

Title 5 PUBLIC WELFARE

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Chapter 1 AMUSEMENT DEVICES

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5-1.01 Mechanical amusement device defined.

For the purposes of this chapter, "mechanical amusement device" shall mean any machine or device which, upon the insertion of a coin, slug, token, plate, or disc, may be operated by the public generally by manipulating special equipment whereby a score is established, the object of which is to secure a special number or numbers or a high total score when the element of skill in such manipulation predominates over chance or luck.

5-1.02 Licenses—Required.

Every person displaying for public patronage, or keeping for operation, any mechanical amusement device, shall first obtain a license from the City upon the payment of a license fee. Applications for such licenses shall be made to the Police Chief.

5-1.03 Licenses—Issuance—Revocation—Fees.

Every applicant for a license to display or keep for operation any mechanical amusement device, before being granted such license, shall pay a quarterly fee of Ten and no/100ths (\$10.00) Dollars per machine for the privilege of operating or maintaining for operation each such mechanical amusement device. Quarterly license fees shall not be prorated for parts of quarterly license periods. Such licenses so issued shall be purely permissive and shall not grant the licensee any fixed interest or property rights therein. Such licenses shall be revocable at any time by the Police Chief. The Police Chief may, at his discretion, limit, revoke, refuse, take up, or fail to issue a license to any applicant at any time if, in the judgment of the Police Chief, it appears to the best interests of the public health, safety, and morals of the people of the City that such action be taken.

5-1.04 Licenses—Posting.

The licenses required by the provisions of this chapter shall be posted permanently and conspicuously at the location of the machine in the premises wherein such device is to be operated or maintained for operation.

5-1.05 Exceptions.

The provisions of this chapter shall not apply to any vending machine so operated as to sell and deliver merchandise only, which merchandise is equivalent in market value to the value of the coin deposited, without the payment or delivery of anything except the merchandise therein kept for sale.

5-1.06 Certain gambling devices prohibited.

The provisions of this chapter shall in no way be construed to authorize, license, or permit any gambling device whatsoever, or any mechanism which has been judicially determined to be a gambling device or is in any way contrary to law, or which may be contrary to any future law of the State. Mechanical amusement devices shall be used for amusement purposes only. Payoffs shall be in violation of the provisions of this chapter.

5-1.07 Tokens—Use prohibited.

The use of tokens or other devices to operate coin-operated machines within the City is prohibited.
(Ord. 83-03 (part), 1983)

5-1.08 Tokens—Sale or distribution prohibited.

The sale or other distribution of tokens to operate coin-operated machines within the City is prohibited.
(Ord. 83-03 (part), 1983)

Chapter 2 CARD ROOMS ^[1]

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5-2.01 License required.

No person shall engage in, or carry on, or maintain or conduct, or cause to be engaged in, carried on, maintained or conducted, any card room in the City without first having secured a license from said

city so to do, according to each and every requirement of this chapter, or without complying with each and every regulation contained herein pertaining to such card room.

(Ord. 99-01 (part), 1999)

5-2.02 Card room—Defined.

For the purpose of this article a "card room" is hereby defined to be any space, room or enclosure, furnished or equipped with a table used or intended to be used as a card table for the playing of cards and similar games, and the use of which is available to members of any non-profit society, club, fraternal, labor or other organization, or to the public or any portion of the public, provided that "card room" shall not include a room to which the public is admitted and in which the sole card game played is duplicate bridge.

(Ord. 99-01 (part), 1999)

5-2.03 Application for license.

- (a) An applicant for a card room license shall submit his application to the Chief Law Enforcement Officer of the City which application shall be under oath, and shall include, among other things, the true names and addresses of all persons financially interested in the business. The term "persons financially interested" shall include all persons who share in the profits of the business, on the basis of gross or net revenue. The past criminal record, if any, of the applicant and of all persons financially interested in the business shall be shown on such application. The application shall also be accompanied by fingerprints and recent photographs of the applicant and of persons financially interested in the business. A license may be issued only to persons who have resided in the County of Kings for at least two (2) years immediately preceding the issuance of such license.
- (b) The Chief Law Enforcement Officer shall issue a license, unless he/she finds that:
 - (1) The applicant or any person financially interested has previously been convicted of a felony and a period of ten (10) years has not expired from date of termination of confinement, parole and/or probation; or
 - (2) The applicant or any person financially interested has previously been convicted of one of the following misdemeanor violations, and a period of ten (10) years has not elapsed from the date of termination of confinement, parole and/or probation:
 - (i) Any theft from a person;
 - (ii) Any theft involving cheating;
 - (iii) Any series of petty thefts;
 - (iv) Any crime involving pimping, pandering or prostitution;
 - (v) Any crime involving bookmaking or gaming;
 - (vi) Any crime involving narcotics or dangerous drugs; or
 - (3) The applicant or any person financially interested is not, in the opinion of the Chief Law Enforcement Officer, a fit and proper person to operate a card room; or
 - (4) The card room is to be located within any area of the City which is wholly residential; or, if the card room is to be located adjacent to a residential area, and, in the opinion of the Chief Law Enforcement Officer, the issuance of the card room license would tend to cause a police problem or public nuisance; or
 - (5) The card room is to be located within six hundred (600) feet of a public school, church, hospital, or children's playground, or any other public facility where the presence of the card room might tend to promote a demoralizing effect, or cause a law enforcement problem, or create a public nuisance.

- (c) The action of the Chief Law Enforcement Officer in denying such a license on the basis of subsection (3) or subsection (4) or subsection (5) of this section shall be subject to an appeal to the City Council. Notice of such appeal shall be filed with the City Clerk within ten (10) days after the denial of such license. Upon failure to file such notice within the ten-day period the action of the Chief Law Enforcement Officer in denying such license shall be final and conclusive.

(Ord. 99-01 (part), 1999)

5-2.04 Employee work permits.

- (a) Card room employees must obtain a work permit from the Chief Law Enforcement Officer. Card room employees for the purpose of this article are defined as dealers, overseers, and others directly connected with the operation and supervision of the card tables, excluding waitresses, bartenders, culinary workers and others not connected with such operation and supervision. Applications for such work permits shall be submitted under oath and contain the past criminal record, if any, of the applicant and such information as may be deemed by the Chief Law Enforcement Officer necessary to determine whether the applicant is a proper person to be issued a card room work permit. The application shall also be accompanied by the fingerprints and a recent photograph of the applicant for submission to the Department of Justice for a criminal history background check. A work permit shall be issued only to persons who have resided in the County of Kings for at least one year immediately preceding the issuance of such work permit. Subject to Subsection (b) hereinbelow, the Chief Law Enforcement Officer shall issue a work permit unless he/she finds that:
 - (1) The applicant has previously been convicted of a felony and a period of ten (10) years has not expired from date of termination of confinement, parole and/or probation; or
 - (2) The applicant has previously been convicted of one of the following misdemeanor violations, and a period of ten (10) years has not elapsed from the date of termination of confinement, parole and/or probation:
 - (i) Any theft from a person;
 - (ii) Any theft involving cheating;
 - (iii) Any series of petty thefts;
 - (iv) Any crime involving pimping, pandering or prostitution;
 - (v) Any crime involving bookmaking or gaming;
 - (vi) Any crime involving narcotics or dangerous drugs; or
 - (3) The applicant is not, in the opinion of the Chief Law Enforcement Officer, a fit and proper person to engage in such work. Each application for a work permit shall be accompanied by a fee, such fees shall be established by the City Council, by resolution, and shall be valid for a period of one year. The fee shall not be refunded if a work permit is refused, revoked or suspended as hereinafter provided. Only one such work permit shall be required each year, even though the holder of a work permit may change his place of employment within the City; or
 - (4) The applicant is disqualified from holding a state gambling license, for any of the reasons specified in California Business and Professions Code §19850.
- (b) Any application for a work permit shall be subject to objection by the state division. If the division objects to the issuance of a work permit, it shall be denied. Such denial may be reviewed in accordance with the Gambling Control Act (California Business & Professions Code § 19801, et seq.)
- (c) The action of the Chief Law Enforcement Officer in denying such a work permit on the basis of the applicant not being a fit and proper person shall be subject to appeal to the Council. Notice of such appeal shall be filed with the City Clerk within ten (10) days after the denial of said work permit. Upon

failure to file such notice within the ten (10) day period, the action of the Chief Law Enforcement Officer in denying such work permit shall be final and conclusive.

(Ord. 99-01 (part), 1999)

5-2.05 Suspension and revocation.

The Chief Law Enforcement Officer shall have the right for cause to revoke or suspend any card room license or card room work permit issued hereunder and to take possession of such permits. Any of the grounds upon which the Chief Law Enforcement Officer shall be required to refuse to issue an initial card room license or card room work permit shall also constitute grounds for such revocation or suspension. In addition, the failure of the holder of a card room license or card room work permit to comply with the provisions of this article shall also constitute grounds for revocation or suspension of such license or work permit. The action of the Chief Law Enforcement Officer in this respect shall be subject to an appeal to the City Council. Notice of such appeal shall be filed in writing with the City Clerk within ten (10) days after the revocation or suspension. Upon failure to file such notice within the ten-day period, the action of the Chief Law Enforcement Officer in revoking or suspending the license or work permit shall be final and conclusive.

(Ord. 99-01 (part), 1999)

5-2.06 Nontransferable.

No person shall be granted a license to conduct more than one card room. No card room license shall be assignable or transferable.

(Ord. 99-01 (part), 1999)

5-2.07 Card room regulations.

(a) Hours of Operation.

- (1) Before it shall be allowed to operate, each gambling establishment shall adopt a schedule of hours of operation, after the schedule has been approved by the Chief Law Enforcement Officer. Such approved schedule of hours shall be clearly posted at the gambling establishment so as to give law enforcement and patrons adequate notice of the hours of operation.
- (2) Unless otherwise restricted, it is unlawful to operate any card room or card game between the hours of 2:00 a.m. of any day and 9:00 a.m. of the same day within the corporate limits of the City, excepting Saturdays and Sundays.

(b) Location of Gambling Establishment.

- (1) No gambling establishment may be located in any zone which has not been specifically approved for such a business and none may be located near any of the unsuitable areas, as specified in California Business and Professions Code § 19852(a)(3);
- (2) Not more than one card room shall be located at any one address; and
- (3) All card rooms shall be located on the ground floor.

(c) Type of Games Played. No person shall deal, play, or carry on, open, or cause to be opened, or conduct, either as owner or employee, whether for hire or not, any game of faro, monte, roulette, landsquenet, rouge-et-noir, rondo, tan, fan-tan, poker in any of its various forms, seven-and-a-half, twenty-one, hokey-pokey, or any banking or percentage game played with cards, dice, dominoes, or any device, for money, chips, checks, credit, or other representative of value, or bet at or against any of said prohibited games in any card room.

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- (d) **Wagering Limits.** Before it shall be allowed to operate, each card room shall adopt rules for wagering limits in each game, after the rules have been approved by the Chief Law Enforcement Officer. During hours of operation, such rules shall be clearly posted at the gambling tables where games are offered, to provide patrons with adequate notice of those rules.
- (e) **Number of Tables.** No more than one hundred (100) tables shall be allowed to operate in this jurisdiction and no more than seven (7) tables shall be permitted in any card room.
- (f) **Patron Security and Safety.** Each card room licensee shall be responsible and liable for its patrons' safety and security in and around the gambling establishment. Before it shall be allowed to operate, each card room shall adopt a plan to provide for the safety and security of patrons, after the plan has been approved by the Chief Law Enforcement Officer.
- (g) **Miscellaneous.** In addition to those regulations set forth hereinabove in Section 5-2.07, subsections (a) through (f), except as hereinafter provided, no personnel shall operate a card room in violation of any of the following regulations:
 - (1) No person under twenty-one (21) years of age shall be permitted at any card table, or participate in any game played thereat;
 - (2) Not more than seven (7) players shall be permitted at any one table;
 - (3) All card rooms shall be open to law enforcement inspection during all hours of operation;
 - (4) The cashing of bank checks for players shall not be permitted in any card room;
 - (5) Each card table shall have assigned to it a person whose duty shall be to supervise the game and see to it that it is played strictly in accordance with the terms of this article and the provisions of the Penal Code of the State of California. This person may have more than one table under his/her supervision. This person may participate in a game under his/her supervision, but only if no other game under his/her supervision is being played at the time he/she plays;
 - (6) No signs or other insignia advertising or relative to card rooms shall be displayed in any manner on or in the premises occupied as a card room; and
 - (7) No person who is in a state of intoxication shall be permitted in any card room.
- (h) **Exemptions.** The provisions of Subsections 5-2.07(a)(2), 5-2.07(b)(3), 5-2.07(e), 5-2.07(g)(2), (4), and (5), shall not apply to a nonprofit society, club, fraternal labor or other organization which has qualified for a license without fee under Section 5-2.09.

(Ord. 99-01 (part), 1999)

5-2.08 License fee for card rooms.

There shall be collected for each card table licenses hereunder a fee per table per month, payable quarterly in advance. The fee shall be established by resolution of the City Council.

(Ord. 99-01 (part), 1999)

5-2.09 Club licenses.

- (a) A nonprofit society, club, fraternal, labor or other organization having adopted by-laws and duly elected officers or directors and members and having been in actual existence and operation for more than one year, may be granted a license without fee by the Chief Law Enforcement Officer, if he/she determines, from affidavits and evidence submitted to him/her that:
 - (1) The card tables are for the exclusive use of the members of the society, club, fraternal, labor or other organization;
 - (2) No charge is made for use of the card tables;

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- (3) Dues of the society, club or organization are payable not more often than once each month; and
- (4) The playing cards or the furnishing of card tables for use by members is, in fact, only an incidental reason for the existence of the club.
- (b) It shall be the responsibility of an applicant seeking a license without fee to furnish to the Chief Law Enforcement Officer such evidence as he/she may require in order to determine whether the applicant qualifies for such a license.
- (c) The action of the Chief Law Enforcement Officer in denying a license without fee shall be subject to an appeal to the City Council. Notice of such appeal shall be filed with the City clerk within ten (10) days after the denial of such license without fee. Upon failure to file such a notice within the ten (10) day period, the action of the Chief Law Enforcement Officer in denying such license without fee shall be final and conclusive.

(Ord. 99-01 (part), 1999)

5-2.10 Exemptions.

Constituent lodges of fraternal organizations which have had lodges in California for twenty-five (25) years or more, and whose general laws or ordinances prohibit gambling or card playing for money on the premises occupied by such lodges, shall not be required to apply for or obtain a license:

- (a) When the card tables are for the exclusive use of members of the fraternal organizations, or non-paying guests; and
- (b) No charge is made for use of the card tables.

(Ord. 99-01 (part), 1999)

5-2.11 State law violations.

The City Council of the City hereby declares that it is not the intention of this article to permit the licensing of any card room for the playing of any game prohibited by the laws of the State of California, including, but not limited to those games enumerated in California Penal Code § 330, which section includes banking and percentage games.

