Title 6 SANITATION AND HEALTH

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Chapter 1 ANIMALS AND FOWL

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6-1.01 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) "Division of Animal Control Services" shall mean that section of the local government, or its designated contract agent, which is specifically charged with the regulation and enforcement of laws dealing with animals within its jurisdiction.

(b) "Chief of Animal Control" shall mean that person designated as Director of Animal Control for the local government and his duly authorized officers.

(c) "Animal control shelter" shall mean the facilities provided for the impounding of animals.

(d) "Health Officer" shall mean that person appointed by the Board of Supervisors of the County and any other person duly authorized by him to act on his behalf.

(e) "Impoundment" shall mean the taking up and confining of an animal by the Chief of Animal Control.

(f) "Kennel" shall mean any enclosure, premises, building, structure lot, or area in or not which dogs or cats of at least four (4) months of age are kept, harbored, or maintained for commercial purposes.

(g) "Owner" shall mean a member of the household or business where an animal is being kept or a designated agent of that household or business.

(h) "Person" shall mean a fictional entity, such as a corporation, estate, association, partnership, or trust, as well as one or more individual human beings.

(i) "Animal Control Officer" shall mean any Animal Control Officer, Humane Officer, or other officer employed by the Department of Animal Control whose duties relate to the enforcement of this chapter.

6-1.02 Chief of Animal Control.

(a) Responsibility. The Chief of Animal Control shall be responsible for the enforcement of this chapter, and his duties shall include, but not be limited to, the following:

(1) To administer the animal control shelter and keep such records as may be required by law or by contract;

(2) To take up and impound animals which are in violation of this chapter or for the safekeeping of the animal to protect its health and welfare;

(3) To remove and dispose of the carcass of any animal found on any public highway, street, alley, or other place;

(4) To quarantine animals and to cooperate with the Health Officer; and

(5) To enforce the provisions of this chapter related to regulations and prohibitions as to the number, type, and location of animals.

(b) Enforcement. The Chief of Animal Control and his officers shall have the duty of enforcing this chapter and the laws of the State relating to the care, treatment, or impounding of animals or for the prevention of cruelty thereto.

(c) Authority to arrest. In the performance of their duties the Chief of Animal Control and his officers shall have the authority to issue notices to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 Part 2 of the Penal Code of the State for violations of State and Local animal control laws. This authority is based on Section 607 (b) and (g) of the Civil Code of the State.

(d) Authority to enter premises. The Chief of Animal Control shall have the right to enter upon any private or public property in the City of Avenal in order to examine or capture any dog thereon or therein; provided, however, that no such officer or employee shall have the right to enter a house, which is in use as residence without first having secured a search warrant therefore. The Chief of Animal Control is authorized to enter upon any premises upon which any animal is kept, for the purpose of taking up, seizing or impounding any animal found running at large, or staked, herded or grazing thereon, contrary to the provisions of this Code, or for the purpose of ascertaining whether such animal is registered as provided in this Code, or for the purpose of inspecting the premises to ascertain whether any law of the City or State relating to the care, treatment or impounding of dumb animals or the prevention of cruelty to dumb animals is being violated.

6-1.03 Rabies vaccinations.

Every dog owner, after his dog attains the age of four (4) months, shall procure every other year its vaccination by a licensed veterinarian with a canine anti-rabies vaccine approved by and in a manner prescribed by the State Department of Public Health.

6-1.04 Dog licenses.

(a) Requirements. The owner of every dog over the age of four (4) months owned and harbored in the City shall obtain an animal license therefor. New residents shall have sixty (60) days in which to acquire such license. The fee for such license shall be in accordance with the fee schedule provided by resolution. The fee paid for the licensing of spayed or neutered dogs shall be one-half (½) or less of such license upon the presentation of the proper certification. Any person who shall fail to pay such license fee after such fee is due, or such dog is required to be licensed, shall pay a penalty in accordance with the fee schedule. A license shall be obtained, but no license fee shall be payable, for the licensing of any dog which is being used for guide purposes by a handicapped resident of the City, or for a dog which has served as a member of the armed forces of the United States of America, or for any dog currently being used by a local law enforcement agency for the purposes of crime prevention or control.

(b) Exemptions. The licensing regulations of this chapter shall not be applicable to the following: dogs used for diagnostic purposes or research, the use having been approved by the State Board of Public Health pursuant to Section 1666 of the Health and Safety Code of the State; dogs which are owned by veterinarians licensed by the State and which are kept or maintained on the premises used by such veterinarians in their practice; and dogs kept by owners of pet shops for the purposes of sale, circuses, animal exhibits; or other enterprises maintaining dogs for sale which have been granted business licenses by the City.

(c) Tags. The Chief of Animal Control is hereby required to procure plates or tags having thereon the number of the license and figures indicating the year for which the fee has been paid, and he shall keep a record of the name of the owner or possessor and a description of the dog for which the license is issued and the number of the license, and he shall deliver such tag to the person paying for such license tag as provided by this chapter.

(d) Duplicate tags. Whenever a license tag has been stolen or lost, the owner or possessor of the dog for which the tag was issued, upon the payment of the required fee may receive a duplicate tag for the remaining portion of the licensed period.

(e) Wearing of tags by animals required. Any dog for which a license is hereby required shall have around its neck a suitable collar, having attached thereto such plate or tag with such inscription thereon as is required by this section.

(f) Records. The owner or operator of any kennel, animal breeding facility, pet shop, or any place or establishment where animals are sold shall keep a permanent record of the name, address, and phone number of the purchaser of any canine along with the breed, color, sex, and age of each canine sold or given away.

In addition, the owner or the operator shall forward such information to the Chief of Animal Control within thirty (30) days after any sale of transaction.

The Chief of Animal Control shall have the right to inspect the records during normal business hours related to sales or transactions under the provisions of this section.

6-1.05 Prohibited conduct.

No owner or possessor of any animal shall cause, permit, or allow the animal to do any of the following:

(a) To be upon any public street, sidewalk, park, school ground, any public property, or upon any unenclosed premises in the City unless the animal is properly licensed and saddled, harnessed, haltered, or leashed by a substantial chain, lead rope, or leash, which chain, lead rope, or leash shall be continuously held by some competent person capable of controlling such animal. All cats shall be exempted from the provisions of this section;

(b) To trespass upon any private property without the consent of the owner thereof, and it shall further be unlawful for the owner or keeper of any animal, after receiving written notice by registered mail from any owner or tenant of private property, to allow or permit the animal to remain upon the property or to habitually continue to trespass thereon;

(c) To suffer or permit such animal to habitually bark or act in such a manner as to continuously disturb the peace of any citizen or otherwise be a public nuisance; and

(d) To be without proper and adequate food, water, shelter, care, and attention pursuant to Section 597F of the Penal Code of the State.

(e) To wilfully abandon any dog or other animal with the City.

(f) To keep any hive of bees within two hundred (200) feet of any residence, hospital, sanitarium, public eating place, school, church, office building, store, hotel, apartment house, roominghouse, or any other place of habitation. This section shall not apply to the keeping of bees within an educational institution for study or observation, or within a physician's office or laboratory for medical research, treatment, or other scientific purposes, provided they are not permitted to fly at large.

(g) To keep the stable, barn, stall, pen, coop, building, or place in which any animal, fowl or bird is kept in an unclean and unsanitary condition.

(h) To slaughter or cause to be slaughtered any animal within two hundred feet of any residence, hospital, sanitarium, public eating place, school, church, office building, store, hotel, apartment house, roominghouse, or any place of habitation. This subsection shall not apply to the slaughter of animals within an educational institution for study or observation, or within a laboratory or such other facility which has been approved for such use. In areas where slaughtering is allowed, the entrails must be buried on-site to a depth of at least three feet within two hours of slaughtering or shall be picked up and disposed of in an approved manner.

(Ord. 84-09 § 1, 1984)

6-1.06 Animals to be impounded.

Every animal kept or found in violation of the provisions of this chapter may be taken up and impounded by the Chief of Animal Control. Such animal may be redeemed by the owner or person entitled to its possession within seventy-two (72) hours thereafter on the payment of such fees and

charges as provided by resolution, but, if not so redeemed, such animal may be destroyed by the Chief of Animal Control. If no person appears and redeems said dog within seventy-two (72) hours from the giving of the notice as herein provided, the person in charge of the impound facility may cause and direct the dog to be sold or may cause and direct the dog to be placed with a home by such person to be suitable. The receipt for the sale thereof, shall be a valid title to the purchaser, subject, however, to the right of redemption as set forth in this chapter.

In order to reduce the likelihood that dogs allowed to be at large shall breed unwanted animals, any dog impounded for being at large which previously has been redeemed from the Animal Control Shelter after impoundment for being at large shall be spayed or neutered at the redeeming owner's expense prior to a second or subsequent redemption. The Chief of Animal Control may waive this requirement when there are extenuating circumstances that justify waiver.

To ensure the sterilization of a redeemed animal, the owner shall be required to pay a seventy-five dollar ($75.00) deposit to the City of Avenal prior to redeeming his/her dog for spaying or neutering. This amount may be increased or decreased as the law changes and/or is modified. If the animal is not sterilized within fourteen (14) business days from the date of redemption/payment of deposit, the deposit shall be forfeited to the City. Once the animal has been sterilized, as evidenced by a written statement signed by a licensed veterinarian, the entire deposit will be refunded to the owner within thirty (30) days of the owner providing such evidence to the City. The forfeited funds may be expended only for programs to spay/neuter dogs and cats.

In the event the Chief of Animal Control determines that a dog shall be spayed or neutered at the redeeming owner's expense prior to redemption, the Chief of Animal Control shall notify the owner of this requirement in writing and inform the owner of the owner's right to appeal as provided in this section.

The owner of the animal may, prior to the date specified by the Chief of Animal Control in the written notice, appeal the determination of the Chief of Animal Control by filing a notice of such appeal with the Chief of Animal Control. The City Manager shall appoint a hearing officer, who may be an employee of the City.

The hearing shall be informal. The hearing officer shall determine, based on evidence presented, whether the Chief of Animal Control correctly determined that the requirement to spay or neuter applies, and if so, whether there are any extenuating circumstances which justify waiver of the requirement to spay or neuter, or waiver of the requirement that the owner pay for the procedure. The decision of the hearing officer shall be final.

(Ord. No. 2011-03, § 1, 3-24-2011)

6-1.07 Diseased or vicious animals.

Whenever the Chief of Animal Control shall have reasonable cause to believe that any animal, either licensed or unlicensed, is diseased or vicious or dangerous to any person or other animal, the Chief of Animal Control is hereby directed to take custody of such animal and impound the animal in a safe place for such period of time as is required in order to observe, examine, and determine whether or not such animal is diseased or vicious or dangerous or constitutes a menace to the public health or safety. It shall be the duty of the Chief of Animal Control to observe and examine any such animal and determine whether the animal is diseased or vicious or dangerous or does constitute a menace to the public health or safety. If it is so determined, it shall be unlawful for any person to continue to maintain such animal; otherwise, such animal shall be returned to the owner or person entitled to its possession.

