

Title 7 PUBLIC WORKS

Chapters:

Chapter 1 - STATE VIDEO FRANCHISES

Chapter 2 - SIDEWALKS, CROSSWALKS, CURBS, GUTTERS, AND DRIVEWAYS

Chapter 3 - TREES

Chapter 4 - UNDERGROUNDING UTILITIES

Chapter 5 - STREET NAMES

Chapter 1 STATE VIDEO FRANCHISES ^[1]

Sections:

[7-1.01 Purpose and application.](#)

[7-1.02 State video franchise and PEG fees.](#)

[7-1.03 Audit authority.](#)

[7-1.04 Customer service penalties under state franchises.](#)

7-1.01 Purpose and application.

This chapter is designed to regulate video service providers holding state video franchises and operating within the City of Avenal.

(Ord. No. 2010-04, § 1, 10-28-2010)

7-1.02 State video franchise and PEG fees.

- (a) Any state video franchise holder operating within the boundaries of the City shall pay a fee to the City equal to five (5) percent of the gross revenue of that state video franchise holder.
- (b) Any state video franchise holder operating within the boundaries of the City shall also pay the City a fee equal to one (1) percent of the gross revenue of that state video franchise holder, which fee shall be used by the City for any Public, Educational, and/or Government (PEG) purposes consistent with state and federal law.
- (c) Any state franchisee that has held a locally issued franchise agreement shall, consistent with Public Utilities Code Section 5870, continue to fully provide and support PEG channel facilities and institutional networks and to provide cable services to community buildings to the maximum extent permitted by law.
- (d) Gross revenue, for the purposes of (a) and (b) above, shall have the definition set forth in California Public Utilities Code Section 5860.

Title 7 PUBLIC WORKS

(Ord. No. 2010-04, § 1, 10-28-2010)

7-1.03 Audit authority.

Not more than once annually, the City Manager or the City Manager's designee may examine and perform an audit of the business records of a holder of a state video franchise to ensure compliance with Section 4.2.

(Ord. No. 2010-04, § 1, 10-28-2010)

7-1.04 Customer service penalties under state franchises.

- (a) The holder of a state video franchise shall comply with all applicable state and federal customer service and protection standards pertaining to the provision of video service.
- (b) The City shall have the right to monitor the compliance of state video franchise holders with respect to state and federal customer service and protection standards. The City Manager or the City Manager's designee will provide the state video franchise holder written notice of any material breaches of applicable customer service standards, and will allow the state video franchise holder thirty (30) days from the receipt of the notice to remedy the specified material breach. Material breaches not remedied within the 30-day time period shall be subject to the following penalties to be imposed by the City Manager or designee:
 - (1) For the first occurrence of a violation, a fine of up to five hundred dollars (\$500.00) may be imposed for each day the violation remains in effect, not to exceed one thousand five hundred dollars (\$1,500.00) for each violation.
 - (2) For a second violation of the same nature within twelve (12) months, a fine of up to one thousand dollars (\$1,000.00) may be imposed for each day the violation remains in effect, not to exceed three thousand dollars (\$3,000.00) for each violation.
 - (3) For a third or further violation of the same nature within twelve (12) months, a fine of up to two thousand five hundred dollars (\$2,500.00) may be imposed for each day the violation remains in effect, not to exceed seven thousand five hundred dollars (\$7,500.00) for each violation.
- (c) A state video franchise holder may appeal a penalty assessed by the City Manager or the City Manager's designee to the City Council within sixty (60) days of the initial assessment. The City Council shall hear all evidence and relevant testimony and may uphold, modify or vacate the penalty. The City Council's decision on the imposition of a penalty shall be final.

