

**URGENCY ORDINANCE NO. 2020-465**

**UNCODIFIED URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN RELATED TO FACIAL COVERINGS AND/OR PERSONAL PROTECTIVE EQUIPMENT, AND COMPLIANCE WITH STATE AND COUNTY EMERGENCY ORDERS, IN RESPONSE TO THE COVID -19 PANDEMIC**

**WHEREAS**, pursuant to Government Code Section 36937(b), any ordinance for the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency, and is passed by a four-fifths vote of the City Council, shall take effect immediately upon its adoption; and

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom declared a State of Emergency for the State of California due to the threats of people within the State from COVID-19; and

**WHEREAS**, on March 13, 2020, President Trump declared a National State of Emergency in response to increased spread of COVID-19; and

**WHEREAS**, on March 17, 2020, the City of Arvin declared a local emergency due to the COVID-19 pandemic; and

**WHEREAS**, the City of Arvin has the highest ratio of reported COVID-19 cases per 1000 citizens in Kern County, with a rate of 1.74. This is forty-four percent (44%) higher than any other city in Kern County.

**WHEREAS**, there is increasing evidence that individuals who are infected, but not exhibiting symptoms, can spread COVID-19 via respiratory droplets produced when coughing, sneezing, and transfer thereof to surfaces, and in order to limit the spread of COVID-19 within the City, especially by those infected but without clear symptoms, face coverings should be worn by all residents and visitors of the City while in public; and

**WHEREAS**, based on the foregoing, the City Council seeks and intends to protect health, safety, and welfare of the residents and businesses of the City of Arvin by requiring that face coverings be worn while in public.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ARVIN, CALIFORNIA DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.** The foregoing recitals are true and correct, and are incorporated herein by reference as findings of fact.

**SECTION 2. Urgency and Emergency Findings.** The City Council finds that there is a current and immediate threat to public health, safety, and welfare posed by COVID-19, and there is an immediate need for the preservation of public peace, health or safety of the residents and community of the City by the use of facial coverings. Individuals who are infected but not exhibiting symptoms can still spread COVID-19 via respiratory droplets produced when coughing, sneezing, and transfer thereof to surfaces. Droplets can land in the mouths or noses of healthy

people who are nearby or possibly inhaled into the lungs. The virus can also live on surfaces for varied lengths of time, in some cases for days. It may be possible that a person can get the virus by touching an infected surface or object and then touching their own mouth, nose, or possibly their eyes. Although the use of face coverings will not eliminate the spread of COVID-19, it is an additional tool that will help to slow the disease's spread by limiting the amount of respiratory droplets spread by individuals who are infected.

**SECTION 3. Face Covering Requirement.** All businesses shall require their employees, contractors, owners, and volunteers to wear a Face Covering at the workplace and when performing work off-site any time the employee, contractor, owner, or volunteer is:

- a. Interacting in person with any member of the public;
- b. Working in any space visited by members of the public, such as by way of example and without limitation, reception areas, grocery store or pharmacy aisles, service counters, public restrooms, cashier and checkout areas, waiting rooms, service areas, and other spaces used to interact with the public, regardless of whether anyone from the public is present at the time;
- c. Working in any space where food is prepared or packaged for sale or distribution to others;
- d. Working in or walking through common areas such as hallways, stairways, elevators, and parking facilities; or
- e. In any room or enclosed area when other people (except for members of the person's own household or residence) are present.

For clarity, a Face Covering is not required when a person is in a personal office (a single room) when others outside of that person's household are not present as long as the public does not regularly visit the room. By way of example and without limitation, a construction worker, plumber, bank manager, accountant, or bike repair person is not required to wear a Face Covering if that individual is alone and in a space not regularly visited by the public, but that individual must put on a Face Covering when coworkers are nearby, when being visited by a client/customer, and anywhere members of the public or other coworkers are regularly present.

"Face Covering" means a covering made of cloth, fabric, or other soft or permeable material, without holes, that covers only the nose and mouth and surrounding areas of the lower face. A covering that hides or obscures the wearer's eyes or forehead is not a Face Covering. Examples of Face Coverings include a scarf or bandana; a neck gaiter; a homemade covering made from a t-shirt, sweatshirt, or towel, held on with rubber bands or otherwise; or a mask, which need not be medical-grade. A Face Covering may be factory-made, or may be handmade and improvised from ordinary household materials. The Face Covering should be comfortable, so that the wearer can breathe comfortably through the nose and does not have to adjust it frequently, so as to avoid touching the face. For as long as medical grade masks such as N95 masks and surgical masks are in short supply, members of the public should not purchase those masks as Face Coverings under this Order; those medical grade masks should be reserved for health care providers and first responders. In general, even when not required by this Order, people are strongly encouraged to wear Face Coverings when in public. Also, for Face Coverings that are not

disposed of after each use, people should clean them frequently and have extra ones available so that they have a clean one available for use.

A video showing how to make a face covering and additional information about how to wear and clean Face Coverings may be found at the website of Centers for Disease Control and Prevention, at <https://www.cdc.gov/coronavirus/2019-ncov/preventgetting-sick/diy-cloth-face-coverings.html>. Note: Any child aged two years or less must not wear a Face Covering because of the risk of suffocation, and this Order does not require that any child aged twelve years or less wear Face Covering. Parents and caregivers must supervise use of Face Coverings by children to avoid misuse.

Exceptions to the Facial Covering requirement based on special circumstances may be granted i) as authorized by the City's director of civil defense and disaster (City Manager); ii) or for persons with a disability or other condition rendering them unable to safely use a facial covering. Violation of this requirement shall be enforceable within the City limits per Arvin City Municipal Code Title 8, Chapter 8.12 which provides for enforcement of violations as infractions and/or misdemeanors.

**SECTION 4.** **Compliance with State and County Emergency Orders.** All persons shall comply with any Executive Order issued by the Governor of California, or issued by the Kern County Department of Health, whichever is more restrictive, related to the COVID-19 emergency. Violation of this requirement shall be enforceable as permitted by law, including within the City limits per Arvin City Municipal Code Title 8, Chapter 8.12 which provides for enforcement of violations as infractions and/or misdemeanors.

**SECTION 5.** **Adoption and Effective Date.** Pursuant to Government Code Section 36937, this ordinance shall take effective immediately. The City Council finds and determines that the same is necessary to the preservation of the public peace, health or safety, in that adoption of the same will help prevent commercial evictions and control residential rent issues that may arise during declared states of emergency.

**SECTION 6** **Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or circumstances, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the application of any other section, subsection, sentence, clause, phrase, or portion of this Ordinance, and to this end the invalid or unconstitutional section, subsection, sentence, clause, phrase of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

**SECTION 7** **Expiration Date.** This Ordinance shall automatically expire upon the sooner of i) June 9, 2020; ii) the termination of the City's local emergency ratified by the City Council on March 17; or iii) termination of the State emergency by the Governor.

[SIGNATURES ON FOLLOWING PAGE]

**PASSED, APPROVED and ADOPTED** by a four-fifths (4/5) vote on this 12th day of May, 2020.

**I HEREBY CERTIFY** that the foregoing Urgency Ordinance No. 2020-465 was duly adopted at its regular meeting held on the 12<sup>th</sup> day of May 2020, by the following roll call vote:

AYES: CM Martinez, CM Trujillo, MPT Robles, Mayor Gurrola

NOES: CM Franetovich

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

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

**ATTEST**



**CECILIA VELA, City Clerk**

**CITY OF ARVIN**

By: \_\_\_\_\_

**JOSE GURROLA, Mayor**

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

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

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