire Chief.
- (d) No manufacturer may engage in the retail sale, by delivery or otherwise, of any manufactured cannabis products, including edible cannabis products, on a retail basis in the City.
- (e) All cannabis products shall be properly packaged and labeled in accordance with Business & Professions Code Section 26120 and applicable State regulations before leaving the commercial cannabis manufacturing business. All edible cannabis products must be in an opaque (non-see-through) package.
- (f) Manufacturers shall comply with all applicable federal, State and local laws and regulations relating to manufacturing safety procedures.

**Section 17.64.270 Cannabis Testing Laboratory Operating Requirements.**

- (a) Commercial cannabis testing laboratories (e.g. businesses requiring a Type 8 State license) shall comply with all applicable federal, state and local laws, regulations and/or guidelines governing testing procedures and safety measures.
- (b) Testing laboratories are prohibited from obtaining permits to engage in any commercial cannabis activity, except testing. A commercial cannabis business which holds a commercial cannabis permit for testing shall not be issued or hold any other commercial cannabis permit.
- (c) Testing laboratories shall not employ any individual who is also employed by any other State licensee that does not hold a Type 8 State license.
- (d) Testing laboratories must be accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity, and must provide proof of said accreditation, to the satisfaction of the City Manager, as a prerequisite to obtaining a commercial cannabis permit authorizing testing of cannabis or cannabis products.

**Section 17.64.280 Cannabis Retail/Delivery Businesses Operating Requirements**

- (a) Retail sales of cannabis and cannabis products in the City shall be conducted by delivery only.
- (b) All commercial cannabis businesses conducting deliveries shall have permitted premises in the City from which all deliveries to addresses in the City shall be conducted. Commercial cannabis businesses that do not have physical premises located in the City, and/or that propose to deliver into the City from premises outside the City, shall not be eligible for issuance of a commercial cannabis permit, and are prohibited from conducting deliveries in the City.
- (c) The premises of all commercial cannabis businesses that are permitted to conduct deliveries shall be closed to the general public at all times, and shall be accessible only to employees and persons with a bona fide business or regulatory purpose for accessing the premises.
- (d) In accordance with Business & Professions Code Section 26070.1, cannabis or cannabis products purchased by a customer shall not leave the permitted premises of a retailer unless they are placed in an opaque package.
- (e) Retailers shall not accept, possess, or sell cannabis or cannabis products that are not packaged and labeled as they will be sold at final sale and in accordance with Business & Professions Code Section 26120, as may be amended. Retailers shall not package or label cannabis or cannabis products.

- (f) No employee or other person acting on behalf of a commercial cannabis operation permitted to conduct deliveries may possess or deliver more than \$3,000 worth of cannabis or cannabis products at any given time.
- (g) No delivery shall be made to any person other than the person who requested the delivery, except when the person requesting the delivery is a qualified patient and the person receiving the delivery is his or her primary caregiver, or vice versa.
- (h) Any person who is present on the permitted premises of a commercial cannabis business permitted to conduct deliveries who is not an employee, officer, agent, or representative of the retailer must sign in and wear a “visitor” identification badge at all times while on the premises.
- (i) Proof of the required State license and commercial cannabis permit, and a copy of all requests/orders for deliveries being conducted, shall be carried at all times in all vehicles being used to make deliveries, and shall be immediately available upon request from law enforcement officers.
- (j) Deliveries shall not be conducted between the hours of 11:00 p.m. and 7:00 a.m.

**Section 17.64.290 Total Area Devoted to Commercial Cannabis Businesses**

- (a) No more than one million, three hundred fifty thousand (1,350,000) square feet of area shall be permitted for use by commercial cannabis businesses in the City. Notwithstanding the foregoing, land annexed into the City after the date of enactment of this Chapter shall not be subject to, nor shall be counted toward, this restriction.
- (b) The premises of each permitted commercial cannabis business shall be a minimum of 2,000 square feet in area.

**Section 17.64.300 Periodic Review by the City Council.**

Upon request of the City Manager, the City Attorney and the Chief of Police shall report to the City Council with findings on the operation of any commercial cannabis business permitted pursuant to this Chapter and a recommendation as to whether the business should be permitted to continue operating for the remaining period of its commercial cannabis permit (in addition to whatever other recommendations may be made) and whether the City should renew the permit upon application for renewal. Any termination or revocation of a permit based on such findings shall be in accordance with the provisions of this Chapter.

**Section 17.64.310 Promulgation of Regulations and Standards.**

The City Manager, in his or her discretion, is authorized to promulgate reasonable regulations as he or she deems necessary to implement procedures or requirements in furtherance of the purposes of this Chapter. Regulations promulgated by the City Manager shall have the same force and effect of law and shall become effective upon the date of approval and execution of such regulations by the City Manager.

**Section 17.64.320 Community Relations.**

- (a) Each commercial cannabis business shall provide the City Manager with the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the commercial cannabis business can be provided.
- (b) The owner, manager, and community relations representative of a commercial cannabis permit holder operating in the City shall, upon request of the City Manager, meet to discuss costs, benefits, and other community issues resulting from implementation or application of this Chapter.

**Section 17.64.330 Unpaid Fees Deemed Debt to City.**

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

**Section 17.64.340 Permit Holder Responsible for Violations.**

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

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

**SECTION 5.** Arvin Municipal Code Section 17.62 relating to sign regulations on private property, which existed prior to the date of adoption of Ordinance No. 443, remains in full force and effect.

**SECTION 6:** This Ordinance shall take effect thirty (30) calendar days after its adoption. Within fifteen (15) calendar days after its adoption, the Ordinance, or a summary of the Ordinance, shall be published once in a newspaper of general circulation.

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

AYES: \_\_\_\_\_

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

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

ABSENT: \_\_\_\_\_

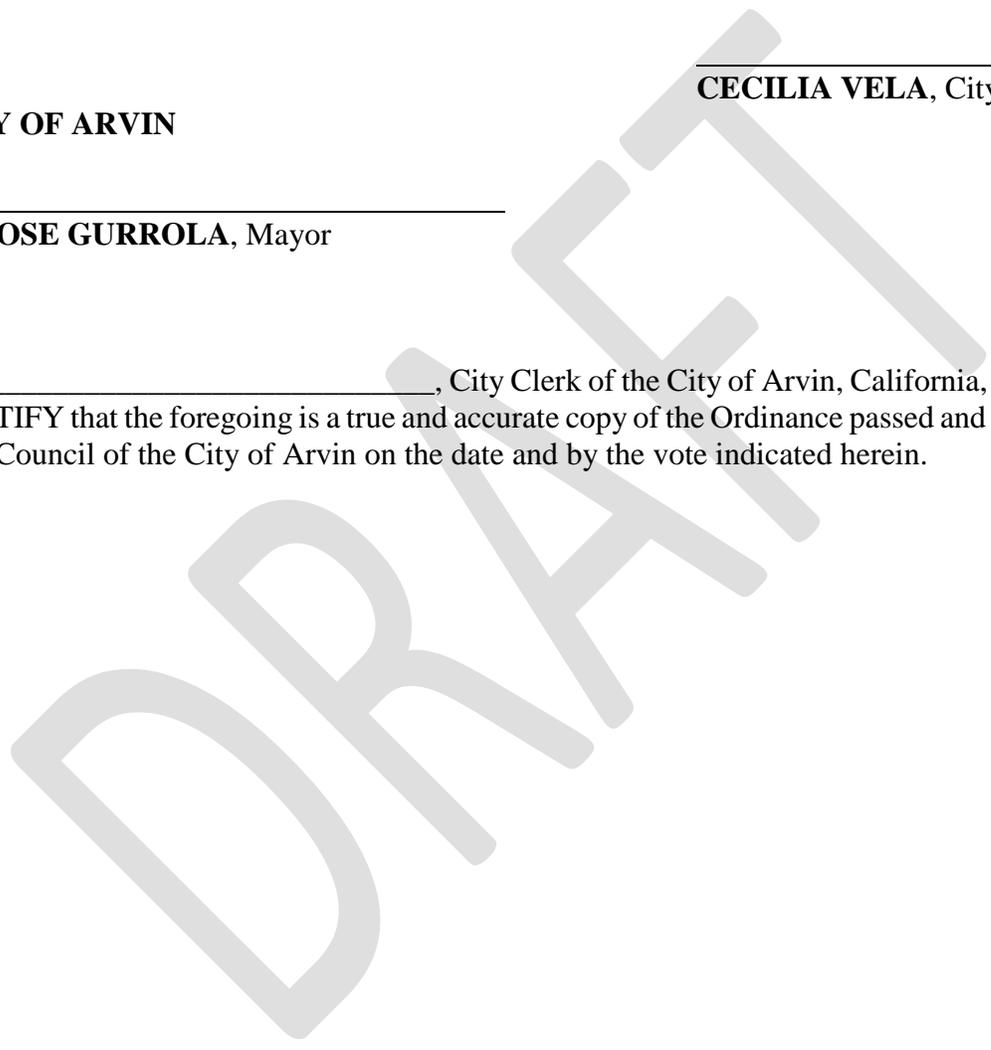
**ATTEST**

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

**CITY OF ARVIN**

By: \_\_\_\_\_  
**JOSE GURROLA, Mayor**

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



## NOTICE OF PUBLIC HEARING

### Arvin Municipal Code Amendment – Chapter 17.64 Commercial Cannabis Activity

Notice is hereby given that the Planning Commission of the City of Arvin, California, will conduct a public hearing, at which time you may be present and be heard, to consider a recommendation to the City Council that it adopt an ordinance adding Chapter 17.64 (“Commercial Cannabis Activity”) to Title 17 (“Zoning”) of the Arvin Municipal Code (AMC) to adopt new and amended permitting standards and regulations applicable to commercial cannabis activities in the City, and making associated findings pursuant to the California Environmental Quality Act (CEQA).

#### **Arvin Planning Commission Public Hearing Information**

Date: **May 30, 2018**

Time: 6:00 PM or as the Agenda permits

Place: City of Arvin Council Chambers

200 Campus Drive, Arvin, CA 93203

The purpose of the hearing is to consider the proposed ordinance establishing new and updated permitting requirements and regulations applicable to commercial cannabis businesses in the City. The proposed ordinance would repeal City Ordinance No. 443 and AMC Sections 17.02.435 and 17.07.01.

Preliminary environmental determination: The proposed ordinance is exempt from CEQA because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment, as the ordinance merely amends the AMC to allow for the permitting and regulation of certain commercial cannabis activities, the environmental impacts of which will be assessed on a use-specific basis. (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.)

Additional information on the proposed ordinance, including copies in hard copy or electronic format, may be obtained from the City Clerk’s office at Arvin City Hall, 200 Campus Drive, Arvin, California, 93203, or the City’s web site at [www.arvin.org](http://www.arvin.org). All persons interested in this topic who would like to provide feedback or ask questions are invited to attend. Written comments on this matter may be submitted to the City Clerk’s office until 4:00 p.m. on the date of this hearing. If you challenge the approval or denial of these matters in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk, at or prior to the public hearing. Address any communications or comments regarding the project to Cecilia Vela, City Clerk, 200 Campus Drive, Arvin, CA 93203, (661) 854-3134, [cvela@arvin.org](mailto:cvela@arvin.org).

Cecilia Vela, City Clerk

Published: May 07, 2018, Bakersfield Californian



**CITY OF ARVIN**  
**Agenda Report**

**Meeting Date: May 30, 2018**

**TO:** Planning Commission

**FROM:** Jake Raper, City Planner – Contract Planner JAS Consultants

**SUBJECT:** City of Arvin CUP2017-Petro-Lud – Stockton Project - Oil and Gas Exploratory and Production Well -APN 189-351-36 Southwest Corner of Sycamore Road and Meyer Street; proposes the establishment of a drill pad approximately 300'-0" X 500'-0" and four (4) exploratory well sites which may be converted into production wells and adoption of a related CEQA exemption findings pursuant to the California Environmental Quality Act.

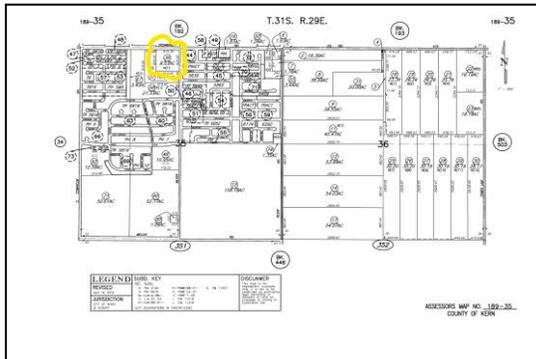
**RECOMMENDATION**

Staff recommends that the Planning Commission adopt Resolution conditionally approving CUP2017-Petro-Lud – Stockton Project - Oil and Gas Exploratory and Production Well - APN 189-351-36 Southwest Corner of Sycamore Road and Meyer Street; proposes the establishment of a drill pad approximately 300'-0" X 500'-0" and four (4) exploratory well sites which may be converted into production wells and adoption of a related CEQA exemption findings pursuant to the California Environmental Quality Act.

Applicant: Petro-Lud, Inc.; 1311 Calaveras Park Drive, Bakersfield, CA 93311, Clayton Ludington, President/CE)

**I. BACKGROUND**

The applicant is requesting approval of a Conditional Use Permit (CUP) 2017- Petro-Lud, to



permit four (4) Oil and Gas Exploratory and Production Wells (Stockton Project) on property located at the Southwest Corner of Sycamore Road and Meyer Street, Portion of APN 189-351-36. The proposed drilling area is approximately 300'-0" X 500'-0" and is located approximately 80'-0" South of Sycamore Road and 290'-0" from the east property line, west of Meyer Street, 25'-0" from the westerly property line and 25'-0" from the southerly

property line. (Note: See Section 17.46.040 A-1 Complies with separating requirements from roadways and residence of 100 feet from road ways and 150 feet from residence(s). The proposed drill pad northern location may be modified to have a minimum of 175'-0" from the centerline of Sycamore Road which would allow a commercial development fronting along Sycamore Road.

Staff in the distribution of the project, identified that the applicant's request that included both exploratory and production for Oil and Gas. The applicant's request is being proposed to the Planning Commission for both exploratory and production. The City's Zoning Ordinance, Chapter 17.46 Oil and Gas Production establishes specific criteria for the establishment of exploratory and production of Oil and Gas. The application was analyzed for compliance and the conclusion of this analysis found that the proposed operation complies with all established criteria of the code.

The proposed Oil and Gas exploratory and production operation is within a portion of Tract 5816 which was approved in 1996 and subsequently development agreement for the 360 acre tract was approved between the project sponsor, Sycamore Villas, Inc., in 2003. Subsequently, the development agreement was amended at various times by new interested and vested owners for the subdivision and development. The latest amendment was in May 2018 between the City and Westminster Capital LLC. The development agreement contains the requirement that the developer set aside 4 one-acre sites for Oil and Gas exploratory and production:

Section 3.4. Processing of Phases. Each phase of the Project shall be carried out pursuant to an appropriate Parcelization filed ...with Government Code Section 66436. **Furthermore, the Developer agrees to designate approximately four (4) acres to be used for drill and well site for the exploration and production of minerals together with access rights. Such four acres shall be in a location or locations determined by the Developer within the Project. Such four acres may be in one contiguous block or in two blocks of approximately two acres each. Such drill pad sites may be located within designated parks to the extent use of the facility is permitted by law and said use does not pose a restriction of the intended use of the facilities and does not result in additional costs to City. Provided the applicant satisfies all other appropriate conditions, the City shall approve Conditional Use Permit(s) necessary to permit oil, gas and mineral exploration and extraction within such designated drill pad sites. The City shall refrain from approving, extending or otherwise permitting any Conditional Use Permit or other form of approval or permit for surface right access to explore or extract minerals except in such Developer designated drill pad sites.**

Petro-Lud Inc., has proposed an approximate 4 acre drill pad on the C-2 General Commercial zoned land currently owned by Westminster Capital LLC. The proposed exploratory and production drill pad and location of the actual drilling of the wells meets the criteria as established in Chapter 17.46 Oil and Gas Production. The application identifies that the area of the application is for APN's 189-351-36, -37, -58. However, the application identifies that the proposed operations will be only located on APN 189-351-36 which is zoned C-2 General Commercial, and staff recommends that the use permit be limited to just APN 189-351-36. The application and proposed operation avoids the properties that have tentative maps for residential development.

## II. Description of Project:

**Outline of the Operation by Applicant – *Additional clarity is added by Staff and noted by italicized text.***

**Operational Statement Checklist Development Services Division Planning and Resource Management Department For Petro-Lud, Inc. 1311 Calaveras Park Drive, Bakersfield, CA, 93311 For Stockton Development Projects - SEC. 35, T31S, R29E, City of Arvin, Kern County, Californian, APN: 189-351-36, 189-351-37, 189-351-58**

### Outline of the Project Operation:

The nature of this project is to temporarily move in a portable drilling rig and drill exploration wells for the accumulation of oil and gas (“Project” or “Proposed Project”). If oil and gas is found in commercial quantities, casing will be installed and the well(s) will be completed, the drilling rig will be removed from the site and a smaller completion rig will be moved in and the well(s) completed.

A new drilling pad will be built in the Northeast Quarter of the Northwest Quarter of Section 35. The drilling pad (E-W) (N-S) will measure approximately 300' x 500' and the actual

footprint after drilling will be approximately 250 square feet per well. Access to the location will be a 22-foot-wide access road to be constructed with entry from Meyer Street and extending to the drilling pad and production facilities if oil is found in commercial quantities, ***Exhibit A.***



For each well drilled a temporary well cellar (8' x 8' x 6' - 64 sq. ft.) will be built and conductor pipe will be cemented at the well location to a depth of 80 feet +/- 1 ft. This

preliminary work will require four to six days of daylight activity. A mobile drilling rig (***Figure 1 and 2 – typical mobile drilling rig***) will be set up for the drilling of each well. There will not be more than 1 drilling rig on location at a time. The move in and rigging-up should take approximately two days per well. **(Note: See Section 17.46.040 A-9- Mobile drilling rig is proposed, mobile drilling rig to be removed within the time limits per Section 17.46.040 A-6 – 30 days).**

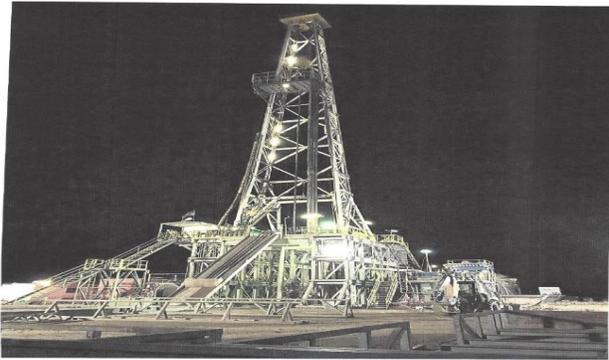
Actual drilling time is estimated to take approximately 20 days or less per well. The total estimated timeframe to drill all 4 locations would be less than 120 drilling days or less

**City of Arvin CUP2017-Petro-Lud – Oil and Gas Exploratory and Production-  
Figure 1- Typical Oil and Gas Exploratory Well Rig**



if they were drilled simultaneously. Drilling is a continuous 24 hours per day operation and the drilling crew consists of five men +/- working twelve-hour (12) shifts, two shifts per day.

Figure 2 – Photograph of a similar operation setup – night time view.



They will be supported by the rig company owner/CEO of Petro-Lud, Inc. No hazardous material will be used in the drilling mud system. All drilled cuttings will be separated from the mud system, de-watered and stored on the location until the drilling is completed, liquid (water from the drilling mud) will be re-used as needed in the mud system. The excess will be stored on the site until it is dewatered. All drilling fluids to be used during the drilling of the above referenced well will be the same drilling materials that are currently used in accordance with locally-drilled

agriculture wells. Thereafter, all cuttings and drilling fluids will be dewatered and hauled off site to an approved non-hazardous drilling mud disposal site or spread on location if desired to build up location for production facilities or other purposes.

If exploratory drilling is unsuccessful, all wells will be plugged and abandoned in compliance with the rules and regulations of the California Department of Conservation, Division of Oil, Gas and Geothermal Resources (“DOGGR”). The drilling rig and all of the equipment will be removed from the site. The temporary cellar will be removed and the site and access road will be cleaned up and returned to as close to original condition as reasonably possible.

If the well has good oil and gas shows, the drilling rig will run steel casing in the well. The casing will be cemented. Fresh water zones will be protected with cement as required by the DOGGR rules and regulations. Typically, a smaller, portable completion rig will be used instead of the drilling rig to complete the well. It may also be required to run logs, perforate oil/gas sands, perform tests and run tubing.

If the well is expected to produce primarily oil, it will be produced into portable tanks during an initial test period. The capacity of the well will be estimated at that time and permanent facilities will be designed based on expected capacity and installed shortly thereafter. The time required for initial testing of an oil well is not expected to exceed six months. **(Note: See Section 17.46.040 A-7 and A-8 – if the well is placed on production no earthen sumps shall be used for the storage of petroleum).**

If the well is expected to produce primarily natural gas or associated gas with oil, it will be produced through a portable separator scrubber system and flared. The produced gas will be metered and then incinerated in a flare system utilizing an air induction line, continuous pilot, and wind shroud to ensure complete combustion. The capacity of the well will be estimated at this time and permanent facilities will be designed based on the expected capacity and installed shortly thereafter. The time required for initial testing of a gas well is not expected to exceed six months by the DOGGR rules and regulations. If there is a sufficient volume of gas available on a regular basis, it will be transported by pipeline to a nearby gas purchaser, flared or eventually reinjected into in the production formation to maintain reservoir pressure.

If the well achieves Oil in paying quantities it will be trucked from the site. (Note: See Section 17.46.11 – screening and landscaping to be required if permeant facilities are utilized.) Oil It is anticipated that one or two trucks per day may be needed at first, but the frequency will increase or decrease as the oil production rate is established. Water hauling may require only one truck per week at the outset, but well testing will determine this. A company operator will monitor the well on a daily basis to ensure that the operation continues as required. Producing operations will continue as long as it is profitable. It is our hope that the economic life of the well will be twenty years or longer.

When drilling operations are complete, the Applicant shall return the project site (as much as practical) to its original condition and all drilling equipment shall be removed within ninety (90) days of termination of the drilling operations, unless the equipment will be used for another well on site within 30 days. (Note: See Section 17.46.040 A-6 – Complies with time limits for removal 30 days and has proposed 90 days for reuse at a different location – Planning Commission has the authority to approve or modify the length of time for reuse and move to a different location.)

### **Operational time limits:**

*(There will not be more than 1 drilling rig on location at a time. The move in and rigging-up should take approximately two days per well. Actual drilling time is estimated to take approximately 20 days or less per well. The total estimated timeframe to drill all 4 locations would be approximately 80 drilling days or less if they were drilled simultaneously. Drilling is a continuous 24 hours per day operation and the drilling crew consists of five men +/- working twelve hour shifts, two shifts per day. They will be supported by the rig company owner/CEO of Petro-Lud, Inc). The drilling rig, Exhibit A, will operate 24 hours per day, 7 days a week until drilling is completed per well. The completion rig will operate +/- 12 hours per day for 2-4 days per well.*

### **Number of customers or visitors:**

During an average day while drilling and subsequently while completing the well, if commercial production is encountered, there will be an average 6-10 workers on site with 10-12 other workers temporarily arriving and going with various supplies and activities. The frequency of large trucks at the site will be minimal after the rig is set up and drilling begins. These trucks will enter the site occasionally after drilling begins. These visits will average only two trips per day during this period. Most of the large trucks will be used to move the drilling rig and the equipment at the beginning and at the end of the drilling project. The trucks are needed during drilling only for special operations such as setting surface casing, cementing and logging. Visits by automobiles and pickup trucks may run about ten per day. They will involve crew shift changes, mud loggers, engineers and deliveries of small expendable items to the rig and company representatives.

### **Number of employees:**

Please see the answer above in “Number of Customer visitors”.

### **Service and delivery vehicles:**

It will take +/- 30 tractor and trailer loads of equipment to erect the drilling rig with 5-10 tractor

and trailer loads of various equipment and supplies moving in and out over every 24-hour period.

**Access to the site**

Site will be accessed from Meyer Street.

**Parking:**

The drill site will be bladed and on a flat field. It is 300' x 500' in size. Temporary parking will not be a problem. (Note: All parking shall be located within the drill pad area; actual site size may be reduced by conditions.)

**Goods on sale:**

There are no goods for sale.

**Equipment used:**

Please see the answer above in “Outline of the Project Operation”.

**Supplies:**

Diesel fuel will be on site for fuel to run the drilling rig. The diesel will be stored in tanks specifically designed to contain diesel with a secondary containment bin. Other various non-hazardous products to formulate drilling fluids will also be on location to allow the well to be drilled. The drilling fluids products will be in dry bagged form and miscellaneous buckets of products. The formulated drilling fluid will be in above ground steel tanks (mud pits). Various steel casings and tubular products will also be on location, which will be used in the drilling and completion of the well.

**Noise & Appearance:**

The project will comply with the requirements of Municipal Code Chapter 9.08 (Noise Disturbance Ordinance). During the drilling operation, noise will only consist of the running of approximately 2-500 horsepower main rig engines and 1-1000hp pump engine with industrial mufflers with some (+1- 2) auxiliary 50hp. engines. The noise of these engines will not be noticeable outside the boundaries of the location. Glare and odor will not be a problem.

The project will not involve any process, equipment or materials which will be objectionable to persons living or working in the vicinity by reason of odor, fumes, dust, smoke, etc. Produced oil and muds will be appropriately contained, dust will be minimized by daily spraying during active operations, and any flare equipment will be maintained and used consistent with San Joaquin Valley Air Pollution Control District (“Air District”) rules.

A weed abatement and brush clearance maintenance program will be implemented to reduce fire hazards to developed property in the immediate vicinity of vacant, undeveloped land, and comply with the applicable fire code and the CADOGGR requirements.

**Air Quality & Odors:**

The proposed exploratory petroleum oil and natural gas wells will adhere to permitting requirements, rules and regulations set forth by the Air District; DOGGR; and the California Regional Water Quality Control Board (“RWQCB”), and the City of Arvin’s Municipal Code, Chapter 17.46, Oil and Gas Production

The project will not create objectionable odors and will comply with the Air District Rules. Such compliance will reduce any air quality impacts of the proposed project to a less than significant level.

**Solid & Liquid Cuttings:**

The project will not emit, transport, use or dispose of hazardous materials. No hazardous material will be used in the drilling mud system. During the drilling of the well, approximately 1500 barrels or 300 yards or 1- 400 tons of solid cuttings will be brought out of the well and stored in a pit 25' wide by 150' long by 1- 5' deep. The cuttings will be analyzed when drilling is completed for hazardous content. Historical analysis of cuttings to date indicates that cuttings are non-hazardous. Therefore, assuming the non-hazardous analysis applies for the Stockton development well(s), the cuttings alone with the drilling mud will be hauled off to a disposal site or spread on location if necessary to build up the location for production facilities. In addition to the cuttings themselves, approximately 1500 barrels of liquid drilling mud will be produced during the drilling of the well. This liquid too, will be analyzed, and if found non-hazardous as 99.9% of the drilling mud water samples are, this material will be dewatered and hauled off site to an approved non-hazardous drilling mud disposal site or spread on location if necessary to build up location for production facilities. Any and all wastes found to be hazardous will be hauled off to a certified and approved California hazardous waste disposal site.

**Estimated water:**

It is estimated during the course of the drilling operation, approximately 500 barrels of water per day will be used during the drilling of the well. This water will be used to manufacture the drilling fluid and to make cement, which will be used to cement the outside of the casing(s). And, if the well is deemed to be a dry hole, the water will be utilized to formulate cement to place abandonment cement plugs in the hole in accordance with the rules and regulations of DOGGR. Water will be purchased offsite and trucked in when needed to replenish the onsite water tank.

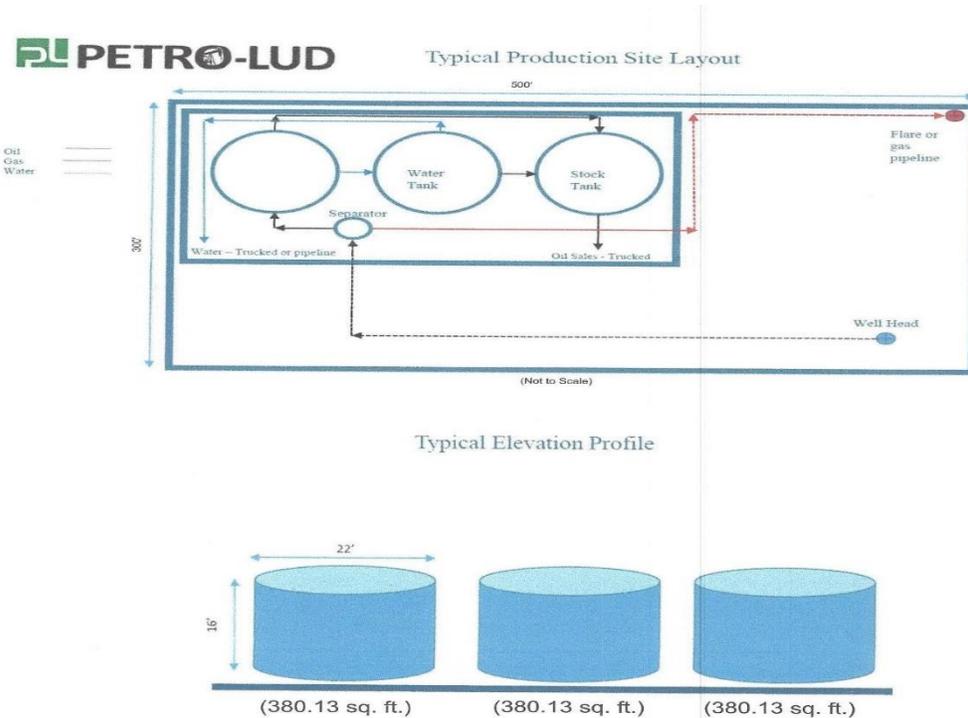
Wastewater will be self-contained and serviced by a private company; no connection to the City of Arvin’s wastewater system is proposed. (Note: See Section 17.46.040 A-4 – Complies with requirements for wastewater to be self-contained and serviced by a private company – the project will be conditioned to have suitable and adequate sanitary toilet and washing facilities on-site and proof of continued maintenance from a private company.)

**Advertising:**

No advertising will exist other than the rig number sign at Myer St location entrance or if a permanent facility is built, a well sign(s). (Note: See Section 17.46.040 A-3 – Complies with signage identified and complies with the requirement).

**Buildings:**

No existing buildings will be used, nor will any buildings be constructed for this temporary drilling operation. However, if our efforts are successful, we will install a permanent tank battery and proper separation and processing system as are normally associated with oil and gas producing wells, see attached **Exhibit "B"**. (Updated May 17, 2018)



**Lighting/  
Sound:**

The rig and

location will be lit during the night for working operations by hooded portable and temporary lights that will be focused on the rig and drilling location, and all portable lighting shall be pointed downward toward the base of the rig to minimize potential glare. All outdoor lighting shall be hooded and directed as to not shine toward adjacent properties and public streets.

There will not be any sound amplifications systems.

All drilling towers shall be marked and lighted in such a manner as to avoid potential safety hazards to aircraft application of herbicides and pesticides on adjacent farmlands.

**Landscaping:**

Since this is a temporary situation, no landscaping or fencing is proposed. However, if oil or gas is found in commercially profitable amounts, we will fence the 300' x 500' location with 8' privacy fence and razor ribbon.

**Additional information:**

The Proposed Project will adhere to permitting rules and regulations set forth by the Air District, DOGGR, the RWQCB, and the Chapter 17.46 of the City of Arvin Municipal Code, Oil & Gas Production.

In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An Archaeologist will be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance will occur until the Kern County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.

The project will comply with the National Pollution Discharge Elimination System (“NPDES”) regulations and permitting requirements to control direct storm water discharge, as well as applying any applicable Water Quality Management Plans and Best Management Practices (“BMPs”).

Prior to commencing operations, all water wells and septic systems within the project area shall be properly destroyed by an appropriately-licensed contractor. Prior to destruction of any agricultural well, a sample of the uppermost fluid in the well column shall be checked for lubricating oil. Should lubricating oil be found in the well, the oil shall be removed from the well prior to placement of fill material for destruction.