6-1.08 Notices to owners of animals impounded.

Within twenty-four (24) hours after the impoundment of any animal, the Chief of Animal Control shall notify the owner or possessor of the animal, if known, that the animal has been impounded and the date of impounding. If the owner or possessor of such animal is not known to the Chief of Animal Control, the

Chief shall maintain records of such impoundment for at least thirty (30) days after the date of the impoundment.

6-1.09 Hearings following impoundment.

Any owner or possessor of any animal impounded pursuant to this chapter that is (a) found to be without proper and adequate food, water, shelter, care, and attention; or (b) found to be diseased or vicious or dangerous to any person or other animal or has bitten any person or other animal shall be entitled to a hearing conducted by the City Manager, Health Officer, or designee into such seizure within ten (10) days following such impoundment provided such owner or possessor files a written request with the Chief of Animal Control within three (3) days following the notice of such impoundment. In any case, such owner or possessor shall be liable for all costs related to such seizure.

6-1.10 Redemption.

The owner or person entitled to the control or custody of any animal impounded, at any time before the sale or other disposition thereof, may redeem the animal by paying all the proper fees and charges thereon made by virtue of any of the provisions of this chapter. Whenever such animal is redeemed, the person redeeming shall receive from the Chief of Animal Control duplicate receipts for the same. The Chief of Animal Control shall give to any person redeeming such animal a receipt for the redemption money.

6-1.11 Redemption fees.

The fees for animal shelter services in impounding and caring for animals shall be by type of animal as follows, and no animal shall be released by its owner or possessor before such fees as are provided by resolution are paid in full:

(a) Type A: Horse, mare, mule, ass, bull, ox, calf, or other animal of similar size;

(b) Type B: Sheep, lamb, goat, hog, or other animal of similar size;

(c) Type C: Dog;

(d) Type D: Cat; and

(e) Type E: Bird, fowl, rabbit, hamster, rodent, or other animal not specified or set forth in this section.

6-1.12 License fees to be paid upon redemption.

If a license fee has not been paid for the then current period for any impounded dog, the party redeeming, before redemption, shall pay such license fee.

6-1.13 Records of impounded animals.

The Chief of Animal Control shall keep a record of the number of all animals impounded, showing in detail, in the case of each animal, the description, date of receipt, the date and manner of disposal, the name of the person redeeming or purchasing, the fees and charges and proceeds of sales received on account thereof, and such additional records as may be required.

6-1.14 Epidemics.

The County Department of Health and Welfare may determine and declare that rabies are epidemic or that another unusually dangerous health situation exists around dogs and other animals in the jurisdiction, or in any part thereof. Upon the making of such description, the Health Officer shall prepare and promulgate such rules and regulations as are necessary for the control of the dogs and other animals within such area. Such rules and regulations of the Health Officer may include, but are not limited to, the quarantine, vaccination, and destruction of diseased or suspected or stray animals by humane methods. It shall be the duty of the Chief of Animal Control to assist the Health Officer in carrying out such rules and regulations.

6-1.15 Duty to report bites.

It shall be the duty of any person having knowledge that any animal has bitten a human being to report the fact immediately to the County Department of Health and Welfare, the Chief of Animal Control, or the local law enforcement agency having jurisdiction and to furnish complete information thereof.

6-1.16 Right to contract for animal control services.

The Council may contract for animal control service with the County or any humane society or other organization, corporation, or association upon such terms and conditions as may be agreeable.

6-1.17 Penalties for violations.

Any person who commits any act declared by any provision of this chapter to be unlawful, or who violates the provisions, or fails to comply with the mandatory requirement of any section or portion of this chapter shall be punishable as for an infraction. Every violation shall be punishable by:

(a) A fine not exceeding Fifty and no/100ths ($50.00) Dollars for a first violation;

(b) A fine not exceeding One Hundred and no/100ths ($100.00) Dollars for a second violation of this chapter within one year; and

(c) A fine not exceeding Two Hundred Fifty and no/100ths ($250.00) Dollars for each additional violation of this chapter within one year.

6-1.18 Use of license and other revenue.

All revenue derived from the fee schedule (except for board fees), and all revenue derived from fines, forfeitures, and penalties related to the enforcement and administration of these provisions, shall go to the general fund.

6-1.19 Interference with officer.

It shall be unlawful for any person in any manner to interfere or attempt to interfere with any duly authorized enforcement officer engaged in the performance of any duty imposed or authorized by this chapter, or for any person to unlawfully take or attempt to take any dog or other animal seized pursuant to the provisions of this chapter from the custody of such officer, or for any person to remove or attempt to remove from impoundment any dog or other animal without first having redeemed such dog or animal as provided in this chapter, or without first having obtained the permission of such officer to do so.

6-1.20 Vicious dogs.

It shall be unlawful for any person to permit any vicious dog owned by such person, or under his control, to run at large. Any dog which viciously attacks other dogs or animals, or which has once bitten or otherwise has physically attacked a human being without reasonable provocation, shall be conclusively presumed to be vicious.

Any dog which has been taken into custody as the result of a complaint under this section shall be held by the Animal Control Division of the City at the cost and expense of the owner of such dog pending a resolution of the charges so filed and until a determination is made of the case.

When the charge has been finally determined, the court, in addition to other penalties imposed by this chapter, may order that the dog be destroyed.

Chapter 2 SOLID WASTE MANAGEMENT

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6-2.01 Liberal construction.

In order to protect the health, safety and welfare of the residents of the City of Avenal and to promote an improvement in visual and physical quality of the environment, the City Council has determined that it is necessary to adopt a coordinated City-wide program for the safe, economical and efficient collection, storage. transportation and disposal of solid waste, and to assure adequate standards of service for the collection, storage, transportation and disposal of solid waste. This chapter shall be liberally construed for the accomplishment of these purposes.

(Ord. 94-05 § 1, 1994)

6-2.02 Applicability.

This chapter regulates the storage, segregation, collection, transportation, processing and disposition of solid waste, greenwaste, medical waste, recyclables, special wastes, tires, and white goods generated within the City of Avenal.

(Ord. 94-05 § 2, 1994)

6-2.03 Responsibility to manage solid waste.

It is declared that it is in the interest of public health and safety that the City control and manage the segregation, storage, collection, transportation, processing and disposal of solid waste in the City of Avenal.

(a) In this regard, the City is responsible for all aspects of management of solid waste. It may carry out this responsibility itself or it may contract with persons to conduct such work.

(b) The City has full authority to regulate the collection, transportation, segregation, storage, processing, and disposal of solid waste, including recyclables within the jurisdiction of the City of Avenal.

(Ord. 94-05 § 3, 1994)

6-2.04 Rules and regulations.

The City Council shall, by resolution, establish additional rules and regulations to administer and carry out the policy and purpose of this chapter as from time to time appear to be in the best interest of public health, safety, and welfare.

(Ord. 94-05 § 4, 1994)

6-2.05 Administration of chapter.

The Utilities Director is charged with the administration of this chapter and the rules and regulations adopted by the City Council. The Utilities Director is authorized to make necessary and reasonable policies and procedures with respect to the accumulation, collection, transportation, processing, recycling. and disposal of various types of solid waste, consistent with this chapter. The Utilities Director and the Health Officer shall have the authority to enter, at any reasonable hour, upon the premises of any person

regulated by this chapter to determine compliance with this chapter and the rules and regulations adopted by the City Council.

(Ord. 94-05 § 5, 1994)

6-2.06 Definitions.

Except as otherwise provided herein, the words and phrases used in this chapter shall be interpreted consistent with the definitions set forth in Public Resources Code Section 40100 et seq., the Health and Safety Code Section 25110 et seq., and Title 14 California Code of Regulations Section 17225 et seq. The definitions set forth below shall apply throughout this chapter.

"Act" means the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000 et seq.) and all regulations adopted under that legislation, as may be amended from time to time.

"Agricultural solid waste" means manures, culls, prunings or crop residues resulting from the production, packing or processing of farm or agricultural products.

"Buy back facility" means a facility which receives source separated materials.

"Cleanup people" means those individuals or firms exclusively providing solid waste cleanup and removal services at residential, commercial, industrial, institutional or governmental locations.

"Collection vehicle" or "equipment" means any vehicle or equipment used in the collection of residential, commercial, industrial, institutional or governmental solid waste.

"Collector" means any person or firm who is engaged in solid waste collection services.

"Compost" means the product resulting from the controlled biological decomposition of organic wastes that are source separated from the municipal solid waste stream or which are separated at a centralized facility.

"Composting facility" means a permitted solid waste facility at which composting is conducted and which produces compost.

"Container" means any bin, roll-off box, vessel, can or receptacle used for the collection of solid waste for removal, whether owned by the collector, property owner or tenant.

"Contract" means a solid waste collection contract entered into pursuant to Section 6-2.16(a).

"Contract collector" means the person or firm under contract with the City pursuant to Section 6-2.16(a).

"Council" means the City Council of the City of Avenal.

"Food waste" means all residential, commercial governmental, and institutional food product waste.

"Garbage" means the putrescible animal, fish, fowl, food, fruit, bakery goods or vegetable matter resulting from the preparation, storage, processing, handling, decay, distribution, manufacturing or consumption of such substance except suet, tallow, bones or meat trimmings that are not rejected by the owner or producer as worthless or useless.

"Greenwaste" means all grass clippings, leaves, branches and tree trunks and other yard waste generated at residential, commercial, governmental or institutional properties within the City.

"Health Officer" means the Health Officer of Kings County or his/her authorized representative.

"Litter" means all improperly discarded solid waste, including, but not limited to, convenience food, beverage and other product packages or containers constructed of steel, aluminum, glass, paper, plastic and other natural and synthetic materials thrown or deposited on lands and waters of the state, but not including the properly discarded waste of the primary processing of agriculture, mining, logging, saw milling or manufacturing pursuant to California Code of Regulations, Title 14, Section 17225.42.

"Local Enforcement Agency" means the agency which has been designated under the California Integrated Waste Management Act as the Local Enforcement Agency within Kings County. The current Local Enforcement Agency is the County Health Department.

"Material recovery facility" means a facility designed to recover, process, and dispose of solid waste for the purpose of performing salvage and then disposing of the residual solid waste at an approved solid waste disposal site.

"Medical waste" means biohazardous waste; sharps waste; waste which is generated or produced, as a result of the diagnosis, treatment or immunization of human beings or animals, in research pertaining thereto or in the production or testing of biologicals pursuant to California Health and Safety Code Section 25023.2.