(Ord. 99-01 (part), 1999)

5-2.12 Effective date.

- (a) This ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.
- (b) If any section, subsection, sentence, clause, word, or phrase of this chapter is held to be unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remainder of this chapter. The City Council of the City hereby declares that it would have passed this chapter, and each section, subsection, sentence, clause, word, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, words, or phrases be declared invalid or unconstitutional.

(Ord. 99-01 (part), 1999)

FOOTNOTE(S):

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Editor's note— Prior Ord. history: 88-05, 91-06, 91-09. ([Back](#))

Chapter 3 INTOXICATING LIQUORS

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5-3.01 Definitions.

- (a) "Alcoholic beverage" is herein defined to include alcohol, spirits, liquor, wine, beer, and every fluid or solid containing one-half of one percent or more of alcohol by volume and which is used for beverage purposes either alone or when diluted, mixed or combined with other substances.
- (b) "Open container" is any can, bottle, or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which has been partially removed.

5-3.02 Alcoholic beverages prohibited.

Except as provided in Section 5-3.03, it shall be unlawful for any person to consume, drink, exhibit, or possess an open container of any alcoholic or intoxicating beverage on any public street, sidewalk, way, alley, or in any public parking lot, public park or public recreation area in the City of Avenal.

5-3.03 Exceptions.

The provisions of Section 5-3.02 shall not apply in one or more of the following conditions:

- (a) Section 5-3.02 shall not be deemed to make punishable an act or acts which are prohibited by any statute of the State of California.
- (b) A written permit to possess alcoholic intoxicating beverages in a specific public park, or recreation area or other designated area shall be obtained from the City of Avenal at least twenty-four (24) hours before using the park, recreation area or other designated area. Only the permit holder or individual obtaining alcoholic beverages from the permit holder shall be exempt.

(Ord. 89-11 § 1, 1989)

5-3.04 Validity.

If any section, subsection, sentence, clause or purpose of this chapter is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.

5-3.05 Penalty.

Any person violating Section 5-3.02 of this chapter shall be guilty of an infraction, and if convicted of such infraction, shall be punishable by a fine not to exceed fifty dollars (\$50.00) for the first violation; (2) a fine not to exceed one hundred dollars (\$100.00) for the second violation within one year; and a fine not to exceed two hundred and fifty dollars (\$250.00) for each additional violation within one year.

Chapter 4 JUKE BOXES

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5-4.01 Connections with loudspeakers.

No person conducting a business, including restaurants and drive-in businesses, shall operate or maintain, or cause, allow, or permit to be operated or maintained, in connection therewith any sound equipment consisting of a juke box or other similar device when such equipment is connected to a loudspeaker located outdoors, or when a loudspeaker is located indoors but is devised or placed in such a manner as to emanate sound for the purpose of attracting the public or passersby outside the premises; provided, however, this prohibition shall only apply in those cases where three (3) or more private dwellings are located within a distance of two hundred (200) feet from the loudspeaker.

Chapter 5 JUNK AND SECONDHAND DEALERS

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5-5.01 Definitions.

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

- (a) "Itinerant junk peddler" shall mean a person who goes about from house to house or place to place gathering up, receiving, collecting, buying, or selling secondhand valves, stopcocks, rig irons, cables, boilers, engines, tools, pipe, machinery or parts thereof, appliances, any previously used article or thing, old rope, iron, brass, copper, tin, lead, pieces of metal, wire,

rag, slush, empty bottles, paper, bagging, or any old article or thing not to be used in its former state or condition.

- (b) "Junk dealer" shall mean any person who, at a fixed place of business, carries on, conducts, maintains, or engages in the business of buying, selling, or otherwise dealing in or acquiring old rope, iron, brass, copper, tin, lead, pieces of lead, wire, rags, slush, empty bottles, paper, bagging, or any old article or thing not to be used in its former state or condition.
- (c) "Oil tool exchange" shall mean and include any person having a fixed place of business in the City and engaged in carrying on the business of buying, selling, or otherwise dealing in secondhand oil well tools and oil well equipment.
- (d) "Secondhand dealer" shall mean any person who, at a fixed place of business, carries on, conducts, maintains, or engages in the business of buying, selling, exchanging, or otherwise dealing in or acquiring any article or thing which has been sold and used before; provided, however, any person dealing in, buying, selling, or exchanging secondhand household furniture or household goods only shall not come within the meaning of this definition nor be regulated by the provisions of this chapter.

5-5.02 Permission to engage in business—Required—Applications—Granting—Revocation.

- (a) Required. It shall be unlawful for any person to engage in the business of buying, selling, gathering up, or collecting secondhand valves, stopcocks, rig irons, cables, boilers, engines, tools, pipe, machinery or parts thereof, appliances, any previously used article or thing, or old rope, iron, brass, copper, tin, lead, pieces of metal, wire, rags, slush, empty bottles, paper, bagging, or any old article other than those set forth in this section not to be used in its former state or condition, whether at a fixed place of business or as an itinerant junk peddler, or to engage in the business of conducting an oil tool exchange without first making an application to the Police Chief and receiving his permission to engage in such business as provided in this chapter.
- (b) Applications. Such applications shall be in writing and shall contain the name of the applicant, the persons interested in the business with the applicant, the business address, if at a fixed place of business, or the residence address, if the applicant is an itinerant junk peddler. Such applications shall be filed with the Police Chief together with a fee for the same. The fee shall be established by resolution by the City Council.
- (c) Granting. The Police Chief shall, within ten (10) days after such application is filed, make an investigation concerning the character of the applicant and grant the permission asked for unless it shall appear from such investigation that the morality, honesty, or integrity of the person making such application does not justify the granting of such permission.
- (d) Revocation. If any person shall fail to obey any of the provisions of this chapter or shall conduct his business in an unlawful manner, the Council may revoke the permission of such person to conduct such business.

(Ord. 91-06 § 4, 1991)

5-5.03 Records—Purchases and receipts.

Every junk dealer, secondhand dealer, and person conducting an oil tool exchange shall keep at his place of business, and every itinerant junk peddler shall keep and have in his possession, a substantial, well-bound book (not loose leaf), the pages of which shall be numbered consecutively and in which there shall be entered in the English language at the time of the purchase or receiving of any personal property an exact description of such personal property purchased or received by him; the date of the purchase or of receiving the personal property; the price paid therefor; the name and address of the place of business; a description of the person from whom the personal property was purchased or received; the license number of the motor vehicle used by or belonging to the parties making the sale; the signature of the

seller or person from whom the personal property was received; and all particular and prominent marks of identification which may be found on such property. Such book shall at all times be open to the inspection of the Police Chief, City Attorney, District Attorney, any police officer or constable, or any peace officer and shall not in any manner be concealed from them.

5-5.04 Records—Sales.

There shall also be kept in the book required by the provisions of Section 5-5.03 of this chapter, written or printed entirely in the English language in a clear and legible manner, a record showing the names and descriptions of all persons to whom shall be sold, traded, or otherwise disposed of any article or thing; the license number of the motor vehicle used by or belonging to such persons; the name and description of each such article or thing so sold, traded, or disposed of; and the date of such sale, trade, or disposition. Such record of the sale or other disposition of each article shall be made on the same page in the book as contains the record of the purchase or receiving of such article, as set forth in Section 5-5.03 of this chapter, and in such position on the page as will easily and readily show the disposition of each and every article received by such dealer or peddler.

5-5.05 Reports.

Every junk dealer, secondhand dealer, itinerant junk peddler, and person conducting an oil tool exchange shall at least once every week make a written report to the Police Chief at his office, either personally or by mail. Such report shall show the exact description of all personal property purchased or received by him prior to the time of making such statement and since the making of the last prior statement; the date of purchase or of receiving the personal property; the price paid therefor; the name, address, and place of business of the person from whom the personal property was purchased or received; all particular and prominent marks of identification which may be found on such property; and the place where such property will be exposed to public view as set forth in Section 5-5.06 of this chapter.

5-5.06 Holding period.

Except as otherwise provided in this section, all personal property received or collected by junk dealers, secondhand dealers, itinerant junk peddlers, or persons conducting an oil tool exchange shall be held for a period of at least seven (7) days after the report to the Police Chief is made as set forth in Section 5-5.05 of this chapter and before such personal property shall be sold or otherwise disposed of. In addition, such persons shall keep such personal property exposed to public view, during business hours, from the time of purchasing or receiving such personal property until the expiration of seven (7) days after such report to the Police Chief.

When the consent of the Police Chief is obtained, personal property purchased, received, or collected as set forth in this chapter may be sold or disposed of at once.

5-5.07 Hours of operation.

No junk dealer, secondhand dealer, itinerant junk peddler, or person conducting an oil tool exchange shall purchase, receive, gather up, or collect any personal property as set forth in Section 5-5.02 of this chapter between the hours of 6:00 p.m. and 6:00 a.m. of the following day.

5-5.08 Purchases, trades, and receipts from minors.

It shall be unlawful for any secondhand dealer, junk dealer, or person conducting an oil tool exchange to purchase, trade for, or receive any article or thing from any minor under the age of eighteen (18) years, except when written permission is given by the parent or guardian of such minor person or by the Police Chief.

5-5.09 Furnishing false information.

It shall be unlawful for any person to furnish false information in connection with the sale or exchange of any goods sold to any secondhand dealer, junk collector, or person conducting an oil tool exchange.

Chapter 6 OIL AND GAS WELLS

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[5-6.06 Restricted locations.](#)

[5-6.07 Restricted locations—Modifications—Standards of limitations.](#)

5-6.01 Findings and determinations.

The Council hereby deems it necessary to the public peace, health, safety, and interest that the drilling, boring, or otherwise sinking and/or operating or maintaining of gas or oil wells within the City be regulated as set forth in this chapter.

5-6.02 Permits—Required—Applications—Issuance—Conditions.

- (a) Required. No person, firm, or corporation, whether as a principal, agent, or otherwise, shall drill, bore, or otherwise sink, operate, or maintain any oil or gas well without a valid, current, and subsistent permit from the Council so to do first being had and obtained.
- (b) Applications. Applications for such permits shall be made to the Council in writing. Such applications shall state the name of the applicant, the definite location of the proposed well and appurtenant structures, the purpose for which the well is to be drilled, bored, or otherwise sunk or dug, and a statement that:
 - (1) If such permit is granted, such well will be drilled, bored, or otherwise sunk or dug at the location shown in the application; and
 - (2) The permit for the well and appurtenant structures contemplated, if granted by the Council, may contain a provision as a condition thereof that the well be located at the place so designated and that otherwise the permit shall lapse and become and remain void.

Such applications shall be filed on application forms furnished by the City, and the Council hereby reserves the right to refuse to consider any application not so filed.

- (c) Applications—Accompanying data. Each such application shall be accompanied by two (2) duplicate maps or plats correctly showing the exterior boundaries of the properties covered by the leases under or pursuant to which the well applied for is to be drilled, together with the names and addresses of the lessors and the descriptions of the properties owned by each respective lessor. The application shall also describe the areas covered by any adjoining leases owned or drilled by the applicant or in which the applicant is interested. The Council deems that the public peace, health,

safety, interest, and convenience of the City require that the Council be fully advised with reference to such matters when considering such applications. The respective areas shall be designated either by colored boundary lines or by shading so as to accurately indicate the extent thereof respectively.

- (d) Issuance: Conditions. Any permit issued upon such application may contain a provision as a condition thereof that any misrepresentation of fact contained in such application shall be grounds for the revocation of the permit and that all the rights of the permittee therein named shall cease and terminate.
- (e) Duties of the City Clerk. The City Clerk shall attend to all details in connection with the presentation of such applications and the actual issuing of such permits.

5-6.03 Permits—Signatures.

When the Council has authorized the issuance of any permit required by the provisions of this chapter, the permit shall be signed by the Public Works Director.

5-6.04 Permits—License fees.

No fee shall be charged for any permit required by the provisions of this chapter, but each permittee shall pay, for each derrick, well, and/or operation referred to in, or authorized by, any such permit, an annual license fee or operating charge of five hundred dollars (\$500.00). Such fee shall be payable annually in advance on the basis of a calendar year. Only the first annual charge shall be prorated. No such license fee or operating charge, or any part thereof, shall be refunded. Such license fee or operating charge shall continue to be paid for each well:

- (a) While drilling, mining, pumping, or other operations in or about the well continue, including the production therefrom of oil, gas or other hydrocarbon substances from a flowing well;
- (b) While the derrick remains standing;
- (c) Until the well referred to in such permit has been fully, completely, and satisfactorily abandoned in accordance with the rules and regulations of the Division of Oil and Gas of the Department of Natural Resources of the State and the rules and regulations of the City relating to the abandonment of such wells; and
- (d) Until the premises relating to such well have been cleaned and restored as nearly as reasonably possible to the same condition as that in which they existed at the time of the granting of such permit.

The license fee or operating charge established for all wells shall become due and be payable on the date of the granting of such permits by the Council. The annual fees shall become due and payable on the first day of each and every calendar year. If any license fee or operating charge is not paid within fifteen (15) days after the license fee or operating charge becomes due and payable, a penalty shall accrue upon such license fee or operating charge in the sum of fifty dollars (\$50.00). Unless such license fee and such penalty thereon is paid within fifteen (15) days after the date upon which such license fee and penalty become delinquent, the Council may declare any such permit forfeited, and all rights of the permittee thereunder shall cease and terminate.

5-6.05 Permits—Bonds.

Every permittee shall, either before or at the time of securing the permit required by the provisions of this chapter, deliver to the City Clerk a bond, approved by the City Attorney as to form and by the Mayor as to sureties, for the principal sum of five thousand dollars (\$5,000.00) payable to the City, indemnifying the City against any loss which may be suffered by the City or to any public property therein located or to any public street, avenue, alleyway, or place within the City by reason of the drilling, redrilling, existence, operation, abandonment, or conduct of the well referred to in such permit, or the violation of the terms

and conditions of such permit, or the failure of the permittee to remove the derrick and/or its appurtenances, or any act, whether of commission or omission, on the part of the permittee or any agent or contractor employed in connection with the well referred to in the permit or any agent or contractor acting under direction of the permittee.

A good and sufficient bond, as required by the provisions of this section, shall at all times be kept in full force and effect by the permittee upon any well for which such permittee has been granted a permit until the permittee has been released from such obligation by completion of the terms of the permit issued and a consent to such release has been granted by the Council. Unless such permittee keeps such bond in full force and effect, as set forth in this section, the Council may declare any such permit forfeited, and all rights of the permittee thereunder shall cease and terminate.

5-6.06 Restricted locations.