**III. General Plan and Zoning Compliance:**

The project site has a General Plan Land Use Designation of General Commercial and is Zoned C-2 General Commercial. See Figures 3 and 4.

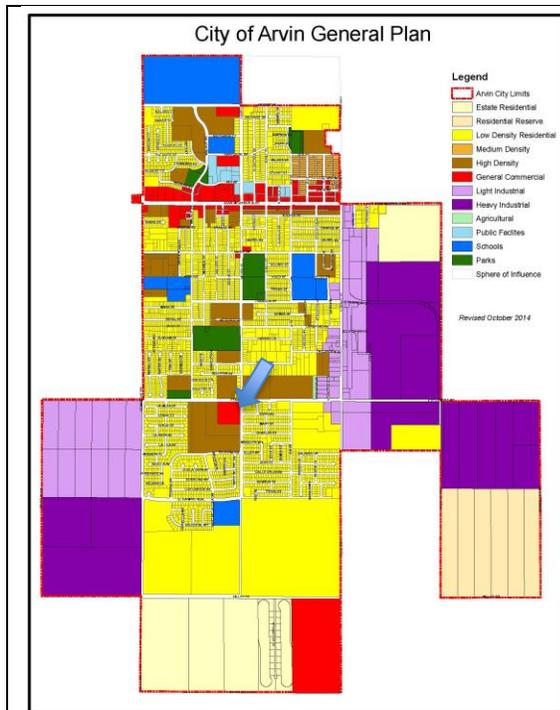


Figure 3 – General Plan Land Use Diagram

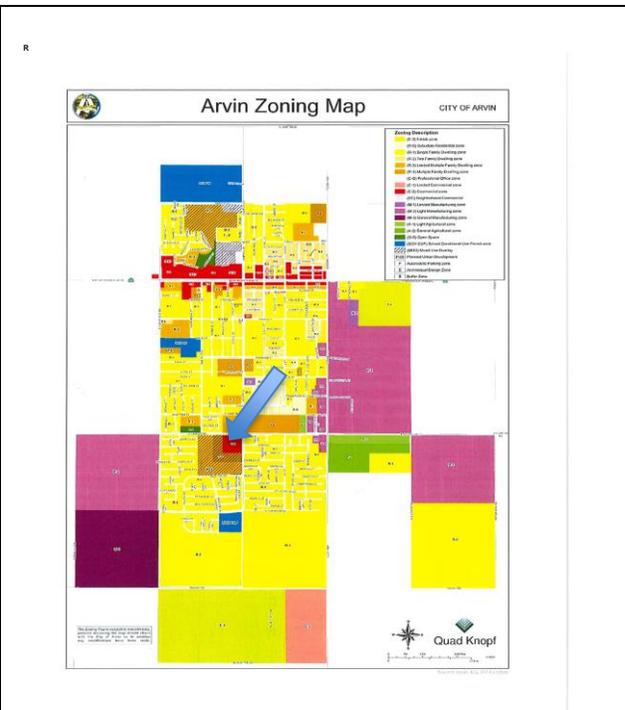


Figure 4 – Zoning Map

**CONDITIONAL USE PERMIT – CHECK LIST FOR OIL AND GAS OPERATIONAL CRITERIA – TITLE 17 ZONING – Chapter 17.46 - OIL AND GAS PRODUCTION:**

In late December 2017, Planning Staff requested that the applicant review and verify that the proposed oil and gas exploratory and production operations comply Section 17.46.040 Drilling – Conditional Use permit requirements. Section 17.46.040, Subsection A establishes that a Conditional Use Permit is required in a variety of zone districts, including the C-2 General Commercial Zone. Section 17.46.040 (A) establishes that a Conditional Use Permit public hearing may be waived if the surface right owners within 300 feet of the proposed site consent in writing. The surface right owners have not provided a written consent; therefore, the CUP is required, Attachment -Chapter 17.46 Oil and Gas Production. Section 17.46.040 establishes that all drilling and producing operations shall conform to subsections (A) (1) through (A) (10) inclusive, as set forth in this section and one or more of subsections (A) (11) through (A) (15) of this section. The applicant may request a waiver of one (1) or more of such conditions if it finds that such waiver will not result in material detriment to the public welfare or to the property of other persons located in the vicinity thereof. The applicant has not requested waivers of the criteria.

Staff has reviewed the Operational Statement Checklist prepared by the applicant and compare the proposed project with the requirements of Section 17.46.040 Drilling – Conditional Use Permits. The following review has shown compliance with the City’s requirements and the

proposed oil and gas exploratory and production operation.

17.46.040 - Drilling—Conditional use permit requirements.

In the R-1 one-family dwelling zone, R-2 two-family dwelling zone, R-3 limited multiple-family dwelling zone, R-4 multiple-family dwelling zone, R-S suburban residential zone, E estate zone, E-1 estate zone, E-2 estate zone, E-3 estate zone, E-4 estate zone, E-5 estate zone, C-O professional office zone, N-C neighborhood commercial zone, C-1 restricted commercial zone, **C-2 general commercial zone**, PUD (planned unit development) zone, A-1 (light agricultural) zone, and any unzoned territory, the following conditions shall apply: **(NOTE: The project site, southwest corner of Sycamore Road and Meyer Street, APN 189-351-36, is General Planned General Commercial and is zoned C-2, General Commercial.)**

A. No person, firm or corporation shall conduct the drilling of any well hole or holes for the exploration for, development and production of oil, gas and other hydrocarbon substances, or install any equipment structures and facilities incidental thereto, in or upon lands within the zones specified in this section without first having applied for and obtained, by payment of the fee provided by this chapter, a conditional use permit from the planning commission to do so. No plant for the refining of petroleum products from such operation shall be permitted under this chapter. The procedure for filing of applications, investigation, notices, public hearings, findings and appeal shall be the same as provided for variances, in Chapter 17.50, Variances, Modifications and Zone Changes except that the planning commission may waive public hearing if all the owners of surface rights within three hundred (300) feet of the proposed site consent in writing. (Note: Waiver by surface right owners was not received) Such permit shall provide that all drilling and producing operations **shall conform to subsections (A) (1) through (A) (10) inclusive, as set forth in this section and one or more of subsections (A) (11) through (A) (15) of this section,** inclusive if applicable and determined as set forth in this section; except that upon request of the applicant, at or subsequent to the time the permit is issued, the planning commission, by specific action in each instance, may waive any one (1) or more of such conditions if it finds that such waiver will not result in material detriment to the public welfare or to the property of other persons located in the vicinity thereof:

1. That no oil or gas well shall be drilled within one hundred (100) feet of any public highway or within one hundred and fifty (150) feet of any residence constructed prior to the commencement of such drilling, without the written consent of the owner thereof;

**STAFF REVIEW AND COMMENT:** THIS CONDITION HAS BEEN MET. THE DRILL AREA IS PROPOSED TO BE APPROXIMATELY 300'-0" X 500'-0" AND WITHIN 80'-0" FROM SYCAMORE ROAD. THE CLOSEST PROPOSED DRILLING PAD TO MEYER STREET IS APPROXIMATELY 250'-0". CONDITIONS HAVE BEEN IMPOSED TO REQUIRED THE SITE TO HAVE A SETBACK OF AT LEAST 175' FROM THE CENTER LINE OF SYCAMORE ROAD TO ALLOW FOR THE OPPORTUNITY TO HAVE COMMERCIAL DEVELOPMENT ALONG THE FRONTAGE ALONG SYCAMORE ROAD. THE PROPOSED OPERATION IS MORE THAN 150'-0" FROM ANY RESIDENCE.

2. That all drilling and producing operations shall conform to all applicable fire and safety regulations;

**STAFF REVIEW AND COMMENT:** THIS REQUIREMENT HAS BEEN MET. THE CONDITIONS OF APPROVAL REQUIRE THAT ALL OPERATIONS MUST CONFORM TO ALL APPLICABLE FIRE AND SAFETY REGULATIONS AND MUST COORDINATE AND RECEIVE CLEARANCE OR ANY REQUIRED APPROVALS FROM THE KERN COUNTY FIRE DEPARTMENT (SECTION 17.46.040 A-2). ADEQUATE FIREFIGHTING APPARATUS AND SUPPLIES, APPROVED BY THE KERN COUNTY FIRE DEPARTMENT, SHALL BE MAINTAINED ON THE DRILLING SITE AT ALL TIMES DURING DRILLING AND PRODUCTION OPERATIONS (SECTION 17.46.040 A-13). ALL DRILLING AND PRODUCTION ACTIVITIES SHALL BE SUBJECT TO ALL FIRE AND SAFETY REGULATIONS AS REQUIRED BY THE KERN COUNTY FIRE DEPARTMENT AND DOGGR. BLOWOUTS, FIRES, EXPLOSIONS AND OTHER LIFE THREATENING OR ENVIRONMENTAL EMERGENCIES SHALL BE REPORTED IMMEDIATELY TO THE KERN COUNTY FIRE DEPARTMENT, ARVIN CITY MANAGER, OR DESIGNEE, AND STATE DEPARTMENT OF CONSERVATION, DIVISION OF OIL, GAS AND GEOTHERMAL RESOURCES (DOGGR).

3. That no signs, other than directional and warning signs and those required for identification of the well shall be constructed, erected, maintained or placed on the premises or any part thereof except those required by law or ordinance to be displayed in connection with the drilling or maintenance of the well;

**STAFF REVIEW AND COMMENT:** THIS REQUIREMENT HAS BEEN MET. THE PROJECT IS CONDITIONED TO REQUIRE THAT SIGNS SHALL BE DIRECTIONAL AND WARNING SIGNS AND SIGNS REQUIRED FOR IDENTIFICATION THE WELL. (SECTION 17.46.040 A-3) SIGNS RELATING TO DRILLING AND/OR PRODUCTION OPERATIONS SHALL BE LIMITED TO DIRECTIONAL AND WARNING SIGNS, AND SIGNS FOR IDENTIFICATION OF WELLS AND FACILITIES AS REQUIRED BY THE FIRE CODE AND DOGGR TO ENSURE EMPLOYEE AND PUBLIC SAFETY. SIGNS NOT RELATED TO SAID OPERATIONS SHALL BE SUBJECT TO THE PROVISIONS OF ARVIN MUNICIPAL CODE.

4. That suitable and adequate sanitary toilet and washing facilities approved by the city health department, shall be installed and maintained in a clean and sanitary condition at all times;

**STAFF REVIEW AND COMMENT:** THIS REQUIREMENT HAS BEEN MET. THE PROJECT IS CONDITIONED TO REQUIRE THAT WASTEWATER WILL BE SELF-CONTAINED AND SERVICED BY A PRIVATE COMPANY. THE PROJECT IS CONDITIONED TO REQUIRE HAVING SUITABLE AND ADEQUATE SANITARY TOILET AND WASHING FACILITIES ON-SITE AND PROOF OF CONTINUED MAINTENANCE FROM A PRIVATE COMPANY.

5. That proven technological improvements generally accepted and used in drilling and production methods shall be adopted as they may become from time to time available if capable of reducing factors of nuisance and annoyance;

**STAFF REVIEW AND COMMENT:** THIS REQUIREMENT HAS BEEN MET. THE PROJECT HAS BEEN CONDITIONED TO PROHIBIT NUISANCES, INCLUDING NOISE AND OTHER RESTRICTIONS TO REDUCE NUISANCE AND ANNOYANCE. THE PROJECT SHALL COMPLY WITH THE REQUIREMENTS OF MUNICIPAL CODE CHAPTER 9.08 (NOISE DISTURBANCE ORDINANCE). DURING THE DRILLING OPERATION, 2-500 HORSEPOWER MAIN RIG ENGINES AND 1-1000 HP PUMP ENGINE WITH INDUSTRIAL MUFFLERS WITH SOME (1- 2) AUXILIARY 50HP. ENGINES IS PERMITTED. THE USE SHALL UTILIZE TECHNOLOGICAL IMPROVEMENTS GENERALLY ACCEPTED AND USED IN DRILLING AND PRODUCTION METHODS CAPABLE OF REDUCING FACTORS OF NUISANCE AND ANNOYANCE (SECTION 17.46.040 A-5).

6. That the derrick, all boilers and all other drilling equipment used pursuant to this section to drill any well hole or to repair, clean out, deepen or redrill any completed or drilling well, shall be removed within ninety (90) days after completion of such drilling, or after abandonment of any well, unless such derrick, boilers and drilling equipment are to be used, within a reasonable time limit determined by the planning commission, for the drilling of another well or wells on the premises;

**STAFF REVIEW AND COMMENT:** THIS REQUIREMENT HAS BEEN MET. THE PROJECT HAS BEEN CONDITIONED TO REQUIRE ANY DERRICK, BOILERS OR OTHER EQUIPMENT USED TO DRILL ANY WELL HOLE OR TO REPAIR, CLEAN OUT, DEEPEN OR REDRILL ANY COMPLETED OR DRILLING WELL, SHALL BE REMOVED WITHIN NINETY (90) DAYS AFTER COMPLETION OF SUCH DRILLING, OR AFTER ABANDONMENT OF ANY WELL, UNLESS SUCH DERRICK, BOILERS AND DRILLING EQUIPMENT ARE TO BE USED, WITHIN A THIRTY (30) DAYS, FOR THE DRILLING OF ANOTHER WELL OR WELLS ON THE PREMISES (SECTION 17.46.040 A-6).

7. That after any well has been placed on production **no** earthen sumps shall be used for the storage of petroleum;

**STAFF REVIEW AND COMMENT:** THIS REQUIREMENT HAS BEEN MET. THE PROPOSED USED HAS BEEN CONDITIONED SUCH THAT EARTHEN SUMPS ARE PROHIBITED DURING PRODUCTION. (SECTION 17.46.040 A-11.) ALL PRODUCED LIQUID WILL BE PLACED INTO TANKS, WHICH MAY BE PORTABLE DURING THE TEST PERIOD. NO PIPELINES ARE PROPOSED TO CARRY AWAY PRODUCED OIL OR GAS. INSTEAD, ANY OIL OR GAS WILL BE PRODUCED INTO AND SHIPPED FROM TANKS LOCATED ON THE PREMISES. (SECTION 17.46.040 A-11.)

DURING DRILLING OPERATIONS, AN EARTHEN PIT MAY BE USED FOR DRILLING MUD AND CUTTINGS IF CONSISTENT WITH DOGGR REGULATIONS AND REQUIREMENTS. LIQUID DRILLING MUD AND CUTTINGS WILL BE STORED IN THE PIT, WHICH WILL BE APPROXIMATELY 25'-0" WIDE BY 125'-0" LONG AT A DEPTH OF 1- 5'-0". ALL MATERIAL STORED IN THE PIT WILL BE TESTED, AND IF DETERMINED HAZARDOUS WILL BE DISPOSED OF PROPERLY AS REQUIRED BY LOCAL, STATE AND FEDERAL LAW. IF DETERMINED TO BE NON-HAZARDOUS, THE MATERIALS MAY BE DEWATERED AND HAULED OFF SITE TO AN APPROVED NON-HAZARDOUS DRILLING MUD DISPOSAL SITE, OR SPREAD ON LOCATION IF NECESSARY TO BUILD UP LOCATION FOR PRODUCTION IF SUCH DISPOSAL IS COMPLIANT WITH LOCAL, STATE

AND FEDERAL LAW. AT THE CONCLUSION OF DRILLING OPERATIONS, AND WITHIN NINETY (90) DAYS AFTER ANY WELL HAS BEEN PLACED IN PRODUCTION OR AFTER ITS ABANDONMENT (WHICHEVER IS SOONER), THE EARTHEN PIT AND SURROUNDING AREA SHALL BE TESTED FOR HAZARDOUS MATERIALS, REMEDIATED TO REMOVE ANY HAZARDOUS MATERIALS CONSISTENT WITH LOCAL, STATE AND FEDERAL REQUIREMENTS, FILLED, AND THE LOCATION RETURNED TO ITS ORIGINAL CONDITION AS REASONABLY POSSIBLE AND SUBJECT TO OTHER CONDITIONS RELATED TO LANDSCAPING, ETC., IN THESE CONDITIONS OF APPROVAL. (SECTION 17.46.040 A-7.)

8. That within ninety (90) days after any well has been placed in production or after its abandonment, earthen sumps used in drilling or production or both, unless such sumps are to be used within a reasonable time limit determined by the planning commission for the drilling of another well or wells, shall be filled and the drilling site restored as nearly as practicable to a uniform grade;

**STAFF REVIEW AND COMMENT:** THIS REQUIREMENT HAS BEEN MET. (SEE COMMENTS TO #7, ABOVE, WHICH IS INCORPORATED.)

9. That any derrick used for servicing operations shall be of the portable type; provided, however, that upon presentation of proof that the well is of such depth or has such other characteristics, or for other cause, that a portable-type derrick will not properly service such well, the planning commission may approve the use of a standard type of derrick;

**STAFF REVIEW AND COMMENT:** THIS REQUIREMENT HAS BEEN MET. THE PROPOSED USE HAS BEEN CONDITIONED TO REQUIRE THAT ANY DERRICK USED FOR SERVICING OPERATIONS SHALL BE OF THE PORTABLE TYPE; PROVIDED, HOWEVER, THAT UPON PRESENTATION OF PROOF THAT THE WELL IS OF SUCH DEPTH OR HAS SUCH OTHER CHARACTERISTICS, OR FOR OTHER CAUSE, THAT A PORTABLE-TYPE DERRICK WILL NOT PROPERLY SERVICE SUCH WELL, THE APPLICANT MAY SEEK PLANNING COMMISSION APPROVAL THE USE OF A STANDARD TYPE OF DERRICK (SECTION 17.46.040 A-9) THE USE OF PORTABLE OIL DERRICK IS APPROVED. THERE WILL NOT BE MORE THAN ONE (1) DRILLING RIG ON LOCATION AT A TIME.

10. That prior to the drilling, redrilling or deepening of any well, the permittee shall file with the city clerk, a satisfactory corporate surety bond in favor of the city in the sum of five hundred dollars (\$500.00) per well or two thousand-five hundred dollars (\$2,500.00) for five (5) or more wells, executed by such permittee as principal and by an authorized surety company as surety, conditioned that the principal named in the bond shall faithfully comply with all the provisions of this section in drilling, redrilling, or deepening any well or wells covered by the bond, and shall secure the city against all losses, charges and expenses incurred by it to obtain such compliance by the principal named in the bond;

**STAFF REVIEW AND COMMENT:** THIS REQUIREMENT HAS BEEN MET. THE PROJECT IS CONDITIONED TO BE REQUIRED TO SUBMIT THE REQUIRED BONDS, WHICH SHALL BE REQUIRED PRIOR TO OPERATION. THE APPLICANT SHALL BE REQUIRED TO

PROVIDE PROOF OF COMPLIANCE WITH THE ADDITIONAL BONDING REQUIREMENTS MANDATED BY DOGGR PRIOR TO OPERATION.

One or more of subsections (A) (11) through (A) (15) of this section, inclusive if applicable and determined as set forth in this section; except that upon request of the applicant, at or subsequent to the time the permit is issued, the planning commission, by specific action in each instance, may waive any one (1) or more of such conditions if it finds that such waiver will not result in material detriment to the public welfare or to the property of other persons located in the vicinity thereof:

(Applicant has not requested waiver of criteria A-11 through A-15.)

11. That all oil or gas produced shall be carried away by pipelines or, if produced into and shipped from tanks located on the premises, such tanks shall be surrounded by shrubs or trees, planted and maintained so as to develop attractive landscaping and insofar as practicable, screen such tanks from public view;

**STAFF REVIEW AND COMMENT:** THIS REQUIREMENT HAS BEEN MET. NO PIPELINES ARE PROPOSED TO CARRY AWAY PRODUCED OIL OR GAS. INSTEAD, ANY OIL OR GAS WILL BE PRODUCED INTO AND SHIPPED FROM TANKS LOCATED ON THE PREMISES. (SECTION 17.46.040 A-11.) THE PROJECT HAS BEEN CONDITIONED TO REQUIRE LANDSCAPING AROUND THE PERIMETER OF THE SITE, OUTSIDE OF THE SURROUNDING FENCE OR WALL, SO AS SCREEN EQUIPMENT FROM PUBLIC VIEW (SECTION 17.46.040 A-11). ALL FACILITIES SHALL BE LANDSCAPED AS APPROVED BY THE COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION. PROPOSED LANDSCAPING AND IRRIGATION SYSTEM SHALL BE SUBMITTED FOR REVIEW AND APPROVAL WITHIN 60 DAYS OF COMPLETION OF THE FIRST WELL. LANDSCAPING SHALL BE INSTALLED WITHIN 60 DAYS OF APPROVAL BY THE CITY, OR WHEN PERMANENT OPAQUE FENCING OR WALLS MUST BE INSTALLED, AND MUST BE MAINTAINED AS APPROVED BY THE CITY. ADDITIONALLY, THE DRILLING PAD / SITE SHALL BE FENCED OR WALLED PRIOR TO COMMENCEMENT OF DRILLING OR OTHER OPERATIONS. (SECTION 17.46.040 A-15). FENCE OR WALL HEIGHT MUST BE A MINIMUM OF SIX (6') FEET IN HEIGHT. RAZOR WIRE IS PROHIBITED. TEMPORARY CHAIN LINK FENCING, WITH AN OPAQUE MATERIAL TO OBSCURE VIEW, IS PERMITTED UNTIL SIX (6) MONTHS AFTER THE COMPLETION OF ACTIVITIES RELATED TO THE DRILLING. THEREAFTER, PERMANENT OPAQUE FENCING OR WALLS MUST BE INSTALLED AROUND THE SITE, AND COATED WITH AN ANTI-GRAFFITI PAINT OR SOLUTION. ANY GRAFFITI MUST BE REMOVED WITHIN 2 (TWO) BUSINESS DAYS

12. That, except in case of emergency, no materials, equipment, tools or pipe used for either drilling or production operations shall be delivered to or removed from the drilling site, except between the hours of eight (8) a.m. and eight (8) p.m. of any day;

**STAFF REVIEW AND COMMENT:**

THIS REQUIREMENT HAS BEEN MET. THE PROJECT IS CONDITIONED SUCH THAT, EXCEPT IN CASE OF EMERGENCY, NO MATERIALS, EQUIPMENT, TOOLS OR PIPE USED FOR EITHER DRILLING OR PRODUCTION OPERATIONS SHALL BE DELIVERED TO OR

REMOVED FROM THE DRILLING SITE, EXCEPT BETWEEN THE HOURS OF EIGHT (8) A.M. AND EIGHT (8) P.M. OF ANY DAY (SECTION 17.46.040 A- 12) UNLESS OTHERWISE MANDATED BY DOGGR OR OTHER REGULATORY AUTHORITY WITH JURISDICTION.

13. That adequate firefighting apparatus and supplies, approved by the city fire department, shall be maintained on the drilling site at all times during drilling and production operations;

**STAFF REVIEW AND COMMENT:**

THIS REQUIREMENT HAS BEEN MET. SEE RESPONSE TO ITEM # 2, ABOVE, WHICH IS INCORPORATED.

14. That pumping wells shall be operated by electric motors or muffled internal combustion engines, and the height of all pumping units shall be not more than twenty (20) feet. All permanent equipment shall be painted and kept in neat condition. All producing operations shall be as free from noise as possible with modern oil operations;

**STAFF REVIEW AND COMMENT:** THIS REQUIREMENT HAS BEEN MET. THE PROJECT HAS BEEN CONDITIONED TO REQUIRE PUMPING WELLS BE OPERATED BY ELECTRIC MOTORS OR MUFFLED INTERNAL COMBUSTION ENGINES, AND THE HEIGHT OF ALL PUMPING UNITS SHALL BE NOT MORE THAN TWENTY (20) FEET.

ADDITIONALLY, ALL PERMANENT EQUIPMENT IS REQUIRED TO BE PAINTED AND KEPT IN NEAT CONDITION UNLESS OTHERWISE REQUIRED BY A REGULATORY AGENCY HAVING JURISDICTION OVER THE EQUIPMENT OR OTHERWISE RECOMMENDED BY THE MANUFACTURER TO KEEP THE EQUIPMENT IN SAFE AND OPERATING CONDITION. ALL PRODUCING OPERATIONS SHALL BE AS FREE FROM NOISE AS POSSIBLE WITH MODERN OIL OPERATIONS (SECTION 17.46.040 A-14). SHOULD THE OIL AND GAS OPERATION GO INTO PRODUCTION, ALL PERMANENT EQUIPMENT MUST KEPT IN NEAT CONDITION AND MAINTAINED. THE PROJECT SHALL COMPLY WITH THE REQUIREMENTS OF MUNICIPAL CODE CHAPTER 9.08 (NOISE DISTURBANCE ORDINANCE). DURING THE DRILLING OPERATION, 2-500 HORSEPOWER MAIN RIG ENGINES AND 1-1000 HP PUMP ENGINE WITH INDUSTRIAL MUFFLERS WITH SOME (1- 2) AUXILIARY 50HP. ENGINES IS PERMITTED. THE USE SHALL UTILIZE TECHNOLOGICAL IMPROVEMENTS GENERALLY ACCEPTED AND USED IN DRILLING AND PRODUCTION METHODS CAPABLE OF REDUCING FACTORS OF NUISANCE AND ANNOYANCE (SECTION 17.46.040 A-5).

15. That the drilling site shall be fenced or landscaped as prescribed by the planning commission.

**STAFF REVIEW AND COMMENT:** THIS REQUIREMENT HAS BEEN MET. SEE COMMENTS TO #11, ABOVE, WHICH IS INCORPORATED.

- B. If a producing well is not secured upon land subject to such permit within twelve (12) months from the date of issuance of such permit, or within any extended period thereof, the permit shall expire and the premises shall be restored to their

original condition as nearly as practicable to do so. No permit shall expire, however, while the permittee is continuously conducting drilling, re-drilling, completing or abandoning operations, or related operations, in a well on lands covered by such permit, which operations were commenced while such permit was otherwise in effect. For the purposes of this chapter, continuous operations are operations suspended not more than thirty (30) consecutive days. If at the expiration of such twelve (12) month period the permittee has not completed his drilling program on the lands covered by such permit, the planning commission, may upon a written request of permittee, extend the permit for the additional time requested by permittee for the completion of such drilling program.

**STAFF REVIEW AND COMMENT:** THIS REQUIREMENT HAS BEEN MET. THE PROPOSED USE HAS BEEN CONDITIONED WITH THIS REQUIREMENT.

- C. No person, firm or corporation shall conduct or maintain any existing oil or gas production operations unless the same complies with all of the fifteen (15) conditions provided for in subsection A of this section for the issuance of a conditional use permit; except that, upon application, the planning commission by specific action in each instance may waive any one (1) or more of conditions of subsections (A) (11) through (A) (15) if it finds that such waiver will not result in material detriment to the public welfare or to the property of other persons located in the vicinity thereof.

**STAFF REVIEW AND COMMENT:** THIS REQUIREMENT HAS BEEN MET. ALL 15 CONDITIONS HAVE BEEN MET BY THE PROPOSED USE AS CONDITIONED AS NOTED ABOVE, AND THE APPLICANT HAS NOT REQUESTED ANY WAIVERS.

#### **IV. ENVIRONMENTAL CONSIDERATIONS:**

Staff has performed a preliminary environmental assessment of this project and have determined that it falls within the Categorical Exemption set forth in section 15303 (New Construction or Conversion of Small Structures) as the project consist of construction and location of limited numbers of new small facilities or structures, which are below the maximum amount allowed on the parcel. The proposed project will consist of four (4) exploratory well sites for a short period (approximately 120 days) and should permanent production wells occur the area utilized is approximately 250 square feet for each production well. Significant amounts of hazardous substances will not be used. Utility connections are available to serve the construction to the extent they are needed. Furthermore, Staff has determined that none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project.

In additional to lower traffic volumes, minimal foot traffic, etc., associated with the type of proposed use sought, the project contains several design features that serve to reduce its potential impact, compliance of which is required through conditions of approval. These include:

- a. Small size. The actual footprint after drilling will be approximately 250 square feet per well, or 1,000 total feet. The drilling pad (E-W) (N-S) will measure approximately 300' x 500', and will include accessory structures to the wells. Three (3)

tanks twenty-two (22'-0") feet in diameter and sixteen (16'-0") feet in height, a separator, gas flare, and a fence may be constructed should production be implemented.

b. Short duration. The exploratory drilling is a temporary activity – anticipated time period is less than 120 days. If resources are located in producible volumes, additional drilling (if any) to create production wells will be of a likewise temporary duration.

c. Regulatory compliance. The proposed exploratory petroleum oil and natural gas wells will adhere to permitting requirements, rules and regulations set forth by the San Joaquin Valley Air Pollution Control District; the California Department of Conservation, Division of Oil, Gas and Geothermal Resources (DOGGR); and the California Regional Water Quality Control Board (RWQCB), and the City of Arvin's Municipal Code Chapter 17.46 (Oil and Gas Production).

d. Noise restrictions. The project will comply with the requirements of Municipal Code Chapter 9.08 (Noise Disturbance Ordinance).

e. Light and glare. All outdoor lighting shall be hooded and directed as to not shine toward adjacent properties and public streets. All portable lighting, including lights located atop the drill rig, shall be pointed downward toward the base of the rig to minimize potential glare.

f. Air traffic safety. All drilling towers shall be marked and lighted in such a manner as to avoid potential safety hazards to aircraft application of herbicides and pesticides on adjacent farmlands.

g. Site restoration. When drilling operations are complete, the Applicant shall return the project site (as much as practical) to its original condition and all drilling equipment shall be removed within 90 days of termination of the drilling operations.

h. Odor and dust control. The project will not involve any process, equipment or materials which will be objectionable to persons living or working in the vicinity by reason of odor, fumes, dust, smoke, etc. Produced oil and muds will be appropriately contained, dust will be minimized by daily spraying during active operations, and any flare equipment will be maintained and used consistent with San Joaquin Valley Air Pollution Control District rules.

i. Cultural resources and human remains. In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An archeologist will be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance will occur until the Kern County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.

j. Self-contained wastewater. Wastewater will be self-contained and serviced by a private company; no connection to the City's wastewater system is proposed.

k. No hazardous materials will be used. The project will not emit, transport, use or dispose of hazardous materials. No hazardous material will be used in the drilling mud system. All drilled cuttings will be separated from the mud system, de-watered and stored on the location until the drilling is completed, liquid waste (water from the drilling mud) will be re-used as needed in the mud system. The excess will be stored on the site until it is dewatered. All drilling fluids to be used during the drilling of the above referenced well

will be the same drilling materials that are currently used in accordance with locally drilled agriculture wells. All cuttings and drilling fluids will be tested, dewatered and hauled off site to an approved non-hazardous drilling mud disposal site or spread on location if desired to build up location for production facilities or other purposes.

l. Fire code compliance and weed abatement. The operator will maintain weed abatement and brush clearance programs to reduce fire hazards to developed property in the immediate vicinity of vacant, undeveloped land, and comply with the applicable fire code.

m. Storm water discharge. The project will comply with National Pollution Discharge Elimination System (NPDES) regulations and permitting requirements to control direct storm water discharge, as well as applying any applicable Water Quality Management Plans and Best Management Practices (BMP).

n. Water well and septic system protections. Prior to commencing operations, all water wells and septic systems within the project area shall be properly destroyed by an appropriately-licensed contractor. Prior to destruction of any agricultural well, a sample of the uppermost fluid in the well column shall be checked for lubricating oil. Should lubricating oil be found in the well, the oil shall be removed from the well prior to placement of fill material for destruction.

o. Plugging and abandonment. If exploratory drilling is unsuccessful, all wells will be plugged and abandoned in compliance with the California Department of Conservation, Division of Oil, Gas and Geothermal Resources regulations.

p. Removal of drill rigs. Drill rigs removed after 90 days of completion of drilling well, unless it will be used for another well on site within 30 days.

q. Landscaping will be required around the perimeter of the site, outside of the surrounding fence or wall, so as screen equipment from public view. Pumping equipment height is also limited to 20 feet.

r. Other items set forth in the administrative record, including features required by the conditions of approval and set forth in the Operational Statement.

