

Title 1 GENERAL PROVISIONS

Chapters:

Chapter 1 - ADOPTION OF CODE

Chapter 2 - PENALTY PROVISIONS

Chapter 3 - RULES OF CONSTRUCTION

Chapter 4 - APPEALS

Chapter 5 - CITY SEAL

Chapter 1 ADOPTION OF CODE

Sections:

[1-1.01 Title—References to Code.](#)

[1-1.02 Authority.](#)

[1-1.03 Effective date.](#)

[1-1.04 Construction and interpretation of Code.](#)

[1-1.05 Effect of Code on past actions and obligations.](#)

[1-1.06 References to specific ordinances.](#)

[1-1.07 Validity of Code.](#)

[1-1.08 Repeal of ordinances.](#)

[1-1.09 Maintenance of Code.](#)

1-1.01 Title—References to Code.

This Code shall be known as the "Avenal Municipal Code".

It shall be sufficient to refer to this Code as the Avenal Municipal Code in any prosecution for the violation of any provision hereof. It shall also be sufficient to designate any ordinance adding to, amending, or repealing the provisions of this Code as an addition or amendment to, or a repeal of, the Avenal Municipal Code, or a portion thereof.

1-1.02 Authority.

Except as otherwise provided in this Code, this Code consists of all the regulatory, penal, and administrative laws of general application of the City of Avenal, codified pursuant to the authority set forth in Article 2 of Chapter 1 of Division 1 of Title 5 of the Government Code of the State.

1-1.03 Effective date.

The provisions of this Code shall take effect upon the effective date of the ordinance adopting this Code by reference.

1-1.04 Construction and interpretation of Code.

All provisions of this Code and all City ordinances shall be interpreted to refer to the appropriate or designated officer or office of the City, and whenever an ordinance, uniform code, statute, or other matter which is adopted by reference refers to any department, officer, employee, inspection, police, or other function, unless the context requires otherwise, all such references shall be to the appropriate or designated office, officer, department, agency, employee, or function of the City.

1-1.05 Effect of Code on past actions and obligations.

Neither the adoption of this Code nor the repeal of any ordinance of the City by this Code shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of this Code, nor be construed as a waiver of any license or penalty on such effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license or penalty or the penal provisions applicable to any violation of such ordinances, nor to affect the validity of any bond or cash deposit required to be posted, filed, or deposited pursuant to any ordinance, and all vested rights and obligations pertaining to such ordinances shall continue in full force and effect.

1-1.06 References to specific ordinances.

The provisions of this Code shall not in any manner affect deposits or other matters of record which refer to, or are otherwise connected with, ordinances which are specifically designated by number or otherwise and which are included within this Code, but such references shall apply to the corresponding provisions set forth in this Code.

1-1.07 Validity of Code.

If any section, subsection, sentence, clause, or phrase of this Code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. The Council hereby declares that it would have adopted this Code and each section, subsection, sentence, clause, and phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

1-1.08 Repeal of ordinances.

All ordinances of the City in force upon the effective date of this Code are hereby repealed except as follows:

- (a) Ordinances relating to matters of a special or temporary nature, which ordinances are listed in Table 2 of the Appendix of this Code;
- (b) Ordinances which have been suspended, which ordinances are listed in Table 3 of the Appendix of this Code; and
- (c) Ordinances of a general nature which have not been codified but which are to remain in effect pending their revision or repeal, which ordinances are listed in Table 4 of the Appendix of this Code.

1-1.09 Maintenance of Code.

At least three (3) copies of this Code, duly certified by the City Clerk, shall be maintained on file in his office as the official copies of the Code. Additional copies of the Code shall be distributed to the departments of the City as shall be prescribed by the City Manager.

Duly certified copies of each ordinance making a change in the Code shall be filed in the office of the City Clerk in books for such purpose, duly indexed for ready reference.

At least semiannually the City Clerk shall cause the loose leaf pages of this Code in which changes have been made to be reproduced, including a notation as to the ordinance number and the date pursuant to which such change is adopted, and distributed in order that the loose leaf copies of the Code, prepared for the use and convenience of the officers and employees of the City and the general public, may be brought up-to-date.

Chapter 2 PENALTY PROVISIONS

Sections:

[1-2.01 Violations.](#)

[1-2.02 Prohibited acts.](#)

[1-2.03 \[Duty of court.\]](#)

[1-2.04 Determination of punishment.](#)

[1-2.05 Fees, charges, licenses, and taxes made a civil debt.](#)

[1-2.06 Violation of administrative provisions.](#)

1-2.01 Violations.