No permit shall be granted to drill, bore, or otherwise sink, operate, or maintain any gas or oil well in such manner that the center of the well hole is or shall be:

- (a) Within two hundred (200) feet of any public street, sidewalk, or highway, except any alley, in public use prior to the commencement of drilling such well, and intersecting or lying within any block or other subdivision unit, unless otherwise permitted by the Council where the limits of the property will not permit such spacing, but in no event less than one hundred (100) feet from such public street, sidewalk, or highway;
- (b) Within two hundred (200) feet of the outer boundary of the parcel of land on which such well is located or, where several contiguous parcels of land uninterrupted by any street or sidewalk are operated as a single unit, the outer boundary of all parcels of land included within such unit, unless otherwise permitted by the Council where the limits of the property will not permit such spacing, but in no event less than fifty (50) feet of such outer boundary;
- (c) Within two hundred (200) feet of any steam boiler, building, or source of ignition, unless otherwise approved by the Council upon a property the limits of which will not permit such spacing, but in no event within less than fifty (50) feet of such boiler, building, or source of ignition; and
- (d) Within two hundred fifty (250) feet of any school building or other place of public assemblage, such as a church or public library. The provisions of this subsection shall not apply when any such property has been officially closed to public use and proof of such fact has been established to the satisfaction of the Council.

No permit shall be granted for the drilling, maintaining, or constructing of any oil or gas well in any areas of the City except those areas which have been or shall be designated as unrestricted districts, as distinguished from those areas which have been or may be designated as residential or business districts.

5-6.07 Restricted locations—Modifications—Standards of limitations.

With respect to the standards of limitations of the location of oil and gas wells as set forth in Section 5-6.06 of this chapter, the Council hereby retains the authority to modify and alter such standards of limitations from time to time as the public welfare and interest may, in the judgment of the Council, require; provided, however, the limitations of location fixed after the issuance of a permit and while the permit is valid and subsisting shall be deemed not to affect such permit.

Chapter 7 PEDDLERS AND SOLICITORS ^[1]

Sections:

[5-7.01 Definitions.](#)

[5-7.02 Use and operation.](#)

[5-7.03 Violations nuisances.](#)

[5-7.04 Violations.](#)

5-7.01 Definitions.

The following definitions shall apply to this chapter only unless otherwise specified or adopted:

- (a) "Solicitor" means any person who requests or intends to request receipt of any money whatsoever from a property owner or occupant, regardless of the reason therefor.
- (b) "Peddler" means any person who offers to exchange any item, good, service or information for money or anything having any monetary value whatsoever.
- (c) "Money" includes but is not limited to cash, check, coin, currency, credit card payment, debit card payment, gold, silver, promissory notes or promise to pay.
- (d) "Person" means any natural person, individual, partnership, trust, corporation, association, society, club or other entity and shall not include any public entity or its officers, employees, agents or contractors while performing their official duties or duties under a public contract.

(Ord. No. 2009-05, § 3, 1-14-2010)

5-7.02 Use and operation.

- (a) For the purpose of increasing the safety and privacy of her or his dwelling, a property owner or occupant may provide notice of her or his prohibition of all door-to-door solicitors or peddlers or both from entering upon, knocking at or ringing the doorbell of the dwelling of such property owner or occupant, located within zoning district R-E, R-1, R-2 or R-3, by posting one of the following signs in a conspicuous area of such premises:
 - (1) NO SOLICITORS.
 - (2) NO PEDDLERS.
 - (3) NO SOLICITORS OR PEDDLERS.
- (b) It shall be unlawful for a solicitor or peddler to enter upon, knock at or ring the doorbell of the dwelling of a property owner or occupant who has posted one of the signs in subsection (a) in a font no smaller than 18-point.
- (c) Subsection (b) shall not constitute an infraction under the following circumstances:
 - (1) During a bona fide emergency when there exists an imminent threat of loss of life or property or threat of great bodily harm within a reasonable proximity to the dwelling.
 - (2) On October 31 of each year.
 - (3) As to any person who has the consent or an invitation from the property owner or occupant of the dwelling.
- (d) Any sign posted pursuant to this section must comply with Title 8, Chapter 4 of the Avenal Municipal Codes.

(Ord. No. 2009-05, § 3, 1-14-2010)

5-7.03 Violations nuisances.

Not having been requested or invited by the owner or occupant of a private residence so to do, the practice of going in and upon private residences in the City by solicitors, peddlers, hawkers, itinerant merchants, or transient vendors of merchandise to solicit orders for the sale of goods, wares, or merchandise or to dispose of, peddle, or hawk goods, wares, or merchandise is hereby declared to be a nuisance and an infraction.

(Ord. No. 2009-05, § 3, 1-14-2010)

5-7.04 Violations.

- (a) Any person who violates any provision of this chapter shall be guilty of an infraction and subject to citation and the penalty provisions of Chapter 2 of Title 1 of the Avenal Municipal Code.
- (b) The second and each subsequent violation of any provision of this chapter, within the preceding twelve (12) calendar months, by the same person, is hereby declared to be a nuisance, and may be abated pursuant to the provisions of section 731 of the Code of Civil Procedure of the State of California. This remedy is in addition to any other remedy provided by law, including the penalty provisions of Chapter 2 of Title 1 of the Avenal Municipal Code.

(Ord. No. 2009-05, § 3, 1-14-2010)

FOOTNOTE(S):

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Editor's note— Ord. No. 2009-05, § 2, adopted Jan. 14, 2010, repealed the former title 5, chapter 7, §§ 5-7.01, 5-7.02. Section 3 of said ordinance enacted a new chapter 7 as set out herein. ([Back](#))

Chapter 8 CITY PARKS—HOURS

Sections:

[5-8.01 Trespassing or loitering on public parks and recreation areas.](#)

[5-8.02 Exceptions.](#)

[5-8.03 Penalty.](#)

5-8.01 Trespassing or loitering on public parks and recreation areas.

No person shall enter on or remain on any park, recreation facility, recreational area, building or improvement owned, maintained, or operated by the City of Avenal between the hours of 10:00 p.m. and the time of sunrise of the following day and who is not required by his employment to be on said facility.

5-8.02 Exceptions.

This chapter shall not apply during such time as said facility is open to the public by written order or direction of the City of Avenal.

5-8.03 Penalty.

Any person violating Section 1 of this chapter shall be guilty of an infraction, and if convicted of such infraction, shall be punishable by a fine not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00).

Chapter 9 CURFEW FOR MINORS

Sections:

[5-9.01 Curfew restrictions for minors.](#)

[5-9.02 Responsibility of parents and guardians.](#)

[5-9.03 Violations of provisions by minors.](#)

[5-9.04 Violations of provisions by parents and guardians.](#)

[5-9.05 Penalties for violations.](#)

[5-9.06 Aiding or abetting.](#)

[5-9.07 Loitering upon the public way.](#)

[5-9.08 Obstructing the public way.](#)

5-9.01 Curfew restrictions for minors.

It is unlawful for any minor under the age of eighteen (18) years to appear in or upon any public street, avenue, highway, road, curb area, alley, park, playground, or other public ground, public place or public building, place of amusement or eating place, vacant lot or unsupervised place, whether in a vehicle or not, between the hours of 10:00 p.m. on any day and 5:00 a.m. of the immediately following day; provided, however, that the provisions of this section shall not apply when:

- (a) The minor is accompanied by his or her parent or parents, legal guardian or other adult person having control or charge of the minor, or by his or her spouse eighteen (18) years of age or older;
- (b) The minor is upon an emergency errand directed by his or her parent or parents or legal guardian or other adult person having control or charge of the minor, or by his or her spouse eighteen (18) years of age or older;
- (c) The minor is returning directly to his or her home or other place of residence from a public meeting, or a place of public entertainment, such as a movie, play, sporting event, dance or school activity;
- (d) The presence of such minor in said place or places is connected with or required with respect to a business, trade, profession or occupation in which the minor is lawfully engaged;
- (e) The minor is going directly to his or her place of employment or returning directly to his or her home or other place of residence after having left his or her place of employment.

(Ord. 2000-04 (part), 2000: Ord. 95-08 § 1 (part), 1995: Ord. 92-05 (part), 1992)

5-9.02 Responsibility of parents and guardians.

No parent, guardian, or other person having legal control or charge of any person under the age of eighteen (18) years shall permit such person to violate the provisions of Section 5-9.01 of this chapter.

(Ord. 92-05 (part), 1992; Ord. 95-08 § 1 (part), 1995)

5-9.03 Violations of provisions by minors.

Any minor under the age of eighteen (18) years found violating the provisions of this chapter shall be placed under arrest and ordered to appear at a specified hour before the Municipal Court in the City, and, in case of failure to appear, the Municipal Court shall issue a bench warrant for his or her arrest and shall bind such minor over to the Juvenile Court if the Municipal Court shall find sufficient grounds that there has been a violation of the provisions of this chapter.

(Ord. 92-05 (part), 1992; Ord. 95-08 § 1 (part), 1995)

5-9.04 Violations of provisions by parents and guardians.

Every parent, guardian, or other person having legal control or charge of any minor under the age of eighteen (18) years and who permits such minor to violate any provision of this chapter shall be guilty of a misdemeanor.

(Ord. 95-08 § 1 (part), 1995)

5-9.05 Penalties for violations.

- (a) Any minor violating the provisions of this chapter is guilty of an infraction punishable by a fine not exceeding two hundred fifty dollars (\$250.00).
- (b) Any minor violating the provisions of this chapter may be immediately apprehended and lawfully detained pursuant to Section 5-9.03. The vehicle being driven by the minor (if applicable), may be lawfully parked at the police officer's discretion and the vehicle shall be released to the minor's parent, guardian, or other person having legal control or charge of the minor. Appropriate proceedings may be instituted under and pursuant to the provisions of the juvenile court law as set forth in the Welfare and Institutions Code of the State of California.
- (c) Any parent, guardian, or other adult person having legal control or charge, permanent or temporary, of any minor person, who suffers or permits or lets, either willfully or negligently, such minor violate the provisions of this chapter, is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding one thousand dollars (\$1,000.00).

(Ord. 95-08 § 1 (part), 1995; Ord. 2000-04 (part), 2000)

5-9.06 Aiding or abetting.

It is unlawful for any person to willfully or knowingly aid, abet or assist any minor in violating Section 5-9.01.

(Ord. 95-08 § 1 (part), 1995)

5-9.07 Loitering upon the public way.

No person shall loiter or stand in or upon any public highway, alley, sidewalk, crosswalk, or other public way open for pedestrian travel or otherwise occupy any portion thereof in such a manner as

unreasonably to annoy or molest any pedestrian thereon or as to obstruct or unreasonably interfere with the free passage of pedestrians.

(Ord. 95-08 § 1 (part), 1995)

5-9.08 Obstructing the public way.

No person shall sit, lie, or sleep in or upon any street, sidewalk, alley, or other public way. The provisions of this section shall not apply to persons sitting on the curb portion of any sidewalk or street while attending or viewing any parade permitted by this Code; nor shall the provisions of this section apply to persons sitting upon benches or other seating facilities provided for such purpose by municipal authority or permitted by this Code.

(Ord. 95-08 § 1 (part), 1995)

Chapter 10 PROHIBITION AGAINST THE PRESENCE OF MINORS IN PREMISES UPON WHICH ALCOHOLIC BEVERAGES ARE SOLD

Sections:

[5-10.01 Prohibition.](#)

[5-10.02 Penalties for violations.](#)

[5-10.03 Exceptions.](#)

5-10.01 Prohibition.

It shall be unlawful for any minor to be allowed in premises upon which alcoholic beverages are sold.

(Ord. 83-06 (part), 1983)

5-10.02 Penalties for violations.

- (a) Any minor who enters a place of business where alcoholic beverages are sold shall be guilty of an infraction.
- (b) Any person who allows a minor to be in premises upon which alcoholic beverages are sold shall be guilty of an infraction.

(Ord. 83-06 (part), 1983)

5-10.03 Exceptions.

This chapter shall not apply to off-sale premises.

(Ord. 83-06 (part), 1983)

Chapter 11 PUBLIC DANCES AND DANCE HALLS

Sections:

[5-11.01 Definitions.](#)

[5-11.02 Permit required.](#)

[5-11.03 Permit—Application—Content.](#)

[5-11.04 Permit—Application—Procedures.](#)

[5-11.05 Permit—Fees.](#)

[5-11.06 Permit—Revocation.](#)

[5-11.07 Minors.](#)

[5-11.08 Rules and regulations.](#)

[5-11.09 Permit—Required for each location.](#)

[5-11.10 Required report of management changes.](#)

[5-11.11 Sanitation.](#)

[5-11.12 Dance floor.](#)

[5-11.13 Exemptions from provisions.](#)

[5-11.14 Enforcement.](#)

[5-11.15 Penalties.](#)

5-11.01 Definitions.

For purposes of this chapter, certain words and phrases used in this chapter are defined as follows:

- (a) "Jitney dance" shall mean a dance where a separate charge or fee is imposed for single or individual dances.
- (b) "Public dance" shall mean any dance not held or conducted in a private residence where music is provided by or where live music or a disk jockey, this does not include "juke boxes."
- (c) "Public dance hall" shall mean any room, place or space, except in a private residence, where dancing is held or carried on; provided, however, nothing in this chapter shall be construed to require any permit for the maintenance of a bona fide school of instruction in the pastime of dancing.

(Ord. 85-06 § 1, 1985; Ord. 91-08 § 1, 1991)

5-11.02 Permit required.

- (a) Public dance. It is unlawful for any person or entity to give, hold, conduct, manage, or operate a public dance within the City of Avenal, except at a place or premises for which a license or permit has been issued and is in force and effect.
- (b) Public dance hall. It is unlawful for any person or entity to open, conduct, or carry on, or to participate in the opening, conducting, or carrying on of a public dance hall in the City of Avenal without having a valid and existing license or permit to do so.

(Ord. 85-06 § 2, 1985; Ord. 91-08 § 2, 1991)

5-11.03 Permit—Application—Content.

No permit shall be issued to any person or entity unless written verified application therefor is presented to the City's Police Department showing the following facts:

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- (a) The name and address of the applicant. If any applicant should be a partnership, then names and addresses of the partners thereof; and if any applicant should be an association, the names and addresses of the officers thereof; and if the applicant should be a corporation, the names and addresses of the officers and directors thereof;
- (b) The particular place for which the permit is desired or at which any dance is to be held;
- (c) The name of the owner of the place or premises in or at which the dance is to be held;
- (d) Such persons who, from time to time, will be in charge and who will be responsible for the order and due observance of the provisions of this chapter;
- (e) The number and date of the dances to be held pursuant to the permit or the length of time for which the permit is desired, which shall not in any event be for a longer period than one year;
- (f) A statement that the applicant is the sole party, either directly or indirectly, interested in the dance or dance hall or premises for which the permit is sought and that no other person or entity is or will be in any manner interested therein, directly or indirectly, during the continuance of the permit; and
- (g) A covenant and promise by the applicant: (i) to comply with the provisions of this chapter and the rules and regulations set forth in this chapter; (ii) to consent to the entry by police officers upon the subject premises; and (iii) to cause the premises to be vacated in the event such rules and regulations are violated.