Staff further found and determined that none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project. The location is in an undeveloped parcel, meeting all setback requirements, and the location is not of a particularly sensitive environment that would otherwise create a significant impact. Additionally, there are no unusual circumstances regarding cumulative impacts; no successive projects of the same type in the same location are proposed, nor would they be significant, and oil and gas operations of this sort are relatively uncommon in comparison with other types of more common uses. Likewise, there is not a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. The project is also not located next to any scenic highway or resources, nor is located on a hazardous waste site which is included on any list compiled pursuant to Section 65962.5 of the Government Code. Finally, there are no structures on the site that could qualify as historical resources. No structures are proposed to be demolished, nor would the project have a significant adverse impact on a historic resource. Based on all the above, including evidence in the administrative record, the Staff recommends that the City adopt a Class 3 Categorical Exemption under CEQA Guidelines section 15303 (New Construction or Conversion of Small Structures).

## **V. PUBLIC NOTIFICATION AND CONSULTATION:**

The City properly noticed the May 18, 2018 hearing before the Planning Commission for the proposed CUP 2017-Petro Lud pursuant to Government Code sections 65090 and 65091 by publication in the newspaper, Attachment #9. In addition, the City Clerk provided notice of the proposed conditional use permit by mailing the public notice to all property owners within the 300-foot radius on May 17, 2018, Attachment #9.

## **VI. AGENCIES COMMENTS/PROJECT CORRESPONDENCE:**

On January 17, 2018, the application was distributed to City of Arvin departments, public agencies, and persons of interest for review and comment. Comments were requested to be returned on or before February 6, 2018. Distribution and mailing list on file at Community Development Department, Planning Division.

### **Comments received:**

1. February 6, 2018 -State of California – Natural Resources – Department of Oil, Gas, and Geothermal Resources – Identified two known abandoned oil and gas wells on the project site; further review of any surface development will be required, subject to DOGGR permitting processes and regulations.
2. January 31, 2018 – San Joaquin Valley Air Pollution control District – comment that it is not anticipated to exceed any of the noted District significance thresholds; the project is subject or Regulation VIII (Fugitive PM10 Prohibitions); All portable emission units (including portable drilling rights) are required to registered with either the Calif Air Resources Board (AARB) or with the District (Rule 2280 Portable Equipment Registration); request copy of this letter be provided to the applicant.
3. January 24, 2018- Arvin Building Division – No comment.
4. April 7, 2018 – Comments of Westminster Capital, Inc. – requested modifications and inclusion of conditions on the proposed activity and access.
- 4a. May 20 2018 – Staff’s Review and Comment to WCI on CUP 2017-Petro-:Lud

**Attachments:** Attachments 1 through 9 include general emails, correspondence, diagrams, supplemental information, project Check List, staff analysis, and public notifications.

## **EXHIBITS AND ATTACHMENTS**

Planning Commission -Resolution conditionally approving CUP 2017-Petro-Lud – Stockton Project - Oil and Gas Exploratory and Production Well -APN 189-351-36 Southwest Corner of Sycamore Road and Meyer Street; proposes the establishment of a drill pad approximately 300’-0” x 500’-0” and four (4) exploratory well sites which may be converted into production wells and adoption of a related CEQA exemption findings pursuant to the California Environmental Quality Act.

**Exhibit A – Conditions of Approval – CUP Petro-Lud – Stockton Project Oil and Gas Exploratory and Production Well -APN 189-351-36.**

### **Comments Received:**

1. February 6, 2018 -State of California – Natural Resources – Department of Oil, Gas, and Geothermal Resources – Identified two known abandoned oil and gas wells on the project site; further review of any surface development will be required, subject to DOGGR permitting processes and regulations.
2. January 31, 2018 – San Joaquin Valley Air Pollution control District – comment that it is not anticipated to exceed any of the noted District significance thresholds; the project is subject or Regulation VIII (Fugitive PM10 Prohibitions); All portable emission units (including portable drilling rights) are required to registered with either the Calif Air Resources Board (AARB) or with the District (Rule 2280 Portable Equipment Registration); request copy of this letter be provided to the applicant.
3. January 24, 2018- Arvin Building Division – No comment.
4. April 7, 2018 – Comments of Westminster Capital, Inc. – requested modifications and inclusion of conditions on the proposed activity and access.
- 4a - May 20, 2018 – Staff’s Review and Comment to WCI Relating to CUP 2017-Petro-Lud Exploratory Drill Operation

**Attachments:**

- Attachment 1 - May 20, 2018 Updated Operational Statement Checklist
- Attachment 2 - December 26, 2017 Response to requested additional information
- Attachment 2a – Exhibit A – Locational Photo Overlay with access from Sycamore Road
- Attachment 2b -Exhibit B- Typical Photograph of Drill Site
- Attachment 2c – Exhibit C – Check List – Oil and Gas Production Locational and Operational Criteria
- Attachment 3 - July 31, 2017 - Limited Title Certificate – Memorandum of Oil, Gas, and Mineral Lease
- Attachment 4 - January 10, 2018 Response to requested additional Information
- Attachment 5 - Typical Oil Field Diesel Generator – Provided January 10, 2018
- Attachment 6 - April 7, 2018 – Letter from Westminster Capital – Surface owner requesting modification of access and limitation as to surface activities on the site.
- Attachment 7 – February 1, 2018 – Law Offices of Borton Petrini, LLP representing Westminster Capital
- Attachment 8- April 11, 2018 Stoel Rives LLP – Attorney for Petro-Lud – Not included materials related to Surface Access Agreement
- Attachment 9 - Public Hearing Notice Published May 19, 2018 - Bakersfield Californian

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ARVIN APPROVING CONDITIONAL USE PERMIT (CUP) 2017-PETRO-LUD – STOCKTON PROJECT - OIL AND GAS EXPLORATORY AND PRODUCTION WELL -APN 189-351-36 SOUTHWEST CORNER OF SYCAMORE ROAD AND MEYER STREET; ESTABLISHMENT OF A DRILL PAD NO LARGER THAN 300’-0” X 500’-0” AND FOUR (4) EXPLORATORY WELL SITES WHICH MAY BE CONVERTED INTO PRODUCTION WELLS AND ADOPTION OF A RELATED CEQA EXEMPTION FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

**WHEREAS**, the Planning Commission opened the public hearing on May 30, 2018 and has received testimony and other evidence at the meeting; and

**WHEREAS**, public notice for the public hearing was published in the Bakersfield Californian on May 19, 2018 and notices were mailed to individual property owners within 300-feet of the project site on May 17, 2018; and

**WHEREAS**, notice has been given in the time and in the manner required by State Law and City Code; and

**WHEREAS**, Staff has performed a preliminary environmental assessment of this project and have determined that it falls within the Categorical Exemption set forth in section 15303 (New Construction or Conversion of Small Structures) as the project consist of construction and location of limited numbers of new small facilities or structures, which are below the maximum amount allowed on the parcel. The proposed project will consist of four (4) exploratory well sites for a short period (approximately 120 days) and should permanent production wells occur the area utilized is approximately 250 square feet for each production well. Significant amounts of hazardous substances will not be used. Utility connections are available to serve the construction to the extent they are needed. Furthermore, Staff has determined that none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project; and

**WHEREAS**, the Planning Commission of the City of Arvin desires to adopt a Class 3 Categorical Exemption for the Project pursuant to CEQA Guidelines section 15303, and approve Conditional Use Permit 2017 – Petro Lud subject to conditions set forth in Exhibit A.

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

1. Recitals. The recitals set forth above are true and correct and incorporated herein by this reference.
2. CEQA. The Planning Commission finds and determines that the project falls within the

Categorical Exemption set forth in CEQA Guidelines section 15303 (New Construction or Conversion of Small Structures) as the project consist of construction and location of limited numbers of new small facilities or structures, which are below the maximum amount allowed on the parcel. The proposed project will consist of four (4) exploratory well sites for a short period of time (approximately 80 days, more or less, total) and should permanent production wells occur the area utilized is approximately 250 square feet for each production well. Significant amounts of hazardous substances will not be used. Utility connections are available to serve the construction to the extent they are needed.

In additional to lower traffic volumes, minimal foot traffic, etc., associated with the type of proposed use sought, the Planning Commission finds that the project contains several design features that serve to reduce its potential impact, compliance of which is required through conditions of approval. These include:

- a. Small size. The actual footprint after drilling will be approximately 250 square feet per well, or 1,000 total feet. The drilling pad (E-W) (N-S) will measure approximately 300' x 500', and will include accessory structures to the wells. Three (3) tanks twenty-two (22'-0") feet in diameter and sixteen (16'-0") feet in height, a separator, gas flare, and a fence may be constructed should production be implemented.
- b. Short duration. The exploratory drilling is a temporary activity – anticipated time period is less than 120 days. If resources are located in producible volumes, additional drilling (if any) to create production wells will be of a likewise temporary duration.
- c. Regulatory compliance. The proposed exploratory petroleum oil and natural gas wells will adhere to permitting requirements, rules and regulations set forth by the San Joaquin Valley Air Pollution Control District; the California Department of Conservation, Division of Oil, Gas and Geothermal Resources (DOGGR); and the California Regional Water Quality Control Board (RWQCB), and the City of Arvin's Municipal Code Chapter 17.46 (Oil and Gas Production).
- d. Noise restrictions. The project will comply with the requirements of Municipal Code Chapter 9.08 (Noise Disturbance Ordinance).
- e. Light and glare. All outdoor lighting shall be hooded and directed as to not shine toward adjacent properties and public streets. All portable lighting, including lights located atop the drill rig, shall be pointed downward toward the base of the rig to minimize potential glare.
- f. Air traffic safety. All drilling towers shall be marked and lighted in such a manner as to avoid potential safety hazards to aircraft application of herbicides and pesticides on adjacent farmlands.
- g. Site restoration. When drilling operations are complete, the Applicant shall return the project site (as much as practical) to its original condition and all drilling equipment shall be removed within 90 days of termination of the drilling operations.
- h. Odor and dust control. The project will not involve any process, equipment or materials which will be objectionable to persons living or working in the vicinity by reason of odor, fumes, dust, smoke, etc. Produced oil and muds will be appropriately contained, dust will be minimized by daily spraying during active operations, and any

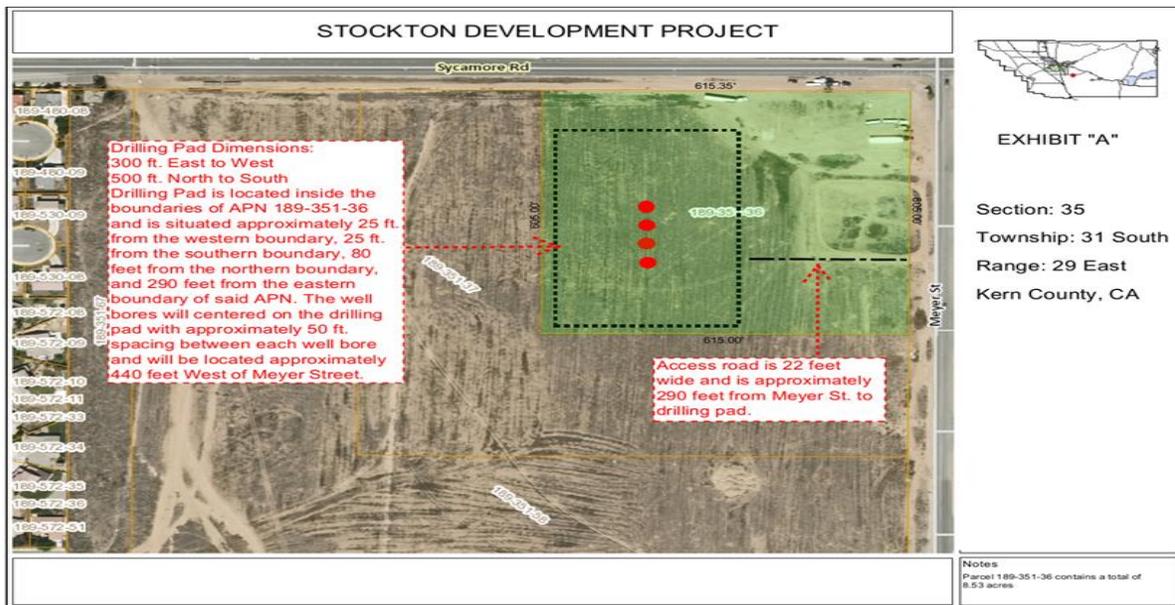
flare equipment will be maintained and used consistent with San Joaquin Valley Air Pollution Control District rules.

- i. Cultural resources and human remains. In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An archeologist will be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance will occur until the Kern County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.
- j. Self-contained wastewater. Wastewater will be self-contained and serviced by a private company; no connection to the City's wastewater system is proposed.
- k. No hazardous materials will be used. The project will not emit, transport, use or dispose of hazardous materials. No hazardous material will be used in the drilling mud system. All drilled cuttings will be separated from the mud system, de-watered and stored on the location until the drilling is completed, liquid waste (water from the drilling mud) will be re-used as needed in the mud system. The excess will be stored on the site until it is dewatered. All drilling fluids to be used during the drilling of the above referenced well will be the same drilling materials that are currently used in accordance with locally drilled agriculture wells. All cuttings and drilling fluids will be tested, dewatered and hauled off site to an approved non-hazardous drilling mud disposal site or spread on location if desired to build up location for production facilities or other purposes.
- l. Fire code compliance and weed abatement. The operator will maintain weed abatement and brush clearance programs to reduce fire hazards to developed property in the immediate vicinity of vacant, undeveloped land, and comply with the applicable fire code.
- m. Storm water discharge. The project will comply with National Pollution Discharge Elimination System (NPDES) regulations and permitting requirements to control direct storm water discharge, as well as applying any applicable Water Quality Management Plans and Best Management Practices (BMP).
- n. Water well and septic system protections. Prior to commencing operations, all water wells and septic systems within the project area shall be properly destroyed by an appropriately-licensed contractor. Prior to destruction of any agricultural well, a sample of the uppermost fluid in the well column shall be checked for lubricating oil. Should lubricating oil be found in the well, the oil shall be removed from the well prior to placement of fill material for destruction.
- o. Plugging and abandonment. If exploratory drilling is unsuccessful, all wells will be plugged and abandoned in compliance with the California Department of Conservation, Division of Oil, Gas and Geothermal Resources regulations.
- p. Removal of drill rigs. Drill rigs removed after 90 days of completion of drilling well, unless it will be used for another well on site within 30 days.
- q. Landscaping will be required around the perimeter of the site, outside of the surrounding fence or wall, so as screen equipment from public view. Pumping equipment height is also limited to 20 feet.

- r. Other items set forth in the administrative record, including features required by the conditions of approval and set forth in the Operational Statement.

The Planning Commission further finds and determines that none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project. The location is in an undeveloped parcel, meeting all setback requirements, and the location is not of a particularly sensitive environment that would otherwise create a significant impact. Additionally, there are no unusual circumstances regarding cumulative impacts; no successive projects of the same type in the same location are proposed, nor would they be significant, and oil and gas operations of this sort are relatively uncommon in comparison with other types of more common uses. Likewise, there is not a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. The project is also not located next to any scenic highway or resources, nor is located on a hazardous waste site which is included on any list compiled pursuant to Section 65962.5 of the Government Code. Finally, there are no structures on the site that could qualify as historical resources. No structures are proposed to be demolished, nor would the project have a significant adverse impact on a historic resource. For all the foregoing, including evidence in the administrative record, the Planning Commission of the City of Arvin adopts a Class 3 Categorical Exemption under CEQA Guidelines section 15303 (New Construction or Conversion of Small Structures).

- 3. Use Permit Approved. The Planning Commission approves Conditional Use Permit 2017 – Petro Lud, subject to the conditions as established in Exhibit A, within APN 189-351-36 in the location as generally depicted, below.



- 4. Acceptance of Conditions. The property owner(s) and business owners(s) shall submit affidavits of acceptance of the conditions of approval for this project, including an acknowledgement that failure to comply with the conditions of approval shall constitute grounds for revocation or other enforcement, prior to Conditional Use Permit 2017 – Petro

Lud becoming effective.

5. This Resolution shall become effective immediately.

**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 30<sup>th</sup> day of May, 2018 by the following vote:

AYES: \_\_\_\_\_

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

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

ABSENT: \_\_\_\_\_

**ATTEST**

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

**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**  
**CONDITIONS OF APPROVAL**  
**Conditional Use Permit No. 2017-Petro Lud**

(CUP2017-Petro-Lud – Stockton Project - Oil and Gas Exploratory and Production Well - APN 189-351-36 Southwest Corner of Sycamore Road and Meyer Street; proposes the establishment of a drill pad no larger than 300’-0” X 500’-0” and four (4) exploratory well sites which may be converted into production wells)

**NOTICE TO PROJECT APPLICANT**

In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within 90 days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project.

This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

**PART A - PROJECT INFORMATION**

1. Assessor’s Parcel No: 189-351-36
2. Street Location: Southwest Corner of Sycamore Road and Meyer Street, Arvin.
3. Existing Zoning: C-2 (General Commercial)
4. Planned Land Use: General Commercial
5. Project Description: Conditional Use Permit 2017 – Petro Lud requests authorization to permit four (4) Oil and Gas Exploratory and Production Wells (Stockton Project) on property located at the Southwest Corner of Sycamore Road and Meyer Street, a portion of APN 189-351-36. The proposed drilling area is no larger than 300’-0” X 500’-0.”

**PART B – GENERAL CONDITIONS AND REQUIREMENTS**

The Planning Commission approved these conditions on May 30, 2018.

This project was environmentally assessed, and resulted in a Class 3 Categorical Exemption under CEQA Guidelines section 15303 (New Construction or Conversion of Small Structures).

**IMPORTANT: PLEASE READ CAREFULLY**

Please note that this project may be subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies, those determined through site plan review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community, and recommended

conditions for development that are not essential to health, safety, and welfare, but would on the whole enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings can be made.

All discretionary conditions of approval will ultimately be deemed mandatory unless appealed to the City Council within 15 days after the decision by the Planning Commission or 10 days after the mailing required notices (if any), whichever date is later.

In the event you wish to appeal the Planning Commission's decision or discretionary conditions of approval, you may do so by filing a written appeal with the City Clerk. The appeal shall include a statement of your interest in or relationship to the subject property, the decision or action appealed and specific reasons why you believe the decision or action appealed should not be upheld.

Approval of this conditional use permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development including, but not limited to, the following:

- a. All existing and proposed improvements including but not limited to buildings and structures, signs and their uses, trees, walls, driveways, outdoor storage, and open land use areas on the subject property and all of the preceding which are located on adjoining property and may encroach on the subject property;
- b. All public and private easements, rights-of-way and any actual or potential prescriptive easements or uses of the subject property; and,
- c. Existing and proposed grade differentials between the subject property and adjoining property zoned or planned for residential use.

Approval of this use permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this use permit, the Zoning Ordinance, and all City Standards and Specifications. *This use permit is granted, and the conditions imposed, based upon the Operation Statement provided by the applicant. The Operation Statement is material to the issuance of this use permit. Unless the conditions of approval specifically require operation inconsistent with the Operation Statement, a new or revised use permit is required if the operation of this establishment changes or becomes inconsistent with the Operation Statement.* Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the use permit or any other enforcement remedy available under the law. The City shall not assume responsibility for any deletions or omissions resulting from the use permit review process or for additions or alterations to any construction or building plans not specifically submitted and reviewed and approved pursuant to this use permit or subsequent amendments or revisions.

No uses of land, buildings, or structures other than those specifically approved pursuant to this use permit shall be permitted.

If a producing well is not secured upon land subject to such permit within twelve (12) months from the date of issuance of this use permit, or within any extended period thereof, this use permit shall expire and the premises shall be restored to their original condition as nearly as practicable to do so. The use permit shall not expire, however, while the permittee is continuously conducting drilling, re-drilling, completing or abandoning operations, or related operations, in a well on lands covered by such permit, which operations were commenced while such use permit was otherwise in effect. Continuous operations are operations suspended not more than thirty (30) consecutive days. If at the expiration of such twelve (12) month period the permittee has not completed the drilling program on the lands covered by such permit, the planning commission, may upon a written request of permittee, extend the permit for the additional time requested by permittee for the completion of such drilling program. (Section 17.46.040(B).)<sup>1</sup>

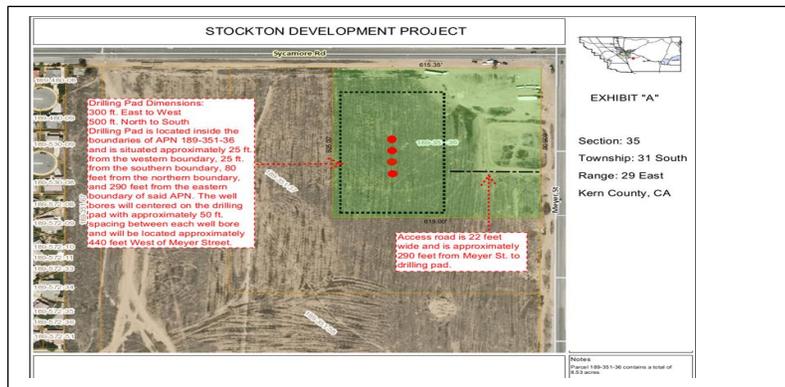
These conditions are applicable to any person or entity making use of this use permit, whether identified as “permittee,” “applicant,” “operator,” “developer,” or is unnamed.

#### PART C – ADDITIONAL CONDITIONS

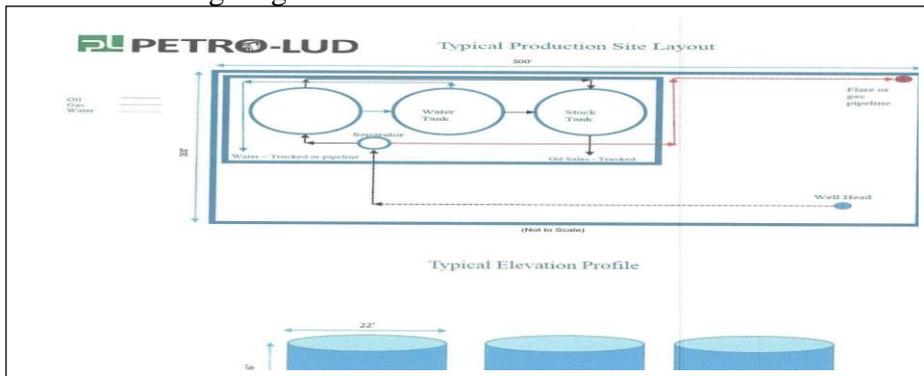
1. Approvals: The project shall be constructed and used in accordance with all approved plans, conditions of approval, and other required permits and approvals. All construction shall comply with applicable building codes.
  
2. Laws and Regulations: The use will comply with will all applicable laws and government regulations, including all applicable federal, state, and local laws, including those pertaining to hazardous materials, air and water quality, waste disposal, the Clean Water Act, the Clean Air Act, the Federal Water Pollution Control Act, the Solid waste Disposal Act, the Resource Conservation Recovery Act, the Resource Compensation and Liability Act, as well as the rules, regulations and ordinances of the Environmental Protection Agency, the California Division of Oil, Gas, and Geothermal Resources (DOGGR), the California Department of Health Services, the California Regional Water Quality Control Board, the San Joaquin Valley Air Pollution Control District, the City of Arvin’s Municipal Code (including Chapter 17.46 – Oil and Gas Production), and any other applicable laws or regulations.
  
3. Location of Use: Application and operation shall be limited to the surface areas in APN 189-351-36, subject to the setbacks identified below, and generally depicted as follows:

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<sup>1</sup> All references are to the Arvin Municipal Code unless otherwise noted.



4. Typical Layout: Typical layout of facilities shall generally comply with the following diagram:



5. Setbacks: Location of oil or gas well shall be in the area approved, and under no conditions shall an oil or gas well be within 100 feet of any public highway one within 150 of any residence (Section 17.46.040 A-1). Additionally, the site shall be set back at least 175 feet from the centerline of the City's right of way for Sycamore Street, and 165 feet from the centerline of the City's right of way Meyers Street, to allow for the potential commercial development.

6. Building Permits. If a grading plan is required by the Building Division, building permits will not be issued until the grading plan is approved by both the City Engineer and the Building Division.

7. Parking: All off-street parking and operations and staging shall be restricted to the drill pad area.

8. Fire and Safety Regulations: All operations must conform to all applicable fire and safety regulations and must coordinate and receive clearance or any required approvals from the Kern County Fire Department (Section 17.46.040 A-2). Adequate firefighting apparatus and supplies, approved by the Kern County Fire Department, shall be maintained on the drilling site at all times during drilling and production operations (Section 17.46.040 A-13). All drilling and production activities shall be subject to all fire and safety regulations as required by the Kern County Fire Department and DOGGR. Blowouts, fires, explosions and other life threatening or

environmental emergencies shall be reported immediately to the Kern County Fire Department, Arvin City Manager, or designee, and State Department of Conservation, Division of Oil, Gas and Geothermal Resources (DOGGR).

9. Signs. Signs shall be directional and warning signs and signs required for identification the well. (Section 17.46.040 A-3) Signs relating to drilling and/or production operations shall be limited to directional and warning signs, and signs for identification of wells and facilities as required by the Fire Code and DOGGR to ensure employee and public safety. Signs not related to said operations shall be subject to the provisions of Arvin Municipal Code.

10. Sanitary Facilities and Wastewater: Sanitary toilet and washing facilities shall be installed and maintained an a clean and sanitary condition at all times. The applicant shall provide proof that a private company will provide maintenance service (Section 17.46.040 A-4). Wastewater will be self-contained and serviced by a private company; no connection to the City's wastewater system is authorized.

11. Drilling Equipment Removal: Any derrick, boilers or other equipment used to drill any well hole or to repair, clean out, deepen or redrill any completed or drilling well, shall be removed within ninety (90) days after completion of such drilling, or after abandonment of any well, unless such derrick, boilers and drilling equipment are to be used, within a thirty (30) days, for the drilling of another well or wells on the premises (Section 17.46.040 A-6).

12. Sumps and Tanks: Earthen sumps are prohibited during production. (Section 17.46.040 A-11.) All produced liquid will be placed into tanks, which may be portable during the test period. No pipelines are proposed to carry away produced oil or gas. Instead, any oil or gas will be produced into and shipped from tanks located on the premises. (Section 17.46.040 A-11.)

During drilling operations, an earthen pit may be used for drilling mud and cuttings if consistent with DOGGR regulations and requirements. Liquid drilling mud and cuttings will be stored in the pit, which will be approximately 25'-0" wide by 125'-0" long at a depth of 1- 5 '-0". All material stored in the pit will be tested, and if determined hazardous will be disposed of properly as required by local, state and federal law. If determined to be non-hazardous, the materials may be dewatered and hauled off site to an approved non-hazardous drilling mud disposal site, or spread on location if necessary to build up location for production if such disposal is compliant with local, state and federal law. At the conclusion of drilling operations, and within ninety (90) days after any well has been placed in production or after its abandonment (whichever is sooner), the earthen pit and surrounding area shall be tested for hazardous materials, remediated to remove any hazardous materials consistent with local, state and federal requirements, filled, and the location returned to its original condition as reasonably possible and subject to other conditions related to landscaping, etc., in these conditions of approval. (Section 17.46.040 A-7.)

13. Flare: Unless otherwise mandated by a regulatory agency with jurisdiction, produced gas will be metered and then incinerated in a flare system utilizing an air induction line, continues pilot, and wind shroud to ensure complete combustion. All flares shall be shielded from adjacent properties and road rights-of-way.

14. Portable Derrick and Drilling: Any derrick used for servicing operations shall be of the portable type; provided, however, that upon presentation of proof that the well is of such depth or has such other characteristics, or for other cause, that a portable-type derrick will not properly service such well, the applicant may seek planning commission approval the use of a standard type of derrick (Section 17.46.040 A-9) The use of portable oil derrick is approved. There will not be more than one (1) drilling rig on location at a time. Drilling operations may take place 24 hours per day.

15. Bonding: Bonding shall be required in the amount of \$500.00 per well as is required by Municipal Code Section 7.46.040 A-10. Additionally, operators are required to comply with DOGGR bonding and other requirements at all times, and proof of compliance with such bonding requirement must be submitted to the City prior to any drilling operations.

16. Commercial Uses: The proposed site is located on property zone C-2 (General Commercial). This use permit does not allow applicant the use of the proposed site for commercial purposes other than oil and gas exploratory and production wells as noted in the Project Description and conditioned herein. However, recognizing that drilling, redrilling, re-working, abandonment, maintenance or other equipment is typically required on site on a temporary basis for relatively short durations, portions of the site are authorized - at the applicant's discretion - to be used for commercial parking or similar uses under the following conditions:

- a. Prior to use of a portion of the site as a commercial use, the commercial use on APN 189-351-36 must obtain all required City approvals and permits.
- b. The applicant/operator shall designate a specific location for the secondary commercial use, which must be approved during the permitting process for the commercial use; or if no permits are pending, by the City's Community Development Department Planning Division.
- c. Any incidental commercial use shall be secondary and subservient to the use authorized by this use permit.
- d. No permanent structure shall be erected within the area of the project site for the commercial use which will inhibit or restrict drilling, redrilling, re-working, abandonment, maintenance or other equipment used for the site. Paved parking lots, sidewalks, landscaping, irrigation systems, etc., are not permanent structures.
- e. A covenant, in a form acceptable to the City, shall be recorded against the commercial property requiring compliance with subsection (a-d) prior to commercial use of a portion of the project site.

If a covenant is recorded as required by subsection (e), and if the specific location for the commercial use is approved by the City, then conditions herein requiring landscaping and fencing/walls around the project site may be reduced to encompass just the location where commercial uses will not occur. Applicant will still be responsible for litter, debris and weed control for the entire site, will still be responsible for securing the portion of the site where commercial uses will not occur, and is still required to ensure that parking for the permitted use occur on site.

17. Landscaping: Landscaping will be required around the perimeter of the site, outside of the surrounding fence or wall, so as screen equipment from public view (Section 17.46.040 A-11). All facilities shall be landscaped as approved by the Community Development Department Planning Division. Proposed landscaping and irrigation system shall be submitted for review and approval within 60 days of completion of the first well. Landscaping shall be installed within 60 days of approval by the City, or when permanent opaque fencing or walls must be installed, and must be maintained as approved by the City.

18. Deliveries: Except in case of emergency, no materials, equipment, tools or pipe used for either drilling or production operations shall be delivered to or removed from the drilling site, except between the hours of eight (8) a.m. and eight (8) p.m. of any day (Section 17.46.040 A- 12) unless otherwise mandated by DOGGR or other regulatory authority with jurisdiction.

19. Truck Routes: Vehicles in excess of three tons shall be restricted to those public roads specified as Truck Routes as established by the City of Arvin's Circulation Element, primarily Sycamore Street and Meyer Road.

20. Notification of Emergencies: In cases of fires, blowouts, explosions and other emergencies the applicant must promptly contact and notify the Kern County Fire Department, Arvin City Manager or designee, and DOGGR.

21. Pumping Operations: Pumping wells shall be operated by electric motors or muffled internal combustion engines, and the height of all pumping units shall be not more than twenty (20) feet.

22. Maintenance of Equipment: All permanent equipment shall be painted and kept in neat condition unless otherwise required by a regulatory agency having jurisdiction over the equipment or otherwise recommended by the manufacturer to keep the equipment in safe and operating condition. All producing operations shall be as free from noise as possible with modern oil operations (Section 17.46.040 A-14). Should the oil and gas operation go into production, all permanent equipment must kept in neat condition and maintained.

23. Noise: The project shall comply with the requirements of Municipal Code Chapter 9.08 (Noise Disturbance Ordinance). During the drilling operation, 2-500 horsepower main rig engines and 1-1000 hp pump engine with industrial mufflers with

some (1- 2) auxiliary 50hp. engines is permitted. The use shall utilize technological improvements generally accepted and used in drilling and production methods capable of reducing factors of nuisance and annoyance (Section 17.46.040 A-5).

24. Lighting: Unless otherwise mandated by DOGGR or other agency with regulatory jurisdiction, all outdoor lighting shall be hooded and directed as to not shine toward adjacent properties and public streets. All portable lighting, including lights located atop the drill rig, shall be pointed downward toward the base of the rig to minimize potential glare. All drilling towers shall be marked and lighted in such a manner as to avoid potential safety hazards to aircraft application of herbicides and pesticides on adjacent farmlands.

