

ORDINANCE NO. 449

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN, MODIFYING THE ARVIN MUNICIPAL CODE SUCH THAT CERTAIN FEES WHICH MUST BE SET BY ORDINANCE MAY NOW BE SET BY RESOLUTION, BY AMENDING THE FOLLOWING SECTIONS OF THE ARVIN MUNICIPAL CODE: SECTION 16.40.040 OF CHAPTER 16.40 OF TITLE 16; SECTION 17.45.130 OF CHAPTER 17.45 OF TITLE 17; SECTION 17.45.210 OF CHAPTER 17.45 OF TITLE 17; SECTION 17.46.060 OF CHAPTER 17.46 OF TITLE 17; SECTION 17.54.080 OF CHAPTER 17.54 OF TITLE 17; AND SECTION 17.60.080 OF CHAPTER 17.60 OF TITLE 17.

WHEREAS, the Arvin Municipal Code imposes certain fees for the purposes of defraying the costs of a City provided service or regulatory function; and

WHEREAS, Titles 16, "Subdivisions," and 17, "Zoning," of the Arvin Municipal Code contain certain fees that are set by ordinance, thus, requiring any change in the fees to be adopted by ordinance; and

WHEREAS, the City Council desires to amend Titles 16 and 17 of the Arvin Municipal Code such that it may adopt a resolution to modify the fees, instead of an ordinance, for the following sections of the Arvin Municipal Code: Section 16.40.040 Of Chapter 16.40 Of Title 16; Section 17.45.130 Of Chapter 17.45 Of Title 17; Section 17.45.210 Of Chapter 17.45 Of Title 17; Section 17.46.060 Of Chapter 17.46 Of Title 17; Section 17.54.080 Of Chapter 17.54 Of Title 17; And Section 17.60.080 Of Chapter 17.60 Of Title 17 ("Proposed Amendments"); and

WHEREAS, on May 08, 2018, at after a duly noticed public hearing, the Planning Commission considered the Proposed Amendments, including presentations from City staff, oral testimony, and written testimony; and

WHEREAS, after the above-mentioned public hearing, the Planning Commission adopted Resolution No. APC 2018-07, which recommended that the City Council adopt this Ordinance; and

WHEREAS, on June 05, 2018, the City Council conducted a duly noticed public hearing regarding this Ordinance (first reading), where it received presentations from City staff, oral and written testimony from members of the public, and voted to introduce the proposed ordinance; and

WHEREAS, on June 19, 2018, the City Council conducted another public hearing regarding this Ordinance (second reading), where it received presentations from City staff, oral and written testimony from members of the public; and

WHEREAS, after the above-mentioned City Council public hearing, the City Council now desires to amend its code such that the above-mentioned fees can be set by resolution of the City Council instead of by ordinance; and

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

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. The City Council finds that the amendments and additions to Titles 16 and 17 of the Arvin Municipal Code, as contemplated by this Ordinance, do not constitute a project under the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines §15378(b)(4), because this Ordinance is for the purpose of defraying the costs borne by the City in providing certain services and conducting regulatory activities pursuant to the City's Municipal Code, and therefore is for the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. Furthermore, even if the adoption of this Ordinance does constitute a project under CEQA, the City Council finds and determines that said action is exempt from CEQA under CEQA Guidelines Sections 15061(b)(3), in that there is no possibility that the activity in question may have a significant effect on the environment, because the adoption of this Ordinance relates only to the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to a specific project, and which do not have the effect of permitting new uses within the City, instead merely providing further regulations by establishing fees for existing uses already permitted. Additionally, the adoption of this Ordinance is exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(1) and 15273 because it is for the establishment of charges which the City Council finds are for the purpose of meeting City operating expenses.

SECTION 3. Section 16.40.040, "Fees," of Chapter 16.04, "Regulations on Procedures and Requirements for Development Agreements," of Title 16, "Subdivisions," of the Arvin Municipal Code is hereby amended to read as follows (~~strikethrough~~ is deleted language while ***bold and italics*** is added language):

"The city council shall, by separate ***resolution*** ~~ordinance~~, fix the schedule of fees and charges imposed for the filing and processing of each application and document provided for or required under these regulations."

SECTION 4. Section 17.45.130, "Master plan modifications," of Chapter 17.45, "Planned Unit Development District," of Title 17, "Zoning," of the Arvin Municipal Code is hereby amended to read as follows (~~strikethrough~~ is deleted language while ***bold and italics*** is added language):

"Minor changes of a technical nature to an approved master development plan may be approved by the city planner, provided changes are consistent with the purposes and character of the master development plan. Such changes shall not change the densities heretofore established, nor the boundaries of the subject property, nor any use as shown on the approved master

development plan, nor the location or amounts of land devoted to specific land uses. All modifications or amendments to an approved plan other than the minor changes shall be processed as an original application and shall be subject to applicable, substantive and procedural requirements of the planned unit development district procedure, provided that the filing fee therefor shall be *as set by resolution of the city council* ~~one-half (½) the fee charged for filing an original application.~~

SECTION 5. Section 17.45.210, "Application fees," of Chapter 17.45, "Planned Unit Development District," of Title 17, "Zoning," of the Arvin Municipal Code is hereby amended to read as follows (~~strikethrough~~ is deleted language while ***bold and italics*** is added language):

"A. Upon the filing of a preliminary development plan, *the applicant shall pay the city an application fee as set by resolution of the city council* ~~two hundred fifty dollars (\$250.00) shall be paid by the applicant to the city.~~

B. Upon the filing of a master development plan, *the applicant shall pay the city an application fee as set by resolution of the city council* ~~two hundred fifty dollars (\$250.00) shall be paid by the applicant to the city.~~

C. Upon filing of each precise development plan, *the applicant shall pay the city an application fee as set by resolution of the city council* ~~one hundred dollars (\$100.00) shall be paid by the applicant to the city plus three and one-half (3 ½) percent of the engineer's estimate of cost of the proposed improvements, as approved by the city engineer.~~

SECTION 6. Section 17.46.060, "Fees designated," of Chapter 17.46, "Oil and Gas Production," of Title 17, "Zoning," of the Arvin Municipal Code is hereby amended to read as follows (~~strikethrough~~ is deleted language while ***bold and italics*** is added language):

"A. No fee shall be collected for unrestricted drilling under the provisions of Section 17.44.030.