"Nuisance" means anything which is injurious to human health or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

"Occupant" means every owner, tenant, leasee or person having care or control of any property or premises.

"Person" means any individual, firm, association, partnership, political subdivision, governmental agency, district, municipality, public or private corporation, for profit or nonprofit, or any other entity whatsoever.

"Premises" means a tract or parcel of land with or without habitable buildings or appurtenant structures.

"Public Works Director" means the Public Works Director of the City of Avenal or his authorized representative.

"Putrescible waste" means organic material with a decomposition capacity to emit noticeable quantities of odor and gaseous byproducts. Material in this category includes, but is not limited, to kitchen waste, dead animals, and food waste.

"Recyclables" means solid waste that has a value. Material in this category includes, but is not limited to, aluminum, glass bottles and jars, paper, newspaper, cardboard, plastic containers, tin and bi-metal, white goods, yard or greenwaste, and other materials which can be processed and returned to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

"Salvage" means the following:

(1) Verb. Segregation of recyclables from the solid waste stream by the generator of that solid waste and preparation for sale by the generator, at a profit, in the commercial market.

(2) Noun. Solid waste which has been prepared by the generator at the site where generated and which is saleable as a commodity.

"Service area" means the geographic area designated by the City Council in which the solid waste is collected pursuant to Section 6-2.18.

"Solid waste" means all putrescible or nonputrescible solid and semisolid waste including, but not limited to, recyclables, refuse, garbage, rubbish, trash, decaying vegetable and animal matter, ashes, street refuse, greenwaste, industrial waste, swill, offal, tin cans, paper, medical solid waste, and other offensive or nauseous substances excepting the following: agricultural solid waste, liquid-carried industrial wastes, sewage, medical waste, and hazardous or extremely hazardous waste as defined and regulated by State Law.

"Solid waste collection" means the commercial act of collecting, removing, or transporting solid waste generated at residential, commercial, governmental, industrial, or institutional sites within the incorporated territory of the City of Avenal, and hauling it to a facility for processing, transfer or disposal.

"Solid waste facility" means a disposal site, buy back facility, material recovery facility, transfer station, or a site that engages in any solid waste processing, or any facility specified in the Public

Resources Code Section 40194. Solid waste facility shall include a commercial or industrial business conducting salvage of recyclables, but shall exclude private residences engaged in the salvage of solid waste generated on the premises for their own purposes.

"Solid waste processing" means the reduction, separation, composting, recovery, salvage, conversion or recycling of solid waste and any activity conducted in a solid waste facility.

"Solid waste separation" means the placement of recyclables in separate containers or bags, or the physical separation of recyclables from other solid waste. The term segregation shall be interchangeable with separation.

"Special waste" means solid waste which has characteristics which make it unsuitable for collection and/or processing by regular or routine methods, including but not limited to, tires, large white goods, demolition debris. These wastes shall be collected and/or processed separately from the regular collection and processing procedures.

"Source separation" means the separation or segregation of solid waste, at the place of generation or production, of wastes and resources for separate collection, processing, recycling, reuse, recovery or disposal.

"Utilities Director" means the Utilities Director of the City of Avenal or his authorized representative.

"White goods" means kitchen or other large appliances.

"Yard waste" means leaves, grass, weeds, and wood materials from trees and shrubs.

(Ord. 94-05 § 6, 1994)

6-2.07 Solid waste management standards.

The City Council shall by resolution establish standards for the storage, collection, and transportation of solid waste, based on the recommendations of the Health Officer, Public Works Director and the Utilities Director. The City Council may from time to time revise these standards.

(Ord. 94-05 § 7, 1994)

6-2.08 Solid waste separation requirements.

Except as set forth in Section 6-2.09(c), all persons within the City shall separate all recyclable from all other solid waste generated at their premises and dispose of it only in accordance with the standards established by the City Council. Such standards shall be by resolution and may be amended from time to time as may be required to meet the requirements of the Act.

(a) The standard shall generally provide as follows:

  (1) Require source separation of solid waste;

  (2) Require placement of recyclables into different containers so as to facilitate segregation at a solid waste facility.

(b) An owner, landlord or agent of an owner or landlord of a multi-family rental housing property, mobile home park, trailer park or recreational vehicle park with (3) or more units, shall comply with its separation responsibilities by establishing a collection and storage system for separated recyclables at each premises.

(c) No person shall tamper or meddle with any refuse receptacle. No person other than the owner thereof, the owner's agents or employees, or the City, or a licensed refuse collector shall remove the contents from any refuse receptacle. No person, other than the City or the City's authorized agent, shall remove recyclable materials which have been segregated from other wastes and placed at a designated collection location for the purpose of collection and recycling by the City or the City's authorized agent.

(Ord. 2000-03, 2000: Ord. 94-05 § 8, 1994)

6-2.09 Health and safety issues.

(a) Private property shall be free of excess solid waste and litter. The owner, occupant and operator of any premises, business, establishment, or other property, vacant or occupied, shall be responsible for the safe and sanitary storage of all solid waste and recyclables accumulated on the property. The property shall be free of excessive amounts of solid waste and litter, except that manure or wood, leaves and other greenwaste may be accumulated, providing that no nuisance is created. What are excessive amounts of solid waste and litter shall be determined by the Health Officer.

(b) Providing waste collection containers.

(1) No person shall maintain or use any residence, place of business, or other building or place where persons reside, congregate or are employed which is not provided with means for the sanitary removal of all solid waste.

(2) No person shall place or dump any solid waste or any offensive, unsightly or decaying matter of any kind whatsoever anywhere in the City other than in an approved solid waste facility.

(3) No person shall place hot coals, hot ashes or other burning matter in any solid waste set out for collection.

(c) Disposition of animal carcasses. Every owner, occupant and operator of any real property situated within the City shall, upon reasonable notice given by the Health Officer, bury to a depth of at least three (3′) feet under the surface of the earth, or remove to a proper disposal site, all carcasses of dead animals which have died or are upon any part of such real property.

(d) Accumulation of solid waste to be removed. Whenever any solid waste has been thrown or deposited upon any street, road, or private or public premises, or has accumulated thereon, the Health Officer shall give written notice to the owner, tenant or person having charge or control of such street, road, or premises, to remove from the premises the substances so deposited or accumulated. It is unlawful for the owner, tenant or person having charge or control of the premises to neglect or fail to remove the solid waste from the premises within reasonable time, as determined by the Health Officer, after the receipt of the notice.

(e) Food waste and agricultural by-products.

(1) Food waste. The owner or occupant of any agricultural property may allow food waste to be accumulated, stored, disposed of, or used for stock feeding on the premises, as long as such food waste is not permitted to become a nuisance due to the breeding or attraction of flies or rodents, or from odors, or to create a hazard to the public health, safety or welfare, as determined by the Health Officer. All such agricultural operations shall comply with the Agricultural Solid Waste Management Standards, Title 14 of the California Code of Regulations, commencing with Section 17801.

(2) Agricultural by-products. Culled fruits and vegetables and agricultural by-products which cannot be used for animal feed, returned to the soil or recovered in another manner shall be disposed of only to an appropriate licensed disposal site. Agriculture by-products or wastes, not of plant or animal origin, such as nonhazardous packaging, plastic film or shop wastes, shall also be disposed of in an appropriate licensed disposal site.

(f) Special wastes. Special wastes shall be collected and/or processed separately from regular solid waste collection service. This waste shall not be placed in the waste containers, but shall be collected and/or processed as set forth in the resolution adopted pursuant to Section 6-2.07.

(Ord. 94-05 § 9, 1994)

6-2.10 Charges for collections.

Charge for services rendered in the collection, removal, and disposal of solid waste be fixed by resolution of the City Council and shall be collected by the City from the owner, occupant, tenant, landlord or agent of an owner or landlord of any residential, commercial, industrial, institutional or governmental property.

(Ord. 94-05 § 10, 1994)

6-2.11 Mandatory solid waste collection.

Mandatory service requirements. All persons within the City owning or in control of premises used as an occupied residence, place of business, or other building or place where persons reside, congregate or are employed shall subscribe to and thereafter use regularly scheduled solid waste collection service with the appropriate contract collector at each such premises.

(Ord. 94-05 § 11, 1994)

6-2.11.5 Mandatory recycling.

Mandatory recycling service requirements. All person within the City owning or in control of premises used as an occupied residence, place of business, or other building or place where persons reside, congregate or are employed shall subscribe to and thereafter use regularly scheduled mandatory recycling collection services with the appropriate contract collector at each such premises.

(Ord. 2000-01, 2000)

6-2.12 Establishment and re-establishment of credit.

As established by the City Council by resolution.

(Ord. 94-05 § 12, 1994)

6-2.13 Place of pickup.

(a) In all cases of dispute or complaints arising from or concerning the place where the solid waste and recycling receptacles shall be placed while awaiting the removal of their contents, the City Council, or their authorizing representatives, shall forthwith designate the place and its decision be final.

(b) Refuse and garbage containers shall not be placed adjacent to the street and/or collection area for pickup more that twenty-four (24) hours prior to pickup time, and such containers shall be removed within the twenty-four (24) hour period following pickup. Within the twenty-four (24) hour period following pickup, the refuse and garbage containers shall be placed in an area of which is as inconspicuous as practical so as to minimize its visibility from public areas.

(c) The violations of any of the provisions of Section 6-2.13 shall result in the following actions by the City:

  (1) First violation. A written notice of the violation shall be issued to the person in violation of Section 6-2.13 and a fine of fifty dollars ($50.00) shall be charged to such person as a one-time charge for such violation. Said person shall pay the full amount of such charge within thirty (30) days of the date of the issuance of the fine.

  (2) Second violation. A written notice of the violation shall be issued to the person in violation of Section 6-2.13 and a fine of one hundred dollars ($100.00) shall be charged to such person as a one-time charge for such violation. Said person shall pay the full amount of such charge within thirty (30) days of the date of the issuance of the fine.

(3) Third and subsequent violations. A written notice of the violation shall be issued to the person in violation of Section 6-2.13 and a fine of one hundred fifty dollars ($150.00) shall be charged to such person as a one-time charge for such violation. Said person shall pay the full amount of such charge within thirty (30) days of the date of the issuance of the fine.

(Ord. 2000-07, 2000; Ord. No. 2005-06, 6-23-2005)

6-2.14 Discontinuance and restoration of service.

(a) All bills for solid waste services shall be due and payable at the time as the bills are due and payable for water service. If a bill is not paid within the time provided for, the water service of the person to whom the charges are made may be discontinued until the amount of the deposit made to establish credit for the solid waste service has been fully absorbed.

