

**ORDINANCE NO. 450**

**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 3.32.010 OF CHAPTER 3.32 OF TITLE 3; SECTION 3.32.020(A) OF CHAPTER 3.32 OF TITLE 3 OF THE ARVIN MUNICIPAL CODE; THE FIRST PARAGRAPH OF SECTION 3.32.040(A) OF CHAPTER 3.32 OF TITLE 3 OF THE ARVIN MUNICIPAL CODE; SECTION 10.02.010 OF CHAPTER 10.02 OF TITLE 10; SECTION 10.02.020 OF CHAPTER 10.02 OF TITLE 10; SECTION 12.04.040(B) OF CHAPTER 12.04 OF TITLE 12; SECTION 12.04.250 OF CHAPTER 12.04 OF TITLE 12; SECTION 12.12.070 OF CHAPTER 12.12 OF TITLE 12; SECTION 12.16.030(B) OF CHAPTER 12.16 OF TITLE 12; SECTION 15.08.010(M) OF CHAPTER 15.08 OF TITLE 15; AND SECTION 15.24.090 OF CHAPTER 15.24 OF TITLE 15.**

**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 3, 10, 12, and 15 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 3, 10, 12, and 15 of the Arvin Municipal Code such it may adopt a resolution to modify the fees, instead of an ordinance, for the following sections of the Arvin Municipal Code: Section 3.32.010 of Chapter 3.32 of Title 3; Section 3.32.020(A) of Chapter 3.32 of Title 3 of the Arvin Municipal Code; the First Paragraph of Section 3.32.040(A) of Chapter 3.32 of Title 3 of the Arvin Municipal Code; Section 10.02.010 Of Chapter 10.02 Of Title 10; Section 10.02.020 Of Chapter 10.02 Of Title 10 Section 12.04.040 Of Chapter 12.04 Of Title 12; Section 12.04.250 Of Chapter 12.04 Of Title 12; Section 12.12.070 Of Chapter 12.12 Of Title 12; Section 12.16.030(B) Of Chapter 12.16 Of Title 12; Section 15.08.010(M) Of Chapter 15.08 Of Title 15; And Section 15.24.090 Of Chapter 15.24 Of Title 15.

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

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

**WHEREAS**, the City now desires to amend its code such that certain fees can be set by resolution of the City Council; 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 amendments and additions to Titles 3, 10, 12, and 15 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 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. Finally, 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 3.32.010, “Findings and intent,” of Chapter 3.32, “Fee and Service Charge Revenue/Cost Comparison System,” of Title 3, “Revenue and Finance,” of the Arvin Municipal Code is hereby amended to read as follows (~~strikethrough~~ is deleted language while ***bold and italics*** is added language):

“A. Pursuant to Article XIIB of the California Constitution, it is the intent of the city council to require the ascertainment and recovery of costs reasonably borne from fees, charges and regulatory license fees levied therefor in providing the regulation, products or services enumerated in this chapter ***and as may be necessary to address new regulation, product or service not listed herein.***”

B. The fee and service charge revenue/cost comparison system set forth in this chapter ***and as may be necessary to address new regulation, product or service not listed herein*** provides a mechanism for ensuring that fees adopted by the city for services rendered do not exceed the reasonable estimated cost for providing the services for which the fees are charged.”

**SECTION 4.** Section 3.32.020(A) of Chapter 3.32, “Fee and Service Charge Revenue/Cost Comparison System,” of Title 3, “Revenue and Finance,” 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 manager is delegated the authority and directed to provide documents to the city council to implement its policy enumerated in this chapter to adjust fees and charges to recover the percentage of costs reasonably borne as established hereby, in providing the regulation, product or service enumerated in this chapter **and as may be necessary to address new regulation, product or service not listed herein** in the percentage of costs reasonably borne and on the schedule of rate review and revision as established in this chapter **and as may be necessary to address new regulation, product or service not listed herein.**”