25. Dust and odors: The project shall not use any process, equipment or materials which will be objectionable to persons living or working in the vicinity by reason of odor, fumes, dust, smoke, etc. Produced oil and muds must be contained. The use shall comply with all regulations of the San Joaquin Valley Air Pollution Control District (Regulation VIII) concerning dust suppression during construction of the project. Methods include, but are not limited to; use of water or chemical stabilizer/suppressants to control dust emission from disturbed area, stock piles, and access ways; covering or wetting materials that are transported off-site; limit construction-related speed to 15 mph on all unpaved areas/washing of construction vehicles before they enter public streets to minimize carryout/track out; and cease grading and earth moving during periods of high winds (20 mph or more).

26. Litter and Debris: The site must be kept weed, litter and brush free at all times. A weed abatement and brush clearance maintenance program will be implemented to reduce fire hazards to developed property in the immediate vicinity of vacant, undeveloped land, and comply with the applicable fire code and DOGGR requirements.

27. Secured Site; Fencing and Walls: Operations at the site must be secured at all times. The drilling pad / site shall be fenced or walled prior to commencement of drilling or other operations. (Section 17.46.040 A-15). Fence or wall height must be a minimum of six (6') feet in height. Razor wire is prohibited. Temporary chain link fencing, with an opaque material to obscure view, is permitted until six (6) months after the completion of activities related to the drilling. Thereafter, permanent opaque fencing or walls must be installed around the site, and coated with an anti-graffiti paint or solution. Any graffiti must be removed within 2 (two) business days.

28. Site Access: Site access must be off of Meyer Street; no access from Sycamore Road shall be permitted. Encroachment permit application and approval from the City Engineer for the access road to the drill site from Meyer Street is required. The access from Meyer Street shall be a temporary access road of approximately 22'-0" wide and shall be surfaced with materials to prevent dust and shall be maintained to prevent rutting along the access road. Temporary improvements shall be required to ensure that the Meyer Street roadway will not be

damaged by the oil and gas operations. Once the oil and gas operations are completed, the temporary road access improvements shall be removed and restored to original condition as near as reasonably possible, unless the applicant and surface right owners obtain approval from the Community Development Department Planning Division. Should operations cause damage to Meyer Road or other City facilities, the operator or use permit holder(s) shall be responsible for the complete cost of repair of the damage.

29. Site Restoration: When drilling operations are complete, the applicant shall return the project site (as much as practical and subject to other conditions related to landscaping, etc., in these conditions) to its original condition as near as reasonably possible.

30. Hazardous Materials: The transport, use or disposal of hazardous materials is prohibited. No hazardous material will be used in the drilling mud system. All drilled cuttings will be separated from the mud system, de-watered and stored on the location until the drilling is completed, liquid waste (water from the drilling mud) will be re-used as needed in the mud system. The excess will be stored on the site until it is dewatered. All drilling fluids to be used during the drilling of the above referenced well will be the same drilling materials that are currently used in accordance with locally drilled agriculture wells. All cuttings and drilling fluids will be dewatered and hauled off site to an approved non-hazardous drilling mud disposal site or spread on location if desired to build up location for production facilities or other purposes.

31. Unauthorized Release of Petroleum Products, Etc.: Any unauthorized releases of petroleum, produced water, or hazardous materials in a reportable amount resulting from use of the site shall be promptly reported as required by applicable federal, state or local law or regulation, and shall report the same to the City in four (4) business days. The applicant/operator shall immediately determine the source of the release, undertake any repairs or procedures to ensure that the release has stopped, and promptly remediate any unauthorized release consistent with federal, state and local requirements.

If petroleum, produced water, or hazardous materials in a reportable amount are discovered present in the soil, water or groundwater at or immediately adjacent to the site, then the applicant/operator shall report the same to the City within four (4) business days after having received a complaint or obtained knowledge of the same, and shall report as required by applicable federal, state or local law or regulation. Applicant/operator shall immediately investigate the source of such alleged release. If the use of the site is responsible for such release, then the applicant/operator shall promptly determine the source of the release, undertake any repairs or procedures to ensure that the release has stopped, and promptly remediate any unauthorized release consistent with federal, state and local requirements.

Applicant/operator shall submit monthly written updates to the Community Development Planning Department until any unauthorized release on the site or attributable to the applicant/operator is remediated consistent with federal, state and local requirements, and the applicant/operator provides acceptable documentation (such as clearance from DOGGR) of the same to the City.

32. Reporting Requirements: In addition to reporting unauthorized releases, the applicant/operator shall provide the City with any of any notice, claim or allegation of a violation, or proceeding regarding the same, received from any federal, state, or local governmental agency. Applicant/operator shall submit monthly written updates regarding the status of the same to the Community Development Planning Department, including the final determination.

33. Storm Water Discharge. The project shall comply with National Pollution Discharge Elimination System (NPDES) regulations and permitting requirements to control direct storm water discharge, as well as applying any applicable Water Quality Management Plans and Best Management Practices (BMP).

34. Water Wells and Septic Tanks: Prior to commencing operations, all water wells and septic systems within the project area shall be properly destroyed by an appropriately-licensed contractor. Prior to destruction of any agricultural well, a sample of the uppermost fluid in the well column shall be checked for lubricating oil. Should lubricating oil be found in the well, the oil shall be removed from the well prior to placement of fill material for destruction.

35. Undocumented Oil or Gas Wells: In the event a previously undocumented oil or gas well is uncovered or discovered on the project, the operator shall promptly inform DOGGR and comply with DOGGR requirements.

36. Human Remains: If human remains are discovered during grading or construction activities, work would cease pursuant to Section 7050.5 of the California Health and Safety Code. If human remains are identified on the site at any time, work shall stop at the location of the find and the Kern County Coroner shall be notified immediately, and the local Native American community shall be notified immediately, as required by Section 7050.5 of the California Health and Safety Code and Section 5097.98 of the California Public Resource Code.

37. Cultural Resources: If unrecorded cultural resources are located during development of the site, work must halt in the vicinity and the finds must be assessed by a qualified archaeologist. Any recommendations made by the qualified archaeologist shall be completed by the developer prior to commencement of the development.

38. Abandonment: All wells will be plugged and abandoned in compliance with the California Department of Conservation, Division of Oil, Gas and Geothermal Resources regulations. Proof of DOGGR approval of the request to abandon shall be provided to the City prior to abandonment. The applicant shall provide the location of all structures (above and below ground) proposed to be removed or to remain in place, as well as the exact location of all wells (including distances from boundaries) along with the DOGGR well name and number. If any contamination is known, the type and extent shall also be provided to the City, along with the proposed remedial actions to the level of detail that can be assessed through environmental review. Prior to

abandonment, approval from the Community Development, Planning Division must be obtained regarding measures proposed to be used to prevent or reduce nuisance effects (e.g., dust, fumes, glare, noise, odor, smoke, traffic congestion, vibration, etc.) and to prevent danger to life and property.

39. Rights Run with the Land: Unless otherwise conditioned, this approval runs with the land and may continue under successive owners provided all provisions are satisfied.

40. Fees and Costs: Prior to commencing use under this conditional use permit, the applicant shall pay, in full, all fees and costs required for the processing of the use permit or otherwise required by any applicable City of Arvin resolution or ordinance. If a deposit has been made with the City, and is inadequate, the applicant shall pay any remaining balance(s) within thirty (30) days of being invoiced by the City.

41. Indemnity, Defense and Hold Harmless: The applicant, operator, and/or property owner ("Applicant" herein) agrees to indemnify, defend, and hold harmless the City of Arvin, its officers, agents, employees, departments, commissioners and boards ("City" herein) against any and all liability, claims, actions, causes of action or demands whatsoever against them, or any of them, before administrative or judicial tribunals of any kind whatsoever, in any way arising from, the terms and provisions of this application, including without limitation any CEQA approval or any related development approvals or conditions whether imposed by the City, or not, except for City's sole active negligence or willful misconduct. This indemnification condition does not prevent the Applicant from challenging any decision by the City related to this project and the obligations of this condition apply regardless of whether any other permits or entitlements are issued.

# Attachment 1 - May 19, 2018 Updated Operational Statement Checklist

**OPERATIONAL STATEMENT CHECKLIST  
DEVELOPMENT SERVICES DIVISION  
PLANNING & RESOURCE MANAGEMENT DEPARTMENT  
FOR  
PETRO-LUD, INC.  
1311 CALAVERAS PARK DRIVE, BAKERSFIELD, CA 93311  
FOR  
STOCKTON DEVELOPMENT PROJECT  
SEC. 35, T31S, R29E, CITY OF ARVIN, KERN COUNTY, CALIFORNIA  
APN: 189-351-36, 189-351-37, 189-351-58**

**Outline of the Project Operation:**

The nature of this project is to temporarily move in a portable drilling rig and drill exploration wells for the accumulation of oil and gas ("Project" or "Proposed Project"). If oil and gas is found in commercial quantities, casing will be installed and the well(s) will be completed, the drilling rig will be removed from the site and a smaller completion rig will be moved in and the well(s) completed.

A new drilling pad will be built in the Northeast Quarter of the Northwest Quarter of Section 35. The drilling pad (E-W) (N-S) will measure approximately 300' x 500' and the actual footprint after drilling will be approximately 250 square feet per well. Access to the location will be a 22 foot wide access road to be constructed with entry from Meyer Street and extending to the drilling pad and production facilities if oil is found in commercial quantities. For each well drilled a temporary well cellar (8' x 8' x 6' - 64 sqft) will be built and conductor pipe will be cemented at the well location to a depth of 80 feet +/- 1 ft. This preliminary work will require four to six days of daylight activity.

A mobile drilling rig will be set up for the drilling of each well. There will not be more than 1 drilling rig on location at a time. The move in and rigging-up should take approximately two days per well. Actual drilling time is estimated to take approximately 20 days or less per well. The total estimated timeframe to drill all 4 locations would be approximately 80 drilling days or less if they were drilled simultaneously. Drilling is a continuous 24 hour per day operation and the drilling crew consists of five men +/- working twelve hour shifts, two shifts per day. They will be supported by the rig company owner/CEO of Petro-Lud, Inc. No hazardous material will be used in the drilling mud system. All drilled cuttings will be separated from the mud system, de-watered and stored on the location until the drilling is completed, liquid (water from the drilling mud) will be re-used as needed in the mud system. The excess will be stored on the site until it is dewatered. All drilling fluids to be used during the drilling of the above referenced well will be the same drilling materials that are currently used in accordance with locally-drilled agriculture wells. Thereafter, all cuttings and drilling fluids will be dewatered and hauled off site to an approved non-hazardous drilling mud disposal site or spread on location if desired to build up location for production facilities or other purposes.

If exploratory drilling is unsuccessful, all wells will be plugged and abandoned in compliance with the rules and regulations of the California Department of Conservation, Division of Oil,

Gas and Geothermal Resources ("DOGGR"). The drilling rig and all of the equipment will be removed from the site. The temporary cellar will be removed and the site and access road will be cleaned up and returned to as close to original condition as reasonably possible.

If the well has good oil and gas shows, the drilling rig will run steel casing in the well. The casing will be cemented. Fresh water zones will be protected with cement as required by the DOGGR rules and regulations. Typically a smaller, portable completion rig will be used instead of the drilling rig to complete the well. It may also be required to run logs, perforate oil/gas sands, perform tests and run tubing.

If the well is expected to produce primarily oil, it will be produced into portable tanks during an initial test period. The capacity of the well will be estimated at that time and permanent facilities will be designed based on expected capacity and installed shortly thereafter. The time required for initial testing of an oil well is not expected to exceed six months.

If the well is expected to produce primarily natural gas or associated gas with oil, it will be produced through a portable separator scrubber system and flared. The produced gas will be metered and then incinerated in a flare system utilizing an air induction line, continuous pilot, and wind shroud to ensure complete combustion. The capacity of the well will be estimated at this time and permanent facilities will be designed based on the expected capacity and installed shortly thereafter. The time required for initial testing of a gas well is not expected to exceed six months by the DOGGR rules and regulations. If there is a sufficient volume of gas available on a regular basis, it will be transported by pipeline to a nearby gas purchaser, flared or eventually reinjected into the production formation to maintain reservoir pressure.

If the well achieves Oil in paying quantities it will be trucked from the site. It is anticipated that one or two trucks per day may be needed at first, but the frequency will increase or decrease as the oil production rate is established. Water hauling may require only one truck per week at the outset, but well testing will determine this. A company operator will monitor the well on a daily basis to ensure that the operation continues as required. Producing operations will continue as long as it is profitable. It is our hope that the economic life of the well will be twenty years or longer.

When drilling operations are complete, the Applicant shall return the project site (as much as practical) to its original condition and all drilling equipment shall be removed within ninety (90) days of termination of the drilling operations, unless the equipment will be used for another well on site within 30 days.

**Operational time limits:**

See the time windows above. The drilling rig will operate 24 hours per day, 7 days a week until drilling is completed per well. The completion rig will operate +/- 12 hours per day for 2-4 days per well.

**Number of customers or visitors:**

During an average day while drilling and subsequently while completing the well, if commercial production is encountered, there will be an average 6-10 workers on site with 10-12 other workers temporarily arriving and going with various supplies and activities. The frequency of large trucks at the site will be minimal after the rig is set up and drilling begins. These trucks will

enter the site occasionally after drilling begins. These visits will average only two trips per day during this period. Most of the large trucks will be used to move the drilling rig and the equipment at the beginning and at the end of the drilling project. The trucks are needed during drilling only for special operations such as setting surface casing, cementing and logging. Visits by automobiles and pickup trucks may run about ten per day. They will involve crew shift changes, mud loggers, engineers and deliveries of small expendable items to the rig and company representatives.

**Number of employees:**

Please see the answer above in "Number of Customer visitors".

**Service and delivery vehicles:**

It will take +/- 30 tractor and trailer loads of equipment to erect the drilling rig with 5-10 tractor and trailer loads of various equipment and supplies moving in and out over every 24-hour period.

**Access to the site**

Site will be accessed from Meyer Street.

**Parking:**

The drill site will be bladed and on a flat field. It is 300' x 500' in size. Temporary parking will not be a problem.

**Goods on sale:**

There are no goods for sale.

**Equipment used:**

Please see the answer above in "Outline of the Project Operation".

**Supplies:**

Diesel fuel will be on site for fuel to run the drilling rig. The diesel will be stored in tanks specifically designed to contain diesel with a secondary containment bin. Other various non-hazardous products to formulate drilling fluids will also be on location to allow the well to be drilled. The drilling fluids products will be in dry bagged form and miscellaneous buckets of products. The formulated drilling fluid will be in above ground steel tanks (mud pits). Various steel casings and tubular products will also be on location, which will be used in the drilling and completion of the well.

**Noise & Appearance:**

The project will comply with the requirements of Municipal Code Chapter 9.08 (Noise Disturbance Ordinance). During the drilling operation, noise will only consist of the running of approximately 2-500 horsepower main rig engines and 1-1000hp pump engine with industrial

mufflers with some (+1- 2) auxiliary 50hp. engines. The noise of these engines will not be noticeable outside the boundaries of the location. Glare and odor will not be a problem.

The project will not involve any process, equipment or materials which will be objectionable to persons living or working in the vicinity by reason of odor, fumes, dust, smoke, etc. Produced oil and muds will be appropriately contained, dust will be minimized by daily spraying during active operations, and any flare equipment will be maintained and used consistent with San Joaquin Valley Air Pollution Control District ("Air District") rules.

A weed abatement and brush clearance maintenance program will be implemented to reduce fire hazards to developed property in the immediate vicinity of vacant, undeveloped land, and comply with the applicable fire code and the CADOGGR requirements.

#### **Air Quality & Odors:**

The proposed exploratory petroleum oil and natural gas wells will adhere to permitting requirements, rules and regulations set forth by the Air District; DOGGR; and the California Regional Water Quality Control Board ("RWQCB"), and the City of Arvin's Municipal Code, Chapter 17.46, Oil and Gas Production

The project will not create objectionable odors and will comply with the Air District Rules. Such compliance will reduce any air quality impacts of the proposed project to a less than significant level.

#### **Solid & Liquid Cuttings:**

The project will not emit, transport, use or dispose of hazardous materials. No hazardous material will be used in the drilling mud system. During the drilling of the well, approximately 1500 barrels or 300 yards or 1- 400 tons of solid cuttings will be brought out of the well and stored in a pit 25' wide by 150' long by 1- 5' deep. The cuttings will be analyzed when drilling is completed for hazardous content. Historical analysis of cuttings to date indicates that cuttings are non-hazardous. Therefore, assuming the non-hazardous analysis applies for the Stockton development well(s), the cuttings alone with the drilling mud will be hauled off to a disposal site or spread on location if necessary to build up the location for production facilities. In addition to the cuttings themselves, approximately 1500 barrels of liquid drilling mud will be produced during the drilling of the well. This liquid too, will be analyzed, and if found non-hazardous as 99.9% of the drilling mud water samples are, this material will be dewatered and hauled off site to an approved non-hazardous drilling mud disposal site or spread on location if necessary to build up location for production facilities. Any and all wastes found to be hazardous will be hauled off to a certified and approved California hazardous waste disposal site.

#### **Estimated water:**

It is estimated during the course of the drilling operation, approximately 500 barrels of water per day will be used during the drilling of the well. This water will be used to manufacture the drilling fluid and to make cement, which will be used to cement the outside of the casing(s). And, if the well is deemed to be a dry hole, the water will be utilized to formulate cement to place abandonment cement plugs in the hole in accordance with the rules and regulations of DOGGR. Water will be purchased offsite and trucked in when needed to replenish the onsite water tank.

Wastewater will be self-contained and serviced by a private company; no connection to the City of Arvin's wastewater system is proposed.

**Advertising:**

No advertising will exist other than the rig number sign at Myer St location entrance or if a permanent facility is built, a well sign(s).

**Buildings:**

No existing buildings will be used, nor will any buildings be constructed for this temporary drilling operation. However, if our efforts are successful, we will install a permanent tank battery and proper separation and processing system as are normally associated with oil and gas producing wells, see attached Exhibit "D".

**Lighting/Sound:**

The rig and location will be lit during the night for working operations by hooded portable and temporary lights that will be focused on the rig and drilling location, and all portable lighting shall be pointed downward toward the base of the rig to minimize potential glare. All outdoor lighting shall be hooded and directed as to not shine toward adjacent properties and public streets.

There will not be any sound amplifications systems.

All drilling towers shall be marked and lighted in such a manner as to avoid potential safety hazards to aircraft application of herbicides and pesticides on adjacent farmlands.

**Landscaping:**

Since this is a temporary situation, no landscaping or fencing is proposed. However, if oil or gas is found in commercially profitable amounts, we will fence the 300' x 500' location with 8' privacy fence and razor ribbon.

**Additional information:**

The Proposed Project will adhere to permitting rules and regulations set forth by the Air District, DOGGR, the RWQCB, and the Chapter 17.46 of the City of Arvin Municipal Code, Oil & Gas Production.

In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An Archaeologist will be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance will occur until the Kern County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence

procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.

The project will comply with the National Pollution Discharge Elimination System ("NPDES") regulations and permitting requirements to control direct storm water discharge, as well as applying any applicable Water Quality Management Plans and Best Management Practices ("BMPs").

Prior to commencing operations, all water wells and septic systems within the project area shall be properly destroyed by an appropriately-licensed contractor. Prior to destruction of any agricultural well, a sample of the uppermost fluid in the well column shall be checked for lubricating oil. Should lubricating oil be found in the well, the oil shall be removed from the well prior to placement of fill material for destruction.

**Maps:**

See attached maps for reference.

END OPERATIONAL STATEMENT CHECKLIST

PETRO-LUD, INC.



A handwritten signature in blue ink that reads "Clayton Lud" is written over a horizontal line.

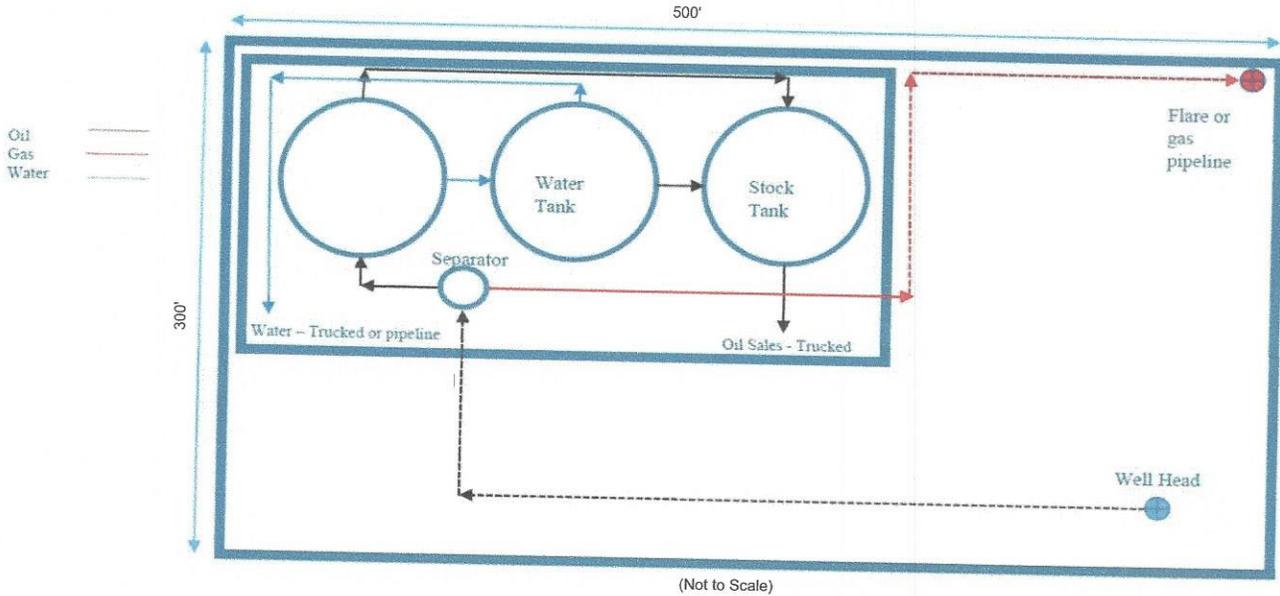
By: Clayton Ludington, President

Date: May 9, 2018

EXHIBIT "D"



Typical Production Site Layout



Typical Elevation Profile

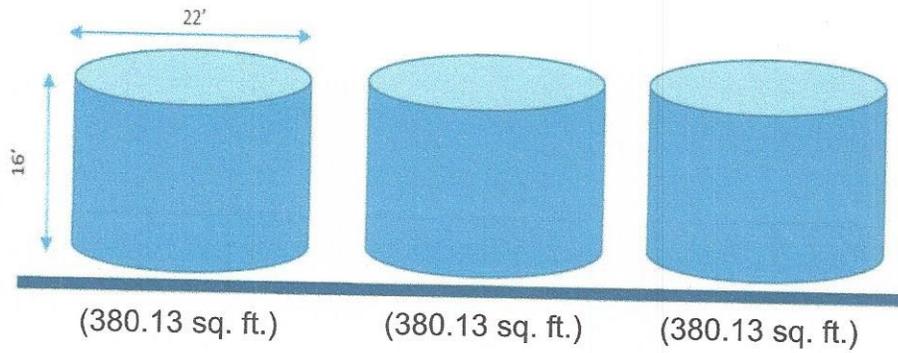
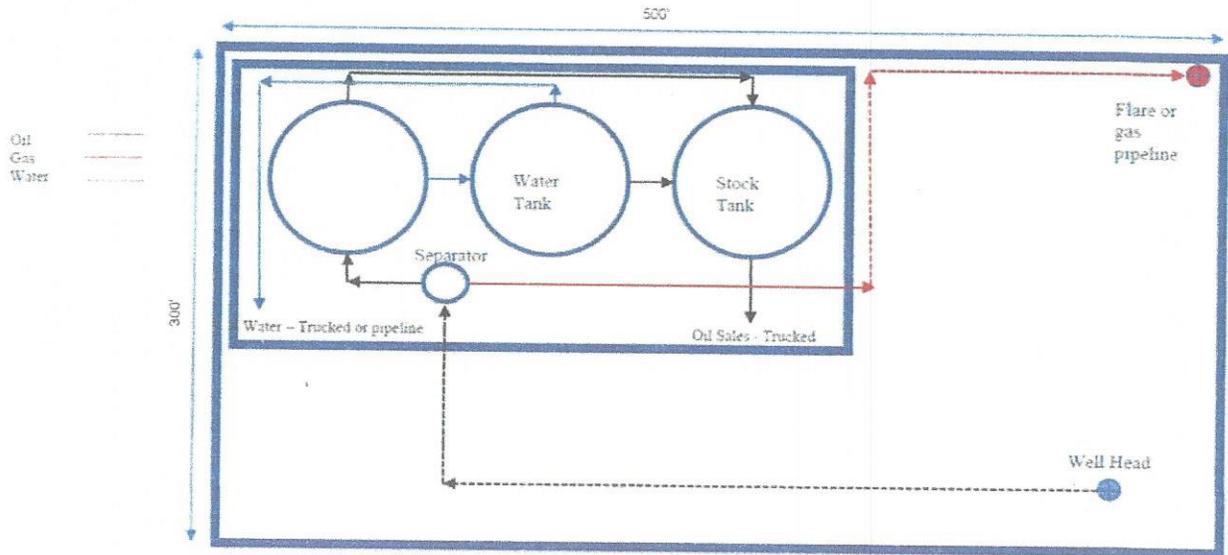


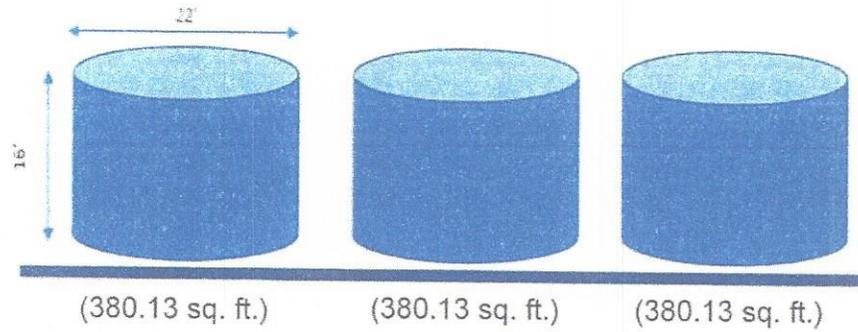
EXHIBIT "D"



Typical Production Site Layout



Typical Elevation Profile



Comments Received: - 1. February 6, 2018 -State of California – Natural Resources –  
Department of Oil, Gas, and Geothermal Resources - DOGGR



State of California • Natural Resources Agency  
Department of Conservation  
**Division of Oil, Gas, and Geothermal Resources**  
Inland District  
4800 Stockdale Highway • Suite 100  
Bakersfield, CA 93309  
(661) 322-4031 • FAX (661) 861-0279

Edmund G. Brown Jr., Governor

February 6, 2018

Mr. Jake Raper, AICP JAS Contract Planner  
City of Arvin, Community Development Department, Planning Division  
141 Plumtree Drive  
Arvin, CA 93203

Subject: CUP 2017 Petro-Lud Exploratory Drill Operation APN 189-351-36

Dear Mr. Raper:

The Department of Conservation, Division of Oil, Gas, and Geothermal Resources (Division) supervises the drilling, maintenance, and plugging and abandonment of oil, gas, and geothermal wells in California. The Division has received and reviewed the above notice and submits the following evaluation.

The project is located in Kern County, within the Mountain View oil field administrative boundaries. Division records indicate there are **two known** abandoned oil and gas wells located within the project boundaries. As the notice does not indicate surface development is planned, further review of these wells will be done upon request. All oil and gas well operations are subject to the Division's well permitting process, and all oil and gas operations must abide by any pertinent Division statute or regulation.

If during project operations, any unknown wells are encountered the project developer or property owner shall immediately notify the Division's Inland District office for consultation. Remedial plugging and abandonment operations may be required.

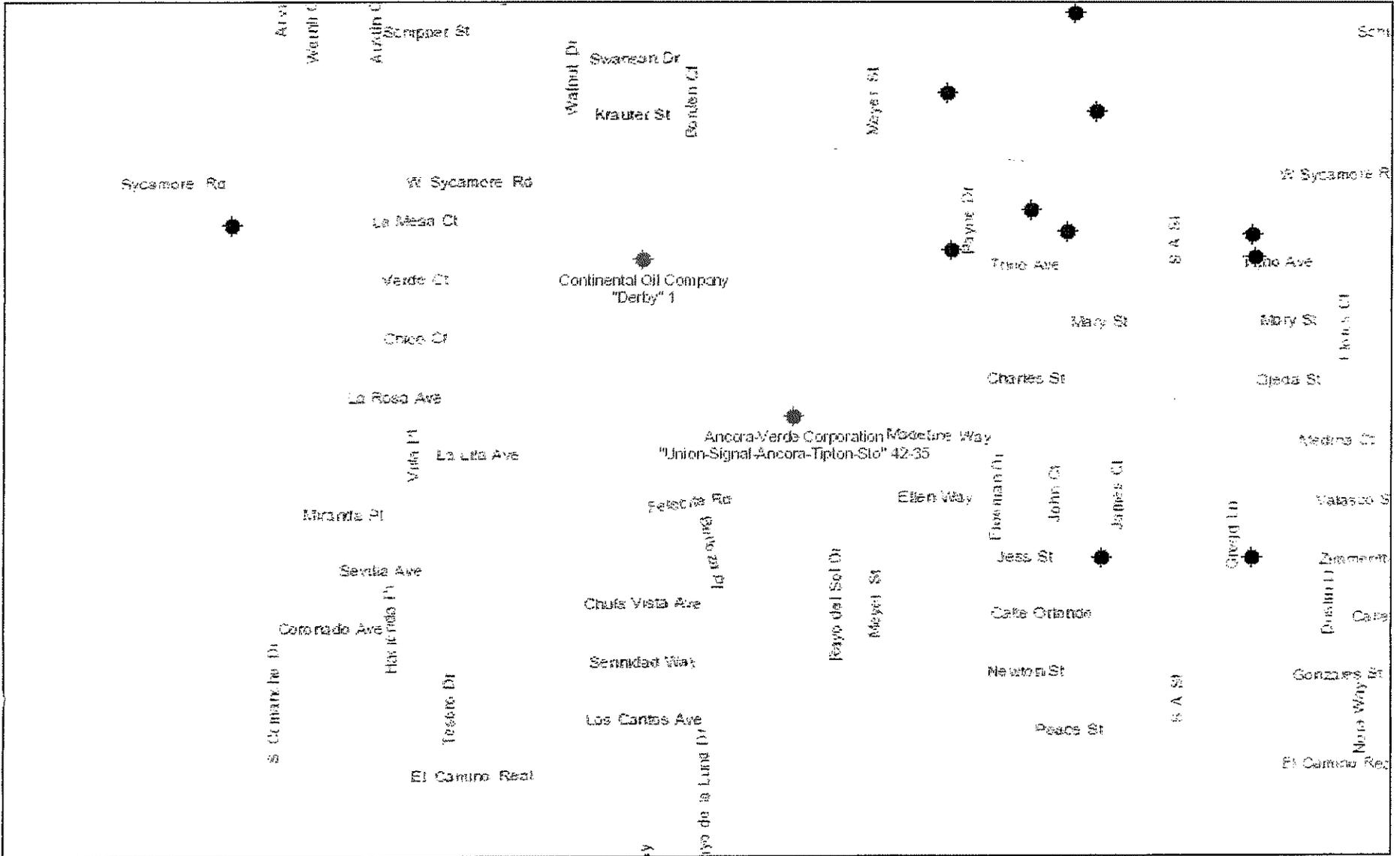
Thank you for the opportunity to comment on this project. Should any questions arise, please contact me in the Bakersfield district office at **(661) 334-3662**.

Sincerely,

Michael Toland  
Senior Oil and Gas Engineer  
Environmental Unit Supervisor

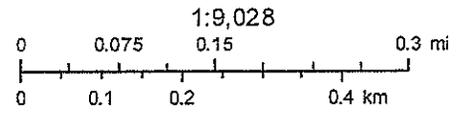
enclosures

# Petro-Lud APN 189-351-36



February 6, 2018

- <all other values>
- <Null>
- AB
- AI
- AP
- D
- DH
- GT
- N



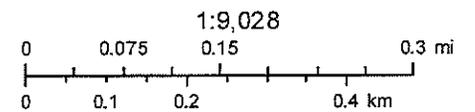
Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey,

# Petro-Lud APN 189-351-36



February 6, 2018

- |                      |      |      |
|----------------------|------|------|
| ● <all other values> | ● AI | ⊙ DH |
| ● <Null>             | ● AP | ▲ GT |
| ● AB                 | ● D  | ⊙ N  |



Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, and the GIS user community

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Attachment 2 - December 26, 2017 Response to requested additional information



December 26, 2017

Mr. Jake Raper  
Arvin Planning Division  
141 Plumtree Drive  
Arvin, California 93203

RE: Stockton Development Project – Conditional  
Use Permit Application

Dear Mr. Raper:

Thank you for your letter of December 21, 2017.