(Ord. 85-06 § 3, 1985; Ord. 91-08 § 3, 1991; Res. No. 2010-64, 10-28-2010)

5-11.04 Permit—Application—Procedures.

- (a) Upon receipt of such application, the City's Police Department shall undertake an investigation to determine and report the following:
 - (1) Whether the applicant and person to have direct management of the premises are of good moral character;
 - (2) Whether the premises for which the permit is sought complies with the provisions of this chapter;
 - (3) Whether the premises for which the permit is sought complies with any other law or health or fire regulation applicable thereto;
 - (4) Whether the premises are properly ventilated;
 - (5) Whether, pursuant to applicable guidelines and regulations, including but not limited to the Uniform Plumbing Code, the premises are supplied with separate and sufficient toilet conveniences for each sex within the building in which the dance is located; such determination may be based on the allotment of one-half ($\frac{1}{2}$) the occupant load to be males and one-half ($\frac{1}{2}$) females, or based on the requirement that the total occupant load not exceed the sanitary facilities located within the premises, or based on such other requirements which the City's Police Department determines reasonable under the circumstances;
 - (6) Whether no entrance or exit exists except through the dance hall; and
 - (7) Whether the premises are safe and proper for the purpose for which they shall be used.
- (b) If the City's Police Department determines that the application satisfies the above requirements, such department shall provide this information to the City Manager. The City Manager, may, upon payment of the fee specified, issue the permit. In the City Manager's discretion, the City Manager shall have the power to deny any application if it appears that the applicant, or the person to have direct management of the premises is not a suitable or proper person to carry on the business for which the permit is sought, or if the premises proposed to be used in the conduct of the business shall be deemed not to be a suitable or proper place therefor, or if the protest and objections of

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private residents in the immediate vicinity of the premises, or if the health, welfare or public morals of the community warrant such denial. The City Manager may issue a permit upon which such conditions he or she determines would cure the situations which would otherwise result in denial of the permit. The City Manager, in his/her discretion, may issue a permit while the applicant fails to satisfy one or more requirements in this chapter, if the City Manager determines the health, safety and welfare of the public would not be unreasonably impacted.

- (c) In the event of a refusal by the City Manager to issue such permit, the applicant therefor may appeal, in writing, to the City Council which shall hear the matter, including the application and the reason for refusing it, at the next scheduled City Council meeting, regular or special. Such appeal must be presented to the City Council prior to the expiration of fifteen (15) days from the date of the City Manager's denial of the application. The Council may either grant the permit or refuse the same, if in its discretion, it finds the application or the premises where the applicant proposes to hold the dances do not comply with the provisions of this chapter. The decision of the City Council shall be final.

(Ord. 85-06 § 4, 1985; Ord. 91-08 § 4, 1991; Res. No. 2010-64, 10-28-2010)

5-11.05 Permit—Fees.

The license fee for such permit shall be established by a resolution of the City Council. At the expiration of any permit by the lapse of time, the permit may be renewed at the discretion of the City Manager with the concurrence of the City's Police Department, without any investigation, provided the license fee is paid in advance. Future license fees may be increased or decreased or otherwise modified by resolution of the City Council.

Ord. 85-06 § 5, 1985; Ord. 90-01 § 1, 1990; Ord. 91-08 § 5, 1991; Res. No. 2010-64, 10-28-2010)

5-11.06 Permit—Revocation.

For any violations of the provisions of this chapter or for any cause deemed sufficient, the City Council, upon five (5) days notice to the holder of a permit issued under this chapter, may suspend or revoke such permit. If at any time, the permit of any applicant shall be revoked, no new permit will be granted to such applicant or to any person or entity who was an agent or employee of such applicant at the time of such violation or at the time of the application for a new permit.

(Ord. 85-06 § 6, 1985; Ord. 91-08 § 6, 1991)

5-11.07 Minors.

- (a) It is unlawful for the owner, proprietor, manager, or the person in charge of any place licensed under the provisions of this chapter, or for any employee of such place at any time when alcoholic beverages are actually on sale or are being offered free in the place, to harbor, admit, receive or permit to be in, or remain in or about such place during the time when dancing is actually being carried on or conducted or permitted, any person under the age of twenty-one (21) years unless such person is accompanied by his or her parent, spouse or legal guardian; provided, however, that the foregoing provisions shall not prohibit the entry of such persons into any dining room located in or upon the premises; provided, however, that nothing in this chapter shall be construed so as to prevent minors from attending any public place or being in any public dance hall or place where alcoholic beverages are not sold or given away; and provided further, that nothing in this chapter shall be construed to prevent the holder of any license issued hereunder from closing his/her bar and permitting minors to dance in such hall or place during such time as no alcoholic beverages are on sale or offered without charge therein. In the event that any place or hall licensed hereunder is used for a public dance at which minors are allowed to attend, all alcoholic beverages must be under lock and key so that no person except the owner or his agent shall have access thereto.

- (b) Notwithstanding the provisions of subsection (a) of this section, or any other provisions of this code, no person under the age of eighteen (18) years shall attend any place or hall licensed under this chapter to be used for a public dance unless the person is accompanied by his or her parent, spouse or legal guardian.
- (c) It is unlawful for any person under age twenty-one (21) years falsely to represent himself or herself as being of the age of twenty-one (21) years or more for the purposes of obtaining admission to any premises licensed under the provisions of this chapter.

(Ord. 85-06 § 7, 1985; Ord. 91-08 § 7, 1991)

5-11.08 Rules and regulations.

It is unlawful for any person or entity to conduct, operate, or carry on a public dance or a public dance hall in violation of the following rules and regulations:

- (a) No immoral or obscene dancing shall be permitted.
- (b) No person under the influence of intoxicating liquor shall be permitted to remain at any public dance.
- (c) No jitney dance shall be permitted.
- (d) No owner or manager of a dance hall shall undertake to furnish dancing partners.
- (e) Any member of the City's Police Department shall be admitted free of charge to any public dance or public dance hall and shall have the power and duty to enforce the provisions of this chapter.
- (f) The City's Police Department may require at any public dance held within the City the presence of uniformed security personnel. The number of uniformed security personnel shall be determined by the Police Department. The cost of such security personnel shall be the responsibility of the licensee.
- (g) No dancing shall be permitted between the hours of 2:00 a.m. and 7:00 a.m. of the same day.
- (h) No person shall smoke on a public dance floor while dancing.

(Ord. 85-06 § 8, 1985; Ord. 88-01, 1988; Ord. 91-08 § 8, 1991; Res. No. 2010-64, 10-28-2010)

5-11.09 Permit—Required for each location.

No permit issued pursuant to the terms of this chapter shall authorize the conducting, operating or carrying on of the permitted business except at the single location and upon the individual premises described in such permit.

(Ord. 91-08 § 9, 1991)

5-11.10 Required report of management changes.

In the event that any licensee shall desire to change the individual designated in the permit as the person to have direct management of the subject premises, the licensee shall forthwith notify the City Manager, proposing the name of the person to be substituted in the management and control of the premises. The person so proposed shall be investigated by the City's Police Department. If such a person is of a satisfactory character and standing under the guidelines of this chapter, the City Manager may consent to such changes. In the event that the person does not satisfy the requirements of this chapter, the permit may be suspended by the City Manager, in his or her discretion, pending the proposal of some other person of a satisfactory character in nature.

(Ord. 91-08 § 10, 1991; Res. No. 2010-64, 10-28-2010)

5-11.11 Sanitation.

No permit shall be granted under the provisions of this chapter unless the hall or place in which the dance is to be held shall comply with this chapter. The holder of such permit shall keep such premises, hallways leading thereto, and the immediate vicinity in a clean and sanitary condition at all times, and have all stairways, hallways, other passages and rooms connected with such premises at all times open, adequately lighted and properly ventilated.

(Ord. 91-08 § 11, 1991)

5-11.12 Dance floor.

It is unlawful for any person to carry on, or conduct, or assist in carrying on, maintaining or conducting any public dance hall or dance in connection with any business or place where alcoholic beverages are sold or served, in any room, place or space which does not contain a floor space allocated to dancing.

(Ord. 91-08 § 12, 1991)

5-11.13 Exemptions from provisions.

The provisions of this chapter shall not be deemed to apply to any dance, the income of which, over and above a sufficient sum to pay the actual expenses of the dance, is devoted to public charity or to any dance at which the only fee collected is a sufficient sum prorated among persons present to pay the actual expenses of conducting the dance.

(Ord. 85-06 § 9, 1985; Ord. 91-08 § 13, 1991)

5-11.14 Enforcement.

It shall be the duty of every owner, lessee, proprietor, manager, or occupant of any hall, room, building or place permitted under the provisions of this chapter to have present at all times, when dancing is carried on in such hall, room, building or place, a qualified person or persons whose duty it shall be to see that the provisions of this chapter are lawfully carried out.

(Ord. 91-08 § 14, 1991)

5-11.15 Penalties.

Any person or entity which violates any provision of this chapter shall be guilty of an infraction.

- (a) The first conviction thereof shall be punishable by a fine not exceeding fifty dollars (\$50.00). A second conviction of the same provision within a period of one year, shall be punishable by a fine not less than fifty dollars (\$50.00) and not exceeding one hundred dollars (\$100.00). A third or subsequent conviction of the same provision within a period of one year, shall be punishable by a fine not less than one hundred dollars (\$100.00) and not exceeding two hundred fifty dollars (\$250.00). For purposes of this section, a bill of forfeiture shall be deemed to be a conviction of the offense charges. A person or entity shall be deemed guilty of a separate offense for each day or during any portion of which a violation of this chapter is committed, continued or permitted by the person or entity.
- (b) Any person or entity willfully failing to pay a lawfully imposed fine for a violation of any provision of this chapter within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the fine is due is guilty of a misdemeanor regardless of full payment of the fine after such time. Upon conviction thereof, punishment shall

be a fine of not more than five hundred dollars (\$500.00) or imprisonment for a term not exceeding six (6) months or by both a fine and imprisonment.

- (c) In the event of a violation of this chapter, in addition to the specified remedies, the City Attorney may institute any appropriate prosecution, action or other proceedings to punish the perpetrator of such violation; to prevent such unlawful conduct; to prevent the unlawful use of the subject premises; or to prevent any illegal act, conduct of business or use in or about such premises.

(Ord. 85-06 § 10, 1985; Ord. 91-08 § 15, 1991)

Chapter 12 STREET, SIDEWALK AND ITINERANT VENDORS ⁽¹⁾

Sections:

[5-12.01 Purpose and intent.](#)

[5-12.02 Application of general provisions.](#)

[5-12.03 Definitions.](#)

[5-12.04 License required for street vendors.](#)

[5-12.05 Exceptions to license requirement.](#)

[5-12.06 Application—Form.](#)

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[5-12.08 Form of license.](#)

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[5-12.12 Display of name of licensee.](#)

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[5-12.22 Revocation of license.](#)

[5-12.23 Hearing on revocation of license.](#)

[5-12.24 Appeals.](#)

5-12.01 Purpose and intent.

The City Council finds and declares that unlicensed street, sidewalk and itinerant vendors ("street vendors") pose a health and safety risk to the City and its citizens due to the possibility of improper handling and packaging of food, the potential for contamination and spoliation, the sale of defective products and goods which are potentially harmful to the buyer, the perpetration of fraudulent and deceitful business practices and the risk of harm by imposters posing as street vendors. The purpose of this chapter is to require licensing and supervision of street vendors and to set reasonable time, manner and place regulations on street vending as required for the public health and safety.

(Ord. 96-05 § 1 (part), 1996)

5-12.02 Application of general provisions.

Unless the provisions of this chapter otherwise provide, all of the provisions of Title 3, Chapter 1, of the Avenal Municipal Code, relating to business licensing, are applicable to the licenses referred to in this chapter.

(Ord. 96-05 § 1 (part), 1996)

5-12.03 Definitions.

The following words and phrases, as used in this chapter, shall have the following meanings:

- (a) The phrase "street vendor" shall mean and include peddlers, hawkers, sidewalk vendors and other itinerant merchants and transient vendors and shall refer to a person who travels about selling previously fabricated or prepared food, produce, goods or wares for contemporaneous delivery.
- (b) The phrase "previously fabricated or prepared" means manufactured, prepared, raised or otherwise produced in final form at an established place of business.
- (c) The phrase "established place of business" refers to a geographically fixed location.
- (d) The word "vehicle" includes, but is not limited to, any conveyance moved by human, animal, mechanical or motor power.
- (e) The term "street vendor" does not apply to salespeople who solicit orders from or sell to dealers for resale or to manufacturers for manufacturing purposes or to bidders for public works or supplies.

(Ord. 96-05 § 1 (part), 1996)

5-12.04 License required for street vendors.

Any person engaging in, or vehicle used in, the business of a street vendor shall have a valid license to engage in or be used in such business.

(Ord. 96-05 § 1 (part), 1996)

5-12.05 Exceptions to license requirement.

This chapter shall not apply to any of the following persons:

- (a) Any street vendor who has an established and properly licensed place of business in the county at which the food, produce, goods or wares sold are produced, prepared, displayed, or sold, or the employees of such street vendors.

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- (b) Any farmer who sells produce owned and grown or raised by himself or herself, or any of such farmer's employees who sell such produce on the farmer's behalf.
- (c) Any bona fide charitable, patriotic, educational, benevolent or fraternal organization that engages in the street vending business if the proceeds from such business, above normal expenses, are to be used exclusively in carrying out the purposes of the organization.
- (d) Any commercial traveler selling food, produce, goods or wares on a wholesale basis.

(Ord. 96-05 § 1 (part), 1996)

5-12.06 Application—Form.

The application for a license shall contain the information required by Section 3-1.10 of Title 3, Chapter 1, of the Avenal Municipal Code, with the addition of the following information:

- (a) Name and description of the applicant;
- (b) Permanent home address and full local address of the applicant;
- (c) A brief description of the nature of the business and the goods to be sold;
- (d) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (e) A statement as to whether the applicant has been convicted of any crime or misdemeanor, other than traffic violations, and the nature of the offense and the punishment or penalty assessed therefor;
- (f) A description of all vehicles that will be used in the street vending business for the conveyance of food, produce, goods or wares. The description shall include the license and registration numbers of any motorized vehicle, advertising or business markings on the exterior of each vehicle, and the capacity and nature of storage facilities within each vehicle;
- (g) A description of the geographic area where the business will take place; and
- (h) The address of the location where the food, produce goods or wares proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such food, produce, goods or wares are located at the time said application is filed, and the proposed method of delivery.

(Ord. 96-05 § 1 (part), 1996)

5-12.07 Investigation of applicant.