**SECTION 5.** The First Paragraph of Section 3.32.040(A) of Chapter 3.32, “Fee and Service Charge Revenue/Cost Comparison System,” of Title 3, “Revenue and Finance,” 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 manager, finance director and each city department head, under the direction of the city manager, shall review annually the fees and service charges listed following, and provide an adjusted fee or charge schedule to the city council for its consideration so as to recover the listed percentage of costs reasonably borne necessary to provide the listed regulation **chapter and as may be necessary to address new regulation, product or service not listed herein** ~~product or service.~~”

**SECTION 6.** Section 10.02.010, “Citation signoff,” Of Chapter 10.02, “Fees,” Of Title 10, “Vehicles and Traffic,” of the Arvin Municipal Code is hereby amended to read as follows (~~strikethrough~~ is deleted language while **bold and italics** is added language):

“All citations signed off by any officers of the city will be charged a fee **set by resolution of the city council** ~~of ten dollars (\$10.00) per citation~~ in addition to the penalty for the offense cited. This fee includes all citations issued both inside and outside the city limits.”

**SECTION 7.** Section 10.02.020, “Accident report fees,” Of Chapter 10.02, “Fees,” Of Title 10, “Vehicles and Traffic,” of the Arvin Municipal Code is hereby amended to read as follows (~~strikethrough~~ is deleted language while **bold and italics** is added language):

“All persons or companies wishing to receive a copy of their accident report will be charged a fee **as set by resolution of the city council** ~~of five dollars (\$5.00) for all non-injury accident reports and twenty five dollars (\$25.00) for all accident reports in which an injury has occurred.~~”

**SECTION 8.** Section 12.04.040(B) Of Chapter 12.04, “Excavations,” Of Title 12, “Streets, Sidewalks and Public Places,” of the Arvin Municipal Code is hereby amended to read

as follows (~~strike through~~ is deleted language while ***bold and italics*** is added language):

“Where a permit is issued for work not included as a part of a proposed subdivision under subsection A of this section, the applicant shall pay a *fee* in accordance with the following:

Minimum permit <i>fee</i>	<b><i>Set by Resolution of the City Council \$20.00</i></b>
Utility main installation (less than 330 lineal feet)	<b><i>Set by Resolution of the City Council <del>0.20/ft.</del></i></b>
Utility service (incl. sewer laterals) installation	<b><i>Set by Resolution of the City Council 45.00</i></b>
Utility repair/misc. excavation (less than 200 sq. ft.)	<b><i>Set by Resolution of the City Council 40.00</i></b>
Bored and jacked street crossing	<b><i>Set by Resolution of the City Council <del>5.00/ft.</del></i></b>
Curb and gutter installation	<b><i>Set by Resolution of the City Council <del>0.15/ft.</del></i></b>
Driveway	<b><i>Set by Resolution of the City Council 35.00</i></b>
Cross gutter installation	<b><i>Set by Resolution of the City Council 45.00</i></b>
Sidewalk installation	<b><i>Set by Resolution of the City Council <del>0.05/ft.</del></i></b>

On large scale projects not included above, the *fee* shall be determined by the city engineer.

The above *fees* do not include costs for soils, concrete or other testing, if required.”

**SECTION 9.** Section 12.04.250, “Applicability of provisions to public utilities,” Of Chapter 12.04, “Excavations,” Of Title 12, “Streets, Sidewalks and Public Places,” of the Arvin Municipal Code is hereby amended to read as follows (~~strike through~~ is deleted language while ***bold and italics*** is added language):

“Public utilities and public districts organized under California law shall have the right to either obtain permits and pay fees equal to the fees set out in subsection B of Section 12.04.040 or to obtain an annual encroachment permit in lieu of all other fees. An annual encroachment permit shall be issued to such utility or district upon request and payment of a permit fee in ***an amount that shall be set by resolution of the city council*** ~~the amount of fifty dollars (\$50.00) for utility and fifty dollars (\$50.00) for district.~~ Such

annual permit shall allow the permittee to place, replace, repair, provide and maintain, facilities in any public place where otherwise permitted by law. The permit shall expire on December 31st of the year of issue. The annual permit shall not permit excavations exceeding either three (3) feet in width of four (4) feet in length or extensions in excess of six (6) poles but the provisions of subsection B of Section 12.04.040 alone shall apply thereto.