(b) A customer may have his or her water service discontinued for nonpayment of the solid waste bill for service furnished at a previous location served by the City if the bill is not paid within thirty (30) days after presentation at the new location. The City shall have the right of refusing or ceasing to deliver water to a customer, if such person fails to comply with all the ordinances, resolutions and regulations of the City with regard to solid waste service.

(c) A customer may have his or her solid waste service discontinued by giving notice of his or her desire not less than two (2) days before its effective date. The customer shall be required to pay all charges up until the effective date stated on such notice. When notice is not given, the customer shall be required to pay for charges until two (2) days after the City has actual knowledge that the customer has vacated the premises, or otherwise has discontinued his or her solid waste and water service.

(Ord. 94-05 § 14, 1994)

6-2.15 Charges on premises where no water service charges are being made.

Charges for solid waste collection service shall be made only to the person(s) who also have the water service charge. Where premises are being used or occupied by any person who does not appear as the responsible person for water service charges on those premises, then the charges shall be made directly to the person who either owns or controls the premises, and who is chargeable for the water service charges.

(Ord. 94-05 § 15, 1994)

6-2.16 Solid waste collection.

All collectors of solid waste shall comply with the following:

(a) Except as otherwise provided in this chapter, it is unlawful for any person to undertake any solid waste collection in any area of the City without first entering into a contract with the City pursuant to Sections 6-2.19(a) through 6-2.19(f) of this chapter.

(b) The following persons are not required to enter into a solid waste collection contract:

(1) A person hauling special solid waste such as professional gardeners, and clean up people; persons collecting dead animals, bones, meat scraps, grease or other waste food products for rendering or animal food; collectors of tires, collectors of salvage from commercial or industrial premises, and persons who collect vegetable matter or food waste, without charge, for use as food for animals. The foregoing persons, however, shall be subject to the following provisions:

(i) Such hauling shall not replace the normal mandatory solid waste collection service regulated under the provisions of Section 6-2.11(a) of this chapter.

(ii) The above person shall register in accordance with Section 6-2.17 of this chapter.

(iii) Such persons shall comply with all applicable health and safety requirements and standards for the collection, storage, processing and transportation of solid waste.

(iv) Such operators shall comply with all reasonable and applicable policies and procedures made by the Utilities Director in accordance with Section 6-2.05 of this chapter.

(v) Nothing in this chapter shall be interpreted to prevent the maintenance of a household compost pile on private property.

(2) Persons who provide solid waste collection under license, permit, franchise or contract with other governmental entities within the City of Avenal.

(c) In addition to any other requirements of this chapter, each solid waste contract collector shall:

(1) Provide pickup service to all persons within the City of Avenal owning premises used as an occupied residence, place of business, or other building or place where persons reside, congregate or are employed;

(2) Commence the mandatory service and facilities within thirty (30) days after the effective date of the contract unless the City Council extends the time upon a showing of reasonable grounds by the contract collector;

(3) Provide solid waste collection service in compliance with the performance standards adopted by the City Council.

(d) Any person collecting, processing or transporting solid waste shall be responsible for the prevention of littering or the creation of a nuisance at the loading point, processing location, during transport, and during unloading operations.

(e) Each contract collector shall provide a minimum regular collection schedule for his or her customers within the territory specified in the contract. The schedule shall be set forth in the contract authorizing collection.

(f) The identification of solid waste and recyclables storage containers and vehicles used in the collection and transportation of solid waste shall be governed by Title 14 of the California Code of Regulations, Sections 17316 and 17344.

(g) Hauling of solid waste and parking of solid waste vehicles.

(1) The hauling of solid waste on public roads or highways shall be governed by California Vehicle Code Sections 23114 and 23115.

(2) The parking of solid waste collection vehicles shall be governed by Title 14 of the California Code of Regulations, Section 17343.

(h) Records required.

(1) Each contract collector shall keep and maintain such operating records as the Utilities Director may require to ascertain the extent of compliance with this chapter, and shall, if so requested by the Utilities Director, submit periodic reports of his or her operations.

(2) Each contract collector shall maintain a record of customer complaints, to include a record of the action taken to resolve each complaint. Such record shall be available for inspection by the Utilities Director for a period of at least three (3) years.

(i) Subject to the provisions of existing law, the vehicles and equipment of a contract collector may be inspected by the Health Officer at any reasonable time, at the point of operation or at the contract collector's service yard.

(j) The contract entered into under this chapter shall not be assignable or transferrable, either voluntarily or by operation of law, without the written permission of the City Council.

(k) As a condition of entering into a solid waste collection contract, the City Council shall establish terms and conditions under which containers for the collection of special waste shall be placed

in the contract collector's service area to serve the needs of the customers in such area. The contract collector shall provide for placing and handling of such containers and dispose of collected waste "free of charge" to the user.

(Ord. 94-05 § 16, 1994)

6-2.17 Registration of solid waste collection and processing.

(a) Except as set forth below, all persons who collect, remove, dispose of, transport, or process solid waste shall register with the City as set forth in Section 6-2.20 of this chapter. Persons subject to this requirement include, but are not limited to, collectors of special waste anywhere within the City of Avenal.

(1) Collectors of special waste anywhere within the City of Avenal.

(b) The requirements of this section do not apply to the following:

(1) Persons within their own residence, whether owned or rented, who perform salvage of solid waste generated at that location for their own purposes.

(2) All publicly operated solid waste facilities which operate under a State permit.

(Ord. 94-05 § 17, 1994)

6-2.18 Designation of City service area(s).

The City Council may divide the City into service areas for the purpose of solid waste collection therein. The service areas shall be shown on a map of the City kept on file with the City Clerk. In order to carry out the policy of this chapter the City Council, after notice and hearing as provided in Section 6-2.23 of this chapter, may in its sole discretion, modify, enlarge, divide, combine or otherwise apportion existing service areas and execute new or revised contracts for solid waste collection in the service area as modified, enlarged, divided, combined or otherwise apportioned.

(Ord. 94-05 § 18, 1994)

6-2.19 Solid waste collection contract.

The City Council may contract with collectors for exclusive rights to collect solid waste within specific service areas on a set schedule. The contract will be for a set term, and will be issued on a competitive basis.

(a) At times designated by the City Council, the City will solicit proposals from waste companies engaged in solid waste collection. The requests for proposals will be for removal of solid waste from any one or all of the service areas within the City.

(b) The solid waste collection proposal shall include the following information:

(1) The business address and, if different, any and all addresses where collection vehicles, operating equipment or other facilities are located or will be kept, and the zoning classifications of each such location;

(2) The name, address and telephone number of the applicant and all owners and officers of the business and their percentage of ownership;

(3) A description of all collection vehicles and equipment that the applicant owns or has under his or her control for the collection or transportation of solid waste including make, year of manufacture, mechanical condition, license number, and whether or not it is self-unloading;

(4) Types of service to be provided within a specified service area or portion thereof;

(5) The approximate number of customers to be served by the applicant, divided into the types of service;

(6) A schedule of rates proposed to be charged for each type of service and a discussion as to how the proposer desires to adjust rates over the term of the contract;

(7) A schedule of the frequency of service for each type of service;

(8) The term for which the proposer desires to have the contract;

(9) The disposal site where the applicant intends to dispose of the solid waste collected;

(10) If a joint venture or a partnership or a limited partnership, the names of all partners and their percentage of participation and their permanent addresses; if a corporation, the names and permanent addresses of all the officers;

(11) Such other information as the Utilities Director may require.

(c) The proposal shall be accompanied by the following documents:

(1) A map showing the service area or portion thereof in which the applicant proposes to provide solid waste collection service or by reference to a service area number shown on the map on file with the City Clerk;

(2) Security in the amount of ten thousand dollars ($10,000.00) in the form of a faithful performance bond, cash, negotiable bonds, instrument of credit, certificate of deposit, or such other security as may be acceptable to the City. Such security shall be subject to approval by the City Council and shall be maintained by the applicant during the entire term of the contract. The security is for the purpose of securing compliance with all of the terms and conditions contained in this chapter and for the protection of customers of the applicant;

(3) A policy or policies of liability and property damage insurance, and automobile and truck liability insurance, or certificates thereof, issued by a company or companies duly and legally licensed to transact business in the State of California, covering personal injuries, including wrongful death, and claims from property damage that may arise from the operation under the contract and operation of automobiles and trucks. Such insurance policy shall be issued at the expense of the applicant and maintained during the entire period that the contract is in force and shall contain a provision that the policy will not be cancelled without thirty (30) days prior written notice by the insurance company to the City of Avenal. Such insurance policy shall be in a form approved by the City Attorney and shall name the applicant and the City, the officers, employees and agents of the applicant and the City, as additional insureds. The minimum limits on the insurance shall be not less than one million dollars ($1,000,000.00) combined single limit for liability and one million dollars ($1,000,000.00) combined single limit for automobile and truck liability;

(4) Demonstrate to the satisfaction of the Utilities Director that the applicant has adequate experience in the collection and transportation of solid waste;

(5) Facts demonstrating that the applicant owns or has access to suitable facilities for the repair, maintenance, cleaning and storage of vehicles and equipment.

(d) The City Manager, Utilities Director and Public Works Director are responsible for the review and evaluation of proposals and will recommend which proposer should be selected as the contract collector.

(1) Prior to issuance of requests for proposals, the City Manager, Utilities Director and Public Works Director shall establish an objective criteria to be used in evaluating and selection of the preferred applicant. This criteria shall be included in the requests for proposals.

(2) The Utilities Director and Public Works Director shall review all proposals and make any investigations or inspections deemed necessary or appropriate and shall report within thirty

(30) days to the City Manager with recommendations, including any recommendations for special conditions relating to the proposal.

(3) The City Manager shall review all proposals and make such investigation as he or she deems necessary and appropriate to insure that cost effective and quality services are delivered.

(4) Upon the basis of the level of service proposed, the collection rates, any historical evidence as to the quality of service, the Utilities Director and the Public Works Director recommendations, evidence submitted and results of any investigations, the City Manager shall make a finding on the qualifications of the applicant(s) under this chapter. On the basis of his/her findings, the City Manager shall recommend to the City Council who should be granted the contract.

(e) The City Manager shall, with the approval of the City Clerk, establish a date for a hearing before the City Council on the issuance of the contract within a reasonable time after any required or appropriate investigations, inspections or audits are completed.

(1) The City Manager shall prepare a report to the City Council recommending who should be the contract collector within each service area. The report shall contain a discussion of the basis for the recommendation and it shall contain recommended terms and conditions to be included in the contract.

(2) Further notice of the hearing on the application shall be given to the general public by publication as prescribed by law.

(f) At the conclusion of the hearing on the proposal for a collection contract, the City Council may, in its sole discretion:

(1) Enter into or decline to enter into a contract subject to conditions or modifications deemed by the Council to be necessary to carry out the provisions of this chapter.