- (a) Immediately upon receipt of such application and upon payment of a fee of twenty-five dollars (\$25.00), the City Clerk shall transmit such application to the appropriate City employee, For the purpose of investigation applications filed under this chapter, the City employee duly designated shall serve as the sole investigating officer.
- (b) Within thirty (30) days after receipt of the application, the City employee duly designated shall investigate, determine and report to the City Clerk whether the applicant is of good character and business responsibility and whether operation of the proposed business will comply with the applicable food, health, safety and sanitation laws, ordinances and regulations. As part of this investigation, the applicant shall bring all vehicles described in Section 5-12.06(f) of this chapter to a location designated by the City employee for inspection.
- (c) By filing an application, the applicant shall be deemed to have waived any and all objections to, and to have thereby authorized, any and all investigations concerning their business history, past employment, and property ownership.

- (d) The investigating City employee may require the applicant to be fingerprinted and/or photographed by the Avenal Police Department.
- (e) If the investigating City employee finds that the applicant is not of good character or business responsibility, the City Clerk shall refuse to issue a license unless thereafter instructed to issue the same by the City Council after appeal to the City Council by the applicant pursuant to Section 5-12.24.

(Ord. 96-05 § 1 (part), 1996; Res. No. 2010-64, 10-28-2010)

5-12.08 Form of license.

A license shall contain the information required by Section 3-1.09 of Title 3, Chapter 1, of the Avenal Municipal Code, and in addition shall contain the following information:

- (a) A description, including license and registration numbers for motorized vehicles, of each vehicle authorized by the license to be used in the street vending business;
- (b) The name, description, and current address of the licensee;
- (c) A statement that the license applies only to the person whose name appears on the face of the license.

(Ord. 96-05 § 1 (part), 1996)

5-12.09 License fees.

The annual license fee shall be two hundred fifty dollars (\$250.00) plus an additional fee of one hundred dollars (\$100.00) for each vehicle proposed to be used by licensee. The City Clerk shall issue a separate license in the name of the licensee for each vehicle for which an additional license fee has been paid pursuant to this section.

(Ord. 96-05 § 1 (part), 1996)

5-12.10 Exceptions to license fees.

A license under this chapter shall be issued without payment of a license fee to any honorably discharged soldier, sailor, or marine of the United States. Also, for cause deemed sufficient, the City Council may waive the payment of the license fee.

(Ord. 96-05 § 1 (part), 1996)

5-12.11 Posting and keeping of license.

The provisions of Title 3, Chapter 1, Section 3-1.18 of the Avenal Municipal Code shall apply to a license issued pursuant to this section. In addition, street vendors required to have a license are required to exhibit such license at the request of any citizen or peace officer.

(Ord. 96-05 § 1 (part), 1996)

5-12.12 Display of name of licensee.

It is unlawful for any licensee to use, or allow to be used, any vehicle in the street vending business, unless the exterior of such vehicle shall bear, on both sides thereof, in contrasting letters not less than three (3") inches in height, identifying information including the name, address and telephone number of the owner, operator or business.

(Ord. 96-05 § 1 (part), 1996)

5-12.13 Expiration of license.

All permits issued under the terms of this chapter shall automatically expire one year from the date of issuance.

(Ord. 96-05 § 1 (part), 1996)

5-12.14 Renewal of license.

Any person who holds a valid annual license issued under this chapter may file an application for renewal of said license by applying in writing to the City Clerk not sooner than sixty (60) days prior to, nor later than thirty (30) days prior to, the expiration date of the existing permit. The application for renewal shall be in the form prescribed by the City Clerk, and the applicant shall sign a statement, under penalty of perjury, that the facts set forth in the original application have not changed, except such changes as are set forth in the renewal application. Upon compliance with the provisions of this section and upon payment of the prescribed license fee, the City Clerk shall issue a renewal license in the same manner as is provided for the original license. If a renewal application is not filed at least thirty (30) days prior to the expiration date of the existing license, the licensee shall file a new application under the provisions of this chapter and pay the required application fee.

(Ord. 96-05 § 1 (part), 1996)

5-12.15 Hours of business.

It is unlawful for any street vendor to sell, peddle, hawk, or vend any food, produce, goods or wares away from an established place of business between the hours of 9:00 p.m. of any day and 5:00 a.m. of the following day.

(Ord. 96-05 § 1 (part), 1996)

5-12.16 Nuisances.

Not having been requested or invited by the owner or occupant of a private residence so to do, the practice of going in and upon private residences in the City by street vendors to solicit orders for the sale of goods, wares, merchandise or services, or to dispose of, peddle or hawk goods, wares, merchandise or services is declared to be a nuisance. Such nuisance shall be punishable as an infraction as provided in Section 5-12.17 of this chapter and may be summarily abated by the City in a civil action. Each day such condition continues shall be a new and separate offense.

(Ord. 96-05 § 1 (part), 1996)

5-12.17 Violations.

Any person violating any of the provisions of this chapter shall be guilty of an infraction, which shall be punishable by a fine of two hundred fifty dollars (\$250.00) for the first conviction and by an additional fine of two hundred fifty dollars (\$250.00) for each and every subsequent conviction. A person shall be deemed guilty of a separate offense for each day during any portion of which a violation of this chapter is committed, continued or permitted by the person.

(Ord. 96-05 § 1 (part), 1996)

5-12.18 Enforcement.

The Police Officers of the City shall enforce the provisions of this chapter and shall abate any nuisance as described in Section 5-12.16 of this chapter. Any peace officer may require any person who is required to have a license and who is seen vending within the city limits of the City of Avenal to produce his or her license and may enforce the provisions of this chapter against any person found to be violating the same.

(Ord. 96-05 § 1 (part), 1996; Res. No. 2010-64, 10-28-2010)

5-12.19 Seizure of goods.

Upon reasonable belief that a street vendor is in violation of Section 5-12.04 of this chapter, the street vendor's goods may be seized and retained by the appropriate City employee or any peace officer. The goods so seized shall be held at such place and in such manner as is reasonable under the circumstances, and until disposed of as provided in Section 5-12.21 of this chapter. The City employee duty designated or peace officer shall record the date and place of seizure and information pertaining to the person from whom the goods were seized, and to the extent practical, the quantity, type, condition and other information pertaining to the goods.

(Ord. 96-05 § 1 (part), 1996)

5-12.20 Return of goods.

The City employee duly designated or any peace officer may return goods seized pursuant to Section 5-12.19 upon receipt of proof of licensing pursuant to this chapter and upon receipt of proof of ownership of the goods. The City employee or peace officer may require reasonable payment, not to exceed the value of the goods, to cover costs incurred for storage of the goods.

(Ord. 96-05 § 1 (part), 1996)

5-12.21 Disposition of goods.

- (a) If for any reason the goods cannot be released to the owner within forty-eight (48) hours after coming into custody of the designated City employee or peace officer, or for any shorter period of time that the City employee deems necessary in the case of perishable goods, the City employee may sell the goods by public auction or by private sale at fair market value. Prior to any such sale, the City employee shall determine that the sale of the goods will not impair the prosecution of any person who is or may be charged with a crime related to the goods.
- (b) All of the proceeds derived from the sale of the goods shall be held by the designated City employee for a period of not less than six (6) months, during which time the owner of the goods may submit satisfactory proof of licensing and ownership and obtain possession of the proceeds. The City employee may require the payment by the owner of an amount sufficient to cover the costs incurred for the storage and sale of the goods, in an amount not to exceed the value of the goods. If, after retention of the proceeds for a period of at least six (6) months, no demand is made or if proof of licensing and ownership is not supplied, the designated City employee shall deposit the proceeds of the sale of the goods in the general fund of the City of Avenal.
- (c) If any seized goods remain unsold after being offered for sale pursuant to this section, the designated City employee may dispose of the goods by donating them to a charitable organization or by turning the goods over to the City's refuse collector.

(Ord. 96-05 § 1 (part), 1996)

5-12.22 Revocation of license.

A license issued under the provisions of this chapter may be revoked by the City Council after notice and hearing, for any of the following causes:

- (a) Fraud, misrepresentation, or false statement contained in the application for license;
- (b) Fraud, misrepresentation, or false statement made in the course of carrying on the business of a street vendor;
- (c) Any violation of this chapter;
- (d) Conviction of any crime or misdemeanor involving moral turpitude;
- (e) Conducting the business of street vending in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a nuisance or a menace to the health, safety or general welfare of the public.

(Ord. 96-05 § 1 (part), 1996)

5-12.23 Hearing on revocation of license.

Notice of the hearing on revocation of a license shall be made in writing, setting forth specifically the grounds of revocation and the time and place of such hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address or delivered to him personally at least thirty (30) days prior to the date set for hearing.

(Ord. 96-05 § 1 (part), 1996)

5-12.24 Appeals.

Any person aggrieved by the action of the investigating City employee or the City Clerk in failing to issue a license as provided in this chapter shall have the right to appeal to the City Council of the City of Avenal. Such appeal shall be taken by filing with the City Clerk within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address a written statement setting forth fully the grounds for the appeal. The City Council shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided in Section 5-12.23 for notice of hearing on revocation of license. The decision and order of the City Council on appeal shall be final and conclusive.

(Ord. 96-05 § 1 (part), 1996)

FOOTNOTE(S):

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Editor's note— Prior ordinance history: 88-06 and 91-06 § 5. ([Back](#))

Chapter 13 BINGO GAMES

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5-13.01 Definitions.

For the purpose of this chapter, "bingo" is defined as follows: A game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conforms to numbers or symbols selected at random.

(Ord. 89-07 § 4, 1989)

5-13.02 Bingo games for charitable purposes permitted.

Bingo games for charitable purposes are hereby authorized pursuant to Section 19(c), of Article IV of the Constitution of the State and Section 326.5 of the Penal Code of the State and in accordance with the provisions of this chapter.

(Ord. 89-07 § 1, 1989)

5-13.03 Organizations eligible for licenses to conduct bingo games.

All organizations listed and authorized by Section 326.5 of the Penal Code of the State, as the same now reads, or as said section may be hereafter amended, shall be eligible to apply to the City for a license to conduct bingo games in the incorporated limits of the City under the provisions of said Section 326.5 and the provisions of this chapter provided the proceeds of such games will be used for charitable purposes.

(Ord. 89-07 § 2, 1989)

5-13.04 Bingo game licenses required.

No organization shall engage in, carry on, maintain or conduct, or cause to be engaged in, carried on, maintained, or conducted, a bingo game in the incorporated area of the City without first having secured a license in accordance with the requirements of this chapter, nor without complying with the regulations contained in this chapter pertaining to the operations of bingo games.

(Ord. 89-07 § 3, 1989)

5-13.05 Application procedure.

The application procedure provided for in this chapter shall be followed with regard to the licenses sought pursuant to the provisions of this chapter.

(Ord. 89-07 § 5, 1989)

5-13.06 Filing of application—Fee.

Every person, upon payment of the appropriate fee, desiring a license pursuant to this chapter shall file an application with the City Manager, or his/her designee, upon a form to be provided by the City Manager or his/her designee. The application shall be filed at least fifteen (15) days prior to the conduct of any bingo game and shall specify:

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- (a) The name, address, and telephone number of the local applicant organization and a statement that the applicant is an eligible organization under Section 326.5 of the Penal Code of the State of California.
- (b) The name and signature of at least two (2) officers, including the presiding officer of the corporation or community chest and the trustee of any trust.
- (c) A list of the names of the members of the applicant organization who will operate and staff the bingo game.
- (d) A detailed schedule of the dates, hours, location, and occupancy capacity of such location of each bingo game to be held.
- (e) A detailed description of the record system to account for the receipts, prizes, expenses, and profits of each bingo game.
- (f) A statement that the applicant agrees to conduct bingo games in strict accordance with the provisions of Section 326.5 of the Penal Code of the State of California and this chapter, as they may be amended from time to time, and agrees that the license to conduct bingo games may be summarily suspended by the City upon the violation of any such provisions, notwithstanding anything to the contrary.
- (g) The applicant shall also submit, with its application a letter or other evidence from the Franchise Tax Board of the State of California showing that the applicant is exempted from the payment of the bank and corporation tax by applicable sections of the Revenue and Taxation Code as listed in Section 326.5 of the Penal Code of the State of California or is a mobile park association or senior citizens organization.
- (h) The application shall be verified as provided in the Code of Civil Procedure of the State of California for the verification of pleadings.
- (i) The address of which notices, when required, shall be sent or mailed and the names of any individuals, in addition to those set forth elsewhere in the application, who are authorized to accept service of process on behalf of the licensee.
- (j) Whether the application is for a new license or the renewal of an existing license.
- (k) Certification by the applicant that the organization or group applying currently operates in the City.

(Ord. 89-07 § 6, 1989)

5-13.07 Action upon receipt of application.

The filing of an application for a license shall be deemed a consent by the applicant for the City to undertake an investigation to determine if all the statements on the application are true. The filing shall also be deemed a consent to investigate the officers of the applicant and the person who will be responsible for the operation of the bingo game and those persons assisting therein as to any criminal record which they may have. Upon the receipt of an application for a license, the City Manager, or his/her designee, shall transmit copies of the application to the Avenal Police Department for a background investigation, to the Kings County Fire Chief to determine if fire regulations have been or will be complied with, and to the Planning Department to determine if the appropriate zoning laws and regulations and Building Code provisions have been or will be complied with.

(Ord. 89-07 § 7, 1989; Res. No. 2010-64, 10-28-2010)

5-13.08 Reports on applications.

Every officer and department to which an application is referred shall advise the City Manager, or his/her designee, in writing of all material facts necessary to determine whether the license should be

granted, granted subject to conditions or denied together with their approval or disapproval of the application.

(Ord. 89-07 § 8, 1989)

5-13.09 Application renewal.

The application for renewal shall be accompanied by the fee, proofs and be processed in all respects as an original application.

(Ord. 89-07 § 38, 1989)

5-13.10 Issuance of permit.

Where a permit is issued, the permit shall be for a term of one year from the date of issuance, subject to annual renewal and payment of fees. Fees shall be established by resolution of the City Council.

(Ord. 91-06 § 6, 1991; Ord. 89-07 § 9, 1989)

5-13.11 Notification of denial by department.

In the event any officer or department to which an application is referred recommends against the issuance of the license, the City Manager or his/her designee shall refuse to issue the license. The City Manager may refuse to issue a license if, after consideration of the application and any other papers, records and files the City Manager deems relevant, he/she determines that the operation of a bingo game would be injurious to the health, safety and morals of the people of the City, or that the permit application or proposed mode of operation of the bingo game is not in compliance with the provisions of this chapter. In the event the application for license is denied, the applicant shall receive written notification of such denial and a refund of one-half (½) of the applicant's fee.

(Ord. 89-07 § 10, 1989)

5-13.12 Appeal in event of application denial or restriction.

In the event the City Manager, or his/her designee, refuses to issue such license or attaches conditions thereto, the applicant may, within ten (10) days after the notice is given of such refusal or such condition, appeal the same to the City Council who shall hold a hearing thereon and whose decision shall be final. The Council may attach additional conditions to the license found by it to be necessary to protect the public health, safety and well-being.

(Ord. 89-07 § 11, 1989)

5-13.13 Changes in conditions during license period.