Such persons exempt under this chapter from the requirements of subsection B of Section 12.04.040 shall, however comply with all other requirements of this chapter. ”

**SECTION 10.** Section 12.12.070, “Permit required,” Of Chapter 12.12, “Street Trees,” Of Title 12, “Streets, Sidewalks and Public Places,” of the Arvin Municipal Code is hereby amended to read as follows (~~strikethrough~~ is deleted language while ***bold and italics*** is added language):

“No person may plant, cut, trim, remove, prune, shape, injure, interfere with or do maintenance work on a street tree without first obtaining a street tree permit from the city. The permit shall be issued only for work to be done in compliance with the management plan and this chapter and shall be issued with a fee, ***which shall be in an amount set by resolution of the city council.*** The street department shall supervise work done under a permit, to the degree possible and feasible. ”

**SECTION 11.** Section 12.16.030(B) of Chapter 12.16, “Parking and Keeping of Trucks within City Limits,” of Title 12, “Streets, Sidewalks and Public Places,” of the Arvin Municipal Code is hereby amended to read as follows (~~strikethrough~~ is deleted language while ***bold and italics*** is added language):

“In no instance shall a vehicle park in a manner to prohibit ingress or egress from a driveway, except that the owner or lessee may park in front of the owner's or lessee's private driveway when the vehicle displays a permit issued by the city so authorizing such use in a seven (7) inch square in the lower corner of the windshield farthest removed from the driver. This permit is intended to grandfather all owners or lessees who were established at the time of the enactment of this ordinance. No permits will be issued after October 1, 1997. ***The city council may adopt by resolution such fees necessary to defray the cost of issuing or replacing such permits.*** ~~For the purpose of defraying the cost of issuing or replacing such permits a fee of thirty five dollars (\$35.00) for the original permit and ten dollars (\$10.00) for a replacement permit is established.”~~

**SECTION 12.** Section 15.08.010(M) of Chapter 15.08, “Adoption and Applicability of

Codes,” of Title 15, “Buildings and Construction,” of the Arvin Municipal Code is hereby amended to read as follows (~~strikethrough~~ is deleted language while ***bold and italics*** is added language):

“Building valuation data and building and plan check fees as adopted by ***resolution of the city council***~~the County of Kern.~~”

**SECTION 13.** Section 15.24.090, “Plan checking fees,” of Chapter 15.24, “Uniform Sign Code,” of Title 15, “Buildings and Construction,” of the Arvin Municipal Code is hereby amended to read as follows (~~strikethrough~~ is deleted language while ***bold and italics*** is added language):

“Where plans and other pertinent information are required in accordance with applicable building codes, a plan check fee ~~equal to one half (1/2) the sign permit fee~~ shall be paid to the building official. ***The city council may adopt by resolution such fees necessary to defray the cost of issuing or replacing such permits.***”

**SECTION 14.** 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 15.** This Ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the Ordinance, or a summary of the Ordinance, shall be published once in a newspaper of general circulation.

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

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

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

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

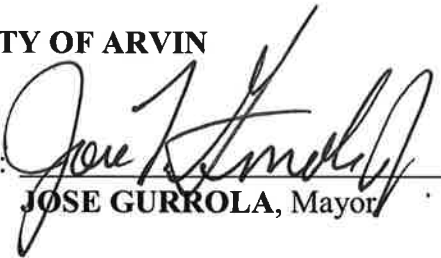
ABSENT: CM Martinez

**ATTEST**

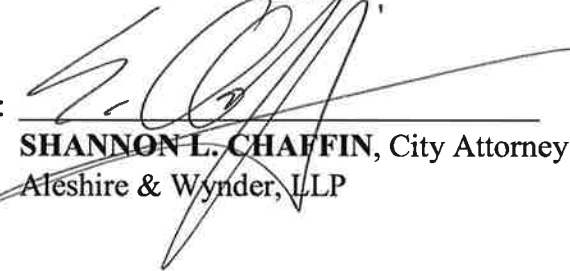


**CECILIA VELA, City Clerk**

**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.