(Ord. No. 2010-04, § 1, 10-28-2010)

FOOTNOTE(S):

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Editor's note— Ord. No. 2010-04, § 1, adopted Oct. 28, 2010, repealed the former title 7, chapter 1, §§ 7-1.01—7-1.04, and enacted a new chapter 1 as set out herein. The former chapter 1 pertained to similar subject matter and derived from Ord. No. 2010-03, § 1, adopted Sept. 9, 2010. ([Back](#))

Chapter 2 SIDEWALKS, CROSSWALKS, CURBS, GUTTERS, AND DRIVEWAYS

Sections:

[7-2.01 Permits—Required.](#)

[7-2.02 Permits—Applications.](#)

[7-2.03 Permits—Fees.](#)

[7-2.04 Violations—Penalties.](#)

[7-2.05 Private improvements.](#)

[7-2.06 Safety hazards.](#)

7-2.01 Permits—Required.

It is unlawful for any person to construct or install, or cause to be constructed or installed, any sidewalk, crosswalk, curb, gutter, or driveway, where such structure is constructed of concrete or other permanent substance on or in any public street, alley, or other public way or easement dedicated to the public use in the City, without first obtaining a permit therefor as provided in this chapter or as otherwise provided in Section 7-2.05. No work on the construction or installation of any project as provided in this chapter shall be started, continued, or completed until an application has been made therefor and a permit issued therefor as provided in this chapter.

(Ord. 91-13 (part), 1991)

7-2.02 Permits—Applications.

The permits required by Section 7-2.01 of this chapter shall be issued by the Public Works Director or such other person as may be designated from time to time by resolution of the Council. Such applications shall be in writing and shall be signed by the person or his authorized agent, or by the authorized representative of the firm or corporation desiring or intending to construct or install, or cause to be constructed or installed, the particular improvement set forth in Section 7-2.01 of this chapter. Such applications shall set forth the nature of the project to be constructed or installed, its exact location and dimensions, and other pertinent facts. Such applications shall also show, by plot plan, profile, dimensions, and description, as the circumstances may require, the exact manner in which the construction or installation conforms to the official standards of location, grade, and specifications of construction and materials as are now, or may hereafter be, established by the City.

It shall be the duty of the issuing officer, before issuing a permit, to inspect the application, and he shall ascertain that the project described in such application conforms in every respect to the standards and specifications of the City then in force and effect. A permit shall be issued only if the project, as set forth in the application, conforms to such standards and specifications.

Applications shall be consecutively numbered, and each permit issued shall pertain solely to the application identified by number, date, and signatory for which the permit is issued.

7-2.03 Permits—Fees.

To cover the costs of setting grades, inspections, and the maintenance of appropriate records, the issuing officer shall collect a fee for each permit issued pursuant to the provisions of this chapter. The fee shall be established by the City Council by resolution.

(Ord. 91-06 § 23, 1991)

7-2.04 Violations—Penalties.

Any sidewalks, crosswalks, curbs, gutters, or driveways which have been installed by any person without obtaining written permission, or which are installed in a manner which does not conform to the provisions of the written permit, shall be subject to removal on the order of the Public Works Director.

Any person installing sidewalks, crosswalks, curbs, gutters, or driveways without first obtaining written permission from the Public Works Director shall be deemed guilty of an infraction and, upon conviction thereof, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.

7-2.05 Private improvements.

- (a) No encroachment permit is required for the following private improvements within that portion of the right-of-way between the property line and the back of the sidewalk: grass, ground cover, sprinklers, decorative rock/gravel, borders, mailboxes, private walkways, private driveways, (the noncircular type) fences no higher than three (3') feet, and street trees per City ordinance.
- (b) All other improvements, including private circular driveways, brick or concrete structures, brick or concrete fences, any fence or wall over three (3') feet in height, low voltage decorative lighting, or any other structures of a permanent nature, shall require an encroachment permit.

(Ord. 91-13 (part), 1991)

7-2.06 Safety hazards.

If any private improvement installed or constructed in the public right-of-way is, in the opinion of the City Manager or his designee, deemed to be a public safety hazard, the Manager or his designee may declare the improvement to be a public nuisance and the public nuisance shall be abated as such per Title 6, Chapter 5 of the Avenal Municipal Code.