In response to your request for additional information, please note the following:

- The precise surface location we are proposing for our project will be on APN: 189-351-36. The Kern County Assessor shows this parcel's measurements as being 615.15 feet East to West by 605 feet North to South. Our operations location on this tract will be approximately 450 feet East of Meyer Street which borders this parcel on the East, and 450 feet South of Sycamore Road, which borders this parcel on the North.
- During the estimated 20 days of drilling operations, noise will only consist of the running of approximately 2-500 horsepower main rig engines and 1 – 1000 horsepower pump engine with industrial mufflers with (+/-) 2 auxiliary 50 horsepower engines. The noise of these engines will not be noticeable outside the boundaries of the location. With regards to lighting, the rig and location will be totally lit during the night for working operations by portable temporary lights that will be focused and directly pointed on the rig and drilling location. Glare will not be a problem.
- Exhibits attached herewith:
  - "Exhibit A" for a plat showing our proposed location
  - "Exhibit B" for a photograph of a similar operational setup
  - "Exhibit C" Check List – Oil and Gas Production, Locational, and Operational Criteria
- Please disregard the copies of the Stockton Family oil and gas leases we provided with our application which pertained to other lands which are not in the Arvin area and are not included in this project. Attached are the copies of the Stockton Family leases that pertain to their interest in our proposed Stockton Development Project.

Please let us know if you require any additional information.

Sincerely,

Clayton Ludington  
President/CEO

1311 Calaveras Park Drive, Bakersfield, California 93311 -Tel: (661) 747-4779 - Web: [www.petro-lud.com](http://www.petro-lud.com)

Attachment 2a – Exhibit A – Locational Photo Overlay with access from Sycamore Road

# STOCKTON DEVELOPMENT PROJECT

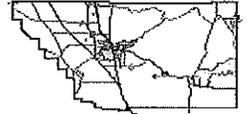


EXHIBIT "A"

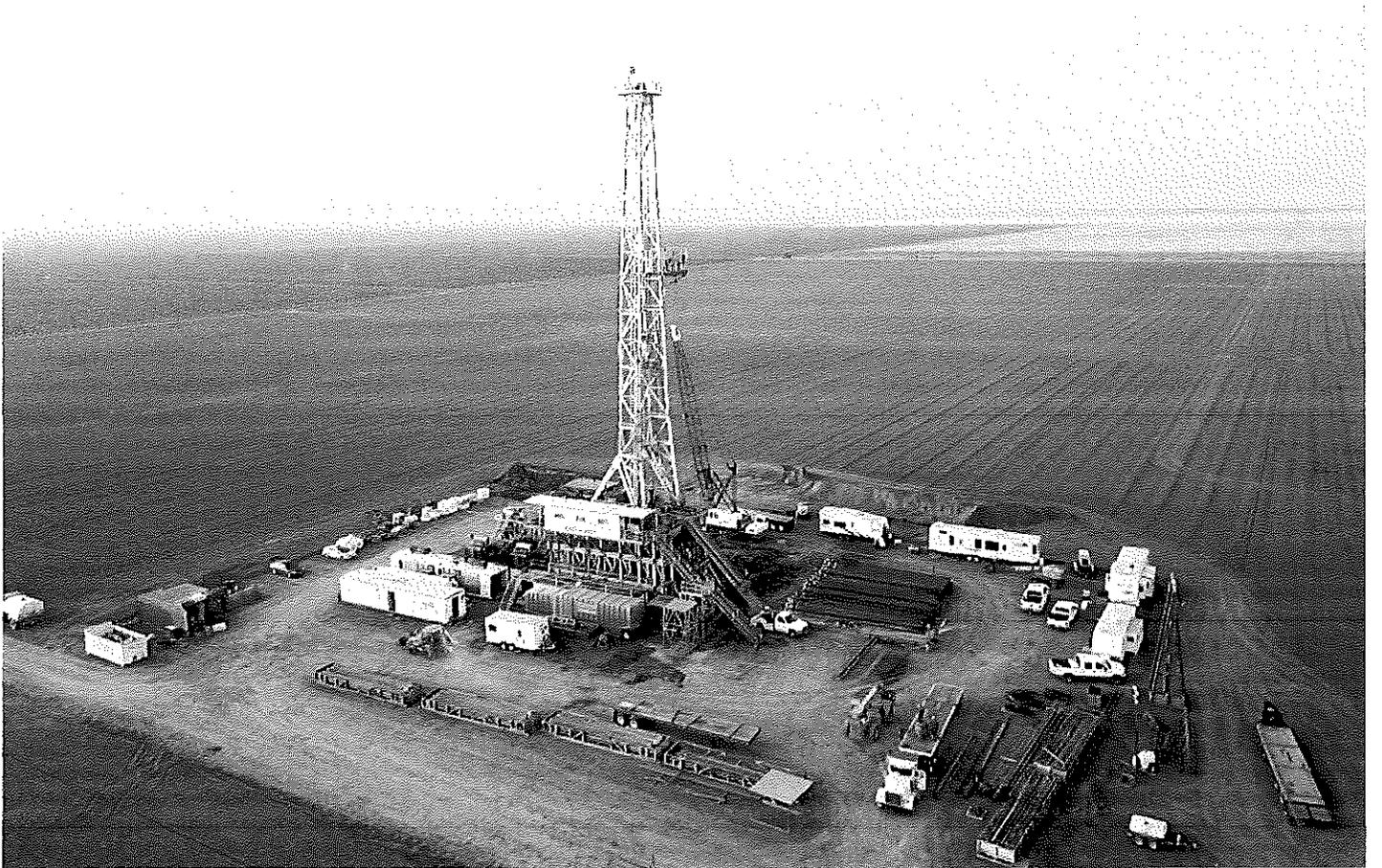
Section: 35  
Township: 31 South  
Range: 29 East  
Kern County, CA



Notes  
Parcel 189-351-36 contains a total of 8.53 acres

Attachment 2b -Exhibit B- Typical Photograph of Drill Site

EXHIBIT "B"



Attachment 2c – Exhibit C – Check List – Oil and Gas Production Locational and Operational Criteria

## EXHIBIT "C"

	<b>CHECK LIST – OIL AND GAS PRODUCTION LOCATIONAL AND OPERATIONAL CRITERIA</b>				
<p><b>City of Arvin – Title 17, Zoning Section 17.40.020 A</b> – provides a minimal operational and locational criterion for oil and gas production – A-1 through A-15. This section specifically applies for operations where public hearings are waived, however, the list also provides a basis for the establishment of operational conditions and criteria for the Planning Commission when considering a Conditional Use Permit. <b>Other Conditions may be considered by the Planning Commission.</b></p>					
<p><b>INSTRUCTION:</b> Box marked under Yes meets city standards Box marked No does not meet city standard NA means not applicable to the proposed project.</p>					
YES	NO	NA	SECTION 17.40.020 A	CRITERIA	NOTES
Y			1.	That no oil or gas well shall be drilled within one hundred (100) feet of any public highway or within one hundred and fifty (150) feet of any residence constructed prior to the commencement of such drilling, without the written consent of the owner thereof;	Show setback locations of the proposed drill sites on an aerial.
Y			2.	That all drilling and producing operations shall conform to all applicable fire and safety regulations	Provide compliance list from Kern County Fire and OSHA/statement of compliance.
Y			3.	That no signs, other than directional and warning signs and those required for identification of the well shall be constructed, erected, maintained or placed on the premises or any part thereof except those required by law or ordinance to be displayed in connection with the drilling or maintenance of the well;	Describe and illustrate compliance.
Y			4.	That suitable and adequate sanitary toilet and washing facilities approved by the city health department, shall be installed and maintained in a clean and sanitary condition at all times;	Prepare and show typical site layout of temporary drill and operational site. Picture of similar operational sites would be beneficial.
Y			5.	That proven technological improvements generally accepted and used in drilling and production methods shall be adopted as they may become from time to time available if capable of reducing factors of nuisance and	Describe how this is implemented.



## EXHIBIT "C"

	<b>CHECK LIST – OIL AND GAS PRODUCTION LOCATIONAL AND OPERATIONAL CRITERIA</b>
<p><b>City of Arvin – Title 17, Zoning Section 17.40.020 A</b> – provides a minimal operational and locational criterion for oil and gas production – A-1 through A-15. This section specifically applies for operations where public hearings are waived, however, the list also provides a basis for the establishment of operational conditions and criteria for the Planning Commission when considering a Conditional Use Permit.</p>	
<p><b>INSTRUCTION:</b> Box marked under Yes meets city standards          Box marked No does not meet city standard          NA means not applicable to the proposed project.</p>	
Y	<p>9. That any derrick used for servicing operations shall be of the portable type; provided, however, that upon presentation of proof that the well is of such depth or has such other characteristics, or for other cause, that a portable-type derrick will not properly service such well, the planning commission may approve the use of a standard type of derrick;</p>
Y	<p>10. That prior to the drilling, redrilling or deepening of any well, the permittee shall file with the city clerk, a satisfactory corporate surety bond in favor of the city in the sum of five hundred dollars (\$500.00) per well or two thousand-five hundred dollars (\$2,500.00) for five (5) or more wells, executed by such permittee as principal and by an authorized surety company as surety, conditioned that the principal named in the bond shall faithfully comply with all the provisions of this section in drilling, redrilling, or deepening any well or wells covered by the bond, and shall secure the city against all losses, charges and expenses incurred by it to obtain such compliance by the principal named in the bond;</p>
Y	<p>11. That all oil or gas produced shall be carried away by pipelines or, if produced into and shipped from tanks located on the premises, such tanks shall be surrounded by shrubs or trees, planted and maintained so as to develop attractive landscaping and insofar as practicable, screen such tanks from public view;</p>

## EXHIBIT "C"

	<b>CHECK LIST – OIL AND GAS PRODUCTION LOCATIONAL AND OPERATIONAL CRITERIA</b>			
<p><b>City of Arvin – Title 17, Zoning Section 17.40.020 A</b> – provides a minimal operational and locational criterion for oil and gas production – A-1 through A-15. This section specifically applies for operations where public hearings are waived, however, the list also provides a basis for the establishment of operational conditions and criteria for the Planning Commission when considering a Conditional Use Permit.</p>				
<p><b>INSTRUCTION:</b> Box marked under Yes meets city standards                  Box marked No does not meet city standard                  NA means not applicable to the proposed project.</p>				
Y		12.	That, except in case of emergency, no materials, equipment, tools or pipe used for either drilling or production operations shall be delivered to or removed from the drilling site, except between the hours of eight (8) a.m. and eight (8) p.m. of any day;	Operational Plan to highlight delivery schedules in compliance with this section.
Y		13.	That adequate firefighting apparatus and supplies, approved by the city fire department, shall be maintained on the drilling site at all times during drilling and production operations;	Describe operational compliance.
Y		14.	That pumping wells shall be operated by electric motors or muffled internal combustion engines, and the height of all pumping units shall be not more than twenty (20) feet. All permanent equipment shall be painted and kept in neat condition. All producing operations shall be as free from noise as possible with modern oil operations;	Show and illustrate compliance with City Noise standards.
Y		15.	That the drilling site shall be fenced or landscaped as prescribed by the planning commission.	Show and illustrate on site plan compliance

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Comments Received: - 2. January 31, 2018 – San Joaquin Valley Air Pollution Control District.



**JAN 31 2018**

Jake Raper  
City of Arvin  
P.O. Box 548  
141 Plumtree Drive  
Arvin, CA 93203

**Project: CUP 2017 – Petro Lub Exploratory Drill Operation**

**District CEQA Reference No: 20180069**

Dear Mr. Raper:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the project referenced above consisting of establishing an exploratory drilling operation located at the southwest corner of Sycamore and Meyer (APN 189-351-36) in Arvin, CA. The District offers the following comments.

**District Comments:**

1. Based on information provided to the District, project specific annual emissions of criteria pollutants are not expected to exceed any of the following District significance thresholds: 100 tons per year of carbon monoxide (CO), 10 tons per year of oxides of nitrogen (NOx), 10 tons per year of reactive organic gases (ROG), 27 tons per year of oxides of sulfur (SOx), 15 tons per year of particulate matter of 10 microns or less in size (PM10), or 15 tons per year of particulate matter of 2.5 microns or less in size (PM2.5). Therefore, the District concludes that the project would have a less than significant impact on air quality when compared to the above-listed annual criteria pollutant emissions significance thresholds.
2. The project is subject to Regulation VIII (Fugitive PM10 Prohibitions).
3. All portable emission units (including portable drilling rigs) are required to be registered with either the California Air Resources Board (CARB) or with the District (Rule 2280 Portable Equipment Registration).
4. The District recommends that a copy of the District's comments be provided to the project proponent.

**Seyed Sadredin**  
Executive Director/Air Pollution Control Officer

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**Northern Region**  
4800 Enterprise Way  
Modesto, CA 95356-8718  
Tel: (209) 557-6400 FAX: (209) 557-6475

**Central Region (Main Office)**  
1990 E. Gettysburg Avenue  
Fresno, CA 93726-0244  
Tel: (559) 230-6000 FAX: (559) 230-6061

**Southern Region**  
34946 Flyover Court  
Bakersfield, CA 93308-9725  
Tel: 661-392-5500 FAX: 661-392-5585

District staff is available to meet with you and/or the applicant to further discuss the regulatory requirements that are associated with this project.

If you have any questions or require further information, please call Sharla Yang at (559) 230-5934.

Sincerely,

Arnaud Marjollet  
Director of Permit Services



Brian Clements  
Program Manager

AM: sy

Attachment 3 - July 31, 2017 - Limited Title Certificate – Memorandum of Oil, Gas, and Mineral Lease

# LIMITED TITLE CERTIFICATE

**Prospect:** Stockton Development Project  
**County:** KERN  
**State:** California  
**APN:** 189-351-36; 189-351-37; 189-351-58  
**Description:** NW 1/4 of Section 35 T31S R29E

**Gross Acres:** 160

No.	Minerals Owner(s)	Vesting Doc	Ownership %	Net Acres
001	Barbara Stockton, heir of Derby Tipton and Eve Derby Stockton	1960 - 3269/798	33.333%	53.3333
	Peter Stockton, heir of Derby Tipton and Eve Derby Stockton	1960 - 3269/798	33.333%	53.3333
	Monica Ann Stockton, heir of Derby Tipton and Eve Derby Stockton	1960 - 3269/798	33.333%	53.3333
	<b>Totals</b>		<b>1.0000</b>	
No.	Surface Owner(s)	Vesting Doc	Ownership %	Net Acres
002	Westminster Capital 9665 Wilshire Boulevard, Ste. M-10 Beverly Hills, CA 90212	2009-00185125	100.00%	160.0000
	<b>Totals</b>		<b>1.0000</b>	<b>160.0000</b>

**Leases:** Petro-Lud 2017

**Examination**  
**Period:**

Recording Requested By and  
When Recorded Mail Document and  
Tax Statements To:

Petro-Lud Corporation  
1311 Calaveras Park Dr  
Bakersfield, CA 93311

Recorded at the request of  
Public

DOC#: 217098338

Stat Types: 1 Pages: 4



Fees	22.00
Taxes	2.20
Others	0.00
PAID	\$24.20

The Undersigned Declares:  
Documentary Transfer Tax Is \$ 2.20  
Documentary Transfer Tax Is Computed  
On The Full Value of the Property Conveyed.

APN: See Exhibit "A" attached

**MEMORANDUM OF OIL, GAS, AND MINERAL LEASE**

MONICA ANN STOCKTON, A/K/A/ MONICA A. STOCKTON, as her separate property, as Lessor, and Petro-Lud Corporation, a California corporation, as Lessee.

**WITNESSETH:**

For and in consideration of rental paid in advance, other good and valuable consideration, and the covenants and agreements herein contained on the part of Lessee to be kept and performed, the receipt and adequacy of which are hereby acknowledged by Lessor, Lessor does hereby grant and lease to Lessee the land described hereafter and herein call the *leased land*, with the exclusive rights and for the purposes of prospecting, exploring, mining, drilling, and operating the leased land for oil, gas, hydrocarbons, all associated substances, sulfur, nitrogen, carbon dioxide, helium, and other commercially valuable substances which may be produced through wells on the leased land, whether or not similar to those substances mentioned above, which are herein collectively called *said substances*. The land hereby leased is situated in Kern County, California, and is described as follows:

**SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

together with such rights as Lessor may have in any roads, streets, alleys, waterways, canals, sloughs, levees, ditches, easements, and rights-of-way upon, within or adjoining the leased land and containing 160.00 acres, more or less.

In addition to the rights granted to Lessee herein, Lessor hereby grants to Lessee the sole and exclusive right during the term hereof to explore the leased land by geological, geophysical, or other methods, whether similar to those herein specified or not and whether now known or not, including the drilling of shallow holes, for the purpose of determining subsurface geological conditions. During the term of this lease, Lessor shall not, without the written consent of Lessee, which may be withheld for any reason, enter into any contracts or agreements that would allow any party other than Lessee to (a) conduct geological, geophysical or seismic surveys on or across the leased land; (b) use the surface of the leased land for the drilling of wells, the purpose of which is to explore for or produce any of said substances from lands in the vicinity of the leased land; or (c) construct or install a pipeline in, on, or across the leased land, the purpose of which is to transport any of said substances.

This lease is made for the term and upon and subject to each and all the terms, provisions, covenants, and conditions set forth in that certain Oil, Gas, and Mineral Lease of even date herewith between Lessor and Lessee.

IN WITNESS WHEREOF, Lessor and Lessee have caused this lease to be duly executed as of June 5th, 2017

**LESSEE:**

**LESSOR:**

Petro-Lud Corporation  
By: Clayton Ludington  
Clayton Ludington, President

Monica Ann Stockton  
Monica Ann Stockton a/k/a Monica A. Stockton  
Monica Ann Stockton

**ATTACHED TO AND MADE A PART OF THAT CERTAIN OIL, GAS AND MINERAL LEASE** made and entered into this 5th day of June, 2017, by and between **MONICA ANN STOCKTON A/K/A MONICA A. STOCKTON**, hereinafter called "Lessor" (whether one or more), and **PETRO-LUD CORPORATION**, hereinafter called "Lessee."

**EXHIBIT "A"**

**TOWNSHIP 31 SOUTH, RANGE 29 EAST, KERN COUNTY, CALIFORNIA**

**SECTION 35: The Northwest Quarter (NW/4)**

**APN(S):** 189-351-36, 37, 58 & 67; 189-471-01; 189-472-01 through 14 inclusive; 189-473-01 through 05 inclusive; 189-480-01 through 16 inclusive; 189-521-01; 189-522-01 through 14 inclusive; 189-523-01 through 05 inclusive; 189-530-01 through 16 inclusive; 189-571-01 through 18 inclusive; 189-572-01 through 51 inclusive; 189-573-01 through 09 inclusive; 189-574-01 through 27 inclusive; 189-611-01 through 08 inclusive; 189-612-01 through 12 inclusive; 189-613-01 through 27 inclusive; 189-614-01; 189-621-01 through 33 inclusive; 189-622-01 through 21 inclusive; 189-623-01 through 12 inclusive; 189-641-01 through 29 inclusive; 189-642-01 through 26 inclusive; 189-651-01 through 28 inclusive; 189-652-01 through 30 inclusive; 189-671-01 through 09 inclusive; 189-672-01 through 20 inclusive; 189-673-01 through 23 inclusive; and 189-680-01 through 30 inclusive.

It is understood and agreed that it is the intention of Lessor herein, to lease unto Lessee, any and all mineral interest that they may own in and to any and all streets, alleys, roadways, highways, ditches, canals, bayous, coulees, railroad easements, easements and/or rights-of-way, strips and/or parcels of land not specifically described above, public or private, which are situated within and/or adjacent to the above described leased premises.

STATE OF OREGON

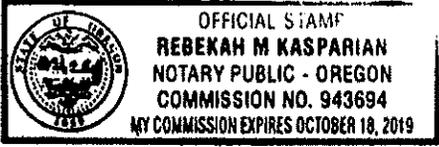
COUNTY OF Josephine §

On July 19, 2017, 2017, before me Rebekah M. Kasparian,  
a Notary Public, personally appeared MONICA ANN STOCKTON A/K/A MONICA A. STOCKTON,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and  
that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Oregon that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Rebekah Kasparian  
Notary Public



# California All-Purpose Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of KERN

On July 31, 2017 before me, Donna D. Nelson, Notary Public  
Name of Notary Public, Title

personally appeared CLAYTON LUDINGTON

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to be within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/~~their~~ authorized capacity(ies), and that by his/~~her~~/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Donna D. Nelson  
Signature of Notary Public



Seal

## OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgement on unauthorized document and may prove useful to persons relying on the document.

### Description of Attached Document

The preceding Certificate of Acknowledgement is attached to a

\_\_\_\_\_ Title or Description of Document

containing \_\_\_\_\_ pages, and dated \_\_\_\_\_

Recording Requested By and  
When Recorded Mail Document and  
Tax Statements To:

Petro-Lud Corporation  
1311 Calaveras Park Dr  
Bakersfield, CA 93311

Recorded at the request of  
Public

DOC#: 217098340

Stat Types: 1 Pages: 4



Fees	22.00
Taxes	2.20
Others	0.00
PAID	\$24.20

The Undersigned Declares:  
Documentary Transfer Tax Is \$ 2.20  
Documentary Transfer Tax Is Computed  
On The Full Value of the Property Conveyed.

APN: See Exhibit "A" attached

**MEMORANDUM OF OIL, GAS, AND MINERAL LEASE**

BARBARA STOCKTON, as her separate property, as heir or devisee of the Estate of Tom Derby Stockton, deceased, as Lessor, and Petro-Lud Corporation, a California corporation, as Lessee.

**WITNESSETH:**

For and in consideration of rental paid in advance, other good and valuable consideration, and the covenants and agreements herein contained on the part of Lessee to be kept and performed, the receipt and adequacy of which are hereby acknowledged by Lessor, Lessor does hereby grant and lease to Lessee the land described hereafter and herein call the *leased land*, with the exclusive rights and for the purposes of prospecting, exploring, mining, drilling, and operating the leased land for oil, gas, hydrocarbons, all associated substances, sulfur, nitrogen, carbon dioxide, helium, and other commercially valuable substances which may be produced through wells on the leased land, whether or not similar to those substances mentioned above, which are herein collectively called *said substances*. The land hereby leased is situated in Kern County, California, and is described as follows:

**SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

together with such rights as Lessor may have in any roads, streets, alleys, waterways, canals, sloughs, levees, ditches, easements, and rights-of-way upon, within or adjoining the leased land and containing 160.00 acres, more or less.

In addition to the rights granted to Lessee herein, Lessor hereby grants to Lessee the sole and exclusive right during the term hereof to explore the leased land by geological, geophysical, or other methods, whether similar to those herein specified or not and whether now known or not, including the drilling of shallow holes, for the purpose of determining subsurface geological conditions. During the term of this lease, Lessor shall not, without the written consent of Lessee, which may be withheld for any reason, enter into any contracts or agreements that would allow any party other than Lessee to (a) conduct geological, geophysical or seismic surveys on or across the leased land; (b) use the surface of the leased land for the drilling of wells, the purpose of which is to explore for or produce any of said substances from lands in the vicinity of the leased land; or (c) construct or install a pipeline in, on, or across the leased land, the purpose of which is to transport any of said substances.

This lease is made for the term and upon and subject to each and all the terms, provisions, covenants, and conditions set forth in that certain Oil, Gas, and Mineral Lease of even date herewith between Lessor and Lessee.

IN WITNESS WHEREOF, Lessor and Lessee have caused this lease to be duly executed as of June 5th, 2017

**LESSEE:**

**LESSOR:**

Petro-Lud Corporation

By: Clayton Ludington  
Clayton Ludington, President

Barbara Stockton  
Barbara Stockton, as heir or devisee of the Estate of Tom Derby Stockton, Deceased

**ATTACHED TO AND MADE A PART OF THAT CERTAIN OIL, GAS AND MINERAL LEASE** made and entered into this 5th day of June, 2017, by and between **BARBARA STOCKTON AS HEIR OR DEVISEE OF THE ESTATE OF TOM DERBY STOCKTON**, hereinafter called "Lessor" (whether one or more), and **PETRO-LUD CORPORATION**, hereinafter called "Lessee."

**EXHIBIT "A"**

**TOWNSHIP 31 SOUTH, RANGE 29 EAST, KERN COUNTY, CALIFORNIA**

**SECTION 35:** The Northwest Quarter (NW/4)

**APN(S):** 189-351-36, 37, 58 & 67; 189-471-01; 189-472-01 through 14 inclusive; 189-473-01 through 05 inclusive; 189-480-01 through 16 inclusive; 189-521-01; 189-522-01 through 14 inclusive; 189-523-01 through 05 inclusive; 189-530-01 through 16 inclusive; 189-571-01 through 18 inclusive; 189-572-01 through 51 inclusive; 189-573-01 through 09 inclusive; 189-574-01 through 27 inclusive; 189-611-01 through 08 inclusive; 189-612-01 through 12 inclusive; 189-613-01 through 27 inclusive; 189-614-01; 189-621-01 through 33 inclusive; 189-622-01 through 21 inclusive; 189-623-01 through 12 inclusive; 189-641-01 through 29 inclusive; 189-642-01 through 26 inclusive; 189-651-01 through 28 inclusive; 189-652-01 through 30 inclusive; 189-671-01 through 09 inclusive; 189-672-01 through 20 inclusive; 189-673-01 through 23 inclusive; and 189-680-01 through 30 inclusive.

It is understood and agreed that it is the intention of Lessor herein, to lease unto Lessee, any and all mineral interest that they may own in and to any and all streets, alleys, roadways, highways, ditches, canals, bayous, coulees, railroad easements, easements and/or rights-of-way, strips and/or parcels of land not specifically described above, public or private, which are situated within and/or adjacent to the above described leased premises.

# California All-Purpose Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Sonoma

On June 15 2017 before me, RICHARD L. PELLASCINI, Notary Public  
Name of Notary Public, Title

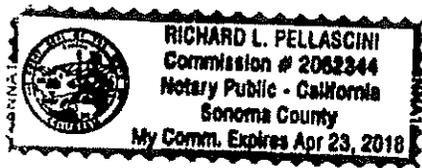
personally appeared BARBARA STOCKTON

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to be within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Richard Pellascini  
Signature of Notary Public



Seal

## OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgement on unauthorized document and may prove useful to persons relying on the document.

### Description of Attached Document

The preceding Certificate of Acknowledgement is attached to a

\_\_\_\_\_ Title or Description of Document

containing, \_\_\_\_\_ pages, and dated \_\_\_\_\_

# California All-Purpose Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of KERN

On July 31, 2017 before me, Donna D. Nelson, Notary Public  
Name of Notary Public, Title

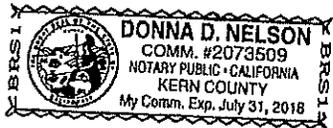
personally appeared CLAYTON LUDINGTON

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to be within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Donna D. Nelson  
Signature of Notary Public



Seal

OPTIONAL INFORMATION Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgement on unauthorized document and may prove useful to persons relying on the document.

### Description of Attached Document

The preceding Certificate of Acknowledgement is attached to a

\_\_\_\_\_ Title or Description of Document  
containing, \_\_\_\_\_ pages, and dated \_\_\_\_\_

Recording Requested By and  
When Recorded Mail Document and  
Tax Statements To:

Petro-Lud Corporation  
1311 Calaveras Park Dr  
Bakersfield, CA 93311

Recorded at the request of  
Public

DOC#: 217098339

Stat Types: 1 Pages: 4



Fees 22.00  
Taxes 2.20  
Others 0.00  
PAID \$24.20

The Undersigned Declares:  
Documentary Transfer Tax Is \$ 2.20  
Documentary Transfer Tax Is Computed  
On The Full Value of the Property Conveyed.

APN: See Exhibit "A" attached

**MEMORANDUM OF OIL, GAS, AND MINERAL LEASE**

Peter Stockton, as his separate property, as Lessor, and Petro-Lud Corporation, a California corporation, as Lessee.

**WITNESSETH:**

For and in consideration of rental paid in advance, other good and valuable consideration, and the covenants and agreements herein contained on the part of Lessee to be kept and performed, the receipt and adequacy of which are hereby acknowledged by Lessor, Lessor does hereby grant and lease to Lessee the land described hereafter and herein call the *leased land*, with the exclusive rights and for the purposes of prospecting, exploring, mining, drilling, and operating the leased land for oil, gas, hydrocarbons, all associated substances, sulfur, nitrogen, carbon dioxide, helium, and other commercially valuable substances which may be produced through wells on the leased land, whether or not similar to those substances mentioned above, which are herein collectively called *said substances*. The land hereby leased is situated in Kern County, California, and is described as follows:

**SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

together with such rights as Lessor may have in any roads, streets, alleys, waterways, canals, sloughs, levees, ditches, easements, and rights-of-way upon, within or adjoining the leased land and containing 160.00 acres, more or less.

In addition to the rights granted to Lessee herein, Lessor hereby grants to Lessee the sole and exclusive right during the term hereof to explore the leased land by geological, geophysical, or other methods, whether similar to those herein specified or not and whether now known or not, including the drilling of shallow holes, for the purpose of determining subsurface geological conditions. During the term of this lease, Lessor shall not, without the written consent of Lessee, which may be withheld for any reason, enter into any contracts or agreements that would allow any party other than Lessee to (a) conduct geological, geophysical or seismic surveys on or across the leased land; (b) use the surface of the leased land for the drilling of wells, the purpose of which is to explore for or produce any of said substances from lands in the vicinity of the leased land; or (c) construct or install a pipeline in, on, or across the leased land, the purpose of which is to transport any of said substances.

This lease is made for the term and upon and subject to each and all the terms, provisions, covenants, and conditions set forth in that certain Oil, Gas, and Mineral Lease of even date herewith between Lessor and Lessee.

IN WITNESS WHEREOF, Lessor and Lessee have caused this lease to be duly executed as of June 5th, 2017

**LESSEE:**

Petro-Lud Corporation

By: Clayton Ludington  
Clayton Ludington, President

**LESSOR:**

Monica Ann Stockton - POA  
for Peter Stockton  
Peter Stockton  
Monica Ann Stockton - POA  
for Peter Stockton

ATTACHED TO AND MADE A PART OF THAT CERTAIN OIL, GAS AND MINERAL LEASE made and entered into this 5th day of June, 2017, by and between **PETER STOCKTON**, hereinafter called "Lessor" (whether one or more), and **PETRO-LUD CORPORATION**, hereinafter called "Lessee."

**EXHIBIT "A"**

**TOWNSHIP 31 SOUTH, RANGE 29 EAST, KERN COUNTY, CALIFORNIA**

**SECTION 35: The Northwest Quarter (NW/4)**

**APN(S):** 189-351-36, 37, 58 & 67; 189-471-01; 189-472-01 through 14 inclusive; 189-473-01 through 05 inclusive; 189-480-01 through 16 inclusive; 189-521-01; 189-522-01 through 14 inclusive; 189-523-01 through 05 inclusive; 189-530-01 through 16 inclusive; 189-571-01 through 18 inclusive; 189-572-01 through 51 inclusive; 189-573-01 through 09 inclusive; 189-574-01 through 27 inclusive; 189-611-01 through 08 inclusive; 189-612-01 through 12 inclusive; 189-613-01 through 27 inclusive; 189-614-01; 189-621-01 through 33 inclusive; 189-622-01 through 21 inclusive; 189-623-01 through 12 inclusive; 189-641-01 through 29 inclusive; 189-642-01 through 26 inclusive; 189-651-01 through 28 inclusive; 189-652-01 through 30 inclusive; 189-671-01 through 09 inclusive; 189-672-01 through 20 inclusive; 189-673-01 through 23 inclusive; and 189-680-01 through 30 inclusive.