(2) The Council may enter into no more than one contract per service area, except as allowed in Section 6-2.18 of this chapter.

(3) The Council may place conditions on the contract which insure compliance with the requirements of this chapter and with the Act.

(4) The term of the contract shall be no less than one year and no more than five (5) years, as determined by the City Council.

(5) As a condition of the City entering into the contract, the applicant shall agree to appear and defend all actions against the City arising out of the exercise of the contract, and to indemnify and save the City, its officers, employees and agents harmless of and from all claims, demands, actions, or causes of action of every kind and description resulting directly or indirectly, arising out of, or in any way connected with, the exercise of the contract. The indemnification shall be a condition stated in the contract.

(g) Once the contract is in effect, the contractor may apply for a change in rates and/or a change in frequency and type of collection.

(1) An application for a rate increase or decrease or a change in frequency of service for a service area shall be filed with the City Manager who shall, with the approval of the City Clerk, establish a date and time for a hearing before the City Council on the issue of the rate increase or decrease or change in frequency of service, within a reasonable time after filing of the application, taking into consideration the need to give the public notice of the hearing as provided below.

(i) The City Clerk shall give written notice of the time and place of the hearing to the applicant and notice of the hearing to the general public by publication as required by this chapter.

(ii) The applicant shall give written notice to each customer within its service area. The notice shall state the fact of the contract collector's application for a rate increase or decrease or for a change in frequency of service and shall set forth the proposed schedule of rates or frequency of service, the proposed effective date for the revision, and the date, time and place set for the public hearing before the City Council on the application for the revision. The notice shall be mailed not more than sixty (60) days nor less than thirty (30) days prior to the date of the public hearing, followed by the filing of a declaration with the City Clerk certifying to the satisfaction of this notice requirement. The applicant shall make a good faith effort to perfect service of notice in compliance with this subsection, but the failure of any customers to receive such notice shall not affect in any manner the validity of any proceedings taken under this section.

(iii) In determining whether such changes in rates are reasonable, the City Council may consider the length of haul, types of solid waste collected, stored or transported, the number, types and locations of customers served, the frequency of service, the investment in equipment and facilities, the local wage scales, the cost of disposal, and any other factor deemed by the Council to be relevant to the cost of doing business to a fair profit to the contract collector, and to providing a sufficient and proper service to the public.

(2) Prior to the hearing, the Utilities Director may conduct an investigation of any proposed rate increase or decrease or change in frequency of service, including an audit of a contract collector's records. Upon completion of the investigation, the Utilities Director shall make a report and recommendation to the City Manager regarding the proposed rate increase or decrease or change in frequency of service.

(3) After the hearing, the City Council shall approve, disapprove or modify a proposed rate change or change in frequency of service based on the same standards established by this chapter, and on proposals for additional, better or more comprehensive service to the service area.

(Ord. 94-05 § 19, 1994)

6-2.20 Registration required.

Any person who must register as a solid waste processor shall furnish the information in accordance with the procedures set forth in Section 6-2.21 of this chapter, including the compliance with the reporting requirements.

(Ord. 94-05 § 20, 1994)

6-2.21 Reporting requirements.

All solid waste collectors and processors shall be required to prepare and submit a quarterly "report of solid waste processed" to the Utilities Director. This report shall be essential in monitoring the amount of solid waste diverted from landfilling. The report shall contain, at a minimum, the following information:

(a) The name of the person or firm conducting the solid waste processing;

(b) The type of solid waste processing conducted;

(c) The total tonnage of solid waste received for processing;

(d) The type(s) of and tonnage(s) of solid waste(s) processed as recyclables; and

(e) The destination of the solid waste processed as recyclables.

(Ord. 94-05 § 21, 1994)

6-2.22 Enforcement.

(a) Except as otherwise specifically provided in this chapter, the Utilities Director shall be responsible for the enforcement of this chapter and the rules and regulations adopted by the City Council.

(b) The Utilities Director and the Health Officer shall have authority to enter, at any reasonable hour, upon the premises of any person regulated by this chapter to determine compliance with this chapter and the rules and regulations adopted by the City Council.

(Ord. 94-05 § 22, 1994)

6-2.23 Written notices—Manner of giving.

With the exception of written notices required in Section 6-2.19(g)(1)(ii) of this chapter, written notices required by this chapter shall be personally delivered to the person entitled thereto, or sent by certified mail, postage prepaid, return receipt requested, to the person entitled thereto, addressed to a contract collector or applicant at his principal place of business as listed in his/her application. The Utilities Director, or other person charged with giving written notices, shall file a declaration with the City Clerk certifying to the date and the manner in which such notice was given. The person charged with giving such notice shall make good faith efforts to perfect service of notice, but the failure of any contract collector, applicant or other person to receive such notice shall not affect in any manner the validity of any proceedings taken thereunder.

(Ord. 94-05 § 23, 1994)

6-2.24 City Council decision final.

The determination of the City Council after conclusion of any hearing pursuant to this chapter shall be final. A contract collector may not submit a new request for an increase in the same class of rates or frequency of service determined adversely to him/her for a period of one year after such determination has been made, unless the Council finds that the public interest requires reconsideration of the matter within a shorter period of time.

(Ord. 94-05 § 24, 1994)

6-2.25 Penalties.

Unless otherwise specified, any person convicted of an infraction under the provisions of this Code shall be punishable for a first conviction by a fine of fifty dollars ($50.00), and for a second conviction within a period of one year by a fine of one hundred dollars ($100.00) and for a third or any subsequent conviction within a period of one year by a fine of two hundred fifty dollars ($250.00).

(Ord. 94-05 § 25, 1994; Ord. 2000-02, 2000)

6-2.26 Validity of chapter.

In the event any one or more of the provisions contained in this chapter shall, for any reason, be held to be invalid, illegal, unenforceable or unconstitutional in any respect, such invalidity, illegality, unenforceability or unconstitutionality shall not affect any other provisions hereof, and this chapter shall be construed as if the invalid, illegal, unenforceable or unconstitutional provision had never been contained herein.

(Ord. 94-05 § 26, 1994)

Chapter 3 SEWER SERVICES

Sections:

6-3.01 Definitions.

6-3.02 Connections—Applications.

6-3.03 Connections—Permits—Charges.

6-3.04 Connections—Charges—Sewer fund.

6-3.05 Sewer services—Charges.

6-3.06 Sewer services—Charges—Billing.

6-3.07 Sewer services—Charges—Vacancies.

6-3.08 Exceptions.

6-3.09 Administration and enforcement—Supplemental rules and regulations.

6-3.10 Grease interceptors required for new or newly renovated industrial facilities.

6-3.11 Grease interceptors required on industrial facilities with problem lines.

6-3.12 Grease interceptors for all industrial facilities.

6-3.01 Definitions.

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

"Business establishment" shall mean and include railroad depots, bus depots, laundries, restaurants, places of amusement, and any and all other commercial or business establishments or other institutions equipped with sanitary plumbing facilities.

"Living unit" shall mean a living quarter, whether located in a single house or other permanent place of abode, where one single family resides.

6-3.02 Connections—Applications.

Any person desiring to use the sanitary sewer system of the City shall make an application for such service on a form prescribed by the City.

6-3.03 Connections—Permits—Charges.

No person shall connect any lot or parcel of property to the sanitary sewer system of the City without a permit first being obtained from the City. No such permit shall be issued unless the required fees, where applicable, have been paid. Fees shall be established by resolution by the City Council.

(Ord. 91-06 §§ 7—10, 1991)

6-3.04 Connections—Charges—Sewer fund.

Funds received from sewer connection charges shall be deposited in the Sewer Fund and shall be used for the benefit of the sanitary and storm sewer systems of the City.

6-3.05 Sewer services—Charges.

All persons using the sanitary sewer system of the City shall pay for such service at the rates established by resolution of the City Council.

(Ord. 91-06 §§ 11—13, 1991)

6-3.06 Sewer services—Charges—Billing.

All charges for sewer services, as set forth in Section 6-3.05 of this chapter, shall be paid at the same times as water and gas utility charges are paid to the City, and such charges shall be billed upon the same statements mailed to customers. In any cases where utility charges are billed to different persons for the same location, the sewer service charges shall be billed to the person charged for domestic water service.

6-3.07 Sewer services—Charges—Vacancies.

At the time of the payment of the current bill, any apartment house owner or operator may receive credit for any apartment in the apartment house which has remained vacant for a period of thirty (30) days prior thereto by filing an affidavit with the City Clerk so stating. No sewer service charge shall be collected for living units or places of business which have remained vacant for a period of thirty (30) days or more. Vacancies shall be deemed to commence from the date of the request for the shut-off of domestic water service to the particular house or place of business.

6-3.08 Exceptions.

The provisions of this chapter shall not apply while contract sewer charges are being paid.

6-3.09 Administration and enforcement—Supplemental rules and regulations.

The City Manager may make such rules and regulations as may be necessary or desirable to aid in the administration and enforcement of the provisions of this chapter.

6-3.10 Grease interceptors required for new or newly renovated industrial facilities.

The owner of every newly constructed, remodeled, or converted commercial or industrial facility with one or more grease-generating activities, including food service facilities with new or replacement kitchens, for which a building permit is issued on or after July 1, 2009, shall install or cause to be installed a grease interceptor for each grease-generating activity, of a size equal to or greater than the minimum size meeting the definition of "grease removal device," as set forth in the operative edition (presently the 2007 Edition, section 209) of the Uniform Plumbing Code adopted by the California Building Standards Commission into the California Code of Regulations.

(Ord. No. 2009-02, § 1, 6-3-2009)

6-3.11 Grease interceptors required on industrial facilities with problem lines.

The owner of every commercial or industrial generator of grease, including food service facilities, serviced by a sewer collection line found to have a grease blockage, a history of grease blockage, or accelerated line maintenance resulting from grease disposal shall install or cause to be installed, upon notification by the superintendent of the plant, a grease removal device.

(Ord. No. 2009-02, § 1, 6-3-2009)

6-3.12 Grease interceptors for all industrial facilities.

The owner of every commercial or industrial generator of grease, including food service facilities, for which installation of grease removal devices is not required pursuant to Sections 6-3.10 and 6-3.11, shall install or cause to be installed a grease removal device for each grease-generating activity, on or before November 16, 2009.

(Ord. No. 2009-02, § 1, 6-3-2009)

Chapter 4 WATER SERVICES

Sections:

6-4.01 Availability.

6-4.02 Applications—Form.

6-4.03 Establishment of credit—Prerequisite to obtaining water service.

6-4.04 Establishment of credit—Deposits.

6-4.05 Service connections—Installation—Fees.

6-4.06 Service connections—Charges.

6-4.07 Water services—Charges.