(Ord. 91-13 (part), 1991)

Chapter 3 TREES

Sections:

[7-3.01 Planting certain kinds prohibited.](#)

[7-3.02 Public nuisances—Abatement.](#)

[7-3.03 Public nuisances—Abatement—Orders—Appeals—Hearings.](#)

7-3.01 Planting certain kinds prohibited.

It shall be unlawful for any person to plant any cottonwood, tamarack, or umbrella tree anywhere in the City.

(Ord. No. 2011-06, § 1, 6-9-2011)

7-3.02 Public nuisances—Abatement.

Any tree or shrub growing on private property, which tree or shrub is endangering, or which in any way may endanger, the security or usefulness of any public street, sewer, or sidewalk, is hereby declared to be a public nuisance, and the City may remove or trim such tree or may require the property owner to remove or trim any such tree. Failure of the property owner to remove or trim such tree after ten (10) days' written notice by the Public Works Director shall be deemed a violation of the provisions of this chapter, and the City may then remove or trim such tree and assess the costs thereof against the property.

7-3.03 Public nuisances—Abatement—Orders—Appeals—Hearings.

Appeals from orders made pursuant to the provisions of Section 7-3.02 of this chapter may be made by filing written notice thereof with the City Clerk within ten (10) days after such order is received, stating in substance that an appeal is being made from such order to the Council. The City Clerk shall thereupon call such appeal to the attention of the Council at the next regular meeting, at which time the appellant and the Public Works Director may present evidence. The action taken by the Council after such hearing shall be conclusive.

Chapter 4 UNDERGROUNDING UTILITIES

Sections:

[7-4.01 Definitions.](#)

[7-4.02 Hearings—Notices—Determinations.](#)

[7-4.03 Designation of Underground Utility Districts.](#)

[7-4.04 Unlawful acts.](#)

[7-4.05 Exceptions—Emergencies or unusual circumstances.](#)

[7-4.06 Other exceptions.](#)

[7-4.07 Notices to property owners and utility companies.](#)

[7-4.08 Responsibility of utility companies.](#)

[7-4.09 Responsibility of property owners.](#)

[7-4.10 Responsibility of the City.](#)

[7-4.11 Extensions of time.](#)

[7-4.12 Violations—Penalties.](#)

7-4.01 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) "Commission" shall mean the Public Utilities Commission of the State.
- (b) "District" or "Underground Utility District" shall mean that area in the City within which poles, overhead wires, and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provisions of Section 7-4.03 of this chapter.
- (c) "Person" shall mean and include individuals, firms, corporations, partnerships, and their agents and employees.

- (d) "Poles, overhead wires, and associated overhead structures" shall mean poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments, and appurtenances located aboveground within a District and used or useful in supplying electric, communication, or similar or associated services.
- (e) "Utility" shall mean and include all persons or entities supplying electric, communication, or similar or associated services by means of electrical materials or devices.

7-4.02 Hearings—Notices—Determinations.

The Council may from time to time set public hearings to ascertain whether the public necessity, health, safety, or welfare requires the removal of poles, overhead wires, and associated overhead structures within designated areas of the City and the underground installation of wires and facilities for supplying electric, communication, or similar or associated services. The City Clerk shall notify by mail all affected property owners, as shown on the last equalized assessment roll, and utilities concerned of the time and place of such hearings at least ten (10) days prior to the date thereof. Each such hearing shall be open to the public and may be continued from time to time. At such hearings all persons interested shall be given an opportunity to be heard. The decision of the Council shall be final and conclusive.

7-4.03 Designation of Underground Utility Districts.