It is understood and agreed that it is the intention of Lessor herein, to lease unto Lessee, any and all mineral interest that they may own in and to any and all streets, alleys, roadways, highways, ditches, canals, bayous, coulees, railroad easements, easements and/or rights-of-way, strips and/or parcels of land not specifically described above, public or private, which are situated within and/or adjacent to the above described leased premises.

STATE OF OREGON

COUNTY OF Josephine

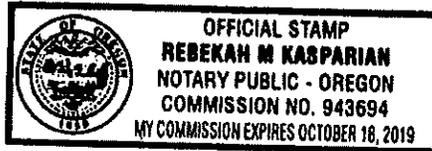
On July 19th, 2017, before me Rebekah M. Kasparian,  
a Notary Public, personally appeared PETER STOCKTON,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Oregon that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Rebekah Kasparian  
Notary Public



# California All-Purpose Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of KERN

On July 31, 2017 before me, Donna D. Nelson, Notary Public  
Name of Notary Public, Title

personally appeared CLAYTON LUDINGTON

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to be within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Donna D. Nelson  
Signature of Notary Public



Seal

## OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgement on unauthorized document and may prove useful to persons relying on the document.

### Description of Attached Document

The preceding Certificate of Acknowledgement is attached to a

\_\_\_\_\_ Title or Description of Document

containing, \_\_\_\_\_ pages, and dated \_\_\_\_\_

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Comments Received: - 3. January 24, 2018- Arvin Building Division – No comment.



**CUP2017-Petro Lub  
Exploratory Drill Operation  
APN189-351-36  
Southwest Corner of  
Sycamore and Meyer**

**CITY OF ARVIN PROJECT AND  
ENVIRONMENTAL REVIEW**  
141 Plumtree Drive, P.O. Box 548  
Arvin, California 93203  
661-854-2822 Office  
661-854-2969 Fax

**CITY OF ARVIN PROJECT AND ENVIRONMENTAL REVIEW**

**CITY STAFF**

- City Administration
- City Clerk
- Building Division
- Public Works
- Economic Development
- Recreation Department
- City Engineer – Adam Ojeda, Dewalt Engineering
- City Attorney
- Finance Department
- Chief of Police
- Transportation Department

**OTHER**

- Arvin Post Office
- So. San Joaquin Valley Archeological Info Center
- San Joaquin Air Pollution Control District
- Arvin Edison Water Storage District
- Westminister Capital – Land Owner
- Petro-Lub Corporation – Applicant

**COUNTY AGENCIES - KERN**

- Kern County Fire- Prevention
- Environmental Resources
- Environmental Health Services
- LAFCO
- Assessor's Office
- Public Works Department
- Sheriff's Office
- Planning Department
- 
- Other \_\_\_\_\_
- Other \_\_\_\_\_

**LOCAL UTILITIES**

- Veolia Waters - Sewer
- Pacific Gas & Electric
- Pacific Bell
- Arvin Community Services District
- Southern California Edison
- Time Warner Cable
- Other \_\_\_\_\_

**SCHOOL DISTRICTS**

- Arvin Union School District

**STATE AGENCIES**

- Cal-Trans, District 6
- Dept. Fish & Game
- Water Control Quality Board
- US Fish & Wildlife
- Central CA Archaeological Ctr
- Native American Heritage Comm.
- Air Resources Board
- Dept. Conservation
- State Clearing House
- California EPA
- Environmental Protection Agency
- Division of Oil, Gas & Geothermal Resources
- Calif. Depart of Social Services, Community  
Care Licensing Div – Fresno Office
- Department of Alcoholic Beverage Control;

DATE MAILED: January 17, 2018  
Staff Member: Jake Raper, JAS Contract Planner



**Return Completed Form to:**

**City of Arvin**, 141 Plumtree Drive, Arvin, CA 93203  
Community Development Department, Planning Division  
Attn: Jake Raper, AICP JAS Contract Planner  
E-mail: [jraper@arvin.org](mailto:jraper@arvin.org) or [jakeraper@yahoo.com](mailto:jakeraper@yahoo.com)  
661-854-2822 Office 661-854-2969 Fax  
Alternate phone number for Jake: 805-234-7908

AGENCY MAILING LABEL HERE

**CUP2017-Petro Lub**  
**Exploratory Drill Operation**  
**APN189-351-36**  
**Southwest Corner of**  
**Svcamore and Mever**

WILL THIS PROJECT AFFECT YOUR AGENCY/JURISDICTION? (If yes, specify.)

YES – Please complete below.

NO – Sign and Return EITHER by Mail, Fax, or Email.

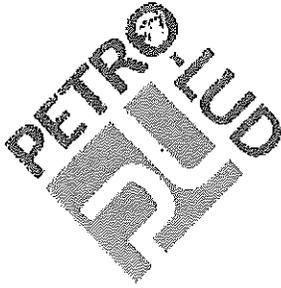
SUGGESTION(S) TO REDUCE IMPACTS/ADDRESS CONCERNS-- Please list or email requested conditions to be included for consideration:

REQUIRED CONDITIONS OF APPROVAL- Please list or email requested conditions to be included for consideration

DOES YOUR AGENCY NEED ANY ADDITIONAL INFORMATION FOR YOU TO COMPLETE YOUR REVIEW? (Be specific):

REVIEWED BY: MARK MCCLAIR \_\_\_\_\_ 1-24-2018  
Name (Please Print) Phone Number Date

Attachment 4 - January 10, 2018 Response to requested additional Information



January 10, 2018

Mr. Jake Raper  
Arvin Planning Department  
141 Plumtree Drive  
Arvin California, 9320

Re: Response to email of January 3, 2018

1. Noise from the diesel generators on the surrounding areas. Not sure if you have any information from the manufactory as to the noise decibels while in operation mode. Since they will be in operation 24/7 we will need to address and possible create some noise barriers to lessen the noise intrusion on the surrounding areas. In your operational statement, it is indicated that noise will not discernible by the surrounding areas. The question does this meet the noise standards of the city?

Petro-Lud: Attached is a spec sheet of a generator typically used. These generators will be outfitted with powerful industrial mufflers to be in compliance with the noise standards. The generators will be turned off when not in use.

2. An encroachment permit will be needed and possible some temporary improvements to and from the site may be required. Once the application goes out for review, the City Engineer will advise as to what is needed.

Petro-Lud: We do not expect to be required to acquire an encroachment permit since none of our drilling operations will be performed within a county right-of-way. However, if it is determined by the reviewing agency that we need an encroachment permit, we will apply for one with the proper agency.

3. Light and glare, although temporary, weeks to months?, will need to analyzed not sure if you have night photos of an operation similar to this if so that would be helpful.

Petro-Lud: Drilling operations will take approximately 20 days. Attached is a night time drilling rig photo. All portable lights and lighting located atop the drilling rig shall be pointed downward towards the base of the rig to minimize potential glare.

4. Contamination to soil and remediation will need to be addressed - your past practices and remediation of previous site operations would be helpful. The operational statement indicates that most operational materials are non-hazardous and where found to exist are disposed of in accordance with state regulations.

Petro-Lud: Petro-Lud Inc. will use a clay-based mud whose liquid phase shall be fresh water from a nearby irrigation well. The drilling mud will be non-hazardous. Any hazardous materials found will be hauled off to the proper disposal site in accordance with local and state regulations.

**5. Remediation of the site once the temporary operation is completed will need to be addressed. Your past practices on site remediation of previous site operations would be helpful.**

Petro-Lud: We always restore the site (as reasonably practical) to its original condition once we have ceased operations.

**6. Dust control - temporary road access to and from the site to the public roadway as well as the operational site - what is the proposed operational protocol for dust control.**

Petro-Lud: The location will be watered daily with complete coverage of operations area to prevent and address any dust problems.

**7. Closure of the site should it not go into production mode. My understanding is that State has specific capping requirements and standards. Of course they will be on the list to receive the distribution of the application and requesting their comments and input as well.**

Petro-Lud: If the well is unsuccessful, it will be plugged with cement as required by the California Division of Oil and Gas. The drilling rig and all of the equipment will be removed from the site and the access road and operations location will be cleaned up and returned to its original condition as reasonably practical.

**8. Conversion of the site to a production mode will need a Conditional Use Permit for that phase of operation.**

In our recent successful Conditional Use Permit (CUP) application in Fresno County, we applied for both the drilling and production facilities CUP in one. We desire to do the same in this instance for the most efficient use of the City's and our time.

Best regards,  
Alex Guitart, RPL  
Agent for Petro-Lud Corporation

---

Comments Received: - 4. April 7, 2018 – Comments of Westminster Capital, Inc. – requested modifications and inclusion of conditions on the proposed activity and access.

**CUP2017 – Petro-Lud  
Exploratory Drill Operation  
APN 189-351-36**

**Comments of Westminster Capital, Inc. (“WCI”), fee owner of APN 189-351-36**

**REQUEST FOR COMMENTS, CONDITIONS, ENVIRONMENTAL ASSESSMENT,  
AND ENTITLEMENT APPLICATION**

**WCI agrees with the Project Description that the CUP should be solely for the exploratory well and that a separate CUP application be filed, if and when a permanent well is requested.** By requiring separate CUP applications, the City can monitor the applicant’s performance and adherence to conditions and requirements under the exploratory CUP before approving a CUP for a permanent well. The applicant’s performance under the exploratory CUP will allow the City to impose conditions on the second CUP reflective of the applicant’s performance in drilling the exploratory well.

The Project Description states that the drill site is to be located on APN 189-351-36. In other documents, the applicant has listed APNs: 189-351-36, -37, -58, -67, all of which are owned by WCI. **WCI is in agreement with the City that the drill site should be located on APN 189-351-36.** WCI agree to the site identified by the applicant in its letter of December 26, 2017 to Mr. Jake Raper, the Planning Director, as a site 200’ by 300’ located on APN 189-351-36 at the location depicted on Exhibit A to that letter. However, WCI does not agree to the access route depicted in that Exhibit A that extends from Sycamore to the drill site. WCI requests that the access route be from Meyer to the drill site to allow for use of the balance of APN 189-351-36 for commercial development without interference with the frontage on Sycamore. Any reference to parcels other than 189-351-36 should be disregarded in applicant’s communications concerning its CUP application.

**CUP APPLICATION**

**Section 3** – This Section lists the property owners as Monica, Barbara and Peter Stockton. This is incorrect. The property owner is WCI. Monica, Peter and Barbara Stockton are the purported owners of the mineral rights under APN 189-351-36. Although WCI has requested from applicant documents to support the Stockton’s claim to the mineral rights, applicant has not yet provided a chain of title to support Barbara Stockton’s claimed one-third interest.

**Section 4** – This Section lists the project site as APNs 189-351-36, -37, -58, -67. The City Request for Comments lists only 189-351-36. The Application should be amended to reflect the single parcel consistent with the City’s Request for Comments.

**Part1 – General Information Application**

The name of the legal owner is incorrect throughout this Application. The legal owner is WCI, not the Stocktons.

The Property Description refers to APNs 189-351-36, -37 and -58. As noted above, the City' Request for Comments is limited to APN 189-351-36.

The Property Dimensions are incorrect. According to the assessor's parcel information, the site is 615.15' by 605'.

### **Sewage**

The Application indicates there will be no sewage. However, the Application states under "Water" that 1400 gallons of water will be used per day, and elsewhere in the document's notes that mud will be "dewatered." However, the Application does not address the disposal of any used water which should appropriately be considered sewage.

### **Operational Statement Checklist**

#### **Section 1. Outline of the operation.**

The last sentence of the third paragraph of this Section states, "all drilling cuttings and drilling fluids will be dewatered and hauled offsite...or spread on location if desired to build up location for production facilities or other purposes."

WCI, as owner of the property, objects to any use of the surface after completion of the exploratory drilling to spread drilling cuttings or drilling fluids for any purpose. WCI requests that the City include a condition in any CUP requiring that all drilling cuttings and drilling fluids shall be removed from the property by Applicant.

Paragraph 4 of this Section states that following conclusion of drilling the site will be "cleaned up and returned to as close to their (sic) original condition as reasonably possible." WCI requests that Applicant commit "to use its best effort to clean up and restore the property to its original condition," without any further qualifiers.

**Section 6.** Section 6 of the Statement states that access to the drill site will be from Sycamore. WCI requests that the access be from Meyer, as noted above, in order to preserve as much as reasonably possible the potential commercial development of APN 189-351-36.

**Section 7.** Section 7 of the Statement addresses parking. There is not a clear statement that the parking will be entirely on the drill site. A condition of the CUP should be that all parking associated with the drill site will be on that site.

**Section 11.** Section 11 of the Statement requires the Applicant to address "Appearance." The Applicant references noise, glare, dust and odor in response to the item, but does not address visual appearance. Applicant should be required to fence the site with cyclone fencing covered with an opaque material that blocks view of its operations and prevents children who reside in surrounding residential communities from gaining access to the attractive nuisance of the drilling equipment.

**Section 12.** Section 12 of the Statement describes Applicant's plans for dealing with cuttings and liquid drilling mud resulting from its operations. As noted above, Applicant states it will haul cuttings and dewatered mud offsite or spread it onsite. WCI requests that Applicant be conditioned to remove from the site all cuttings and all mud, and, further, that Applicant be conditioned to remove produced water from the property and not dispose of any of these waste products on the property.

**Section 18.** Section 18 requires comments regarding landscaping. Applicant's response is that it plans no landscaping or fencing. As noted above, WCI requests that the City condition any CUP to require the Applicant to fence the perimeter of the drill site.

### **Limited Title Certificate**

This document gives no indication as to who prepared it or certified it. In fact, Applicant has not yet provided WCI with recorded documents that support Barbara Stockton's claim to be a one-third owner of the mineral rights.

### **Letter to the City of Arvin from Petro-Lud dated December 26, 2018**

The first paragraph of the letter sets out a narrative description of the drill site proposed by Applicant and Exhibit A depicts the location on an aerial photo. WCI objects to the access route to the drill site proposed by Applicant because it effectively interferes with the development of the balance of the site for commercial purposes as the zoning for the property intends. WCI requests that the City require the Applicant to work with WCI to locate the access route to the drill site so that it enters the property from Meyer.

### **Exhibit "C"**

Items 7 and 8 deal with restoration of sumps on completion of operations. WCI requests that the City obtain more detail of restoration plans from Applicant and a history of exploration drilling undertaken by Applicant in other jurisdiction to enable the City and WCI to examine Applicant's prior performance.

### **Letter to the City of Arvin from Petro-Lud dated January 18, 2018**

In response to Item 8 in the Letter Applicant states that it wishes to have the CUP cover both the exploratory well and permanent well. **WCI supports the City's position that there should be two CUPs and that the current CUP be exclusively for the exploratory well.**

## Further Comments

In addition to WCI's comments above addressing specific portions of Applicant's application and other communications with the City, WCI requests that, if the City grants a CUP to Applicant for exploratory drilling, that any such CUP include, the following requirements and conditions:

1. **Survey:** Within thirty (30) days of the grant of the CUP, Applicant will commission a formal engineering survey of the drill site and access route, and provide to WCI and the City the exact specifications, in feet and inches, of the drill site and access route. WCI and the City will have the right to review and approve the engineering survey. Applicant shall not commence any activity on the drill site other than such survey unless and until such survey is approved in writing by WCI and the City.
2. **Fencing:** Applicant will fence the drill site with minimum eight (8) foot fencing and secured access.
3. **Termination:** The CUP shall terminate (1) if there is a cessation of exploration or development activity on the drill site for a continuous period of ninety (90) days, or (2) one (1) year from the grant of the CUP.
4. **Construction and Maintenance:** Applicant shall construct and maintain the access route as compacted native soil conditioned and maintained to industry standards to mitigate dust and particulate matter, at all times, and consistent with the standards and requirements of the San Joaquin Valley Air Pollution Control District. Upon the completion of exploratory operations, Applicant shall restore the access route so as to return it to a condition as close to the condition existing prior to construction of the access route as is reasonably possible under the circumstances.
5. **Water:** Applicant will supply its own water by trucking it in by way of the access route. Under no circumstances will applicant drill water well(s), or a well designed to produce only water, on the property.
6. **Produced Water:** During exploration, Applicant shall only dispose of produced water by hauling it off the property. Under no circumstances will Applicant dispose of produced water, or any other substance, on the property (drill site, access route or other property owned by WCI).
7. **Abandonment:** Upon abandonment of the drill site, or any well contained therein, Applicant shall plug and abandon any dry hole or permanently abandoned well in accordance with good oil field practices and in compliance with the rules and regulations of the State of California, Division of Oil, Gas and Geothermal Resources and the City.
8. **Indemnification:** Applicant shall indemnify WCI and the City for damage or destruction of any property or injury to any persons resulting from acts or omissions of Applicant in

connection with its use of the drill site or the access route. Such indemnity should be by way of a separate indemnity agreement.

9. **Insurance:** Applicant, shall maintain in full force and effect, at its own expense, a policy or policies of worker's compensation insurance as required by the State of California and a policy or policies of comprehensive general liability insurance, the form and substance of which shall be subject to WCI's and City's prior review and written approval, insuring Applicant, WCI and the City (and such other persons, firms or corporations as are designated by WCI as having an interest in the property) against any liability for death, personal injury or property damages arising out of or resulting from Applicant's operations. All such policies shall be submitted to WCI and the City not less than 30 days prior to the intended commencement date of such policies for WCI's and the City's review and approval. The comprehensive general liability insurance shall have coverage of not less than \$2,000,000.00, per occurrence. All required insurance policies, or properly executed certificates evidencing the same, together with satisfactory evidence of premium payments shall be deposited with WCI and the City prior to the commencement of Applicant's use and/or occupation of the property, and for renewals, at least thirty (30) days prior to the expiration of such coverage. In each instance, WCI and the City shall be an additional named insureds. All such policies shall contain a requirement that the insurer provide WCI and the City with thirty (30) days prior written notice of cancellation.
  
10. **Environmental:** Applicant, in its use of the property shall at all times comply with all applicable laws and government regulations, including all applicable federal, state and local laws, ordinances and regulations pertaining to Hazardous Materials, air and water quality, waste disposal and other environmental matters, the Clean Water Act, the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, the Resource Conservation Recovery Act and the Comprehensive Environmental Response, Compensation and Liability Act, and the rules, regulations and ordinances of the Environmental Protection Agency, the California Division of Oil, Gas, and Geothermal Resources, the California Department of Health Services, the Regional Water Quality Control Board, the State Water Resources Control Board, and the San Joaquin Valley Air Pollution Control District.
  - a. If any oil or hazardous materials from the applicant's facilities are released or are discovered to be present in the soil, water or groundwater in or adjacent to the property, in which such release or discovery is deemed to be reportable to the City, County of Kern or State of California, then Applicant shall immediately undertake to investigate and remediate or remove such oil or hazardous materials and the medium in which they are found at its sole cost and expense, pursuant to the requirements of the applicable city, county or state laws and regulations. Applicant shall also immediately determine the source of the release and cause its repair and restoration at its sole cost and expense. "Release" shall mean any spill, leak or other means of escape from Applicant's facilities or the facilities of a contractor or agent of Applicant, whether or not sudden or gradual, whether

known or unknown and whether or not due to the negligence, willful act or other fault of any person or entity.

- b.** All actions to investigate, remove and remediate oil or hazardous materials and repair or restore facilities as provided in the preceding paragraph shall be the sole responsibility of Applicant and shall be conducted by Applicant or its employees, agents, contractors, subcontractors, or suppliers in conformance with all applicable present and future statutes, regulations, rules, ordinances, orders and similar items of all governmental agencies, at Applicant's sole cost and expense. If Applicant fails to commence such investigation, removal or remediation within thirty (30) days after delivery of notice from WCI or the City or from discovery of the oil or hazardous substance, or fails to continuously and diligently pursue such work to completion, then WCI or the City (without any obligation to do so) shall be entitled to perform such work and charge applicant for the cost thereof plus an overhead and management fee of twenty percent (20%), which shall be payable thirty (30) days after delivery of an itemized invoice for such work from WCI or the City, as the case may be. WCI or the City (without any obligation to do so) may conduct any investigative actions to ascertain the fact and extent of any release or presence of oil or hazardous materials at any time at its own expense, but if oil or hazardous materials released from the pipeline or other facilities are discovered, Applicant shall reimburse WCI or the City, as the case may be, its costs of such investigation. Under no circumstances shall WCI or the City be obligated to engage in work or repair or restore the tanks and/or pipeline or other equipment and materials owned or controlled by applicant.

Applicant shall reimburse WCI for all costs and expenses related to a release of oil or hazardous materials from the facilities or pipeline or the presence of oil or hazardous materials that applicant is required to investigate as set forth above, including (a) time spent by employees and contractors of WCI or the City, as the case may be, and related expenses to help contain an apparent emergency situation or comply with a government agency order; (b) all temporary or permanent damages suffered by WCI or the City, as the case may be, as a result of such release or presence of oil or hazardous materials, including loss of use, damage to improvements, damage and injury to natural resources, loss of land value, and other consequential damages to real property owned by WCI or in which it has an interest; and (c) costs reasonably incurred by WCI or the City, as the case may be, to manage or monitor the investigation and removal or remediation processes, whether accomplished by Applicant, WCI, governmental agencies or other parties, including the cost of consultants to monitor or analyze cleanup proposals, work, or reports, attorneys to monitor regulatory processes and analyze liability issues, and persons to monitor persons present on WCI's property.

- c.** Applicant shall deliver to WCI and the City immediate notice of any of the following occurrences: (a) any release from a pipeline and/or other facilities or the presence in or adjacent to the property of oil or hazardous materials; and (b) any

notice, claim or allegation of a violation received from any federal, state, or local governmental agency or authority or any nongovernmental person or entity or the filing or commencement of any judicial or administrative proceeding by any such agency or authority or nongovernmental person or entity that relates to or is a result of applicant's activities on the property.

- d. Applicant agrees to indemnify, defend and hold WCI and the City harmless against (1) all claims, damages and liabilities of whatever nature, foreseen or unforeseen, under any hazardous substance law or regulation, including but not limited to the all fees incurred in defending any action or proceeding brought by a public or private entity and arising from the presence, containment, use, manufacture, handling, creation, storage, treatment, discharge, release, or burial on the property or the transportation to or from the property of any hazardous substance. The fees for which the Applicant shall be responsible under this subparagraph shall include, but shall not be limited to, the fees charged by (a) attorneys, (b) environmental consultants, (c) engineers, (d) surveyors, and (e) expert witnesses; and (2) any diminution in the value of the property attributable to (a) the breach or failure of any obligation or condition contained in the CUP; or (b) any cleanup, detoxification, remediation, or other type of response action taken with regard to any hazardous substance on or under the property regardless of whether or not that action was mandated by the federal, state or local government.

**11. Bonds:** Applicant should be required to post a bond to assure it performs all of its obligations under the CUP, including maintenance, indemnification, closure of wells and restoration of the property following abandonment of drilling, and environmental clean-up. Applicant has provided no evidence of its financial resources and may not be inclined to fulfill its obligations once drilling is abandon. To protect WCI and the City, Applicant should be required to post a bond in the amount of \$1,000,000 in favor of WCI and the City.

Subject: CUP Application of Petro-Lud

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From: kb@westminstercapital.com

To: jakeraper@yahoo.com; jraper@arvin.org

Cc: gb@westminstercapital.com; sr@westminstercapital.com

Date: Saturday, April 7, 2018 09:35:54 AM PDT

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Jake,

Below is a letter addressed to you accompanying Westminster Capital's comments on Petro-Lud's CUP application which are attached. I am available to discuss Westminster's comments at your convenience.

Keenan

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**VIA ELECTRONIC AND U.S. MAIL**

City of Arvin

Community Development Department, Planning Division

Attn: Jake Raper, AICP

141 Plumtree Drive

Arvin, CA 93203

jraper@arvin.org

jakeraper@yahoo.com

Re: CUP2017-Petro-Lud: WCI CUP Application Comments

Dear Mr. Raper:

Enclosed please find the comments by Westminster Capital, Inc. ("WCI") directed to the Petro-Lud Application for Conditional Use Permit, CUP2017. WCI respectfully requests that the City of Arvin and its Community Development Department consider the enclosed comments in connection with determination on the pending CUP application by Peto-Lud.

As you are aware, WCI attempted, in good faith, to reach agreement with Petro-Lud on terms of a surface use agreement. Those discussions have been ongoing since approximately January 25, 2018. Unfortunately, negotiations for an acceptable surface use agreement have broken down. This is

unfortunate as we believe WCI was making reasonable requests and had waived any claim for compensation in connection with that agreement.

For your information and consideration, along with the WCI comments, we have enclosed the form of surface use agreement most recently proposed by WCI to Petro-Lud.

Should you have questions or require something further, please do not hesitate to contact our offices. We appreciate your time and attention to these matters.

Very Truly Yours,

Keenan Behrle

Keenan Behrle

KB&KF, LLC

233 Wilshire Boulevard, Suite 400

Santa Monica, CA 90401

310 415 2797



WCI comments on CUP2017 Application - final 4-7-18.docx  
27.1kB



Proposed\_Surface\_Use\_Agreement\_Westminster-Petro-Lud\_02-21-2018.docx  
38.4kB

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Comments Received: - 4a – Staff’s Review and Comment – WCI Relating to CUP 2017-  
Petro-Lud Exploratory and Production Oil and Gas

**STAFF'S REVIEW AND COMMENT TO "WCI" RELATING TO  
CUP2017 — Petro-Lud - Exploratory Drill Operation - APN 189-351-36**

**Comments of Westminster Capital, Inc. ("WCI"), fee owner of APN 189-351-36  
REQUEST FOR COMMENTS, CONDITIONS, ENVIRONMENTAL ASSESSMENT,  
AND ENTITLEMENT APPLICATION**

1. **WCI agrees with the Project Description that the CUP should be solely for the exploratory well and that a separate CUP application be filed, if and when a permanent well is requested.** By requiring separate CUP applications, the City can monitor the applicant's performance and adherence to conditions and requirements under the exploratory CUP before approving a CUP for a permanent well. The applicant's performance under the exploratory CUP will allow the City to impose conditions on the second CUP reflective of the applicant's performance in drilling the exploratory well.

1. **Staff's Review and Comment:** Staff in the initial review of the application believed that the best approach for the City and the Applicant was to process and review the project in two phases. The first phase would be the Exploratory Drilling and the second phase would be the Permanent Production. However, upon reviewing other jurisdictions review and processing of this type of application, the two phases were considered as one and approved by the other jurisdictions. The other factor considered in combining the application as one, exploratory and production, is the City of Arvin's regulatory requirements, Chapter 17.46 Oil and Gas Production. The City's ordinance establishes fifteen (15) compliance criteria for the approval of a Conditional Use Permit. The applicant's updated and modified Operational Statement Checklist meets the compliance criteria. In addition, the code identifies that the applicant may request waiver of one or more of the compliance criteria only if findings can be made by the Planning Commission. The applicant has not requested waiver of any compliance criteria. Therefore, Staff is presenting the CUP application for consideration for both phases of the operation. (May 21, 2018)

2. **WCI -** The Project Description states that the drill site is to be located on APN 189-351-36. In other documents, the applicant has listed APNs: 189-351-36, -37, -58, -67, all of which are owned by WCI. **WCI is in agreement with the City that the drill site should be located on APN 189351-36.** WCI agree to the site identified by the applicant in its letter of December 26, 2017 to Mr. Jake Raper, the Planning Director, as a site 200' by 300' located on APN 189-351-36 at the location depicted on Exhibit A to that letter. However, WCI does not agree to the access route depicted in that Exhibit A that extends from Sycamore to the drill site. WCI requests that the access route be from Meyer to the drill site to allow for use of the balance of APN 189-351-36 for commercial development without interference with the frontage on Sycamore. Any reference to parcels other than 189-351-36 should be disregarded in applicant's communications concerning its CUP application.

**STAFF'S REVIEW AND COMMENT TO "WCI" RELATING TO  
CUP2017 — Petro-Lud - Exploratory Drill Operation - APN 189-351-36**

**2a Staff's Review and Comment:** The CUP recommended conditions limit the Petro-Lud operation to APN 189-351-36 as shown on the updated Exhibit A locating the proposed drill pad. Also, the access road from Sycamore has been relocated to Meyer Road.

**CUP APPLICATION**

**3 WCI -Section 3** — This Section lists the property owners as Monica, Barbara and Peter Stockton. This is incorrect. The property owner is WCI. Monica, Peter and Barbara Stockton are the purported owners of the mineral rights under APN 189-351-36. Although WCI has requested from applicant documents to support the Stockton's claim to the mineral rights, applicant has not yet provided a chain of title to support Barbara Stockton's claimed one-third

**Section 4** — This Section lists the project site as APNs 189-351-36, -37, -58, -67. The City Request for Comments lists only 189-351-36. The Application should be amended to reflect the single parcel consistent with the Part I — General Information Application

The name of the legal owner is incorrect throughout this Application. The legal owner is The Property Description refers to APNs 189-351-36, -37 and -58. WCI, not the Stockton. As noted above, the City' Request for Comments is limited to APN 189-351-36. The Property Dimensions are incorrect. According to the assessor's parcel information, the site is 615.15' by 605'.

**3a. Staff's Review and Comment:** An updated Limited Title Certificate – Memorandum of Oil, Gas and Mineral Lease recorded on July 31, 2017 has been provided by the applicant, Attachment 3 of the Staff Report.

**3. 4. WCI - Sewage**

The Application indicates there will be no sewage. However, the Application states under "Water" that 1400 gallons of water will be used per day, and elsewhere in the document's notes that mud will be "dewatered." However, the Application does not address the disposal of any used water which should appropriately be considered sewage.

**5a Staff's Review and Comment:** The Applicant's Operational Statement and Checklist, under Solid & Liquid Cuttings, states that the liquid drilling mud and cuttings will be stored in a pit 25'-0" wide by 125'-0" long at a depth of 1- 5 '-0". The items will be tested and if determined hazardous be disposed of properly and if non-hazardous will be dewatered and hauled off site to an approved non-hazardous drilling mud disposal site or spread on location if necessary to build up location for production.

**STAFF'S REVIEW AND COMMENT TO "WCI" RELATING TO  
CUP2017 — Petro-Lud - Exploratory Drill Operation - APN 189-351-36**

**Operational Statement Checklist**

**WCI - Section 1. Outline of the operation.**

**6a WCI -** The last sentence of the third paragraph of this Section states, "all drilling cuttings and drilling fluids will be dewatered and hauled offsite...or spread on location if desired to build up location for production facilities or other purposes." WCI, as owner of the property, objects to any use of the surface after completion of the exploratory drilling to spread drilling cuttings or drilling fluids for any purpose. WCI requests that the City include a condition in any CUP requiring that all drilling cuttings and drilling fluids shall be removed from the property by Applicant.

**6a - Staff Review and Comment:** The Applicant's Operational Statement and Checklist, Solid & Liquefied Cuttings identifies the drilling mud would be properly disposed of off-site OR used to build up the site for production facilities.

4. **WCI** Paragraph 4 of this Section states that following conclusion of drilling the site will be "cleaned up and returned to as close to their (sic) original condition as reasonably possible." WCI requests that Applicant commit "to use its best effort to clean up and restore the property to its original condition," without any further qualifiers.

**7a Staff's Review and Comment.** Staff has included condition to restore the access road from Meyer to its previous condition.

**8 - WCI - Section 6.** Section 6 of the Statement states that access to the drill site will be from Sycamore. WCI requests that the access be from Meyer, as noted above, in order to preserve as much as reasonably possible the potential commercial development of APN 189-351-36.

**8a Staff Review and Comment:** The Applicant modified the access road connection to Meyer Road per the request of the surface rights owner.

9 **WCI - Section 7.** Section 7 of the Statement addresses parking. There is not a clear statement that the parking will be entirely on the drill site. A condition of the CUP should be that all parking associated with the drill site will be on that site.

**9a Staff Review and Comment:** The project application is conditioned that all operational and staff parking be located within the drill pad location as identified under Exhibit A of the recommended conditions of approval.

**10 – WCI - Section 11.** Section 11 of the Statement requires the Applicant to address "Appearance." The Applicant references noise, glare, dust and odor in response to the item, but does not address visual appearance. Applicant should be required to fence the site with cyclone fencing covered with an opaque material that blocks view of its operations and prevents children who reside in surrounding residential communities from gaining access to the attractive nuisance of the drilling equipment.