6-4.08 Water services—Charges—Billings—Delinquencies.

6-4.09 Industrial users—Excessive demands.

6-4.10 Waste of water—Wilful violations.

6-4.11 Waste of water—Accumulations.

6-4.12 Waste of water—Irrigating faucets, hoses, and nozzles.

6-4.13 Waste of water—Connections.

6-4.14 Evaporative coolers—Feed-in water lines.

6-4.15 Water coolers—Discharge of wasted water.

6-4.16 Mechanical cooling devices—Water heater exchangers.

6-4.17 Interference with employees—Tampering with equipment.

6-4.18 Unlawful removal of meters and illegal hookups—Charges.

6-4.19 Supplemental rules and regulations.

6-4.01 Availability.

The City shall furnish water service pursuant to the provisions of this chapter, and in accordance with other applicable rules and regulations, to any property within the City and to such areas outside the City as the Council may designate.

6-4.02 Applications—Form.

Each applicant for water service shall be required to sign an application form provided by the Public Works Department, or make an application by letter, showing the date of the application, the location of

the premises to be served, the mailing address, the date the applicant desires water service, and such other information as may be required.

Applications for water service to premises for which a service connection has already been installed may be made as provided in this chapter. Such application shall signify the customer's willingness and intention to comply with the provisions of this chapter and to make payments for water service rendered.

If the application is made for service to property where no service connection has been installed but where a distribution main is adjacent to the property, the applicant, in addition to making an application for water service, shall comply with the provisions of this chapter governing the installation of service connections. Where an extension of the distribution main in excess of one hundred (100) feet is necessary or a substantial investment is required to furnish service, the applicant shall be informed by the Public Works Department as to whether or not the distribution facilities can be extended pursuant to the regulations set forth in this chapter.

6-4.03 Establishment of credit—Prerequisite to obtaining water service.

(a) Original establishment. Each applicant, before receiving water service, may be required to establish credit by either of the following methods:

  (1) A cash deposit to secure the payment of the water bills as set forth in Section 6-4.04 of this chapter; or

  (2) The use of service for more than one year during the last twelve (12) months of which the customer paid all water bills promptly without a disconnection for nonpayment.

(b) Reestablishment. To reestablish credit, a customer shall be required to pay all delinquent bills up to the time service was disconnected. The customer may be required to pay a reconnection charge and make a cash deposit as set forth in Section 6-4.04 of this chapter.

6-4.04 Establishment of credit—Deposits.

(a) Original establishment. The amount required to establish credit for water service shall be set by resolution of the City Council.

(b) Reestablishment. To reestablish credit, a customer may be required to deposit an amount equal to the amount required by Section 6-4.04(a).

(c) Delinquent accounts. The deposits required by the provisions of this section may be applied to delinquent bills for water service when such service has been discontinued. The Public Works Department may require the customer to deposit a specified amount before rendering water service again.

(d) Refunds. The deposits required by the provisions of this section, less the amount of any unpaid bills, shall be refunded, without interest, on the discontinuance of service. After the deposit has been held for twelve (12) consecutive months, the deposit shall be refunded upon an application therefor and the presentation of the deposit receipt provided service has been continuous and all bills for such service have been paid promptly.

The provisions of this section shall apply to the occupants of trailer houses located in established trailer parks in the City and in territory outside and adjacent to the City, as well as to any property within the City and outside the City.

(Ord. 91-06 §§ 14, 15, 1991)

6-4.05 Service connections—Installation—Fees.

Water service connections shall be installed in the size and at the location desired by the applicant where such requests are reasonable. Service connections shall be made only to the property abutting on

public streets or to such distribution mains as may be constructed in alleys or rights-of-way at the convenience of the Public Works Department. Service connections installed in new subdivisions prior to the construction of streets or in advance of street improvements shall be accepted by the applicant in the installed location. A connection fee shall be established by the City Council by resolution. Such fee shall be paid prior to the issuance of building permits.

(Ord. 91-06 § 16, 1991)

6-4.06 Service connections—Charges.

Charges for new service connections shall be as follows:

(a) Inside the City limits. Charges for new service connections shall be established by the City Council by resolution.

(b) Outside the City limits. Charges for new service connections shall be established by the City Council by resolution.

(c) Miscellaneous charges. Miscellaneous charges shall be established by the City Council by resolution.

(Ord. 91-06 § 17, 1991)

6-4.07 Water services—Charges.

All persons using the potable water system of the City shall pay for such service at the rates established by the City Council by resolution.

(Ord. 91-06 §§ 18—21, 1991)

6-4.08 Water services—Charges—Billings—Delinquencies.

(a) All bills for water service shall become due and payable on the date of presentation and shall become delinquent on the first day of the calendar month following the date of presentation.

(b) A customer's water service may be discontinued if a bill is not paid within fifteen (15) days after such bill becomes delinquent. The service shall not be discontinued, however, until the amount of the deposit made to establish credit for that service has been fully absorbed.

(c) A customer's water service may be discontinued if water service furnished at a previous location is not paid for within fifteen (15) days after the presentation of a bill.

(d) If a customer received water service at more than one location and the bill for the service at any one location is not paid within fifteen (15) days after is presentation, water service at all locations may be turned off.

(e) All charges for water services, sewer services, refuse collection services, and any other services rendered by the City may be billed upon the same bill and collected as one item. If all or a part of such bill is not paid, any or all of the services for which the bill is rendered may be discontinued.

(f) If each case where any bill remains unpaid for sixty (60) days after such bill become delinquent, the City shall:

(1) Disconnect the premises from the water system for nonpayment of the water bill; and

(2) Cause an action at law to be brought on behalf of the City against the person responsible for the payment of such bill to recover the amount of such bill and the costs of such action.

6-4.09 Industrial users—Excessive demands.

The Public Works Department may interrupt or limit service to any industrial user where excessive demands by one customer shall result in inadequate or injurious service to others.

6-4.10 Waste of water—Wilful violations.

The wilful waste of water supplied by the Public Works Department shall be prohibited.

6-4.11 Waste of water—Accumulations.

It shall be unlawful for any person to draw, use, or consume any water furnished by or belonging to the City in such a manner as to allow such water to flow down gutters or streets, or to cause or allow pools of water to accumulate on vacant lots, or to in any other way wilfully or negligently waste water.

6-4.12 Waste of water—Irrigating faucets, hoses, and nozzles.

The use of water by means of an unattended open hose or open faucet for irrigation purposes shall be prohibited. All unattended hoses used for irrigation purposes shall have attached thereto a spray nozzle or sprinkling device.

6-4.13 Waste of water—Connections.

Each consumer of water shall keep all connections, faucets, hydrants, pipes, outlets, and plumbing fixtures tight and free from leakage, dripping, or waste of water.

6-4.14 Evaporative coolers—Feed-in water lines.

It shall be unlawful for any person to install, maintain, or use, or permit to be installed, maintained, or used, feed-in water lines to domestic evaporative coolers which lines are larger than one-fourth (¼″) inch in diameter.

6-4.15 Water coolers—Discharge of wasted water.

(a) All evaporative water coolers shall be equipped with recirculating pumps on or before June 1, 1977. All evaporative water coolers installed after June 1, 1977, shall also be equipped with recirculating pumps.

(b) No evaporative cooler shall be connected to the City sewer system without the prior permission of the Public Works Director.

(c) The Public Works Director shall turn off the water connection to any property where any provision of this section is being violated. Such water connection shall not again be turned on until the violation has been corrected to the satisfaction of the Public Works Department and the charges for the reconnection of water services have been paid in full.

6-4.16 Mechanical cooling devices—Water heater exchangers.

It shall be unlawful for any person to install, or cause to be installed, a water heater exchanger on any mechanical cooling device within the City.

6-4.17 Interference with employees—Tampering with equipment.

(a) It shall be unlawful for any person to prevent or interfere with an employee of the Public Works Department in the lawful discharge of his duties, or tamper with, injure, or destroy the lines, valves, fire hydrants, machinery, meters, property, or equipment of the Department, or take any water from the Department without first complying with the provisions of this chapter.

(b) No person shall interfere with or in any manner tamper with any water meter, pipe line, or water service facility of the department, and in the event that any person shall interfere with or tamper with any of the same so that repairs or adjustments are necessary, water service to such person shall be discontinued until the cost of making the necessary repairs or adjustments shall have been paid in advance. No by-pass or connection between a water meter and a water main shall be made or maintained without the permission, in writing, of the superintendent.

(Ord. 2000-08, 2000)

6-4.18 Unlawful removal of meters and illegal hookups—Charges.

(a) Unauthorized meter removal. It shall be unlawful for anyone other than an authorized employee of the Public Works Department to remove a meter without the permission of the City Manager. When a meter has been unlawfully removed, it shall be unlawful to use water supplied by the service to which the meter was attached.

(b) Illegal connection. When an authorized employee of the Public Works Department has shut off water from any premises upon the application of the owner or for nonpayment of water charge, or for any other cause, it shall be unlawful for any person except authorized employees of the Public Works Department to again connect such premises with the water system.

(c) Unmetered service. It shall be illegal for any person or entity to receive water from an unmetered City water source or from another person's or entity's water supply through use of piping, hoses, or taps into the water pipes or to knowingly permit an illegal water hookup to his or her system.

(d) Fines and penalties. For purposes of this chapter, each day of unauthorized service shall be deemed a separate offense. Persons and/or entities violating this section shall, in addition to any criminal penalties which may apply, be subject to the following fines and penalties:

(1) Service charge. Any owner or resident, or their agents or employees, acting in violation and/or allowing the violation of this section to exist on the subject property shall be responsible for all charges for water services rendered by the City as a result of the violation. Such charges shall be billed and administered in accordance with Section 6-4.08 of the Avenal Municipal Code.

(2) Fine. In addition to those charges provided for above, any owner or resident, or their agents or employees, acting in violation of and/or allowing the violation of this section to exist on the subject property shall be subject to a fine, which is due and payable to the City within fifteen (15) days, or such longer period as may be noted on the Notice of Abatement Citation, after mailing or posting of a Notice of Abatement Citation issued and served in accordance with the provisions set forth in Sections 6-5.06 and 6-5.07 of the Code. Unless otherwise amended by the City Council by resolution the fines assessed for violation of this section shall be in the following amounts:

Citation	**Amount of Fine**
First Notice of Abatement Citation	$100.00
Second Notice of Abatement Citation within six (6) months of First Notice of Abatement	$200.00

Third and any subsequently issued Notice of Abatement Citation within one year of First Notice of Abatement Citation	$500.00

(3) Disconnection. The City shall have the right to pursue any remedies allowed by law or equity to bring any violator into compliance including disconnection of all water services to the property until correction of the violation, and payment of all fines, fee and penalties assessed by the City under this section.

(e) Repair damage.