If, after any such public hearing, as set forth in Section 7-4.02 of this chapter, the Council finds that the public necessity, health, safety, or welfare requires such removal and such underground installation within a designated area, the Council, by resolution, shall declare such designated area an Underground Utility District and order such removal and underground installation. Such resolution shall include a description of the area comprising such District and shall fix the time within which such removal and underground installation shall be accomplished and within which affected property owners shall be ready to receive underground services. A reasonable time shall be allowed for such removal and underground installation, having due regard for the availability of labor, materials, and equipment necessary for such removal and for the installation of such underground facilities as may be occasioned thereby.

7-4.04 Unlawful acts.

Whenever the Council creates an Underground Utility District and orders the removal of poles, overhead wires, and associated overhead structures therein, as provided in Section 7-4.03 of this chapter, it shall be unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ, or operate poles, overhead wires, and associated overhead structures in such District after the date when such overhead facilities are required by resolution to be removed, except such overhead facilities may be required to furnish services to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility services as set forth in Section 7-4.09 of this chapter, and for such reasonable time required to remove such facilities after such work has been performed, and except as otherwise provided in this chapter.

7-4.05 Exceptions—Emergencies or unusual circumstances.

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed ten (10) days, without authority of the Public Works Director, in order to provide emergency services. The Public Works Director may grant special permission on such terms as he may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use, or operate poles, overhead wires, and associated overhead structures.

7-4.06 Other exceptions.

The provisions of this chapter and any resolution adopted pursuant to the provisions of Section 7-4.03 of this chapter shall, unless otherwise provided in such resolution, not apply to the following types of facilities:

- (a) Any municipal facilities or equipment installed under the supervision and to the satisfaction of the City Engineer;
- (b) Poles or electroliers used exclusively for street lighting;
- (c) Overhead wires (exclusive of supporting structures) crossing any portion of a District within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a District, where such wires originate in an area from which poles, overhead wires, and associated overhead structures are not prohibited;
- (d) Poles, overhead wires, and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of 34,500 volts;
- (e) Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street;
- (f) Antennae, associated equipment, and supporting structures used by a utility for furnishing communication services;
- (g) Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, and concealed ducts; and
- (h) Temporary poles, overhead wires, and associated overhead structures used or to be used in conjunction with construction projects.

7-4.07 Notices to property owners and utility companies.

Within ten (10) days after the effective date of a resolution adopted pursuant to the provisions of Section 7-4.03 of this chapter, the City Clerk shall notify all affected utilities and all persons owning real property within the District thereby created of the adoption of such resolution. The City Clerk shall further notify such affected property owners of the necessity that, if they, or any person occupying such property, desire to continue to receive electric, communication, or similar or associated service, they, or such occupant, shall provide all the necessary facility changes on their premises so as to receive such services from the lines of the supplying utilities at a new location, subject to applicable rules, regulations, and tariffs of the respective utilities on file with the Commission.

Such notification by the City Clerk shall be made by mailing a copy of the resolution adopted pursuant to the provisions of Section 7-4.03 of this chapter to affected property owners as they are shown on the last equalized assessment roll and to the affected utilities.

7-4.08 Responsibility of utility companies.

If underground construction is necessary to provide utility services within a District created by any resolution adopted pursuant to the provisions of Section 7-4.03 of this chapter, the supplying utility shall furnish that portion of the conduits, conductors, and associated equipment required to be furnished by it under applicable rules, regulations, and tariffs on file with the Commission.

7-4.09 Responsibility of property owners.

- (a) Every person owning, operating, leasing, occupying, or renting a building or structure within a District shall construct and provide that portion of the service connection on his property between the

facilities referred to in Section 7-4.08 of this chapter and the termination facility on or within such building or structure being served, all in accordance with the applicable rules, regulations, and tariffs of the respective utilities on file with the Commission.

- (b) In the event any person owning, operating, leasing, occupying, or renting such property does not comply with the provisions of subsection (a) of this section within the time provided for in the resolution enacted pursuant to the provisions of Section 7-4.03 of this chapter, the City Engineer shall post written notice on the property being served and thirty (30) days thereafter shall have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to such property.

7-4.10 Responsibility of the City.