**STAFF'S REVIEW AND COMMENT TO "WCI" RELATING TO  
CUP2017 — Petro-Lud - Exploratory Drill Operation - APN 189-351-36**

**10a – Staff Review and Comment:** Staff has recommended conditions to require fencing/walls and landscaping per City ordinance. Said landscaping and irrigation to be reviewed and approved by Staff and requires improvements to be maintained.

**11 – WCI - Section 12.** Section 12 of the Statement describes Applicant's plans for dealing with cuttings and liquid drilling mud resulting from its operations. As noted above, Applicant states it will haul cuttings and dewatered mud offsite or spread it onsite. WCI requests that Applicant be conditioned to remove from the site all cuttings and all mud, and, further, that Applicant be conditioned to remove produced water from the property and not dispose of any of these waste products on the property.

**11a – Staff Review and Comment:** See items 5 and 6 above.

**12- WCI - Section 18.** Section 18 requires comments regarding landscaping. Applicant's response is that it plans no landscaping or fencing. As noted above, WCI requests that the City condition any CUP to require the Applicant to fence the perimeter of the drill site.

**12a – Staff Review and Comment:** See item 10 above.

**13- WCI - Limited Title Certificate:** This document gives no indication as to who prepared it or certified it. In fact, Applicant has not yet provided WCI with recorded documents that support Barbara Stockton's claim to be a one-third owner of the mineral rights.

**13a – Staff Review and Comment:** See item 4 above.

**14 WCI - Letter to the City of Arvin from Petro-Lud dated December 26, 2018 -** The first paragraph of the letter sets out a narrative description of the drill site proposed by Applicant and Exhibit A depicts the location on an aerial photo. WCI objects to the access route to the drill site proposed by Applicant because it effectively interferes with the development of the balance of the site for commercial purposes as the zoning for the property intends. WCI requests that the City require the Applicant to work with WCI to locate the access route to the drill site so that it enters the property from Meyer.

**14a – Staff Review and Comment:** See item 2 above

**15 – WCI - Items 7 and 8** deal with restoration of sumps on completion of operations. WCI requests that the City obtain more detail of restoration plans from Applicant and a history of exploration drilling undertaken by Applicant in other jurisdiction to enable the City and WCI to examine Applicant's prior performance.

**15a – Staff Review and Comment:** The Staff has recommended that conditions be placed on the project for bonding and as part of the Operational Statement and Checklist restoration is required. Staff have no evidence in the record that Applicant has a history of filing to restore sites as required. There are also limitation on a city's authority to consider such evidence under the law.

**STAFF'S REVIEW AND COMMENT TO "WCI" RELATING TO  
CUP2017 — Petro-Lud - Exploratory Drill Operation - APN 189-351-36**

**16 WCI - Letter to the City of Arvin from Petro-Lud dated January 18, 2018**

In response to Item 8 in the Letter Applicant states that it wishes to have the CUP cover both the exploratory well and permanent well. WCI supports the City's position that there should be two CUPs and that the current CUP be exclusively for the exploratory well.

**16a. Staff Review and Comment:** See item 1 above.

**17 WCI - Further Comments**

**17- WCI - In addition to** WCI's comments above addressing specific portions of Applicant's application **and** other communications with the City, WCI requests that, if the City grants a CUP to **Applicant for** exploratory drilling, that any such CUP include, the following requirements and conditions:

**17-1 WCI** 1. Survey. Within thirty (30) days of the grant of the CUP, Applicant will commission a formal engineering survey of the drill site and access route, and provide to WCI and the City the exact specifications, in feet and inches, of the drill site and access route. WCI and the City will have the right to review and approve the engineering survey. Applicant shall not commence any activity on the drill site other than such survey unless and until such survey is approved in writing by WCI and the City.

**17-1a. Staff Review and Comment:** Staff believes that a formal survey and specific information as requested by WCI is not necessary and therefore was not recommended for inclusion as a condition. Locations of property or other lines is a private affair under these circumstances, and not before the City to determine.

**17-2 WCI - Fencing:** Applicant will fence the drill site with minimum eight (8) foot fencing and secured access.

**17-2a. Staff Review and Comment:** Staff has recommended that fencing/walls of a minimum of six (6) feet in height and landscaping as set forth in greater detail in the conditions of approval.

**17-3 WCI - Termination:** The CUP shall terminate (1) if there is a cessation of exploration or development activity on the drill site for a continuous period of ninety (90) days, or (2) one (1) year from the grant of the CUP.

**17-3a – Staff Review and Comment;** Staff has recommended that the operation, should it proceed, be terminated as required per Section 17.46.040 B.

**17-4 WCI - Construction and Maintenance:** Applicant shall construct and maintain the access route as compacted native soil conditioned and maintained to industry standards to mitigate dust and particulate matter, at all times, and consistent with the standards and

**STAFF'S REVIEW AND COMMENT TO "WCI" RELATING TO  
CUP2017 — Petro-Lud - Exploratory Drill Operation - APN 189-351-36**

requirements of the San Joaquin Valley Air Pollution Control District. Upon the completion of exploratory operations, Applicant shall restore the access route so as to return it to a condition as close to the condition existing prior to construction of the access route as is reasonably possible under the circumstances.

**17-4a – Staff Review and Comment:** Staff has recommended condition that will require that the access road be improved to prevent rutting, dust control, and restoration upon completion of the operation.

**17-5 WCI - Water:** Applicant will supply its own water by trucking it in by way of the access route. Under no circumstances will applicant drill water well(s), or a well designed to produce only water, on the property.

**17-5a – Staff Review and Comment:** The Operational Statement and Checklist identifies that water will be provided by trucking the water in – no water wells are proposed as part of this application.

**17-6 WCI - Produced Water:** During exploration, Applicant shall only dispose of produced water by hauling it off the property. Under no circumstances will Applicant dispose of produced water, or any other substance, on the property (drill site, access route or other property owned by WCI).

**17-6a Staff Review and Comment:** See items 5 and 6 above.

**17-7 WCI - Abandonment:** Upon abandonment of the drill site, or any well contained therein, Applicant shall plug and abandon any dry hole or permanently abandoned well in accordance with good oil field practices and in compliance with the rules and regulations of the State of California, Division of Oil, Gas and Geothermal Resources and the City.

**17-7a – Staff Review and Comment:** Staff has recommended that conditions be imposed on the project to comply with abandonment process and procedures, including those mandated by DOGGR.

**17-8 WCI - Indemnification:** Applicant shall indemnify WCI and the City for damage or destruction of any property or injury to any persons resulting from acts or omissions of Applicant in connection with its use of the drill site or the access route. Such indemnity should be by way of a separate indemnity agreement.

**17-8a - Staff Review and Comment:** The project applicant is subject to the city's standard indemnification requirements. The City has limited authority to require it for third parties to be indemnified, or the City to be indemnified for claims to non-city property.

**17-9 WCI - Insurance:** Applicant, shall maintain in full force and effect, at its own expense, a policy or policies of worker's compensation insurance as required by the State of California and a policy or policies of comprehensive general liability insurance, the form and substance of which shall be subject to WCI's and City's prior review and written

**STAFF'S REVIEW AND COMMENT TO "WCI" RELATING TO  
CUP2017 — Petro-Lud - Exploratory Drill Operation - APN 189-351-36**

approval, insuring Applicant, WCI and the City (and such other persons, firms or corporations as are designated by WCI as having an interest in the property) against any liability for death, personal injury or property damages arising out of or resulting from Applicant's operations. All such policies shall be submitted to WCI and the City not less than 30 days prior to the intended commencement date of such policies for WCI's and the City's review and approval. The comprehensive general liability insurance shall have coverage of not less than \$2,000,000.00, per occurrence. All required insurance policies, or properly executed certificates evidencing the same, together with satisfactory evidence of premium payments shall be deposited with WCI and the City prior to the commencement of Applicant's use and/or occupation of the property, and for renewals, at least thirty (30) days prior to the expiration of such coverage. In each instance, WCI and the City shall be an additional named insureds. All such policies shall contain a requirement that the insurer provide WCI and the City with thirty (30) days prior written notice of cancellation.

**17-9a – Staff Review and Comment:** Staff has recommended bonding to be in a form as required by the Municipal Code. The bonding requirements and proof of bonding shall be the City only, and not to any non-party, and must be consistent with the requirements of Chapter 17.46 of Municipal Code. The operator has also been conditioned to show proof of bonding as required by DOGGR.

**17-10 WCI - Environmental:** Applicant, in its use of the property shall at all times comply with all applicable laws and government regulations, including all applicable federal, state and local laws, ordinances and regulations pertaining to Hazardous Materials, air and water quality, waste disposal and other environmental matters, the Clean Water Act, the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, the Resource Conversation Recovery Act and the Comprehensive Environmental Response, Compensation and Liability Act, and the rules, regulations and ordinances of the Environmental Protection Agency, the California Division of Oil, Gas, and Geothermal Resources, the California Department of Health Services, the Regional Water Quality Control Board, the State Water Resources Control Board, and the San Joaquin Valley Air Pollution Control District.

**17-10a – Staff Review and Comment:** Staff has recommended conditions to address compliance with other local, state, and federal agencies. Regardless if conditioned by the City, the applicant must still comply with any applicable local, state, or federal law.

**17-11 WCI - a.** If any oil or hazardous materials from the applicant's facilities are released or are discovered to be present in the soil, water or groundwater in or adjacent to the property, in which such release or discovery is deemed to be reportable to the City, County of Kern or State of California, then Applicant shall immediately undertake to investigate and remediate or remove such oil or hazardous materials and the medium in which they are found at its sole cost and expense, pursuant to the requirements of the applicable city, county or state laws and regulations. Applicant shall also immediately determine the source of the release and cause its repair and restoration at its sole cost and expense. "Release" shall mean any spill, leak or other means of escape from Applicant's facilities or the facilities of a contractor or agent of Applicant, whether or not sudden or gradual,

**STAFF'S REVIEW AND COMMENT TO "WCI" RELATING TO  
CUP2017 — Petro-Lud - Exploratory Drill Operation - APN 189-351-36**

whether known or unknown and whether or not due to the negligence, willful act or other fault of any person or entity.

**17-11a -Staff Review and Comment:** Staff has recommended a condition, as modified, to be imposed on the project.

**17-12 WCI – b.** All actions to investigate, remove and remediate oil or hazardous materials and repair or restore facilities as provided in the preceding paragraph shall be the sole responsibility of Applicant and shall be conducted by Applicant or its employees, agents, contractors, subcontractors, or suppliers in conformance with all applicable present and future statutes, regulations, rules, ordinances, orders and similar items of all governmental agencies, at Applicant's sole cost and expense. If Applicant fails to commence such investigation, removal or remediation within thirty (30) days after delivery of notice from WCI or the City or from discovery of the oil or hazardous substance, or fails to continuously and diligently pursue such work to completion, then WCI or the City (without any obligation to do so) shall be entitled to perform such work and charge applicant for the cost thereof plus an overhead and management fee of twenty percent (20%), which shall be payable thirty (30) days after delivery of an itemized invoice for such work from WCI or the City, as the case may be. WCI or the City (without any obligation to do so) may conduct any investigative actions to ascertain the fact and extent of any release or presence of oil or hazardous materials at any time at its own expense, but if oil or hazardous materials released from the pipeline or other facilities are discovered, Applicant shall reimburse WCI or the City, as the case may be, its costs of such investigation. Under no circumstances shall WCI or the City be obligated to engage in work or repair or restore the tanks and/or pipeline or other equipment and materials owned or controlled by applicant.

**17-12a – Staff Review and Comment:** Among others, the City cannot delegate its enforcement authority, cannot authorize a non-party as proposed, and has certain limitations mandated by law for fee recovery and charges. It also has limits on authority to authorize financial remuneration to itself for damages done to private property which it does not own. However, the City has other enforcement mechanisms. For example, if an applicant fails to comply with conditions of approval, the city can revoke the CUP and shut down operations. It also has nuisance, injunction and code enforcement authority. Here, the CUP is conditioned to require repair and remediate releases. If the applicant fails to do so, the City may enforce the condition.

**17-13 WCI -** Applicant shall reimburse WCI for all costs and expenses related to a release of oil or hazardous materials from the facilities or pipeline or the presence of oil or hazardous materials that applicant is required to investigate as set forth above, including (a) time spent by employees and contractors of WCI or the City, as the case may be, and related expenses to help contain an apparent emergency situation or comply with a government agency order; (b) all temporary or permanent damages suffered by WCI or the City, as the case may be, as a result of such release or presence of oil or hazardous materials, including loss of use, damage to improvements, damage and injury to natural resources, loss of land value, and other consequential damages to real property owned by WCI or in which it has an interest; and (c) costs reasonably incurred by WCI or the City, as the case may be, to manage or monitor the investigation and removal or remediation processes, whether

**STAFF'S REVIEW AND COMMENT TO "WCI" RELATING TO  
CUP2017 — Petro-Lud - Exploratory Drill Operation - APN 189-351-36**

accomplished by Applicant, WCI, governmental agencies or other parties, including the cost of consultants to monitor or analyze cleanup proposals, work, or reports, attorneys to monitor regulatory processes and analyze liability issues, and persons to monitor persons present on WCI's property.

**17-13a – Staff Review and Comment:** See comment 17-12a. Additionally, nothing in the condition will limit third parties' rights to proceed to recover for damage against their property.

**17-14 WCI – a.** Applicant shall deliver to WCI and the City immediate notice of any of the following occurrences: (a) any release from a pipeline and/or other facilities or the presence in or adjacent to the property of oil or hazardous materials; and (b) any notice, claim or allegation of a violation received from any federal, state, or local governmental agency or authority or any nongovernmental person or entity or the filing or commencement of any judicial or administrative proceeding by any such agency or authority or nongovernmental person or entity that relates to or is a result of applicant's activities on the property.

**17-14a - Staff Review and Comment:** Staff has recommended a similar condition be imposed on the project but has not included WCI, only the City

**17-15 WCI -** Applicant agrees to indemnify, defend and hold WCI and the City harmless against (1) all claims, damages and liabilities of whatever nature, foreseen or unforeseen, under any hazardous substance law or regulation, including but not limited to the all fees incurred in defending any action or proceeding brought by a public or private entity and arising from the presence, containment, use, manufacture, handling, creation, storage, treatment, discharge, release, or burial on the property or the transportation to or from the property of any hazardous substance. The fees for which the Applicant shall be responsible under this subparagraph shall include, but shall not be limited to, the fees charged by (a) attorneys, (b) environmental consultants, (c) engineers, (d) surveyors, and (e) expert witnesses; and (2) any diminution in the value of the property attributable to (a) the breach or failure of any obligation or condition contained in the CUP; or (b) any cleanup, detoxification, remediation, or other type of response action taken with regard to any hazardous substance on or under the property regardless of whether or not that action was mandated by the federal, state or local government.

**17-15a - Staff Review and Comment:** Staff has recommended the a condition to be imposed on the project per its standard indemnification provisions. No third parties or non-governmental entities have been included.

**17-16-WCI- Bonds:** Applicant should be required to post a bond to assure it performs all of its obligations under the CUP, including maintenance, indemnification, closure of wells and restoration of the property following abandonment of drilling, and environmental clean-up. Applicant has provided no evidence of its financial resources and may not be inclined to fulfill its obligations once drilling is abandon. To protect WCI and the City, Applicant should be required to post a bond in the amount of \$1,000,000 in favor of WCI and the City.

**STAFF'S REVIEW AND COMMENT TO "WCP" RELATING TO  
CUP2017 — Petro-Lud - Exploratory Drill Operation - APN 189-351-36**

17.16a **Staff Review and Comment:** Staff has recommended a condition for bonding per the legal mandates of Section 17.46.040 (B). Additionally, operators are required to comply with DOGGR bonding requirements, etc., and proof of compliance with such bonding requirement has been recommended as a condition of approval. As noted above, the City has limitations in requiring bonding for the benefit of non-parties or third parties.

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Attachment 5 - Typical Oil Field Diesel Generator – Provided January 10, 2018

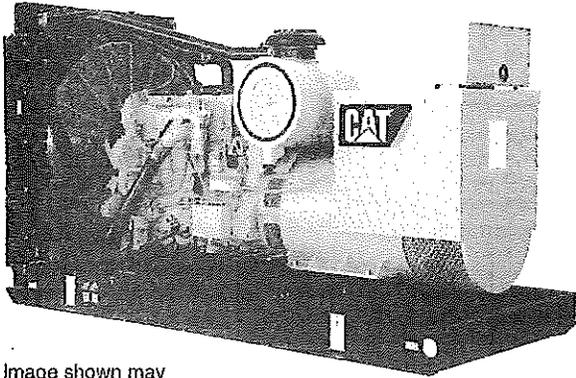


Image shown may not reflect actual package.

### CATERPILLAR® ENGINE SPECIFICATIONS

#### C18 In-Line 6, 4-Stroke-Cycle water-cooled diesel

Bore .....	145 mm (5.71 in.)
Stroke .....	183 mm (7.2 in.)
Displacement .....	18.13 L (1108.36 cu. in.)
Compression Ratio .....	14.5:1
Aspiration .....	Air-to-Air Aftercooled
Fuel System .....	MEUI
Governor Type ..	Caterpillar® ADEM™ A4 control system
Package Weight (estimated) ....	5032.61 kg (11,095 lb.)

Caterpillar is leading the power generation marketplace with Power Solutions engineered to deliver unmatched flexibility, expandability, reliability, and cost-effectiveness.

### FEATURES

#### Ready to Run

- Shipped from the factory complete and ready to run

#### Fuel/Emissions Strategy

- Tier 2

#### Enclosures (design to order)

- Sound attenuated
- Weather protective

#### Single-Source Supplier

- Fully prototype-tested with certified torsional vibration analysis available
- Factory-designed systems built at Caterpillar ISO 9001:2000 certified facilities

#### Worldwide Product Support

- Caterpillar dealers provide extensive post-sale support including maintenance and repair agreements.
- Caterpillar dealers fill 99.7 percent of parts orders within 24 hours.
- Caterpillar dealers have over 2,100 dealer branch stores operating in 200 countries.
- The Cat<sup>®</sup> S-O-S<sup>SM</sup> program cost-effectively detects internal engine component condition, even the presence of unwanted fluids and combustion by-products.

#### Cat<sup>®</sup> C18 Tier 2 ATAAC Diesel Engine

- Utilizes ACERT™ Technology
- Reliable, rugged, durable design
- Field-proven in thousands of applications worldwide
- Four-stroke diesel engine combines consistent performance and excellent fuel economy with minimum weight
- Electronic engine control

#### Cat Generator

- Designed to match performance and output characteristics of Caterpillar diesel engines
- 2/3 pitch minimizes harmonic distortion and facilitates parallel operation
- UL 1446 Recognized Class H Insulation

#### Cat EMCP 3 Control Panels

- EMCP 3.1 offers basic engine/generator monitoring, metering, and protection.
- Segregated low voltage (AC/DC) accessory box provides single point access to accessory connections
- Panel lights

#### Web Site

For all your petroleum power requirements, visit [www.cat-oilandgas.com](http://www.cat-oilandgas.com).

### STANDARD EQUIPMENT

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#### Air Inlet System

- Dual element air cleaner
- Service indicator

#### Control Panels

- EMCP 3.1 (package mounted)

#### Controls

- Electronic governor

#### Cooling System

- Radiator with guard sized for 50° C
- Low coolant level sensor
- Coolant level sight gauge
- Coolant drain line with valve
- Fan and belt guards
- Caterpillar Extended Life Coolant

#### Exhaust System

- Turbo outlet elbow

#### Fuel System

- Primary fuel filter with integral water separator
- Secondary fuel filters
- Fuel priming pump
- Fuel pressure gauge
- Flexible fuel lines

#### Generator

- Self excited
- Class H insulation
- Class H temperature rise
- Random wound
- Voltage regulator
- Power terminal strip connections
- IP23 Protection
- CDVR 3-phase sensing
- Power center

#### Governor

- ADEM™ A4

#### Lube System

- Lubricating oil and filter
- Oil drain line with valves
- Fumes disposal
- Dipstick

#### Mounting System

- Oilfield skid base
- Hard mounted

#### Starting/Charging System

- 45-amp charging alternator
- 24-volt starting motor(s)
- Batteries with rack and cables
- Battery disconnect switch

#### General

- Paint — Caterpillar yellow except rails and radiators (gloss black)
- Flywheel and flywheel housing — SAE No. 1

### OPTIONAL EQUIPMENT

---

#### Air Inlet System

- Heavy-duty air cleaner with precleaner

#### Control Panels

- EMCP 3.2 provides comprehensive monitoring, metering, and protection including: power metering, protective relaying and MODBUS communication.
- EMCP 3.3 provides all of the EMCP 3.2 features and adds the ability to expand the system for advanced engine and generator monitoring.
- Local alarm and remote annunciator modules
- Narrow base

### OPTIONAL EQUIPMENT (continued)

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#### Exhaust System

- Industrial, residential, and critical mufflers
- Stainless steel exhaust flex and ANSI weld flange

#### Generator

- Permanent magnet conversion for self-excited generators
- Oversize and premium generators
- Space heaters only available with permanent magnet excitation generators

#### Governor

- Load share module

#### Starting/Charging System

- Jacket water heater
- Block heater
- Oversize batteries

### SPECIFICATIONS

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#### Cat Generator

Voltage	480 V
Excitation	Self excited
Pitch	2/3
Number of poles	4
Number of leads	12
Insulation	UL 1446 Recognized Class H with tropicalization and antiabrasion (consult your Caterpillar dealer for available voltages)
IP Rating	Drip Proof IP22
Alignment	Pilot Shaft
Overspeed capability	125% of rated
Wave form deviation (line-to-line)	2%
Voltage regulation	Less than ± 1/2% (steady state) Less than ± 1/2% (with 3% speed change)
Harmonic Distortion	Less than 5%

#### Cat Control Panel

##### EMCP 3 Series Controls

##### 24-Volt DC control

##### EMCP 3.1 (standard)

- CSA/CE

##### NEMA 1, IP22 enclosure

- Run/Auto/Stop control
- True RMS metering, 3-phase
- Speed adjust

##### Voltage adjust (optional)

- Digital indication for:
  - rpm
  - Operating hours
  - Oil pressure
  - Coolant temperature
  - System DC volts
  - L-L volts, L-N volts, phase amps, Hz
  - ekW, kVA, kVAR, kW-hr, % kW, PF (\*)

##### • Shutdowns

- Low oil pressure
- High coolant temperature
- Overspeed
- Emergency stop
- Failure to start (overcrank)

##### • Programmable protective relaying functions: (\*)

- Under and over voltage
- Under and over frequency
- Reverse power
- Overcurrent

- MODUS isolated data link (RS-485 half-duplex) supports serial communication at data rate up to 115.2 kbaud (\*)

(\*) Available on EMCP 3.2 and EMCP 3.3

Single location customer connector point

Consult your Caterpillar dealer for available voltages



# C18 DIESEL OILFIELD GENERATOR SET

545 ekW (680 kVA)

## TECHNICAL DATA

### Open Generator Set — 1800 rpm/60 Hz/480 Volts

EPA Certified Tier 2		DM8522
<b>Generator Set Package Performance</b>		
Genset Power Rating @ 0.8 pf	ekW	545
Genset Power Rating with fan	kVA	680
<b>Coolant to Aftercooler</b>		
Coolant to Aftercooler Temperature (maximum)	°C (F°)	49 (120)
<b>Fuel Consumption</b>		
100% Load with fan	L/hr (Gal/hr)	151.0 (39.9)
75% Load with fan	L/hr (Gal/hr)	123.4 (32.6)
50% Load with fan	L/hr (Gal/hr)	89.3 (23.6)
<b>Cooling System<sup>1</sup></b>		
Ambient Air Temperature	°C (F°)	52 (125.6)
Air Flow Restriction (system)	kPa (in. water)	.12 (.50)
Air Flow (max @ rated speed for radiator arrangement)	m <sup>3</sup> /min (cfm)	1866 (65,888)
Engine Coolant Capacity with Radiator/Expansion Tank	L (gal)	61 (16.1)
Engine Coolant Capacity	L (gal)	20.8 (5.5)
Radiator Coolant Capacity	L (gal)	40.2 (10.6)
<b>Inlet Air</b>		
Combustion Air Inlet Flow Rate	m <sup>3</sup> /min (cfm)	46.3 (1635.1)
<b>Exhaust System</b>		
Exhaust Stack Gas Temperature	°C (F°)	518.2 (964.8)
Exhaust Gas Flow Rate	m <sup>3</sup> /min (cfm)	129.6 (4576.8)
Exhaust System Backpressure (maximum allowable)	kPa (in. water)	10 (40.2)
<b>Heat Rejection</b>		
Heat Rejection to Coolant (total)	kW (Btu/min)	240 (13,660)
Heat Rejection to Exhaust (total)	kW (Btu/min)	573.0 (32,586)
Heat Rejection to Atmosphere from Engine	kW (Btu/min)	97 (5,539)
Heat Rejection to Atmosphere from Generator	kW (Btu/min)	21.9 (1245.4)



## C18 DIESEL OILFIELD GENERATOR SET

545 ekW (680 kVA)

### C18 OIL FIELD GENERATOR SET PACKAGES

Engine Model	60 Hz — Standard		50 Hz — Standard
	C18	C18	C18
ekW Rating	500	545	440
kVA Rating	625	680	550
rpm	1800	1800	1500
Rated PF	0.8	0.8	0.8
Temperature Rise	105° C	105° C	105° C
Tilt Requirements	5° Static	5° Static	5° Static
Insulation Class	H	H	H
Overload	50%/2 min.	50%/2 min.	50%/2 min.
Excitation	SE	SE	SE
Voltage	480	480	400
Voltage Regulator	CDVD	CDVD	CDVD
Configuration	1-Brg	1-Brg	1-Brg
Coastal Protection	Yes	Yes	Yes
Space Heater	Opt.	Opt.	Opt.
Construction	RW	RW	RW
Short Circuit Current	300%/10 sec.	300%/10 sec.	300%/10 sec.
Frame Size	592	593	593

#### Generator Terminal Box

Terminal box shall be standard with terminals on the right side, top entry or rear depending on size. Normal cable entrance shall be from the top.



# C18 DIESEL OILFIELD GENERATOR SET

545 ekW (680 KVA)

## C18 OIL FIELD GENERATOR SET PACKAGES -- OPTIONAL

Engine Model	60Hz						50Hz
	C18	C18	C18	C18	C18	C18	C18
ekW Rating	500	500	500	545	545	545	440
kVA Rating	625	625	625	680	680	680	550
rpm	1800	1800	1800	1800	1800	1800	1500
Rated PF	0.8	0.8	0.8	0.8	0.8	0.8	0.8
Temperature Rise	105° C	105° C	105° C	80° C	105° C	105° C	105° C
Tilt Requirements	5° Static	5° Static	5° Static	5° Static	5° Static	5° Static	5° Static
Insulation Class	H	H	H	H	H	H	H
Overload	50%/2 min.	50%/2 min.	50%/2 min.	50%/2 min.	50%/2 min.	50%/2 min.	50%/2 min.
Excitation	SE	PM	PM	SE	PM	PM	PM
Voltage	600	480	600	600	480	600	400
Construction	FW	RW	FW	FW	RW	FW	RW
Voltage Regulator	CDVR	CDVR	CDVR	CDVR	CDVR	CDVR	CDVR
Configuration	1-Brg	1-Brg	1-Brg	1-Brg	1-Brg	1-Brg	1-Brg
Coastal Protection	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Space Heater	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Short Circuit Current		300%/10 sec.	300%/10 sec.		300%/10 sec.	300%/10 sec.	—
Frame Size	592	592	592	597	593	593	593

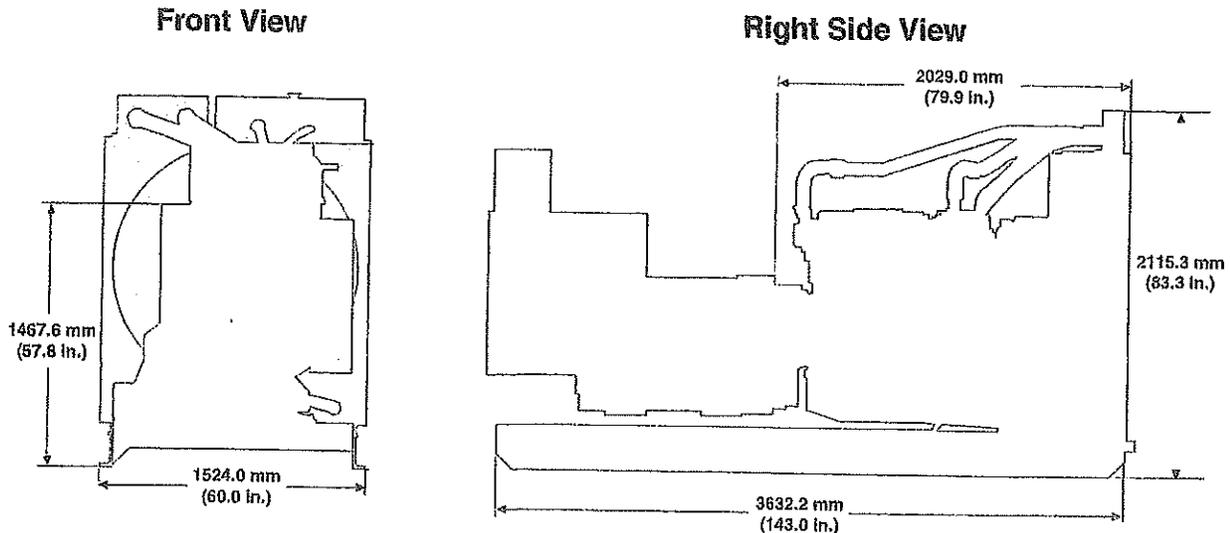
## C18 OIL FIELD GENERATOR SET PACKAGES -- DESIGN TO ORDER (60 Hz)

Engine Model	C18	C18	C18	C18	C18	C18
ekW Rating	500	500	500	545	545	545
kVA Rating	715	715	625	780	780	680
rpm	1800	1800	1800	1800	1800	1800
Rated PF	0.7	0.7	0.8	0.7	0.7	0.8
Temperature Rise	80° C	90° C	90° C	80° C	90° C	90° C
Tilt Requirements	5° Static	5° Static	5° Static	5° Static	5° Static	5° Static
Insulation Class	H	H	H	H	H	H
Overload	50%/2 min.	50%/2 min.	50%/2 min.	50%/2 min.	50%/2 min.	50%/2 min.
Excitation	SE	PM	SE	SE	PMG	SE
Voltage	600	480	600	600	480	600
Voltage Regulator	CDVR	CDVR	CDVR	CDVR	CDVR	CDVR
Configuration	1-Brg	1-Brg	1-Brg	1-Brg	1-Brg	1-Brg
Coastal Protection	Yes	Yes	Yes	Yes	Yes	Yes
Construction	RW	FW	RW	RW	FW	RW
Short Circuit Current		300%/10 sec.			300%/10 sec.	

### Optional Generator

For the 455, 500, and 545 ekW generator set a 600 volt generator shall be available as SE, without a voltage regulator. The 480 volt generator shall be PM for the same ratings. The SCR optional generator is for drill rig applications and the VFD optional generators are for variable frequency down-hole pump and single-unit drilling. The Multiple VFD generators should be developed if the generator costs do not exceed 5% compared to the single VFD generator development costs.

### INSTALLATION DRAWINGS



**Note:** Package dimensions may change depending on generator arrangement selection.

Package Dimensions		
Length	3632.2 mm	143.0 in.
Width	1524.0 mm	60.0 in.
Height	2115.8 mm	83.3 in.
Weight (estimated)	5032.61 kg	11,095 lb.

**Note:** Do not use for installation design. See general dimension drawings for detail.

### RATING DEFINITIONS AND CONDITIONS

**Meets or Exceeds International Specifications:**  
 AS1359, AS2789, CSA, EGSA101P, IEC60034, ISO3046, ISO8528, NEMA MG 1-32, UL508, 72/23/EEC, 89/336/EEC, 98/37/EEC.

**Prime** output available with varying load for an unlimited time. Prime power in accordance with ISO8528. 10 percent overload power in accordance with ISO3046, AS2789, and BS5514 available on request. Prime power ambients shown indicate ambient at 100 percent load which results in a coolant top tank temperature just below the alarm temperature.