It shall be unlawful for any person to violate any provisions or to fail to comply with any of the requirements of this Code or the provisions of any Code adopted by reference by this Code. Unless otherwise specified, any person violating any of such provisions or failing to comply with any of the mandatory requirements of this Code shall be guilty of an infraction as designated by, and provided for, in Sections 16, 17, 19c and 19d of the Penal Code and Section 40000.1 of the Vehicle Code of the State. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code, or the provisions of any Code adopted by reference by this Code, is committed, continued or permitted by such person and shall be punishable accordingly.

Unless otherwise specified, any person convicted of an infraction under the provisions of this Code shall be punishable for a first conviction by a fine of not more than fifty dollars (\$50.00), and for a second conviction within a period of one year by a fine of not more than one hundred dollars (\$100.00), and for a third or any subsequent conviction within a period of one year by a fine of not more than two hundred fifty dollars (\$250.00).

In addition to the penalties provided by this section, any condition caused or permitted to exist in violation of any of the provisions of this Code, or the provisions of any Code adopted by reference by this Code, or any subdivision, building, wiring, plumbing, or other similar activity in violation of the provisions of this Code shall be deemed a public nuisance and may be summarily abated by the City in a civil action, and each day such condition continues shall be a new and separate offense.

(Ord. 89-10 § 1, 1989)

1-2.02 Prohibited acts.

Whenever in this Code any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

1-2.03 [Duty of court.]

The provisions of this Code which declare certain crimes to be punishable as therein mentioned devolve a duty upon the court authorized to pass sentence and impose the punishment described.

1-2.04 Determination of punishment.

Whenever in this Code the punishment for a crime is left undetermined between certain limits, the punishment to be inflicted in a particular case shall be determined by the court authorized to pass sentence, within such limits as may be prescribed by this Code.

1-2.05 Fees, charges, licenses, and taxes made a civil debt.

The amount of any fee, service charge, utility charge, license, or tax of any nature whatsoever imposed by any provision of this Code shall be deemed a civil debt owing to the City. An action may be commenced in the name of the City in any court of competent jurisdiction for the collection of the amount of any such delinquent or unpaid fee, service charge, utility charge, license, or tax, together with any penalties applicable thereto as prescribed by this Code. The remedy prescribed by this section shall be cumulative, and the use of an action to collect such amount as a debt by civil action shall not bar the use of any other remedy provided by this Code or by law for the purpose of enforcing the provisions thereof.

1-2.06 Violation of administrative provisions.

The violation of any administrative provisions of this Code by any officer or employee of the City may be deemed a failure to perform the duties or to observe the rules or regulations of the department, office, or board within the meaning of the rules and regulations of the City or of the civil service regulations of the City.

Chapter 3 RULES OF CONSTRUCTION

Sections:

[1-3.01 Scope.](#)

[1-3.02 Provisions construed as restatements and continuations.](#)

[1-3.03 Tenure of officers preserved.](#)

[1-3.04 Effect of headings.](#)

[1-3.05 Meaning of section and subsection.](#)

[1-3.06 References to acts or omissions within the City.](#)

[1-3.07 Acts by deputies.](#)

[1-3.08 Writing.](#)

[1-3.09 References to ordinances—Application to amendments.](#)

[1-3.10 Notices required—Service.](#)

[1-3.11 Notices required—Service—Proof.](#)

[1-3.12 Statute of limitations.](#)

[1-3.13 Definitions.](#)

1-3.01 Scope.

Unless the provisions of this Code otherwise specifically provide, or the context of this Code indicates to the contrary, the general provisions, rules of construction, and definitions set forth in this chapter shall govern the construction of this Code. The provisions of this Code and all proceedings under it are to be construed with a view to effect its objects and to promote justice.

1-3.02 Provisions construed as restatements and continuations.

The provisions of this Code, insofar as they are substantially the same as existing ordinances relating to the same subject matter, shall be construed as restatements and continuations and not as new enactments.

1-3.03 Tenure of officers preserved.

All persons who, at the time this Code takes effect, hold office under any of the ordinances repealed by this Code, which offices are continued by this Code, shall continue to hold such offices in accordance with the tenure originally granted such persons.

1-3.04 Effect of headings.

Title, chapter, article, and section headings contained in this Code shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any title, chapter, article, or section of this Code.

1-3.05 Meaning of section and subsection.

"Section" shall mean a section of this Code, unless some other source is specifically mentioned. "Subsection" shall mean a subsection of the section in which the term occurs, unless some other section is expressly mentioned.

1-3.06 References to acts or omissions within the City.

The provisions of this Code shall refer only to the omission or commission of acts within the territorial limits of the City and to that territory outside the City over which the City has jurisdiction or control by virtue of the Constitution of the State or any law, or by reason of ownership or control of property.