Any change during the license period in the organization of the licensee, its principal officers, the staff operating or assisting in the operation of the bingo game, or the condition of the premises shall be immediately reported to the City Manager who shall refer such changes to the appropriate official who shall make an investigation thereof, and if he/she deems appropriate, recommend the suspension and revocation of the license or the imposition of additional conditions thereto, which suspension, revocation, or additional conditions shall be appealable to the City Council as in the instance of an original application.

(Ord. 89-07 § 12, 1989)

5-13.14 Information.

Every officer and department to which the application, whether original or not, is referred may require such additional information and the filing of such additional forms as they deem necessary.

(Ord. 89-07 § 13, 1989)

5-13.15 Revocation of licenses.

Any license issued to any person or firm may be revoked by the City Manager, or his/her designee, at any time whenever the holder thereof violated any of the provisions of this chapter or is conducting a bingo game in such a manner that the bingo game is detrimental to the good order of the City.

(Ord. 89-07 § 14, 1989)

5-13.16 Suspension or revocation—Notice—Hearing.

The holder of a bingo permit shall be given prompt notice of the revocation or suspension of the license and shall immediately desist from conducting or operating any bingo game. The notice shall fix a time and place, not less than five (5) nor more than sixty (60) days after service thereof, at which time the holder of the permit may appear before the City Council and be granted a hearing upon the merits of the suspension or revocation.

(Ord. 89-07 § 15, 1989)

5-13.17 Contents of licenses—Expiration.

In addition to any other requirements of this chapter, any license issued for bingo games for charitable purposes shall contain the following information:

- (a) The name and nature of the organization to which the license is issued.
- (b) The address where bingo games are authorized to be conducted.
- (c) The occupancy capacity of room in which bingo games are to be conducted.
- (d) The date of the expiration of such license. Each license shall expire one year after the date of issuance, unless a sooner date of expiration is set forth in such license.
- (e) Such other information as may be necessary or desirable for the enforcement of the provisions of this section.

(Ord. 89-07 § 16, 1989)

5-13.18 Posting of licenses.

Such licenses shall be posted in a prominent place during the conduct of any bingo game. The licensee shall produce and exhibit the license when applying for the renewal thereof and whenever requested to do so by the law enforcement officer or other officer authorized to issue, inspect, or collect licenses and permits.

(Ord. 89-07 § 17, 1989)

5-13.19 Nontransferability of license.

Any license issued under this chapter shall not be transferable, either as to the licensee or the location. Any attempt to transfer shall render the license in question invalid.

(Ord. 89-07 § 37, 1989)

5-13.20 Posting of costs, prizes and rules.

Such licensees shall post the costs, prizes and rules of each game to be played. Such signs shall be posted during the conduct of the bingo game in a conspicuous place on the inside of the premises to be used for the conduct of the bingo game.

(Ord. 89-07 § 18, 1989)

5-13.21 Record of prizes.

A record shall be kept, on forms approved by the City Manager or his/her designee, by the licensee showing the name and written signature, the address and the telephone number of the winner and the consecutive serial number on the receipt for the prize.

(Ord. 89-07 § 19, 1989)

5-13.22 Inspections.

No person shall interfere with, prevent or refuse to permit a member of the Avenal Police Department, any peace officer, or the City Manager or his/her designee to make an inspection, without notice, of any premises licensed for bingo games. Such inspection shall be for the purpose of determining whether the licensee organization and/or manager is complying with the provisions of this chapter and State or Federal law.

(Ord. 89-07 § 20, 1989; Res. No. 2010-64, 10-28-2010)

5-13.23 Bingo games open to public.

All bingo games shall be open to the public, not just to members of the licensee organization.

(Ord. 89-07 § 21, 1989)

5-13.24 Attendance limited to occupancy capacity.

Notwithstanding that the bingo games shall be open to the public, attendance at any bingo game shall be limited to the occupancy capacity of the room in which such game is conducted as determined by the Fire Department in accordance with applicable laws and regulations. The licensee shall not reserve seats or space for any person.

(Ord. 89-07 § 22, 1989)

5-13.25 Maximum amount of prizes.

The total value of prizes awarded during the conduct of any bingo game shall not exceed two hundred fifty dollars (\$250.00) total in cash or kind, or both, for each separate game which is held. Total prizes being offered at various stages during an ongoing series of numbers or symbols being called toward a larger game shall not exceed two hundred fifty dollars (\$250.00).

(Ord. 89-07 § 23, 1989)

5-13.26 Profits to be kept in separate funds or accounts.

- (a) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such profits shall be used only for charitable purposes.
- (b) With respect to other organizations authorized to conduct bingo games pursuant to this chapter, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Proceeds are the receipts of bingo games conducted by organization not within subsection (a) of this section. Such proceeds shall be used only for charitable purposes, except as follows:
 - (1) Such proceeds may be used for prizes.
 - (2) A portion of such proceeds, not to exceed twenty (20) percent of the proceeds before the deduction of prizes or one thousand dollars (\$1,000.00) per month, whichever is less, may be used for rental of property, overhead, including the purchase of bingo equipment, administrative expenses, security equipment and security personnel.
 - (3) Such proceeds may be used to pay license fees.

(Ord. 89-07 § 24, 1989)

5-13.27 Inspections of records.

The licensee shall keep a full and accurate record of the income and expenses received and disbursed in connection with its operation, conduct, promotion, supervision, and any other phase of bingo games which are authorized by this chapter. The City, by and through its authorized officers, shall have the right to examine and audit such records at any reasonable time, without prior notice, and the licensee shall fully cooperate with the City by making such records available.

(Ord. 89-07 § 25, 1989)

5-13.28 Financial interests in licensees only.

No individual, corporation, partnership, or other legal entity, except the licensee organization, shall hold a financial interest in the conduct of such bingo game.

(Ord. 89-07 § 26, 1989)

5-13.29 Exclusive operation by licensees.

Bingo games shall be operated and staffed only by the members and manager of the licensee organization. Such members or manager shall not receive a profit, wage, salary, or any other direct or indirect consideration from any bingo game, nor shall they receive payments from the organization for such purpose. Only the licensee shall operate such games or participate in the promotion, supervision or any other phase of such games. This provision does not preclude the employment of security personnel who are not members of the authorized organization at such bingo game by the organization conducting the game.

(Ord. 89-07 § 27, 1989)

5-13.30 Bingo games to be conducted only on property owned.

An organization authorized to conduct bingo games pursuant to this chapter shall conduct a bingo game only on property owned or leased by it, or property whose use is donated to the organization, and

which property is used by such organization for an office or for performance of the purposes for which the organization is organized. Nothing in the provision shall be construed to require that the property owned or leased by or whose use is donated to the organization be used or leased exclusively by or donated exclusively to such organization. The license issued under this chapter shall authorize the holder thereof to conduct bingo games only on such property, the address of which is stated in the application. In the event the described property ceases to be used as an office and as a place for the performance of the purposes for which the licensee is organized, the license shall have no further force or effect. A new license may be obtained by the eligible organization upon its qualifying for a license as set forth in this chapter.

(Ord. 89-07 § 28, 1989)

5-13.31 Minors not to participate.

No person under the age of eighteen (18) years shall be allowed to participate in any bingo game.

(Ord. 89-07 § 29, 1989)

5-13.32 Intoxicated persons not to participate.

No person who is intoxicated shall be allowed to participate in a bingo game.

(Ord. 89-07 § 30, 1989)

5-13.33 Hours of operation.

No bingo game shall be conducted between the hours of midnight and 10:00 a.m., except where authorized by the license.

(Ord. 89-07 § 31, 1989)

5-13.34 Participants to be present.

No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place in which the bingo game is being conducted.

(Ord. 89-07 § 32, 1989)

5-13.35 Use of credit prohibited.

No licensee shall issue chips, checks, tokens, markers or money to a patron on credit or loan (including, but not limited to, IOU's and checks to be held) or allow any person to play on credit.

(Ord. 89-07 § 33, 1989)

5-13.36 No admission charge.

No fee, donation, dues or other charge shall be imposed as a requirement for admission or entry onto any licensed bingo premises.

(Ord. 89-07 § 34, 1989)

5-13.37 Receipt of profits prohibited—Penalties.

It shall be a misdemeanor under subsection (b) of Section 326.5 of the Penal Code of the State and this section for any person to receive or pay a profit, wage or salary from any bingo game authorized pursuant to this chapter, and all persons are hereby prohibited from violating said sections. A violation of subsection (b) of said Section 326.5 and this provision shall be punishable by a fine not to exceed ten thousand dollars (\$10,000.00), which fine shall be deposited in the General Fund of the City. A violation of any other provision of this chapter or of Penal Code Section 326.5 is a misdemeanor.

(Ord. 89-07 § 35, 1989)

5-13.38 Injunctive relief.

The City may bring an action to enjoin a violation of Section 326.5 of the Penal Code or of this chapter.

(Ord. 89-07 § 36, 1989)

Chapter 14 GRAFFITI CONTROL

Sections:

[5-14.01 Purpose.](#)

[5-14.02 Graffiti defined.](#)

[5-14.03 Graffiti prohibition.](#)

[5-14.04 Sale and possession of pressurized paint cans.](#)

[5-14.05 Removal of graffiti.](#)

[5-14.06 Violation.](#)

5-14.01 Purpose.

The purpose of this chapter is to provide a program for removal of graffiti from walls and structures on both public and private property and to provide regulations designed to prevent and control the further spread of graffiti in the City of Avenal. The increase of graffiti on both public and private buildings, structures and places is creating a condition of blight within the City which results in a deterioration of property and business values for adjacent and surrounding properties all to the detriment of the City. The City Council finds and determines that graffiti is obnoxious and a public nuisance which should be abated so as to avoid the detrimental impact of such graffiti on the City and to prevent the further spread of graffiti.

(Ord. 91-11 (part), 1992)

5-14.02 Graffiti defined.

For the purposes of this chapter "graffiti" shall mean the unauthorized spraying of paint or marking of ink, chalk, dye or similar substances on public or private buildings, structures and places.

(Ord. 91-11 (part), 1992)

5-14.03 Graffiti prohibition.

It is unlawful for any person to paint, chalk, or otherwise apply graffiti on public or privately owned permanent structures located on public or privately owned real property with the City.

(Ord. 91-11 (part), 1992)

5-14.04 Sale and possession of pressurized paint cans.

The following regulation shall apply to the sale and possession of pressurized paint cans in the City:

- (a) No person shall sell any pressurized can containing any substance commonly known as paint or dye to anyone under the age of eighteen (18) years and no person under the age of eighteen (18) years shall purchase any pressurized can containing paint or dye.
- (b) No person shall have in his or her possession any pressurized can containing any substance commonly known as paint or dye while in any public park, playground, swimming pool or recreational facility in the City. This section shall not apply to authorized employees of the City or an individual or authorized employee of any individual, agency or company under contract with the City.

(Ord. 91-11 (part), 1992)

5-14.05 Removal of graffiti.

Graffiti may be removed by application of any of the following methods:

- (a) Any person applying graffiti within the City shall have the duty to remove the same within twenty-four (24) hours after notice by the City or the public or private owner of the property involved. Failure of any person to so remove graffiti shall constitute an additional violation of this chapter. Where the graffiti is applied by juveniles, the parent or parents shall be responsible for such removal or for the payment therefor.
- (b) Whenever the City Manager or his/her designated representative determines that graffiti is so located on public or privately owned structures on public or privately owned real property with this City so as to be capable of being viewed by person utilizing any public right-of-way in this City, the Police Chief, or his/her designated representative, is authorized, upon City Council approval, to provide for the removal of the graffiti solely at the City's expense, without reimbursement from the property owner upon whose property the graffiti has been applied, upon the following conditions:
 - (1) In removing the graffiti the painting or repair of a more extensive area shall not be authorized.
 - (2) Where a structure is owned by a public entity other than this City, the removal of the graffiti may be authorized only after securing the consent of the public entity having jurisdiction over the structure.
 - (3) Where a structure is privately owned, the removal of the graffiti by City forces or by a private contractor under the direction of the City may be authorized only after securing the consent of the owner.
- (c) Graffiti located on privately owned structures on privately owned real property within the City so as to be capable of being viewed by a person utilizing any public right-of-way in this City may be removed by the City at the owner's expense as a public nuisance pursuant to the following provisions:
 - (1) Whenever the City Manager or his/her designated representative is apprised of the presence of graffiti located on privately owned real property within the City, the City Manager or his/her designated representative may cause a written notice to be served

upon the owner of the affected premises as such owner's name and address appears on the last equalized assessment roll by depositing a copy of the notice in the U.S. Postal Service enclosed in a sealed envelope and with the postage thereon fully prepaid. The mail shall be registered or certified and addressed to the owner at the last known address of the owner, and if there is no known address, then in care of the property address. The service is complete at the time of such deposit. "Owner," as used herein, means any person in possession and also any person having or claiming to have any legal or equitable interest in the premises as described by a preliminary title search from any accredited title company. The failure of any person to receive such notice property shall not affect the validity of any proceeding hereunder. The property owner shall have seven (7) days after the date of the notice to remove the graffiti or be subject to City removal of the graffiti and assessment of the costs of such removal as a lien on the subject property.

The notice shall be substantially in the following form:

NOTICE OF INTENT TO REMOVE GRAFFITI

Date:

NOTICE IS HEREBY GIVEN that you are required at your expense to remove or paint over the graffiti located on the property commonly known as , Avenal, California, which is visible to public view, within seven (7) days after the date of this notice; or, if you fail to do so, then City employees or private City contractors will enter upon your property and abate the public nuisance by removal or painting over of the graffiti. The cost of abatement by the City employees or its private contractors will be assessed upon your property and such costs will constitute a lien upon the land until paid.

All person having any objection to, or interest in said matters are hereby notified to submit any objections or comments to the City Manager for the City of Avenal or his/her designated representative within seven (7) days from the date of this notice. At the conclusion of this seven (7) day period the City may proceed with the abatement of the graffiti inscribed on your property at your expense without further notice.

The service of this notice shall be made on the day the notice is dated and by affidavit filed with the City Clerk.

- (2) A like notice shall also be posted at a conspicuous place on the premises upon which the graffiti is inscribed. The posting of this notice shall be made on the day the notice is dated and affidavit filed with the City Clerk.
- (3) If the owner fails to remove or cause the graffiti to be removed by the designated date, or such continued date thereafter as the City Manager or his/her designated representative approves, the City Manager or his/her designated representative shall so notify the City Manager and the City Manager shall cause the graffiti to be abated by City forces or private contract, and the City or its private contractor is expressly authorized to enter upon the premises for such purpose.
- (4) Should the City be required to abate the graffiti as a public nuisance, it shall follow the procedures set forth in Title 6, Chapter 5 of the Municipal Code of the City of Avenal regarding costs of abatement and assessment of the costs of such regulations of Title 6, Chapter 5 of the Municipal Code shall apply with full force and effect to this chapter. However, the notice of lien for purposes of this chapter shall be in form substantially as follows:

NOTICE OF LIEN

Title 5 PUBLIC WELFARE

(Claim of City of Avenal)

Pursuant to the authority vested by the provisions of Title 5, Chapter 14, Section 5-14.05 of the Avenal Municipal Code the City Manager of the City of Avenal did on or about the _____ day of _____, 19_____ cause the painting over or removal of graffiti at the premises hereinafter described in order to abate a public nuisance on said real property; and the City Council of the City of Avenal did on the ;#rule; day of _____, 19_____ assess the cost of such abatement upon the real property hereinafter described; and the same has not been paid nor any part thereof; and that said City of Avenal does hereby claim a lien on such costs of abatement in the amount of said assessment, to wit: the sum of _____ dollars; and the same shall be a lien upon said real property until the same has been paid in full and discharged of record.