**Ratings** are based on SAE J1995 standard conditions. These ratings also apply at ISO3046 standard conditions. Fuel rates are based on fuel oil of 35° API [16° C (60° F)] gravity having an LHV of 42 780 kJ/kg (18,390 Btu/lb) when used at 29° C (85° F) and weighing 838.9 g/liter (7.001 lbs/U.S. gal.). Additional ratings may be available for specific customer requirements. Consult your Caterpillar representative for details.



**C18 DIESEL OILFIELD GENERATOR SET**

545 ekW (680 kVA)

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Materials and specifications are subject to change without notice. The International System of Units (SI) is used in this publication. CAT, CATERPILLAR, their respective logos, S-O-S, ACERT, ADEM, "Caterpillar Yellow" and the POWER EDGE trade dress, as well as corporate and product identity used herein, are trademarks of Caterpillar and may not be used without permission.

TMI Reference No.: DM8522-00  
LEHW7450-01 (6-08)

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Attachment 6 - April 7, 2018 – Letter from Westminster Capital – Surface owner requesting modification of access and limitation as to surface activities on the site.

Subject: CUP Application of Petro-Lud

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From: kb@westminstercapital.com

To: jakeraper@yahoo.com; jraper@arvin.org

Cc: gb@westminstercapital.com; sr@westminstercapital.com

Date: Saturday, April 7, 2018 09:35:54 AM PDT

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Jake,

Below is a letter addressed to you accompanying Westminster Capital's comments on Petro-Lud's CUP application which are attached. I am available to discuss Westminster's comments at your convenience.

Keenan

-

-

**VIA ELECTRONIC AND U.S. MAIL**

City of Arvin

Community Development Department, Planning Division

Attn: Jake Raper, AICP

141 Plumtree Drive

Arvin, CA 93203

jraper@arvin.org

jakeraper@yahoo.com

Re: CUP2017-Petro-Lud: WCI CUP Application Comments

Dear Mr. Raper:

Enclosed please find the comments by Westminster Capital, Inc. ("WCI") directed to the Petro-Lud Application for Conditional Use Permit, CUP2017. WCI respectfully requests that the City of Arvin and its Community Development Department consider the enclosed comments in connection with determination on the pending CUP application by Peto-Lud.

As you are aware, WCI attempted, in good faith, to reach agreement with Petro-Lud on terms of a surface use agreement. Those discussions have been ongoing since approximately January 25, 2018. Unfortunately, negotiations for an acceptable surface use agreement have broken down. This is

unfortunate as we believe WCI was making reasonable requests and had waived any claim for compensation in connection with that agreement.

For your information and consideration, along with the WCI comments, we have enclosed the form of surface use agreement most recently proposed by WCI to Petro-Lud.

Should you have questions or require something further, please do not hesitate to contact our offices. We appreciate your time and attention to these matters.

Very Truly Yours,

Keenan Behrle

Keenan Behrle

KB&KF, LLC

233 Wilshire Boulevard, Suite 400

Santa Monica, CA 90401

310 415 2797



WCI comments on CUP2017 Application - final 4-7-18.docx  
27.1kB



Proposed\_Surface\_Use\_Agreement\_Westminster-Petro-Lud\_02-21-2018.docx  
38.4kB

**CUP2017 – Petro-Lud  
Exploratory Drill Operation  
APN 189-351-36**

**Comments of Westminster Capital, Inc. (“WCI”), fee owner of APN 189-351-36**

**REQUEST FOR COMMENTS, CONDITIONS, ENVIRONMENTAL ASSESSMENT,  
AND ENTITLEMENT APPLICATION**

**WCI agrees with the Project Description that the CUP should be solely for the exploratory well and that a separate CUP application be filed, if and when a permanent well is requested.** By requiring separate CUP applications, the City can monitor the applicant’s performance and adherence to conditions and requirements under the exploratory CUP before approving a CUP for a permanent well. The applicant’s performance under the exploratory CUP will allow the City to impose conditions on the second CUP reflective of the applicant’s performance in drilling the exploratory well.

The Project Description states that the drill site is to be located on APN 189-351-36. In other documents, the applicant has listed APNs: 189-351-36, -37, -58, -67, all of which are owned by WCI. **WCI is in agreement with the City that the drill site should be located on APN 189-351-36.** WCI agree to the site identified by the applicant in its letter of December 26, 2017 to Mr. Jake Raper, the Planning Director, as a site 200’ by 300’ located on APN 189-351-36 at the location depicted on Exhibit A to that letter. However, WCI does not agree to the access route depicted in that Exhibit A that extends from Sycamore to the drill site. WCI requests that the access route be from Meyer to the drill site to allow for use of the balance of APN 189-351-36 for commercial development without interference with the frontage on Sycamore. Any reference to parcels other than 189-351-36 should be disregarded in applicant’s communications concerning its CUP application.

**CUP APPLICATION**

**Section 3** – This Section lists the property owners as Monica, Barbara and Peter Stockton. This is incorrect. The property owner is WCI. Monica, Peter and Barbara Stockton are the purported owners of the mineral rights under APN 189-351-36. Although WCI has requested from applicant documents to support the Stockton’s claim to the mineral rights, applicant has not yet provided a chain of title to support Barbara Stockton’s claimed one-third interest.

**Section 4** – This Section lists the project site as APNs 189-351-36, -37, -58, -67. The City Request for Comments lists only 189-351-36. The Application should be amended to reflect the single parcel consistent with the City’s Request for Comments.

**Part1 – General Information Application**

The name of the legal owner is incorrect throughout this Application. The legal owner is WCI, not the Stocktons.

The Property Description refers to APNs 189-351-36, -37 and -58. As noted above, the City' Request for Comments is limited to APN 189-351-36.

The Property Dimensions are incorrect. According to the assessor's parcel information, the site is 615.15' by 605'.

### **Sewage**

The Application indicates there will be no sewage. However, the Application states under "Water" that 1400 gallons of water will be used per day, and elsewhere in the document's notes that mud will be "dewatered." However, the Application does not address the disposal of any used water which should appropriately be considered sewage.

### **Operational Statement Checklist**

#### **Section 1. Outline of the operation.**

The last sentence of the third paragraph of this Section states, "all drilling cuttings and drilling fluids will be dewatered and hauled offsite...or spread on location if desired to build up location for production facilities or other purposes."

WCI, as owner of the property, objects to any use of the surface after completion of the exploratory drilling to spread drilling cuttings or drilling fluids for any purpose. WCI requests that the City include a condition in any CUP requiring that all drilling cuttings and drilling fluids shall be removed from the property by Applicant.

Paragraph 4 of this Section states that following conclusion of drilling the site will be "cleaned up and returned to as close to their (sic) original condition as reasonably possible." WCI requests that Applicant commit "to use its best effort to clean up and restore the property to its original condition," without any further qualifiers.

**Section 6.** Section 6 of the Statement states that access to the drill site will be from Sycamore. WCI requests that the access be from Meyer, as noted above, in order to preserve as much as reasonably possible the potential commercial development of APN 189-351-36.

**Section 7.** Section 7 of the Statement addresses parking. There is not a clear statement that the parking will be entirely on the drill site. A condition of the CUP should be that all parking associated with the drill site will be on that site.

**Section 11.** Section 11 of the Statement requires the Applicant to address "Appearance." The Applicant references noise, glare, dust and odor in response to the item, but does not address visual appearance. Applicant should be required to fence the site with cyclone fencing covered with an opaque material that blocks view of its operations and prevents children who reside in surrounding residential communities from gaining access to the attractive nuisance of the drilling equipment.

**Section 12.** Section 12 of the Statement describes Applicant's plans for dealing with cuttings and liquid drilling mud resulting from its operations. As noted above, Applicant states it will haul cuttings and dewatered mud offsite or spread it onsite. WCI requests that Applicant be conditioned to remove from the site all cuttings and all mud, and, further, that Applicant be conditioned to remove produced water from the property and not dispose of any of these waste products on the property.

**Section 18.** Section 18 requires comments regarding landscaping. Applicant's response is that it plans no landscaping or fencing. As noted above, WCI requests that the City condition any CUP to require the Applicant to fence the perimeter of the drill site.

### **Limited Title Certificate**

This document gives no indication as to who prepared it or certified it. In fact, Applicant has not yet provided WCI with recorded documents that support Barbara Stockton's claim to be a one-third owner of the mineral rights.

### **Letter to the City of Arvin from Petro-Lud dated December 26, 2018**

The first paragraph of the letter sets out a narrative description of the drill site proposed by Applicant and Exhibit A depicts the location on an aerial photo. WCI objects to the access route to the drill site proposed by Applicant because it effectively interferes with the development of the balance of the site for commercial purposes as the zoning for the property intends. WCI requests that the City require the Applicant to work with WCI to locate the access route to the drill site so that it enters the property from Meyer.

### **Exhibit "C"**

Items 7 and 8 deal with restoration of sumps on completion of operations. WCI requests that the City obtain more detail of restoration plans from Applicant and a history of exploration drilling undertaken by Applicant in other jurisdiction to enable the City and WCI to examine Applicant's prior performance.

### **Letter to the City of Arvin from Petro-Lud dated January 18, 2018**

In response to Item 8 in the Letter Applicant states that it wishes to have the CUP cover both the exploratory well and permanent well. **WCI supports the City's position that there should be two CUPs and that the current CUP be exclusively for the exploratory well.**

## Further Comments

In addition to WCI's comments above addressing specific portions of Applicant's application and other communications with the City, WCI requests that, if the City grants a CUP to Applicant for exploratory drilling, that any such CUP include, the following requirements and conditions:

1. **Survey:** Within thirty (30) days of the grant of the CUP, Applicant will commission a formal engineering survey of the drill site and access route, and provide to WCI and the City the exact specifications, in feet and inches, of the drill site and access route. WCI and the City will have the right to review and approve the engineering survey. Applicant shall not commence any activity on the drill site other than such survey unless and until such survey is approved in writing by WCI and the City.
2. **Fencing:** Applicant will fence the drill site with minimum eight (8) foot fencing and secured access.
3. **Termination:** The CUP shall terminate (1) if there is a cessation of exploration or development activity on the drill site for a continuous period of ninety (90) days, or (2) one (1) year from the grant of the CUP.
4. **Construction and Maintenance:** Applicant shall construct and maintain the access route as compacted native soil conditioned and maintained to industry standards to mitigate dust and particulate matter, at all times, and consistent with the standards and requirements of the San Joaquin Valley Air Pollution Control District. Upon the completion of exploratory operations, Applicant shall restore the access route so as to return it to a condition as close to the condition existing prior to construction of the access route as is reasonably possible under the circumstances.
5. **Water:** Applicant will supply its own water by trucking it in by way of the access route. Under no circumstances will applicant drill water well(s), or a well designed to produce only water, on the property.
6. **Produced Water:** During exploration, Applicant shall only dispose of produced water by hauling it off the property. Under no circumstances will Applicant dispose of produced water, or any other substance, on the property (drill site, access route or other property owned by WCI).
7. **Abandonment:** Upon abandonment of the drill site, or any well contained therein, Applicant shall plug and abandon any dry hole or permanently abandoned well in accordance with good oil field practices and in compliance with the rules and regulations of the State of California, Division of Oil, Gas and Geothermal Resources and the City.
8. **Indemnification:** Applicant shall indemnify WCI and the City for damage or destruction of any property or injury to any persons resulting from acts or omissions of Applicant in

connection with its use of the drill site or the access route. Such indemnity should be by way of a separate indemnity agreement.

9. **Insurance:** Applicant, shall maintain in full force and effect, at its own expense, a policy or policies of worker's compensation insurance as required by the State of California and a policy or policies of comprehensive general liability insurance, the form and substance of which shall be subject to WCI's and City's prior review and written approval, insuring Applicant, WCI and the City (and such other persons, firms or corporations as are designated by WCI as having an interest in the property) against any liability for death, personal injury or property damages arising out of or resulting from Applicant's operations. All such policies shall be submitted to WCI and the City not less than 30 days prior to the intended commencement date of such policies for WCI's and the City's review and approval. The comprehensive general liability insurance shall have coverage of not less than \$2,000,000.00, per occurrence. All required insurance policies, or properly executed certificates evidencing the same, together with satisfactory evidence of premium payments shall be deposited with WCI and the City prior to the commencement of Applicant's use and/or occupation of the property, and for renewals, at least thirty (30) days prior to the expiration of such coverage. In each instance, WCI and the City shall be an additional named insureds. All such policies shall contain a requirement that the insurer provide WCI and the City with thirty (30) days prior written notice of cancellation.
  
10. **Environmental:** Applicant, in its use of the property shall at all times comply with all applicable laws and government regulations, including all applicable federal, state and local laws, ordinances and regulations pertaining to Hazardous Materials, air and water quality, waste disposal and other environmental matters, the Clean Water Act, the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, the Resource Conservation Recovery Act and the Comprehensive Environmental Response, Compensation and Liability Act, and the rules, regulations and ordinances of the Environmental Protection Agency, the California Division of Oil, Gas, and Geothermal Resources, the California Department of Health Services, the Regional Water Quality Control Board, the State Water Resources Control Board, and the San Joaquin Valley Air Pollution Control District.
  - a. If any oil or hazardous materials from the applicant's facilities are released or are discovered to be present in the soil, water or groundwater in or adjacent to the property, in which such release or discovery is deemed to be reportable to the City, County of Kern or State of California, then Applicant shall immediately undertake to investigate and remediate or remove such oil or hazardous materials and the medium in which they are found at its sole cost and expense, pursuant to the requirements of the applicable city, county or state laws and regulations. Applicant shall also immediately determine the source of the release and cause its repair and restoration at its sole cost and expense. "Release" shall mean any spill, leak or other means of escape from Applicant's facilities or the facilities of a contractor or agent of Applicant, whether or not sudden or gradual, whether

known or unknown and whether or not due to the negligence, willful act or other fault of any person or entity.

- b. All actions to investigate, remove and remediate oil or hazardous materials and repair or restore facilities as provided in the preceding paragraph shall be the sole responsibility of Applicant and shall be conducted by Applicant or its employees, agents, contractors, subcontractors, or suppliers in conformance with all applicable present and future statutes, regulations, rules, ordinances, orders and similar items of all governmental agencies, at Applicant's sole cost and expense. If Applicant fails to commence such investigation, removal or remediation within thirty (30) days after delivery of notice from WCI or the City or from discovery of the oil or hazardous substance, or fails to continuously and diligently pursue such work to completion, then WCI or the City (without any obligation to do so) shall be entitled to perform such work and charge applicant for the cost thereof plus an overhead and management fee of twenty percent (20%), which shall be payable thirty (30) days after delivery of an itemized invoice for such work from WCI or the City, as the case may be. WCI or the City (without any obligation to do so) may conduct any investigative actions to ascertain the fact and extent of any release or presence of oil or hazardous materials at any time at its own expense, but if oil or hazardous materials released from the pipeline or other facilities are discovered, Applicant shall reimburse WCI or the City, as the case may be, its costs of such investigation. Under no circumstances shall WCI or the City be obligated to engage in work or repair or restore the tanks and/or pipeline or other equipment and materials owned or controlled by applicant.

Applicant shall reimburse WCI for all costs and expenses related to a release of oil or hazardous materials from the facilities or pipeline or the presence of oil or hazardous materials that applicant is required to investigate as set forth above, including (a) time spent by employees and contractors of WCI or the City, as the case may be, and related expenses to help contain an apparent emergency situation or comply with a government agency order; (b) all temporary or permanent damages suffered by WCI or the City, as the case may be, as a result of such release or presence of oil or hazardous materials, including loss of use, damage to improvements, damage and injury to natural resources, loss of land value, and other consequential damages to real property owned by WCI or in which it has an interest; and (c) costs reasonably incurred by WCI or the City, as the case may be, to manage or monitor the investigation and removal or remediation processes, whether accomplished by Applicant, WCI, governmental agencies or other parties, including the cost of consultants to monitor or analyze cleanup proposals, work, or reports, attorneys to monitor regulatory processes and analyze liability issues, and persons to monitor persons present on WCI's property.

- c. Applicant shall deliver to WCI and the City immediate notice of any of the following occurrences: (a) any release from a pipeline and/or other facilities or the presence in or adjacent to the property of oil or hazardous materials; and (b) any

notice, claim or allegation of a violation received from any federal, state, or local governmental agency or authority or any nongovernmental person or entity or the filing or commencement of any judicial or administrative proceeding by any such agency or authority or nongovernmental person or entity that relates to or is a result of applicant's activities on the property.

- d. Applicant agrees to indemnify, defend and hold WCI and the City harmless against (1) all claims, damages and liabilities of whatever nature, foreseen or unforeseen, under any hazardous substance law or regulation, including but not limited to the all fees incurred in defending any action or proceeding brought by a public or private entity and arising from the presence, containment, use, manufacture, handling, creation, storage, treatment, discharge, release, or burial on the property or the transportation to or from the property of any hazardous substance. The fees for which the Applicant shall be responsible under this subparagraph shall include, but shall not be limited to, the fees charged by (a) attorneys, (b) environmental consultants, (c) engineers, (d) surveyors, and (e) expert witnesses; and (2) any diminution in the value of the property attributable to (a) the breach or failure of any obligation or condition contained in the CUP; or (b) any cleanup, detoxification, remediation, or other type of response action taken with regard to any hazardous substance on or under the property regardless of whether or not that action was mandated by the federal, state or local government.

**11. Bonds:** Applicant should be required to post a bond to assure it performs all of its obligations under the CUP, including maintenance, indemnification, closure of wells and restoration of the property following abandonment of drilling, and environmental clean-up. Applicant has provided no evidence of its financial resources and may not be inclined to fulfill its obligations once drilling is abandon. To protect WCI and the City, Applicant should be required to post a bond in the amount of \$1,000,000 in favor of WCI and the City.

Attachment 7 – February 1, 2018 – Law Offices of Borton Petrini, LLP representing  
Westminster Capital

LAW OFFICES OF

**BORTON PETRINI, LLP**

REGIONAL OFFICES

FRESNO  
TELEPHONE (559) 268-0117  
FAX (559) 237-7995

LOS ANGELES  
TELEPHONE (213) 624-2869  
FAX (213) 489-3930

MODESTO  
TELEPHONE (209) 576-1701  
FAX (209) 527-9753

ORANGE COUNTY  
TELEPHONE (562) 599-2300  
FAX (562) 596-2322

SACRAMENTO  
TELEPHONE (916) 858-1212  
FAX (916) 858-1252

5060 CALIFORNIA AVENUE, SUITE 700  
POST OFFICE BOX 2026  
BAKERSFIELD, CALIFORNIA 93303-2026

(661) 322-3051

FAX: (661) 322-4628

EMAIL: [BPBAK@BORTONPETRINI.COM](mailto:BPBAK@BORTONPETRINI.COM)

WEB SITE: [WWW.BORTONPETRINI.COM](http://WWW.BORTONPETRINI.COM)

F. E. BORTON (1877-1948)  
JAMES PETRINI (1897-1978)  
HARRY M. CONRON (1907-1971)  
RICHARD E. HITCHCOCK (1925-2001)  
JOHN F. PETRINI (1944-2008)

REGIONAL OFFICES

SAN BERNARDINO  
TELEPHONE (909) 381-0527  
FAX (909) 381-0558

SAN DIEGO  
TELEPHONE (619) 232-2424  
FAX (619) 531-0794

SAN FRANCISCO  
TELEPHONE (415) 677-0730  
FAX (415) 677-0737

SAN JOSE  
TELEPHONE (408) 535-0870  
FAX (408) 535-0878

IN REPLY REFER  
TO OUR FILE NO.

Bakersfield

058040/064307

February 1, 2018

VIA ELECTRONIC AND U.S. MAIL

City of Arvin  
Community Development Department, Planning Division  
Attn: Jake Raper, AICP  
141 Plumtree Drive  
Arvin, CA 93203  
[jraper@arvin.org](mailto:jraper@arvin.org)  
[jakeraper@yahoo.com](mailto:jakeraper@yahoo.com)

Re: CUP2017-Petro-Lud: Surface Use Agreement; February 6, 2018 Comment  
Deadline, and Possible CUP Application Comments

Dear Mr. Raper:

Thank you very much for your time and the information provided during our telephone call earlier today. Your friendly and informative approach is much appreciated.

As we discussed, this office represents Westminster Capital ("Westminster"), the owner of the surface estate of one or more parcels implicated in the Conditional Use Permit Application by Petro-Lud. We understand that the file number for that matter in your offices is CUP2017-Petro-Lud.

We have recently been retained to advise Westminster and to negotiate a suitable *Surface Use Agreement* between Westminster and Petro-Lud to govern access and use of the surface estate in connection with the proposed exploratory drilling operations and petroleum production. Unfortunately, due to scheduling conflicts, we have not yet been able to meet with Mr. Ludington of Petro-Lud. However, we have a meeting scheduled for Tuesday, February 6, 2018, and hope to make progress related discussions.

You have advised that although the City of Arvin CUP Application materials indicated a deadline for comments of February 6, 2018, our client will not waive its right to comment, if necessary, on the CUP Application if it does not submit comments on or before

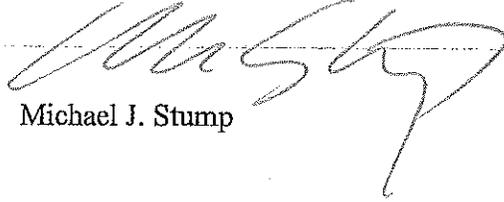
BORTON PETRINI, LLP

City of Arvin  
February 1, 2018  
Page 2

February 6, 2018. You have further advised that the February 6, 2018 date is an "informal deadline," such that we should continue discussions and negotiations with Petro-Lud and may do so without prejudice to the rights of Westminster to comment at a later time. Westminster intends to continue working in good faith to reach an acceptable *Surface Access Agreement*. Should those discussions break down, we will notify you and arrange to submit formal comments for consideration by the City of Arvin.

If you believe anything in this letter is not accurate or misconstrues your comments and the assurances provided earlier today, please immediately contact our offices so that we can adjust our approach as may be necessary. Thank you again for your kind assistance. We look forward to working with you further.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael J. Stump", written over a horizontal dashed line.

Michael J. Stump

MJS:kk

cc: Petro-Lud/Mr. Ludington(via email)

Attachment 8- April 11, 2018 Stoel Rives LLP – Attorney for Petro-Lud – Not included materials related to Surface Access Agreement



500 Capitol Mall, Suite 1600  
Sacramento, CA 95814  
T. 916.447.0700  
F. 916.447.4781  
www.stoel.com

MICHAEL N. MILLS  
D. 916.319.4642  
michael.mills@stoel.com

April 11, 2018

**VIA EMAIL AND U.S. MAIL**

Jake Raper  
City Planner  
Community Development Department  
City of Arvin  
141 Plumtree Drive  
Arvin, CA 93203  
Phone: 661-854-2822  
Email: [jraper@arvin.org](mailto:jraper@arvin.org)

**Re: Petro-Lud's 2017 Conditional Use Permit Application - Stockton Development Project**

Dear Mr. Raper:

Stoel Rives LLP ("Stoel Rives") is counsel to Petro-Lud, Inc. ("Petro-Lud") in connection with its conditional use permit ("CUP") application that is being processed in the City of Arvin ("City"). We submit this letter to explain the overtures and efforts Petro-Lud has made in the past two months to secure the consent from the surface estate owner, Westminster Capital, Inc. ("Westminster"). Petro-Lud has leased the mineral rights under the subject parcel. In order to obtain its consent, Westminster insisted that Petro-Lud execute a "surface usage license and damages agreement." Westminster refused to negotiate any of the prospective surface use agreement's terms, offered only a take-it-or-leave-it version of a proposed agreement that contained provisions that would have made the project impossible to undertake, and refused to discuss any of the terms that would not be compatible with the proposed project. Because Petro-Lud would not agree to Westminster's unilateral form of surface use agreement, we anticipate negative comments from Westminster on the CUP application. Furthermore, we are certain that the City did not intend its Municipal Code to operate in this fashion with respect to oil and gas development within the city's limits. As a result, we ask that you recommend that the City approve the CUP application.

Chapter 17.46 of the City's Municipal Code regulates oil and gas production. The Municipal Code requires oil and gas operators to obtain a CUP for certain zoning designations prior to the production of oil and gas. (Municipal Code § 17.46.040.) Further, the City *encourages* operators to obtain consent of the surface owners at the proposed site.

The procedure for filing of applications, investigation, notices, public hearings, findings and appeal shall be the same as provided for variances, in Chapter 17.50, Variances, Modifications and Zone Changes except that the planning commission may waive public hearing if all the owners of surface rights within three hundred (300) feet of the proposed site consent in writing . . .

(*Id.* § 17.46.040(A) (emphasis added).)

### **Correspondence with Westminster**

Since February 2018, Petro-Lud has diligently attempted to negotiate a surface use agreement (“SUA”) with Westminster in order to obtain its consent to Petro-Lud’s project. Westminster insisted that Petro-Lud use its form, which was very one-sided and contained commercially unreasonable terms that are not standard in this type of situation. Even so, Petro-Lud offered to work with Westminster’s form, and I prepared a series of redlined changes to it, which I provided to its counsel, Michael Stump of Borton Petrini LLP. *See Exhibit A, Proposed Surface Use Agreement from Westminster with Track Changes.* After receiving the redlined version of the agreement, Westminster’s counsel informed me that, “Westminster Capital is prepared to enter into the agreement it previously proposed. Westminster will not agree to the terms of the modified agreement as suggested by you on Friday. We are prepared to finalize that document for signature by the parties and see no reason why it cannot be in place by next week.” Email from Michael Stump to Michael Mills Re: Westminster Capital SUA with Petro-Lud (Mar. 28, 2018, 3:07 pm).

As detailed in the attached Exhibit A, Petro-Lud has grave concerns with many of the provisions in Westminster’s proposed SUA. The SUA, as originally drafted by Westminster, is entirely one-sided in favor of Westminster, and would make it impossible for Petro-Lud to utilize its drillsite and produce oil. Petro-Lud highlighted the following concerns, among others, to Westminster, which Westminster refused to discuss or address:

- Westminster termed the proposed agreement a “license.” However, this is not a “license” situation, as Petro-Lud has the legal right to enter the property. This agreement simply outlines the terms of access – an exclusive easement for ingress and egress.
- Westminster insisted that the drill site be a non-exclusive license, and wanted unfettered rights of entry onto the drill site. Petro-Lud cannot have others enter the site for safety reasons, and such entry would certainly be problematic from an insurance standpoint, and under some circumstances may not be permitted under state law.

- Westminster's SUA would prohibit the presence of oil in the soil of the drill site, which would make the entire drilling project impossible because of drilling operations and the fact that oil already is naturally present beneath the site.
- Westminster contemplated that the SUA would continue only until drilling and exploration activities were concluded. It would not carry over to the production phase of the project, and a new surface use agreement would be required.
- The SUA, as drafted by Westminster, states that Petro-Lud must accept every condition of the modified CUP proposed by the City. However, Petro-Lud cannot agree to this provision without first knowing what the City's change might be. Therefore, Petro-Lud proposed that the grant of the Easement be tied to the approval of the CUP, not the effective date of the SUA.
- The SUA, as drafted by Westminster, states that Petro-Lud must dispose of produced water by hauling it off the property. Petro-Lud has no intention of disposing produced water on the surface of the property, but wants to reserve its right to permit a Class II injection well and reinject produced water back into the oil reservoir where it originated or under the oil reservoir. Westminster's form of agreement would not allow for this.
- Westminster proposed that Petro-Lud fully indemnify Westminster for any property damage, but the indemnity is not reciprocal. As co-tenants, it is only fair that the indemnities be mutual and the standard of expected conduct be likewise.
- The SUA, as drafted by Westminster, states that Westminster can bring an unlawful detainer action to recover and regain possession of the property if Petro-Lud is in default. Unlawful detainer actions cannot be brought against a mineral owner or lessee in a split estate situation, and we cannot agree to this, as Petro-Lud is not Westminster's tenant.

Should you or the City Attorney have any questions or concerns, please do not hesitate to contact me. We appreciate your time and consideration of this matter.

Very truly yours,



Michael N. Mills

Enclosure (Proposed Surface Use Agreement with Petro-Lud redline and comments)

cc: Shannon L. Chaffin, Esq. (via email to schaffin@awattorneys.com)  
Clayton Ludington (via email to clud@petro-lud.com)



**NOTICE OF PUBLIC HEARING**  
**Planning Commission**

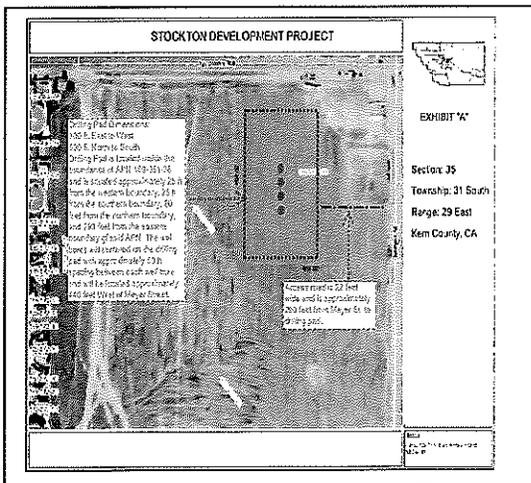
**Conditional Use Permit 2017-Petro-Lud – Oil and Gas Exploratory and Production**

**NOTICE IS GIVEN** that the Planning Commission of the City of Arvin will conduct a public hearing, at which time the public may be present and be heard, to consider the following:

- City of Arvin CUP2017-Petro-Lud – Stockton Project - Oil and Gas Exploratory and Production Well -APN 189-351-36 Southwest Corner of Sycamore Road and Meyer Street; proposes the establishment of a drill pad 300'-0" X 500'-0" and four (4) exploratory well sites which may be converted into production wells; and
- Adoption of a Class 3 Categorical Exemption (New Construction Conversion of Small Structures) under CEQA Guidelines section 15303 pursuant to the requirements of the California Environmental Quality Act (CEQA) for the above project.

**Arvin Planning Commission Hearing Information**

Date: May 30, 2018  
Time: 6:00 PM or as the Agenda permits  
Place: City of Arvin Council Chambers  
200 Campus Drive, Arvin, CA 93203



**Description of the Project:** The purpose of the hearing is to consider the Conditional Use Permit 2017- Petro-Lud, which proposes the establishment of a drill pad of approximately 300'-0" X 500'-0" on property located at the Southwest Corner of Sycamore Road and Meyer Street, Portion of Assessor Parcel Number 189-351-36. The project, CUP 2017-Petro-Lud proposes four (4) Oil and Gas Exploratory and Production Wells (Stockton Project). The proposed drilling area is located approximately 80'-0' South of Sycamore Road and 290'-0" from the east property line, west of Meyer Street, 25'-0" from the westerly property line and 25'-0" from the southerly property line. Copies of the CUP 2017-Petro-Lud and other relevant

documents are available for public inspection.

Staff has performed a preliminary environmental assessment of this project and have determined that it falls within the Categorical Exemption set forth in section 15303 (New Construction or Conversion of Small Structures) as the project consist of construction and location of limited numbers of new small facilities or structures, which are below the maximum amount allowed on the parcel. The proposed project will consist of four (4) exploratory well sites for a short period

of time (approximately 80 days) and should permanent production wells occur the area utilized is approximately 250 square feet for each production well. Total floor area of the facilities (not including accessory structures) is less than 2,500 square feet. Significant amounts of hazardous substances will not be used. Utility connections are available to serve the construction to the extent they are needed. Furthermore, Staff has determined that none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project.

Additional information on the proposed project and supporting documentation, may be obtained from the City of Arvin. Address any communications or comments regarding the project to Cecilia Vela, City Clerk, at 200 Campus Drive, Arvin, CA 93203, (661) 854-3134, [cvela@arvin.org](mailto:cvela@arvin.org).

All persons interested in this topic who have questions, would like to provide feedback, or ask questions are invited to attend. If you challenge the approval or denial of these matters in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk, at or prior to the public hearing. Address any communications or comments regarding the project to Cecilia Vela, City Clerk, at 200 Campus Drive, Arvin, CA 93203, (661) 854-3134, [cvela@arvin.org](mailto:cvela@arvin.org).

/s/  
Cecilia Vela, Secretary to the Planning Commission  
of the City of Arvin

/s/  
Jake Raper, Planner

Published May 19, 2018, Bakersfield Californian