1-3.07 Acts by deputies.

Whenever a power is granted to, or a duty is imposed upon, a public officer or employee, the power may be exercised or the duty may be performed by a deputy of such officer or employee or by a person otherwise duly authorized pursuant to law or ordinance, unless this Code expressly provides otherwise.

1-3.08 Writing.

Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement, or record is required or authorized by this Code, such notice, report, statement, or record shall be made in writing in the English language unless this Code expressly provides otherwise.

1-3.09 References to ordinances—Application to amendments.

Whenever any reference in this Code is made to an ordinance, the reference shall apply to such ordinance of the City unless this Code expressly provides otherwise. Whenever any reference is made to any portion of this Code, or to any ordinance of the City, the reference shall apply to all amendments and additions made to this Code.

1-3.10 Notices required—Service.

Whenever a notice is required to be given pursuant to the provisions of this Code, unless different provisions are otherwise specifically set forth in the text of the Code, such notice may be given either by personal delivery thereof to the person to be notified or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to such person to be notified at his last known business or residence address as the same appears in the public records of the City or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time the notice is deposited in the post office.

1-3.11 Notices required—Service—Proof.

Proof of giving any notice required to be given pursuant to the provisions of this Code may be made by the certificate of any officer or employee of the City or by the affidavit of any person over the age of eighteen (18) years, which affidavit shows service in conformity with the provisions of this Code or other provisions of law applicable to the subject matter concerned.

1-3.12 Statute of limitations.

When a limitation or period of time prescribed in any existing ordinance or statute for acquiring a right or barring a remedy, or for any other purpose, has begun to run before this Code goes into effect, the time which has already run shall be deemed a part of the time prescribed as such limitation.

1-3.13 Definitions.

For the purpose of this Code, unless otherwise apparent from the context, certain words and phrases used in this Code are defined as follows:

- (a) "Calendar year" shall mean from January 1 through December 31 of any given year.
- (b) "City" shall mean the City of Avenal.
- (c) "Council" shall mean the City Council of the City of Avenal.
- (d) "County" shall mean the County of Kings.
- (e) "Fiscal year" shall mean from July 1 of any given year through June 30 of the following year.
- (f) "Gender". The masculine gender shall include the feminine and neuter genders.
- (g) "Goods" shall mean and include wares and merchandise.

Title 1 GENERAL PROVISIONS

- (h) "May" shall be permissive.
- (i) "Month" shall mean a calendar month unless otherwise expressed.
- (j) "Number". The singular number shall include the plural, and the plural number shall include the singular.
- (k) "Oath" shall include affirmation.
- (l) "Office". The use of the title of any officer, employee, office, or ordinance shall mean such officer, employee, office, or ordinance of the City, unless otherwise specified.
- (m) "Official time standard". Wherever certain hours are names in this Code, they shall mean standard time or daylight saving time as may be in current use in the City.
- (n) "Operate" shall mean and include carrying on, keeping, conducting, or maintaining.
- (o) "Owner", applied to a building or land, shall include any part owner, joint owner, tenant, tenant in common, or joint tenant of the whole or a part of such building or land.
- (p) "Person" shall include any person, firm, company, corporation, partnership, association, public corporation, political subdivision, city (except the City of Avenal), the County of Kings, any district in the County of Kings, the State of California, or the United States of America, or any department or agency of any thereof, unless this Code expressly provides otherwise.
- (q) "Personal property" shall include money, goods, chattels, things in action, and evidences of debt.
- (r) "Property" shall include real and personal property.
- (s) "Quarterly", where used to designate a period of time, shall mean the first three (3) calendar months of any given year or any succeeding period of three (3) calendar months.
- (t) "Real property" shall include lands, tenements, and hereditaments.
- (u) "Sale" shall include any sale, exchange, barter, or offer for sale.
- (v) "Shall" shall be mandatory.
- (w) "State" shall mean the State of California.
- (x) "Street" shall include all streets, highways, avenues, boulevards, alleys, courts, places, squares, or other public ways in the City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of the State.
- (y) "Tenant or occupant", applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.
- (z) "Tenses". The present tense shall include the past and future tenses, and the future tense shall include the present tense.

Chapter 4 APPEALS

Sections:

[1-4.01 Right to appeal.](#)

[1-4.02 Time limit for filing.](#)

[1-4.03 Hearings—Notices.](#)

[1-4.04 Hearings.](#)

1-4.01 Right to appeal.