The City shall remove at its own expense all City-owned equipment from all poles required by the provisions of this chapter to be removed in ample time to enable the owner or user of such poles to remove the poles within the time specified in the resolution enacted pursuant to the provisions of Section 7-4.03 of this chapter.

7-4.11 Extensions of time.

In the event any act required by the provisions of this chapter or the resolution adopted pursuant to the provisions of Section 7-4.03 of this chapter cannot be performed within the time provided because of shortages of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience, or any other circumstances beyond the control of the actor, the time within which such act shall be accomplished shall be extended for a period equivalent to the time of such limitation.

7-4.12 Violations—Penalties.

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating any of the provisions of this chapter or failing to comply with any of its requirements shall be deemed guilty of an infraction and, upon conviction thereof, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.

Chapter 5 STREET NAMES

Sections:

[7-5.01 Regulations concerning street names.](#)

[7-5.02 Proposed street names.](#)

[7-5.03 Preliminary approval.](#)

[7-5.04 Approval of street designation.](#)

[7-5.05 Final approval.](#)

[7-5.06 Street name changes.](#)

7-5.01 Regulations concerning street names.

The following regulations shall apply to street names:

Title 7 PUBLIC WORKS

- (a) There shall be no duplication of or similarity to existing names of streets located within the City of Avenal.
- (b) The length of the name shall not exceed the capacity of a three (3') foot street sign plate.
- (c) In cases of subdivisions, a theme of names shall be encouraged to provide identity to the area and assist with emergency response.
- (d) Streets may be named for public officials only when the public official no longer holds office.
- (e) Streets named for persons shall utilize only the person's surname, not a first name or middle initial. An exception may be made if approved by the Council for a person who has made a significant historical contribution to the City or the area; however, the restrictions set forth in subsection (d) of this section still apply.

(Ord. 96-03 § 1 (part), 1996)

7-5.02 Proposed street names.

Requests or suggestions concerning street names shall be made in writing to the City Clerk of the City of Avenal, 919 Skyline Boulevard, Avenal, California 93204.

(Ord. 96-03 § 1 (part), 1996)

7-5.03 Preliminary approval.

Street name proposals shall be submitted to the Director of Public Works for preliminary consideration and approval. The Director of Public Works shall consider and determine the compatibility of the proposed name with the provisions of this section. The Director of Public Works shall then refer approved names to the Planning Commission for further consideration and approval.

(Ord. 96-03 § 1 (part), 1996)

7-5.04 Approval of street designation.

Once the Director of Public Works has given preliminary approval to a street name, the Planning Commission shall determine whether the designation following the name, such as "street," "road," "drive," "lane," "avenue," "court," or "place," is appropriate for the type of street being named. In making its determination, the Planning Commission shall take into consideration the appropriate designations generally utilized for different types of roadways, such as arterials, collectors, local streets and cul-de-sacs. The Planning Commission shall then make a recommendation and refer the matter to the City Council for final approval.

(Ord. 96-03 § 1 (part), 1996)

7-5.05 Final approval.

Once a proposed street name has been considered and approved by both the Director of Public Works and the Planning Commission, the proposed street name shall be submitted to the City Council. The proposed street name shall be placed on the City Council's consent calendar for final approval.

(Ord. 96-03 § 1 (part), 1996)

7-5.06 Street name changes.

Street name changes shall be accomplished in the following manner:

Title 7 PUBLIC WORKS

- (a) Prior to any street name change, the City Planning Commission shall give notice and conduct a public hearing. The Planning Commission shall then submit a report and recommendation to the City Council.
 - (b) Once the recommendation of the Planning Commission has been considered, the City Council may change the street name. Street name changes shall be accomplished by resolution, following the procedure for such changes set forth in Section 5026 of the Streets and Highways Code of the State of California, as it presently exists or may be hereafter amended or superseded.
 - (c) The Council City shall not be bound by the Planning Commission's recommendations or actions.
- (Ord. 96-03 § 1 (part), 1996)