

**ORDINANCE NO. 435**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN,  
ADDING CHAPTER 30 TO TITLE 8 OF THE CITY OF ARVIN  
MUNICIPAL CODE RELATING TO TOBACCO RETAILER'S PERMIT**

WHEREAS, the City Council is committed to protecting the public health, safety and welfare of the community, and to meet these goals it is necessary for the City Council to adopt measures, from time to time, to meet threats to the public health, safety, and welfare; and

WHEREAS, the sales of tobacco products to children carries significant health, safety and welfare risks as have been well documented; and

WHEREAS, to avoid the continuing threat to public health, safety and welfare, the County of Kern has adopted an ordinance implementing a risk-based tobacco retail permit program, subject to the County's enforcement procedures; and

WHEREAS, to coordinate enforcement efforts and to ensure the public health, safety and welfare within the City's limits, the City hereby desires to adopt the County of Kern's ordinance by reference.

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

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

**Section 2.** Chapter 30 of Title 8 of the Arvin Municipal Code is hereby added to read in its entirety:

**Chapter 8.30 – TOBACCO RETAILER'S PERMIT**

**8.30.010 – Kern County Public Peace, Morals and Welfare Code, Chapter 8.60—Adopted.**

Except as otherwise stated in this code, the rules, regulations, provisions and conditions as set forth in Chapter 8.60 (entitled "Tobacco Retailer's Permit) of Title 8 of the ordinance of the County of Kern, as adopted and amended by Kern County, is hereby adopted. A copy of said publication is on file in the office of the city clerk.

**9.31.020 – Penalties.**

In accordance with California Government Code Section 50022.4, the City of Arvin hereby also adopts the penalty provisions contained in Chapter 8.60 of Title 8 of the ordinances of Kern County entitled "Tobacco Retailer's Permit," which are set forth in full as follows:

**(1) 8.60.100 - Administrative penalties.**

A. Upon a determination by the department that a person has engaged in any conduct that violates the provisions of this chapter, the director may suspend a tobacco retailer's permit, impose administrative penalties, or both suspend the permit and impose administrative penalties.

B. The department shall notify the tobacco retail facility owner that there has been an initial determination of violation under the provisions of this chapter. The initial determination notice will specify the violation and the sanction imposed, including the effective date of the suspension, if applicable. The notice shall further state that the tobacco retail facility owner may,

within fifteen (15) days, submit to the department any written or documentary evidence to contest the initial determination of violation.

C. After receiving such evidence, if applicable and provided, the director shall prepare a final written decision and shall serve this decision upon the tobacco retailer. Upon written request, the offender shall have the right to receive copies of any records or files upon which the administrative decision is based. This final determination shall be served through certified mail within sixty (60) days of the final determination.

D. When this chapter permits the director to suspend a permit, the following sanction may be imposed:

1. For the first violation in any five-year period, the tobacco retailer shall receive a notice of violation from the department.

2. For the second violation in any five-year period, the person's tobacco retailer's permit shall be suspended for up to thirty (30) days.

3. For a third violation in any five-year period, the person's tobacco retailer's permit shall be suspended for up to ninety (90) days.

4. For a fourth or subsequent violation in any five-year period, the person's tobacco retailer's permit shall be suspended for up to one hundred eighty (180) days and/or revoked.

E. When this chapter allows the director to impose an administrative penalty, the following penalty may be imposed:

1. For the first violation, a penalty in the amount of two hundred fifty dollars (\$250.00);

2. For the second violation within five (5) years from the date of the first violation, a penalty in the amount of five hundred dollars (\$500.00);

3. For the third and each subsequent violation within five (5) years from the date of the first violation, a penalty in the amount of one thousand dollars (\$1,000.00).

F. Upon determination by the department that a tobacco retailer has violated any provision of this chapter and that the tobacco retailer did not violate any provision of this chapter in the five (5) years immediately preceding the violation, the director may suspend the imposition of any sanction under subsection (D) or penalty under subsection (E) for a period of six (6) months.

1. Within fifteen (15) days of the director's decision to suspend the imposition of any sanction or penalty pursuant to this subsection, the tobacco retailer shall pay a fee of five hundred dollars (\$500.00) for the cost of inspections during the six-month period. Failure to pay this fee shall immediately restore the imposition of any sanction under subsection (D) or penalty under subsection (E).

2. During the six-month period, the department shall inspect the tobacco retail facility for compliance as deemed necessary by the department.

3. A determination by the department that the tobacco retailer has engaged in any conduct that violates the provisions of this chapter during the six-month period shall restore the imposition of any sanction under subsection (D) or penalty under subsection (E) immediately and without further right to appeal.

4. If and only if the tobacco retailer completes the six-month period without violating the provisions of this chapter as determined by the department, the sanction

under subsection (D) or penalty under subsection (E) previously imposed shall be permanently stayed.

**Section 3. Publication.** The City Clerk shall certify to the adoption of this Ordinance and cause it to be published, in accordance with Government Code, section 36933.

**Section 4. Effective Date.** This Ordinance shall become effective thirty (30) days from the adoption of this Ordinance.

**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 06<sup>th</sup> day of September, 2016, and adopted the Ordinance after the second reading at a regular meeting held on the 20<sup>th</sup> day of September 2016, by the following roll call vote:

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

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

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

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

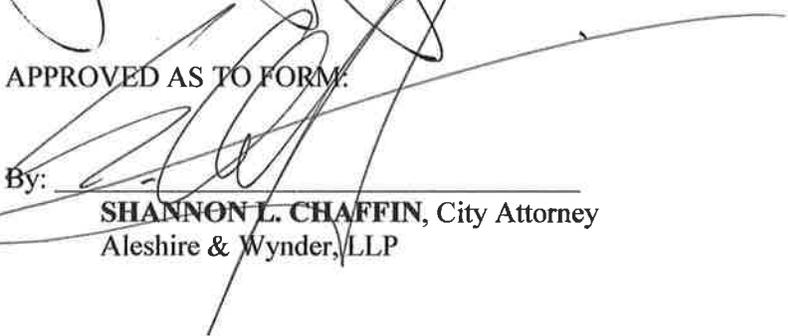
ATTEST:

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

**ARVIN CITY COUNCIL**

By: CS  
  
**JOSE FLORES, Mayor**

APPROVED AS TO FORM:

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

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