Except where an appeals procedure is otherwise specifically set forth in this Code, any person excepting to the denial, suspension, or revocation of a permit applied for or held by him pursuant to any of the provisions of this Code, or to any administrative decision made by any official of the City, if the denial, suspension, or revocation of such permit or the determination of such administrative decision involves the exercise of administrative discretion or personal judgment exercised pursuant to any of the provisions of this Code, may appeal in writing to the Council by filing with the City Clerk a written notice of such appeal, setting forth the specific grounds thereof.

No appeal may be taken to any such administrative decision made by an official of the City pursuant to the provisions of this chapter unless such decision to appeal has been first taken up with the department head concerned.

No right of appeal to the Council from any administrative decision made by an official of the City pursuant to any of the provisions of this Code shall exist when such decision is ministerial and thus does not involve the exercise of administrative discretion or personal judgment exercised pursuant to any of the provisions of this Code, whether the administrative decision involves the denial, suspension, or revocation of a permit or any other administrative decision.

1-4.02 Time limit for filing.

The appellant shall file a notice of appeal with the City Clerk within fourteen (14) days after the receipt of the notice of the administrative decision concerned.

1-4.03 Hearings—Notices.

Upon the filing of the notice of appeal in proper form, the City Clerk shall place the matter on the Council agenda for the next regular meeting of the Council which will be held at least five (5) days after the date of the filing of the notice of appeal. Except in cases of emergency when the Council may determine the matter immediately, the Council shall set the matter for hearing at a subsequent meeting, but in no event later than thirty (30) days after the date of the filing of the notice of appeal with the City Clerk. The City Clerk shall cause a written notice of the hearing to be given to the appellant not less than five (5) days prior to such hearing, unless such notice is waived in writing by the appellant.

1-4.04 Hearings.

At the hearing required by the provisions of Section 1-4.03 of this chapter, the appellant shall show cause on the grounds set forth in the notice of appeal why the action appealed from should not be approved. The Council may continue the hearing from time to time, and its findings on the appeal shall be final and conclusive in the matter.

Chapter 5 CITY SEAL

Sections:

[1-5.01 Adoption—Custody.](#)

[1-5.02 Definitions.](#)

[1-5.03 Unauthorized use or reproduction prohibited.](#)

[1-5.04 Replica—Use on vehicles.](#)

[1-5.05 Violation—Penalty.](#)

1-5.01 Adoption—Custody.

- (a) Pursuant to the provisions of Section 34501 of the Government Code of the State, the City Council of the City does hereby approve and adopt as and for the Corporate Seal of said City, a seal, with lettering, form, arrangement and designs all as set forth and shown in the embossed or stamped impression thereof.
- (b) The City Clerk shall have official custody of the official seal of said City.
- (c) The only form of corporate seal authorized for use by or for said City, after the effective date of the ordinance codified in this chapter, shall be the form of seal in the office of the City Clerk.

(Ord. 83-04 §§ 1, 3, 4, 1983)

1-5.02 Definitions.

The word "person" as used in this chapter, shall include person, firm, association and corporation, and whether acting as principal, agent, employee or otherwise.

(Ord. 83-04 § 7, 1983)

1-5.03 Unauthorized use or reproduction prohibited.

It shall be unlawful for any person to make or use the seal of the City, or any cut, or facsimile, or reproduction of said seal, or make or use any seal or any design which is an imitation of said seal, or of the design thereof, or which may be mistaken for the seal of said City for any purpose other than for City purposes, or for the purpose of any board, officer or department thereof without the express and written approval of the governing body of the City.

(Ord. 83-04 § 2, 1983)

1-5.04 Replica—Use on vehicles.

- (a) Until the further order of the City Council, the Director of Public Works of the City shall designate the particular motor vehicles or other vehicles or items or property belonging to the City, on or in connection with which replicas or near representations of the official seal of the City shall be used; and when so designated the officers or employees having immediate charge or control of such vehicles or equipment so designated, shall obtain such replicas from the City Clerk and affix the same thereto and maintain the same thereon, until further order of the Director of Public Works or by order of the City Council.
- (b) It shall be unlawful for any person to display or place, either temporarily or permanently, the official seal of the City, or any facsimile, or any representation or near representation thereof on any privately owned vehicle, unless by express written permit first had and obtained from the City Council of the City so to do. In the event any such permit is granted by the Council, it shall be unlawful for any person to place or display such seal in any manner, or at any time contrary to or in violation of the provisions of the permit.

(Ord. 83-04 §§ 5, 6, 1983)

Title 1 GENERAL PROVISIONS

1-5.05 Violation—Penalty.

- (a) Any person violating any of the provisions of this chapter shall be guilty of an infraction.
- (b) Every person shall be deemed guilty of a separate offense for each and every day during which, or during any portion of which, any of the provisions of this chapter is violated.

(Ord. 83-04 § 8, 1983)