(1) In addition to the penalties and fines listed in subsection (d)(2) of this section, the owner of the property on which damage has been caused by any owner or resident, or their agents or employees, to any City water system, meter, meter can, stop clock, box and line caused by any resident, or agent thereof, for conduct in violation of this section, shall be responsible for payment of repair costs incurred by the City to repair such damage. The cost of repair shall be based upon the invoice cost of said meter, fittings, stop clock, box and/or line, together with reasonable charges for labor and equipment for the repair thereof.

(2) The City and/or its authorized agent shall keep an itemized account of the expenses and costs incurred by its employees and/or authorized agents in the work and abatement of any violation of this section. Upon completion of the work and abatement, the Public Works Department and/or an authorized agent thereof, shall prepare a report specifying the work and abatement performed, the itemized costs of the work on the property, including direct and indirect costs, and a description of the property. Such report shall be served upon the owner of the property in accordance with Section 6-5.07, together with a demand that the amount identified therein be paid within fifteen (15) days of receipt of the report.

(f) Collection. The failure of any person to pay a fine assessed by the First Notice of Abatement Citation and/or any subsequent served Abatement Citation issued under this section, and/or to pay any charge assessed pursuant to subsection (e) of this section, constitutes a debt to the City. To enforce the debt, the City and/or its authorized agent may file a claim with the appropriate court, impose an assessment lien as set forth in Section 6-5.17, or pursue any other legal remedy to collect such money. For purposes of this section, the term "violator" in Section 6-5.17 shall mean an owner acting in violation of this section, an owner who otherwise allowed a violation of this section to exist on his/her property following receipt of Notice of Abatement and/or an owner who failed to timely pay for repair damages charged pursuant to subsection (e) of this section.

(g) Emergencies. This section, and the penalties set forth herein shall not apply to situations where emergencies require the water to be shut off or the water is shut off by a licensed plumber; provided, however, that the owner or licensed plumber must notify the City of any turning on or off of the City meter.

(h) Appeal. Any person receiving a First Notice of Abatement Citation and/or any subsequently issued Abatement Citation, may appeal the issuance of the Citation and the amount of fine charged in relation thereto, in the manner provided for in Section 6-5.10 of the Code.

(i) Entering property. The City and/or its designated agent or authorized representative of the City may enter upon private property to abate any violation of this section and/or make repairs to any City water system, meter, meter can, stop clock, box and line caused by any owner, resident, or agent thereof, for conduct in violation of this section. No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City whenever such person is engaged in the abatement, work or repair, as authorized or directed pursuant to this chapter. Any attempt to obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City in violation of this section shall be guilty of a misdemeanor punishable by

imprisonment in the county jail not exceeding six (6) months, or by a fine exceeding one thousand dollars ($1,000.00).

(j) Amendment of fines. The City Council may amend the amount of the fine to be assessed under subsection (d)(2) of this section by resolution.

(k) Late fee. Fines and damage repair charges assessed under this section pursuant to subsections (d)(2) and (e) of this section, respectively, shall be made payable to the City and shall not excuse the failure to correct the violation nor shall it bar further enforcement by the City. The failure of any person to pay any fine and/or repair cost assessed pursuant to subsections (d)(2) and (e), may result in the assessment of an additional late fee against the responsible party. The amount of the late feeif assessed shall not exceed ten (10) percent of the total amount of the fine or repair cost owed.

(Ord. 2005-03, 2005)

6-4.19 Supplemental rules and regulations.

Supplemental rules and regulations shall be adopted by the Council by resolution, and copies of such rules and regulations shall at all times be maintained in the office of the City Clerk and shall be available for inspection by the general public.

Article 2. - Control of Backflow and Cross-connections

Article 3. - Conservation

Article 4. - Drought Relief Surcharge Program

Article 2. Control of Backflow and Cross-connections

6-4.20(A) Cross-connection control—General policy.

6-4.20(B) Definitions.

6-4.20(C) Requirements.

6-4.20(D) Installation of water service connection—Maintenance.

6-4.20(E) Inspection of customer's system.

6-4.20(F) Backflow devices.

6-4.20(G) Protective devices—Degree of hazard.

6-4.20(H) Approval of Director.

6-4.20(I) Inspection and tests.

6-4.20(J) Presently installed devices.

6-4.20(A) Cross-connection control—General policy.

(a) The purpose of this article is:

(1) To protect the public potable water supply of the City from the possibility of contamination or pollution by isolating within its customers' internal distribution system(s) or its customers' private water system(s) such contaminates or pollutants which could backflow or back-siphon into the public water supply system;

(2) To promote the elimination or control of existing cross-connections, actual or potential, between its customer's in-plant potable water system(s) and nonpotable water system, plumbing fixtures and industrial piping systems; and

(3) To provide for the maintenance of a continuing program of cross-connections control which will systematically and effectively prevent the contamination or pollution of all potable water systems.

(b) Responsibility. The Director of Public Works shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or back-siphonage of contaminants or pollutants through the water service connection. If, in the judgment of said Director, an approved backflow prevention device is required, at the City's water service connection to any customer's premises, for the safety of the water system, the Director or his designated agent shall give notice in writing to said customer to install such an approved backflow prevention device at each service connection to his premises. The customer shall immediately install such approved device or devices at his own expense; and failure, refusal or inability on the part of the customer to install said device or devices immediately shall constitute a ground for discontinuing water service to the premises until such device or devices have been properly installed.

(Ord. 88-02 § 1 (part), 1988)

6-4.20(B) Definitions.

(a) Director of Public Works. The Director of Public Works, hereafter called Director, in charge of the Water Department of the City is invested with the authority and responsibility for an implementation of an effective cross-connection control program and for enforcement of the provisions of this article.

(b) "Approved" means accepted by the Director as meeting an applicable specification stated or cited in this article, or as suitable for the proposal use.

(c) "Auxiliary water supply" means any water supply on or available to the premises other than the City's approved public potable water supply. These auxiliary waters may include water from another public potable water supply or any natural source(s) such as a well, spring, river, stream, harbor, etc., or "used water" or "industrial fluids." These waters may be polluted or contaminated or they may be objectionable and constitute an unacceptable water source over which the City does not have sanitary control.

(d) "Backflow" means the flow of water or other liquids, mixtures or substances under pressure into the distributing pipes of a potable water supply system from any source or sources other than its intended source.

(e) "Back-siphonage" means the flow of water or other liquids, mixtures or substances into the distributing pipes of a potable water supply system from any source other than its intended sources caused by the sudden reduction of pressure in the potable water supply system.

(f) "Backflow preventer" means a device or means designed to prevent backflow or back-siphonage.

(g) "Air-gap" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of said vessel. An approved air-gap shall be at least double the diameter of the supply pipe, measured vertically, above the top of the rim of the vessel; and, in no case less than one inch. When an air-gap is used at the service connection to prevent the contamination or pollution of the City's potable water system, an emergency by-pass shall be installed around the air-gap system and an approved reduced pressure principle device shall be installed in the by-pass system.

(h) "Reduced pressure principle device" means an assembly of two (2) independently operating approved check valves with an automatically operating differential relief valves between the two (2) check valves, tightly closing shut-off valves on either side of the check valves, plus properly located test cocks for the testing of the check and relief valves. The entire assembly shall meet the design and performance specifications and approval of a recognized and City-approved testing agency for

backflow prevention assemblies. The device shall operate to maintain the pressure in the zone between the two (2) check valves at a level less than the pressure on the City water supply side of the device. At cessation of normal flow the pressure between the check valves shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve shall operate to maintain this reduced pressure by discharging to the atmosphere. When the inlet pressure is two (2) pounds per square inch or less, the relief valve shall open to the atmosphere. To be approved these devices must be readily accessible for in-line maintenance and testing and be installed in a location where no part of the device will be submerged.

(i) "Double check valve assembly" means an assembly of two (2) independently operating approved check valves with tightly closing shut-off valves on each side of the check valves, plus properly located test cock for the testing of each check valve. The entire assembly shall meet the design and performance specifications and approval of recognized and City-approved testing agency for backflow prevention devices. To be approved these devices must be readily accessible for in-line maintenance and testing.

(j) "Contamination" means an impairment of the quality of the potable water by sewage, industrial fluids or waste liquids, compounds or other materials to a degree which creates an actual hazard to the public health through poisoning or through the spread of disease.

(k) "Cross-connection" means any physical connection or arrangement of piping or fixtures between two (2) otherwise separate piping systems one of which contains potable water and the other nonpotable water or industrial fluids or questionable safety, through which, or because of which, backflow or back-siphonage may occur into the potable water system. A water service connection between a public potable water distribution system and a customer's water distribution system which is cross-connected to a contaminated fixture, industrial fluid system or with a potentially contaminated supply or auxiliary water system, constitutes one type of cross-connection. Other types of cross-connections include connectors such as swing connections, removable sections, four-way plug valves, spools, dummy sections of pipe, swivel or change-over devices, sliding multiport tube, solid connections, etc.

(l) Cross-connections—controlled. "Controlled cross-connection" means a connection between a potable water system and a nonpotable water system with an approved backflow prevention device properly installed that will continuously afford the protection commensurate with the degree of hazard.

(m) "Cross-connection control by containment" means the installation of an approved backflow prevention device at the water service connection to any customer's premises where it is physically and economically infeasible to find and permanently eliminate or control all actual or potential cross-connections within the customer's water system where there are actual or potential cross-connections which cannot be effectively eliminated or controlled at the point of cross-connection.

(n) Hazard, degree of.

(1) Hazard—Health. "Health hazard" means any condition, device or practice in the water supply system and its operation which could create, or in the judgment of the Director may create a danger to the health and well-being of the water consumer. An example of a health hazard is a structural defect, including cross-connections, in a water supply.

(2) Hazard—Plumbing. "Plumbing hazard" means a plumbing-type cross-connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air-gap separation or backflow prevention device. Unprotected plumbing-type cross-connections are considered to be a health hazard.

(3) Hazard—Pollutional. "Pollutional hazard" means an actual or potential threat to the physical properties of the water system or to the potability of the public or the consumer's potable water system but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.

(4) Hazard—System. "System hazard" means an actual or potential threat of severe damage to the physical properties of the City's potable water system or the consumer's potable water system

or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.

(o) "Industrial fluids system" means any system containing a fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollutional or plumbing hazard if introduced into an approved water supply. This may include, but not limited to: polluted or contaminated waters; all types of process waters and "used waters" originating from the public potable water system which may have deteriorated in sanitary quality; chemicals in fluid form; plating acids and alkalies, circulated cooling waters connected to an open cooling tower and/or cooling towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural water such as from wells, springs, streams, rivers, bays, harbors, seas, irrigation canals or systems, etc.; oils, gases, glycerine, paraffins, caustic and acid solutions and other liquid and gaseous fluids used in industrial or other purposes or for fire-fighting purposes.