The real property herein before mentioned, and upon which a lien is claimed, is that certain parcel of land lying and being in the City of Avenal, County of Kings, State of California and more particularly described as follows:

[insert property description]

DATED this ;#rule; day of _____, 19_____.

	<p>_____</p> <p>City Manager of</p> <p>the City of Avenal</p> <p>California</p>
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(Ord. 91-11 (part), 1992)

5-14.06 Violation.

Violation of any provision of this chapter shall be a misdemeanor.

(Ord. 91-11 (part), 1992)

Chapter 15 LOITERING

Sections:

[5-15.01 Loitering defined.](#)

[5-15.02 Loitering on public ways.](#)

[5-15.03 Loitering on commercial premises.](#)

[5-15.04 Violations.](#)

[5-15.05 Penalties.](#)

5-15.01 Loitering defined.

For purposes of this chapter, "loitering" shall mean and include standing around or moving slowly about, standing idly around, lagging behind, lingering, delaying or spending time idly.

(Ord. 92-04 (part), 1992)

5-15.02 Loitering on public ways.

It is unlawful for any person to loiter or stand in or upon any public highway, alley, sidewalk or crosswalk or other public way open for pedestrian travel or to otherwise occupy any portion thereof in such a manner as to unreasonably annoy or molest any pedestrian thereon or as to obstruct or unreasonably interfere with the free passage of pedestrians or vehicles.

(Ord. 92-04 (part), 1992)

5-15.03 Loitering on commercial premises.

- (a) It is unlawful for any person to loiter in or upon, or to enter into and remain upon, any commercial premises, such that a reasonable person would conclude that the person who is loitering at or upon, or who has entered into and remains upon, such premises:
 - (1) Does not have a purpose legitimately connected with the business or activity of the legal occupant of the premises; or
 - (2) Does not have a bona fide intent to exercise a constitutional right; or
 - (3) Is causing public inconvenience or annoyance; or
 - (4) Is loitering at or has entered into and remains upon the premises under circumstances which raise a reasonable suspicion of wrongful or criminal activity.
- (b) It is unlawful for any person to loiter at or near the entrance to or the exit from any commercial premises.

(Ord. 92-04 (part), 1992)

5-15.04 Violations.

It is unlawful for any person to refuse to comply with the lawful order of the Police, owner, occupant or agent thereof to leave a public way or commercial premises, or, after complying with such lawful order, to return within forty-eight (48) hours and to resume loitering as defined above.

(Ord. 92-04 (part), 1992)

5-15.05 Penalties.

Any person violating any provision of this chapter shall be guilty of an infraction punishable by a fine not exceeding two hundred fifty dollars (\$250.00).

(Ord. 92-04 (part), 1992)

Chapter 16 CITATION SYSTEM FOR JUVENILES, JUVENILE LOITERING AND CURFEW VIOLATIONS AND COST RECOVERY

Sections:

[5-16.01 Intent.](#)

[5-16.02 Infractions, penalties, continuing violations.](#)

[5-16.03 Daytime loitering by minors.](#)

[5-16.04 Minor curfew, loitering or wilful misconduct—Cost recovery.](#)

[5-16.05 Aiding or abetting.](#)

[5-16.06 Penalty for violation.](#)

[5-16.07 Severability.](#)

5-16.01 Intent.

To encourage juveniles to take advantage of education opportunities, to reduce the incident of daytime burglary, reduce losses to daytime juvenile crime, and in reducing juvenile truancy to develop a program to keeping juveniles out of the juvenile justice system.

(Ord. 95-13 § 1, 1995)

5-16.02 Infractions, penalties, continuing violations.

Notwithstanding any other provision of this chapter, when a person under the age of eighteen (18) years is charged with a violation of this chapter and a peace officer issues a notice to that minor to appear in court, the charge shall be deemed an alternate misdemeanor/infraction unless the minor requests that a petition be filed under Section 601 or 602 of the Welfare and Institutions Code. The amount of the fine imposed shall be set by the Court.

(Ord. 95-13 § 2, 1995)

5-16.03 Daytime loitering by minors.

It is unlawful for any minor under the age of eighteen (18) years, who is subject to compulsory education or to compulsory continuation education, to appear in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, public buildings, places of amusement and eating places, vacant lots or any unsupervised place, whether in a vehicle or not, between the hours of 8:00 a.m. and 3:00 p.m., on days when school is in session.

This section does not apply:

- (a) When the minor is accompanied by his or her parent, guardian, or other adult person having the lawful care or custody of the minor; or
- (b) When the minor is on an emergency errand directed by his or her parent or guardian or other adult person having lawful care or custody of the minor; or
- (c) When the minor is going or coming directly from or to their place of gainful employment or to or from a medical appointment; or

- (d) To students who have permission to leave a school campus for lunch or school related activity and have in their possession a valid, school issued, off-campus permit.

(Ord. 95-13 § 3, 1995; Ord. 2000-5, 2000)

5-16.04 Minor curfew, loitering or wilful misconduct—Cost recovery.

- (a) Determination by court. When, based on a finding of civil liability or criminal conviction for violations of curfew, daytime loitering (truancy) or wilful misconduct in violation of Welfare and Institutions Code Section 602, a minor, under eighteen (18) years of age, is detained for a period of time in excess of one hour, and such detention required the supervision of the juvenile offender by Avenal Police Department employee(s), the parent(s) or legal guardian(s) having custody or control of the minor shall be jointly and severally liable for the cost of providing such personnel over and above the services normally provided by said department.
- (b) Determination by Avenal Police Department or City Manager. As determined by the Avenal Police Department or City Manager, or their designee, the parent(s) or legal guardian(s) of a minor committing any public offense amounting to an act of wilful misconduct in violation of Welfare and Institutions Code Section 602, where police personnel provide services relating to the detention, processing, or supervision of minors that are over and above the normal services usually provided by the Avenal Police Department, may be assessed and billed for the cost of providing such personnel for such services beyond those normally provided by such department.
- (c) Appeal. Any person receiving a bill for police services pursuant to this chapter may, within fifteen (15) days after the billing date, file a written request appealing the imposition of said charges. Any billing sent pursuant to this section shall inform the billed party of the right to appeal the billing. Any appeal regarding such billing shall be heard by the City Manager, or his or her designee, as the hearing officer. Within ten (10) days after the hearing, the hearing officer shall give written notice of the decision to the appellant. Upon the filing of a request for an appeal, payment of the bill for the police services shall be suspended until notice of the decision of the hearing officer. If the appeal is denied in part or in full, the amounts due to the City shall be paid within thirty (30) days after notice of the decision of the hearing officer.

(Ord. 95-13 § 4, 1995; Res. No. 2010-64, 10-28-2010)

5-16.05 Aiding or abetting.

It is unlawful for any person to willfully or knowingly aid, abet or assist any minor in violating Section 5-16.03.

(Ord. 95-13 § 5, 1995; Ord. 2004-03 (part), 2004)

5-16.06 Penalty for violation.

Any parent, guardian, or other adult person having legal control or charge, permanent or temporary, of any minor person, who suffers or permits or lets, either willfully or negligently, such minor violate the provisions of this chapter, is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding one thousand dollars (\$1,000.00).

(Ord 2004-03 (part), 2004)

5-16.07 Severability.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(Ord. 2004-03 (part), 2004)

Chapter 17 DISPLAY OF ADULT MATERIAL

Sections:

[5-17.01 Legislative finding and authorization.](#)

[5-17.02 Definitions.](#)

[5-17.03 Display of adult material prohibited.](#)

[5-17.04 Violation—Penalty.](#)

[5-17.05 Public nuisance.](#)

5-17.01 Legislative finding and authorization.

The City Council does find that there exists and has existed an increasing trend towards display of adult materials at grocery stores, convenient stores, drug stores, video stores and other retail outlets within the City. This Council recognizes that businesses which sell sexually orientated materials possess serious objectional operational characteristics which when concentrated can have a deleterious affect upon adjacent areas. It is recognized that many persons are offended by the public display of certain sexual material. Further, such adult material is often displayed within the open view of children of tender years and is easily accessible to them. The City Council finds that this material is adverse to the public peace, morals and good order of young children. The Council further finds that it is in the best interest of the public safety, welfare and convenience of the City to prohibit the display of adult material and to adopt the following regulations so that adverse impacts upon young children are kept to a minimum.

(Ord. 96-01 (part), 1996)

5-17.02 Definitions.

As used in this chapter, the following words and phrases shall have the following meaning:

"Adult material" means all material that is defined as "harmful matter" in Section 313(a) of the California Penal Code. Adult material shall include, but not be limited to any magazine, newspaper, publication, poster, display, video recording or advertisement (including advertising appearing on the cover or wrapper of merchandise offered for sale or rent to the public) which contains on the outside any photograph, picture, drawing or depiction of any of the following:

- (1) The complete exposure of the entire nipple area or the entire areola area of any female breast; and
- (2) The complete exposure of the entire genitalia or buttocks of either males or females.
- (3) This definition of "adult material" does not include any art or photograph publication which devotes at least twenty-five (25) percent of the lineage of each edition to articles and advertisements dealing with the subjects of art or photography. Nor does this definition apply to any news periodical which reports or describes current events and which, from time to time, publish photographs or depictions of nude or seminude persons when describing cultures in which nudity or seminudity is indigenous to the population. The City Council finds that medical publications or bona fide educational publications do not usually publish on their covers any photograph or depiction which is included in the definition of adult material and that, therefore, it is not necessary to define this type of publication.

"Display" means exhibiting or exposing adult materials so that it is within open view of patrons, invitees and visitors to the premises where such material is located, or are visible from any public street, thoroughfare, sidewalk or pedestrian way or other residential or business premises except in a public place where minors are excluded and except where devices commonly known as blinder racks are placed in front of such material so that the lower two-thirds (2/3) of the material is not exposed to view. "Display" includes the exhibiting of adult material from newsracks or newspaper vending stands.

"Person" means any individual partnership, firm, association, corporation, or other legal entity.

(Ord. 96-01 (part), 1996)

5-17.03 Display of adult material prohibited.

No person shall display adult material or permit or allow the display of adult material.

(Ord. 96-01 (part), 1996)

5-17.04 Violation—Penalty.

Any person, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this chapter shall be guilty of a misdemeanor, punishable as prescribed in Section 17 of California Penal Code which states that every misdemeanor, except in cases when a different punishment is prescribed by any law of this State, is punishable by imprisonment in the County Jail not exceeding six (6) months or by a fine not exceeding one thousand dollars (\$1,000.00) or both. A violation may also be punishable as an infraction subject to the procedures set forth in Penal Code Section 19.6 and 19.7. Any violation of this chapter constitutes a separate offense for each and every day during which such violation is continued, as provided in Section 1-2.01 of this Code.

(Ord. 96-01 (part), 1996)

5-17.05 Public nuisance.

In addition to the criminal penalty provisions provided by this Code, violation of any section or sections of this chapter is declared to be public nuisance, and may be abated as such by the City.

(Ord. 96-01 (part), 1996)

Chapter 18 PARTIES IN RESIDENTIAL AND NONRESIDENTIAL ZONES

Sections:

[5-18.01 Definitions.](#)

[5-18.02 Certain noise prohibited.](#)

[5-18.03 Notification of liability.](#)

[5-18.04 Special security assignment.](#)

[5-18.05 Costs.](#)

[5-18.06 Collection of costs.](#)

[5-18.07 Appeals.](#)

5-18.01 Definitions.

As used in this chapter, unless the context otherwise requires, the following terms shall have the meanings ascribed to them respectively:

"Incident" means any response by the City of Avenal's Police Department to a loud or unruly assemblage which occurs more than twenty-four (24) hours apart from each other. Multiple responses which occur within twenty-four (24) hours of the first response shall be considered as one incident.

"Nonresidential zone" shall include all zones not included within the "residential zone" designation as defined in this section.

"Party" or "assemblage" shall mean a group of persons meeting together for social, recreational or amusement purposes.

"Residential zone" means residential zones as defined in this Code.

(Ord. 97-06 (part), 1997; Res. No. 2010-64, 10-28-2010)

5-18.02 Certain noise prohibited.

No person shall make, cause to suffer, or permit to be made upon any premises owned, occupied or controlled by him any unnecessary noises or sounds which are physically annoying to persons of ordinary sensitiveness or which are so harsh or so prolonged or unnatural or unusual in their use, time or place, as to occasion physical discomfort to the inhabitants of any residential and/or nonresidential zone.

(Ord. 97-06 (part), 1997)

5-18.03 Notification of liability.

When any loud or unruly assemblage occurs or is held, and the City of Avenal's Police Department is required to respond to the scene, whether or not in response to citizen complaints, and the senior Peace Officer at the scene determined that there is a threat to the public peace, health, safety or general welfare, then the senior Peace Officer shall notify the owner of the property and/or the person in charge of the property where the assemblage exists, and/or the person responsible for said assemblage, that such person or persons, or in the case of a minor, the parents and/or guardians of such minor, shall be held personally liable for the cost of providing additional law enforcement personnel on special security assignment over and above the normal services provided by the Police Department in response to such assemblage. Notification of liability shall be provided as follows:

- (a) Such person or persons shall be given a warning in the form of notification by the senior Peace Officer that the costs of any response by the Police Department totaling two (2) or more responses within twenty-four (24) hours at the same location, or totaling four (4) or more incidents within twelve (12) months to the same location, will be charged to such person.
- (b) Such notice may include a written notice, receipt of which is signed by the owner, responsible person or person in charge.

(Ord. 97-06 (part), 1997; Res. No. 2010-64, 10-28-2010)

5-18.04 Special security assignment.

The Police personnel necessarily utilized in responding to two (2) or more responses in twenty-four (24) hours, or four (4) or more incidents within any twelve (12) month period at the same location to control the threat to the public peace, health, safety or general welfare shall be deemed to be on special security assignment over and above the normal services provided and the owner of the property and/or the person in charge of the property where such assemblage occurs, and/or the person responsible for

such assemblage, shall be personally responsible for the costs of such special security assignment in an amount determined upon a cost accounting basis by the City of Avenal, or an agent thereof.