B. The city shall charge and collect the following fees for the purpose of defraying the expenditures incidental to the proceedings described in this chapter:

1. A fee *as set by resolution of the city council* ~~of thirty-five dollars (\$35.00)~~ shall be collected for each conditional use permit granted under the provisions of Section 17.44.040. An additional fee *as set by resolution of the city council* ~~of thirty-five dollars (\$35.00)~~ shall be paid by the permittee for each well (after the first well) drilled upon lands covered by a conditional use permit;

2. A fee *as set by resolution of the city council* of five dollars ~~(\$5.00)~~ shall be collected for each counter permit issued under the provisions of Section 17.44.050. An additional fee *as set by resolution of the city council* of five dollars ~~(\$5.00)~~ shall be paid by the permittee for each additional well (after the first well) drilled upon lands covered by a counter permit.

SECTION 7. Section 17.54.080, "Fees--Designated," of Chapter 17.54, "Variances, Modifications and Zone Changes," of Title 17, "Zoning," of the Arvin Municipal Code is hereby amended to read as follows (~~strikethrough~~ is deleted language while ***bold and italics*** is added language):

" Before accepting any application for filing, the city shall charge and collect the following fees for the purposes of defraying the expenditures incidental to the proceedings prescribed in this chapter:

A. Change of Zone. *The applicant shall pay such fees as adopted by resolution of the city council for* ~~For each change of zone application submitted to the city for a change of a zone, a fee of seventy five dollars (\$75.00) for the first lot or portion thereof, plus ten dollars (\$10.00) for each additional lot or portion thereof;~~

B. Variance. *The applicant shall pay such fees as adopted by resolution of the city council for* ~~For each application for a variance submitted to the city, a fee of fifty dollars (\$50.00) for the first lot or portion thereof, plus ten dollars (\$10.00) for each additional lot or portion thereof;~~

C. Modification. *The applicant shall pay such fees as adopted by resolution of the city council for* ~~For each application submitted to the city for a modification where no public hearing is required, a fee of five dollars (\$5.00) for the first lot, or portion thereof, plus one dollar (\$1.00) for each additional lot or portion thereof, except as provided elsewhere in this chapter. Where a public hearing is required, the fees shall be the same as for a variance;~~

D. Appeal. For each appeal to the city council from any ordinance, requirement, decision or determination of the planning commission in the administration or enforcement of the provisions of this title, *the appellant shall pay a fee as adopted by resolution of the city council* ~~a fee of fifteen dollars (\$15.00) for the first lot or portion thereof, plus one dollar (\$1.00) for each additional lot or portion thereof."~~

SECTION 8. Section 17.60.080, "Fees," of Chapter 17.60, "Site Development

Permits,” of Title 17, “Zoning,” of the Arvin Municipal Code is hereby amended to read as follows (~~strikethrough~~ is deleted language while ***bold and italics*** is added language):

“The applicant shall pay a A—nonrefundable fee, as set by resolution of the city council, of one-tenth (1/10) of one (1) percent of the building price with a minimum of twenty-five dollars (\$25.00), but in no event more than the actual cost of the plan review shall be paid at the time of application for a site development permit.”

SECTION 9. 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 10. This Ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the Ordinance, or a summary of the Ordinance, shall be published once in a newspaper of general circulation.

/////

/////

/////

/////

/////

/////

/////

/////

/////

/////

/////

/////

/////

I HEREBY CERTIFY that the foregoing Ordinance was introduced by the City Council after waiving reading, except by Title, at a regular meeting thereof held on the 05th day of June 2018, and adopted the Ordinance after the second reading at a regular meeting held on the 19th day of June 2018, by the following roll call vote:


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

NOES: _____

ABSTAIN: _____

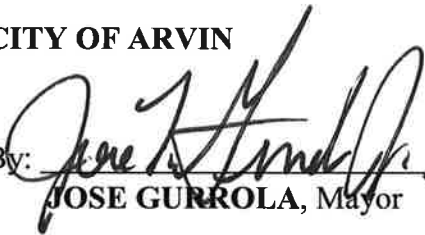
ABSENT: CM Martinez

ATTEST



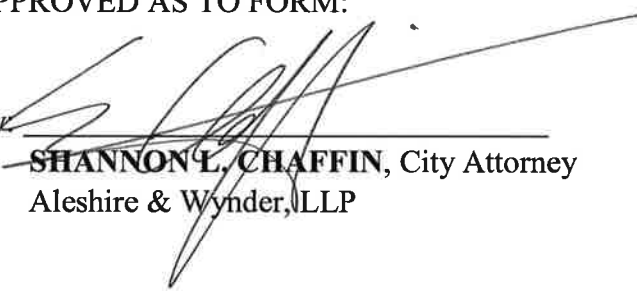
CECILIA VELA, City Clerk

CITY OF ARVIN

By: 

JOSE GURROLA, Mayor

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.