(Ord. 97-06 (part), 1997)

5-18.05 Costs.

The cost of any such special security assignment as described within this chapter, shall include damage to City/County property and/or injuries to city/county personnel. A fee charged will not be in excess of three thousand dollars (\$3,000.00) for a single response and/or incident.

(Ord. 97-06 (part), 1997)

5-18.06 Collection of costs.

The City of Avenal reserves its legal option to elect any other legal remedies to collect any costs and/or damages assessed under this chapter.

(Ord. 97-06 (part), 1997)

5-18.07 Appeals.

Persons who are held personally responsible for costs and/or damages under this chapter, may appeal such determination by filing a written notice of appeal with the City Council. The appeal must be filed within fifteen (15) days after receipt of the bill for costs and/or damages of a special security assignment under this chapter. The City Council shall hear and determine the appeal not less than ten (10) days, nor more than thirty (30) days following the filing of the appeal.

- (a) Persons filing a written notice of appeal with the City Council under this chapter, shall be notified by the City Clerk, by mail at least five (5) days prior to the hearing, of the date and time of the hearing of their appeal. The City Council reserves the right to continue the hearing date where necessary.
- (b) The City Council, by resolution, may establish rules of procedure for the conduct of hearing appeals.
- (c) A copy of the order of the City Council shall be mailed to the appellant, and to any other person requesting the same, by the City Clerk within five (5) working days after the hearing. The decision of the City Council shall be final and binding upon all parties to the appeal.

(Ord. 97-06 (part), 1997)

Chapter 19 REWARDS FOR INFORMATION LEADING TO ARREST AND CONVICTION

Sections:

[5-19.01 Purpose.](#)

[5-19.02 Offer of reward by resolution.](#)

[5-19.03 Filing claim.](#)

[5-19.04 Time of payment.](#)

[5-19.05 Anonymity of informant.](#)

[5-19.06 Decision by City Manager.](#)

5-19.01 Purpose.

The City Council finds that there have been and are a variety of crimes that are committed in the City of Avenal that are difficult to investigate and obtain sufficient evidence to apprehend and convict the responsible person without the cooperation of knowledgeable witnesses; that it would be in the best public interest for the protection and safety of persons and property within the City that there be a procedure for giving rewards to persons who furnish information that leads to the arrest and conviction of persons charged with crimes.

(Ord. 97-04 (part), 1997)

5-19.02 Offer of reward by resolution.

Specific authorization for offering a reward shall be by resolution of the City Council. Such resolution will incorporate by reference the provisions of this chapter, set forth the amount of reward, the crime to which it applies, and the terms and conditions in addition to those contained herein that will apply to a specific reward.

(Ord. 97-04 (part), 1997)

5-19.03 Filing claim.

Any person claiming a reward for information leading to the arrest and conviction of a person charged with a crime, must, within ten (10) days of furnishing such information complete and file with the Police Department a "claim for reward." Such claim form shall be provided by the Police Department and shall be in the following form:

CLAIM FOR REWARD

I, _____ (name), residing at _____ (address), hereby claim reward in the amount of _____ for information that I have voluntarily furnished to the Kings County Sheriff Department. This claim is made in accordance with Chapter 15, Title V of the Avenal Municipal Code and Resolution _____ of the Avenal City Council, a copy of which I have received.

I will cooperate with the Kings County Sheriff Department and the Kings County District Attorney to the extent of furnishing information and testifying at any hearing or trial.

I recognize that the reward is limited to the amount set forth in the Resolution and that other persons may claim this reward. In the event there is any dispute as to my entitlement to receive the reward or the amount, I agree to having his claim determined by the City Manager as set forth in Avenal Municipal Code Section 5-19.06.

I understand that payment of the reward is conditional upon the information/testimony that I furnished being of a type and nature that would, and did, lead to arrest and/or conviction of the defendant.

There has been no other offer or promise to me except as contained in the described Resolution.

Dated: date rule; Signed: _____

(Ord. 97-04 (part), 1997)

5-19.04 Time of payment.

Rewards as provided herein shall not be paid until a criminal case is closed by sentencing of the defendant. Rewards as provided herein shall not be paid upon judgment of acquittal of the defendant, dismissal of charges against the defendant, or upon the expiration of five (5) years from the date the information was furnished.

(Ord. 97-04 (part), 1997)

5-19.05 Anonymity of informant.

Upon request of the Sheriff of Kings County, and a finding by the City Council that it is in the best public interest, the name of the claimant for a reward may be deemed confidential information and kept anonymous.

(Ord. 97-04 (part), 1997)

5-19.06 Decision by City Manager.

The determination as to whether an individual(s) is qualified to receive a reward and the amount(s) and the persons who shall receive such a reward or proportion thereof, shall be subject to the sole discretion and approval of the City Manager after report and recommendation of the Sheriff of Kings County. The decision of the City Manager shall be final and without appeal to the City Council.

(Ord. 97-04 (part), 1997)

Chapter 20 TOBACCO SELF SERVICE DISPLAYS

Sections:

[5-20.01 Purpose.](#)

[5-20.02 Definitions.](#)

[5-20.03 Sale of tobacco product merchandise.](#)

[5-20.04 Penalty for violation.](#)

5-20.01 Purpose.

The City of Avenal has determined that in order to protect the health, safety and welfare of those citizens within the City and metropolitan area, under the age of eighteen (18) years, it is necessary to regulate the sale of tobacco products through self-service displays.

(Ord. 98-03 (part), 1998)

5-20.02 Definitions.

For the purposes of this section, the following definition(s) will apply:

"At least fifteen (15') feet away from the entrance" means within the premises of the licensed establishment and not outside those premises.

"Self service display" is intended to include any array and/or presentation of tobacco product merchandise by which a buyer may acquire possession of such tobacco product merchandise

without the assistance of the seller. For purposes of this section, a vending machine which dispenses cigarettes, cigars and/or chewing tobacco is intended to be included within this definition.

(Ord. 98-03 (part), 1998)

5-20.03 Sale of tobacco product merchandise.

- (a) Except as provided in subsection (b) of this section, it is unlawful for any person, business or tobacco retailer to sell, permit to be sold, display, or offer for sale any cigarette or tobacco product distributed from any self service display within the City of Avenal.
- (b) Cigarette and tobacco product self service displays will be located at least fifteen (15') feet away from the entrance of any premises issued an on-sale public premises license as defined in California Business and Professions Code 23039 by the Department of Alcohol Beverage Control to sell alcoholic beverages.

(Ord. 98-03 (part), 1998)

5-20.04 Penalty for violation.

It is unlawful for any person, business or tobacco retailer to violate any provision or to fail to comply with any of the requirements of this chapter. Any person, business or tobacco retailer violating any provision of this chapter, or failing to comply with any of this chapter's requirements, shall be punishable by (1) a verbal warning for the first offense; (2) a fine not to exceed five hundred dollars (\$500.00) for the second offense within one year; and (3) a fine not to exceed one thousand dollars (\$1,000.00) for the third offense within one year. Thereafter, any person business or tobacco retailer violating any provision of this chapter, or failing to comply with any of this chapter's requirements, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for a period not exceeding six (6) months, by a fine not exceeding one thousand dollars (\$1,000.00), or by both fine and imprisonment. Each such person, business or tobacco retailer shall be deemed guilty of a separate offense for each and every day or any portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted by such person, business or tobacco retailer and shall be deemed punishable therefore as provided in this chapter.

(Ord. 98-03 (part), 1998)

Chapter 21 HISTORIC PRESERVATION

Sections:

[5-21.01 Short title.](#)

[5-21.02 Purpose.](#)

[5-21.03 Definitions.](#)

[5-21.04 Historic Resources Commission.](#)

[5-21.05 Appointment and compensation of commission members.](#)

[5-21.06 Powers and duties of commission members.](#)

[5-21.07 Historic Resources Register.](#)

[5-21.08 Criteria for Historic Resources Register.](#)

[5-21.09 City Council deletions from the Register.](#)

[5-21.10 Provisions of the Code.](#)

[5-21.11 Maintenance of resources.](#)

[5-21.12 Appeal procedure.](#)

[5-21.13 Enforcement.](#)

[5-21.14 Effective date.](#)

5-21.01 Short title.

This chapter shall be known as the "historic preservation ordinance."

(Ord. No. 2008-02, 10-8-2008)

5-21.02 Purpose.

The purpose of the regulations and standards in this chapter is to promote the public welfare within the City of Avenal by providing for identification, protection, enhancement, and preservation of historic resources, such as buildings, structures, and other sites in the City, which reflect the City's social heritage and history, and continue to safeguard and protect such historic resources to benefit the community.

(Ord. No. 2008-02, 10-8-2008)

5-21.03 Definitions.

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

"Historic preservation," as applied in this chapter, means the identification, protection, enhancement, preservation, and use of historical resources, such as buildings, structures, sites, and districts within the City of Avenal, through various regulations and standards, whether such resources are publicly or privately owned.

(Ord. No. 2008-02, 10-8-2008)

5-21.04 Historic Resources Commission.

A Historic Resources Commission shall be formed to make recommendations to the City Council as to historic resources for designation and registration as historic resources in the City of Avenal. The staff shall perform a survey of historic resources within the City of Avenal and forward a list of such historical resources information to the Commission. The Commission shall further hold at least one public hearing before making any recommendations to the City Council regarding designation or registration of any historical resource from this list or other resources that may be reviewed by the Commission. The Commission's recommendations regarding such resources shall be forwarded to the City Council, which shall hold at least one public hearing before taking action on any recommendation. The Commission shall receive input from City officials prior to making any recommendations to the Council. City officials shall follow applicable laws. The Commission shall keep minutes of meetings, and shall appoint a Chairperson and pro tempore to preside at meetings and otherwise.

(Ord. No. 2008-02, 10-8-2008)

5-21.05 Appointment and compensation of commission members.

The Historic Resources Commission shall consist of five members. All five members shall be appointed for a term of three years. Each member shall serve without compensation and shall be appointed by a majority of the City Council, and have interest in the area of historic preservation or a related field. Vacancies for an unexpired term shall be filled by appointment through a majority of the City Council. Removal of a member for not attending multiple meetings or other reason pertaining to the best interest of the community shall require a majority vote of the City Council.

(Ord. No. 2008-02, 10-8-2008)

5-21.06 Powers and duties of commission members.

The Historic Resources Commission shall have the power, along with the duty, to perform the following acts:

- (1) To keep a register of historic resources within the City of Avenal;
- (2) To make recommendations to the City Council regarding additions or deletions of historic resources from the register and on preservation issues;
- (3) To make recommendations to the City Council regarding design review applications affecting designated historic resources and regarding applications for permits involving the alterations of historic resources, including demolitions;
- (4) To provide an appeal regarding historic resource matters within the Commission's authority involving the Planning Director and other City officials;
- (5) To explore means for the preservation and use of historic resources;
- (6) To promote protection of historic resources deserving of recognition; and
- (7) To encourage private efforts to raise funds for historic development, but no authority is granted to the Commission to acquire property or interest on behalf of the City.

(Ord. No. 2008-02, 10-8-2008)

5-21.07 Historic Resources Register.

Upon establishment of the Historic Resources Register after review by the Historic Resources Commission and City Council, with input from City officials thereto, sites within the City shall be designated and made a part of the register. City officials shall initially conduct a survey of potential historic resources within the City, for review by the Historic Resources Commission and the City Council.

(Ord. No. 2008-02, 10-8-2008)

5-21.08 Criteria for Historic Resources Register.

The criteria, for designation of a proposed resource, shall include the following:

- (1) The proposed resource or district identifies with a person or group making a significant contribution to the heritage or history within the City; or
- (2) The proposed resource or district identifies as an interest to the community or significant value as part of the City's heritage or history; or
- (3) The proposed resource or district identifies as the location of a significant historic event involving the City's heritage or history; or

- (4) The proposed resource or district identifies as outstanding or exemplary elements of architectural design or craftsmanship of a particular historic period; or
- (5) The proposed resource or district identifies as a source, site, or other repository of significant interest involving the heritage or history of the community.

(Ord. No. 2008-02, 10-8-2008)

5-21.09 City Council deletions from the Register.

Upon recommendations by the Historic Resources Commission to the City Council, a resource or district shall not be deleted from the register, unless one of the following determinations has been made related thereto by the City Council:

- (1) The resource or district has been demolished or destroyed by natural or man-made means; or
- (2) The resource or district no longer conforms to any of the findings in Section 5-21.08 of this chapter, or has a clearly-established diminished historic significance; or
- (3) The resource or district cannot be restored, rehabilitated, or stabilized, without causing an economic hardship disproportionate to property's historic value; or
- (4) The resource or district is not being properly maintained by the owner, which poses a significant danger, hazardous condition, or nuisance to the community.

Deletions from the register shall require review by both the Historic Resources Commission and City Council, with input by City officials following the applicable law.

(Ord. No. 2008-02, 10-8-2008)

5-21.10 Provisions of the Code.

Any designations on the Historic Resources Register and other actions related to historic resources under this chapter will require compliance with the City of Avenal Municipal Code and other applicable law. Property owners will be required to comply with any code, including, but not limited to obtaining permits, or other city requirements, including holding the City harmless and liability insurance requirements. The Planning Director and other City officials shall conduct a survey under this chapter and provide input to the Human Resources Commission and City Council based on applicable law.

(Ord. No. 2008-02, 10-8-2008)

5-21.11 Maintenance of resources.

No routine maintenance or repair of any architectural or historical feature, including, but not limited to any exterior painting, brick, or any other interior or exterior work related to the historical value or significance, may be commenced unless first approved by the City Planning Director. Each owner of a designated historical resource shall be required to maintain and keep the resource free of danger or other hazardous conditions, and to keep such resources in a manner that encourages their reasonable uses, and to prevent deterioration and decay. As noted in Section 5-21.09, each owner must comply with any City requirements.

(Ord. No. 2008-02, 10-8-2008)

5-21.12 Appeal procedure.

Any applicant or other interested person dissatisfied with any decision made under this chapter may appeal such decision in writing with reasons for the appeal within sixty (60) days of the adverse decision to the Historic Resources Commission and, subsequently, to the City Council. Appeals shall be heard by

the Historic Resources Commission within forty-five (45) days, and by the City Council within forty-five (45) days after the appeal decision by the Historic Resources Commission, consistent with agenda preparation procedures and schedule of the hearing body. Any appeals under this chapter shall be accompanied by the applicable city fee to cover the cost of handling the request.

(Ord. No. 2008-02, 10-8-2008)

5-21.13 Enforcement.

The Planning Director, or other city official authorized by the City Manager, shall be authorized to enforce provisions of this chapter and to take such action as may be necessary to ensure compliance with any of the regulations, standards, and other City requirements. Such action may also include, but not be limited to, filing a court action.

(Ord. No. 2008-02, 10-8-2008)

5-21.14 Effective date.

This chapter shall go into effect immediately upon its passage.

(Ord. No. 2008-02, 10-8-2008)