(p) "Pollution" means the presence of any foreign substance (organic, inorganic or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such waters for domestic use.

(q) Water—Potable. "Potable water" means any water which, according to recognized standards is safe for human consumption.

(r) Water—Nonpotable. "Nonpotable water" means water which is not safe for human consumption or which is of questionable potability.

(s) Water—Service connections. "Service connections water" means the terminal end of a service connection from the City's potable water system; i.e., where the City loses jurisdiction and sanitary control over the water at its point of delivery to the customer's water system. If a meter is installed at the end of the service connection, then the service connection shall mean the downstream end of the meter. There should be not unprotected takeoffs from the service line ahead of any meter or backflow prevention device located at the point of delivery to the customer's water system. Service connection shall also include water service connection from a fire hydrant and all other temporary or emergency water service connections from the public potable water system.

(t) Water—Used. "Used water" means any water supplied by the City from the potable water system to a consumer's water system after it has passed through the point of delivery and is no longer under the sanitary control of the City.

(Ord. 88-02 § 1 (part), 1988)

6-4.20(C) Requirements.

(a) Water system.

(1) The water system shall be considered as made up of two (2) parts: the City system and the customer system.

(2) The City system shall consist of the source facilities and the distribution system; and shall include all those facilities of the water system under the complete control of the City up to the point where the customer's system begins.

(3) The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system.

(4) The distribution systems shall include the network of conduits used for the delivery of water from the source to the customer's system.

(5) The customer's system shall include those parts of the facilities beyond the termination of the City distribution system which are utilized in conveying City delivered domestic water to points of use.

(Ord. 88-02 § 1 (part), 1988)

6-4.20(D) Installation of water service connection—Maintenance.

No water service connection to any premises shall be installed or maintained unless the water supply is protected as required by State laws and regulations and this chapter. Service of water to any premises shall be discontinued if a prevention device required by this chapter is not installed, tested and maintained, or if it is found that a backflow prevention device has been removed, by-passed, or if an unprotected cross-connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

(Ord. 88-02 § 1 (part), 1988)

6-4.20(E) Inspection of customer's system.

The customer's system should be open for inspection at all reasonable times to authorized representatives of the Public Works Water Division to determine whether cross-connections or other structural or sanitary hazards, including violations of these regulations, exist. When such a condition becomes known, the Director shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the condition(s) in conformance with State and City statutes relating to plumbing and water supplies and the regulations adopted pursuant thereto.

(Ord. 88-02 § 1 (part), 1988)

6-4.20(F) Backflow devices.

An approved backflow prevention device shall also be installed on each service line to a customer's water system at or near the property line or immediately inside the building being served; but in all cases, before the first branch line leading off the service line wherever the following conditions exist.

(a) In the case of premises having an auxiliary water supply which is not or may not be of safe bacteriological or chemical quality and which is not acceptable as an additional source by the Director, the City water system shall be protected against backflow from the premises by installing a backflow prevention device in the service line appropriate to the degree of hazard.

(b) In the case of premises on which any industrial fluids or any other objectionable substance is handled in such a fashion as to create an actual or potential hazard to the City water system, the City system shall be protected against backflow from the premises by installing a backflow prevention device in the service line appropriate to the degree of hazard. This shall include the handling of process waters and waters originating from the City system which have been subject to deterioration in quality.

(c) In the case of premises having (1) internal cross-connections that cannot be permanently corrected and controlled, or (2) intricate plumbing and piping arrangements or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not dangerous cross-connections exist, the City water system shall be protected against backflow from the premises by installing a backflow prevention device in the service line.

(Ord. 88-02 § 1 (part), 1988)

6-4.20(G) Protective devices—Degree of hazard.

The type of protective device required under subsections 6-4.20(F)(a), (b) and (c) shall depend upon the degree of hazard which exists as follows:

(a) In the case of any premises where there is an auxiliary water supply as stated in subsection 6-4.20(F)(a) of this chapter and it is not subject to any of the following rules, the City water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention device.

(b) In the case of any premises where there is water or substance that would be objectionable but not hazardous to health, if introduced into the City water system, the City water system shall be protected by an approved double check valve assembly.

(c) In the case of any premises where there is any material dangerous to health which is handled in such a fashion as to create an actual or potential hazard to the City water system, the City water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention device. Examples of premises where these conditions will exist include sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries and plating plants.

(d) In the case of any premises where there are "uncontrolled" cross-connections, either actual or potential, the City water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention device at the service connection.

(e) In the case of any premises where, because of security requirements or other prohibitions or restrictions it is impossible or impractical to make a complete in-plant cross-connection survey, the City water system shall be protected against backflow or back-siphonage from the premises by the installation of a backflow prevention device in the service line. In this case, maximum protection will be required; that is, an approved air-gap separation or an approved reduced pressure principle backflow prevention device shall be installed in each service to the premises.

(Ord. 88-02 § 1 (part), 1988)

6-4.20(H) Approval of Director.

Any backflow prevention device required herein shall be of model and size approved by the Director. "Approved backflow prevention device" means a device that has been manufactured in full conformance with the standards established by the American Water Works Association entitled:

AWWA C506-78 Standards for Reduced Pressure Principle and Double Check Valve Backflow Prevention Devices:

and have met completely the laboratory and field performance specifications for the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California established by

Specifications of Backflow Prevention Devices — #69-2 dated March 1969 or the most current issue said AWWA and FCCC&HR standards and specifications have been adopted by the Director. Final approval shall be evidenced by a "Certificate of Approval" issued by an approved testing laboratory certifying full compliance with said AWWA standards and FCCC&HR Specifications.

The following testing laboratory has been qualified by the Director to test and certify backflow preventers.

Foundation for Cross-connection Control & Hydraulic Research

University of Southern California

University Park

Los Angeles, CA 90008

Testing laboratories other than the laboratory listed above will be added to an approved list as they are qualified by the Director.

Backflow preventers which may be subjected to back pressure or back siphonage that have been fully tested and have been granted a certificate of approval by said qualified laboratory and are listed on the laboratory's current list of "Approved Devices" may be used without further test or qualifications.

(Ord. 88-02 § 1 (part), 1988)

6-4.20(I) Inspection and tests.

It shall be the duty of the customer-user at any premises where backflow prevention devices are installed to have certified inspections and operational tests made at least once per year. In those instances where the Director deems the hazard to be great enough, he may require certified inspections at more frequent intervals. These inspections and tests shall be at the expense of the water user and shall be performed by the device manufacturer's representative, by Public Works Water Division personnel or by a certified tester approved by the Director. It shall be the duty of the Director to see that these timely tests are made. The customer-user shall notify the Director in advance when the tests are to be undertaken so that he or his representative may witness the tests if so desired. Theses devices shall be repaired, overhauled or replaced at the expense of the customer-user whenever said devices are found to be defective. Records of such test, repairs and overhauls shall be kept and made available to the Director.

(Ord. 88-02 § 1 (part), 1988)

6-4.20(J) Presently installed devices.

All presently installed backflow devices which do not meet the requirements of this section but were approved devices for the purpose described herein at the time of installation and which have been properly maintained shall, except for the inspection and maintenance requirements under Section 6-4.20(I), be excluded from the requirements of these rules so long as the Director is assured that they will satisfactorily protect the City system. Whenever the existing device is moved from the present location or requires more than minimum maintenance or when the Director finds that the maintenance constitutes a hazard to health, the unit shall be replaced by a backflow prevention device meeting the requirements of this section.

(Ord. 88-02 § 1 (part), 1988)

Article 3. Conservation

6-4.21 Unlawful acts.

6-4.22 Violations—Notices—Penalties.

6-4.23 Notice.

6-4.24 Hearing.

6-4.25 Exceptions.

6-4.26 City exempt.

6-4.27 The rights of the City.

6-4.28 Authorization to implement further restrictions.

6-4.29 Severability.

6-4.21 Unlawful acts.

The following are hereby declared to be unlawful acts under the terms of this article:

(a) In the use of water supplied by the City, no person, entity or other water user shall sprinkle, irrigate or otherwise apply water to any yard, ground, premises or vegetation except on the following designated days: Those users, whether residential, commercial or industrial, with odd-numbered addresses may water only on Monday, Wednesday and Friday. Those users, whether residential, commercial or industrial, with even-numbered addresses may water only on Tuesday, Thursday and Saturday.

(b) Notwithstanding Section 6-4.20(a), in the use of water supplied by the City, no person, entity or other water user shall sprinkle, irrigate or otherwise apply water to any yard, ground, premises or vegetation on Sundays.

(c) In the use of water supplied by the City, no person, entity or other water user shall sprinkle, irrigate or otherwise apply water to any yard, ground, premises or vegetation except during the hours of 6:00 a.m. to 10:00 a.m. and 6:00 p.m. to 10:00 p.m. on the appropriate day as specified above.

(d) In the use of water supplied by the City, no person, entity or other water user shall use water by means of unattended open hose or open faucet for irrigation purposes. All unattended hoses used for irrigation purposes shall have a spray nozzle or sprinkling device attached thereto.

(e) In the use of water supplied by the City, no person, entity or other water user shall fail to keep, maintain, operate or use any water connection, hose, faucet, hydrant, pipe, outlet or plumbing fixture which is not tight and free from leakage, dripping or waste of water.

(f) In the use of water supplied by the City, no person, entity or other water user shall allow excessive water to flow down gutters or streets, or to accumulate on adjoining or adjacent property.

(g) In the use of water supplied by the City, no person, entity or other water user shall wash motor vehicles, trailers, boats and other types of equipment except with a hand held bucket or hose equipped with a positive shut-off nozzle for quick rinses.

(h) Residents with private swimming pools shall file a written application with the City Manager for a permit prior to draining and filling their pools. Water lost through normal use or evaporation may be replaced as needed.

(Ord. 92-06 § 1, 1993; Ord. 91-05 § 1, 1991: Ord. 91-02 § 1, 1991)

6-4.22 Violations—Notices—Penalties.

The violation of any of the provisions of Sections 6-4.10, 6-4.11, 6-4.12, 6-4.13, 6-4.14, 6-4.15, 6-4.16, 6-4.17, 6-4.18, and 6-4.20, or any other provision which is enacted by the resolution of City Council shall result in the following actions by the City except for a violation of 6-4.17 for which there shall result in the following actions by the City except for a violation of 6-4.17 for which there shall be no warning for the first violation, second violation shall be treated in accordance with Section 6-4.22(c); a third; a third and subsections violation shall be treated in accordance with Section 6-4.22(d).

(a) First violation. A written notice of the violation shall be issued by the Public Works Department personnel to the respective water customer of the City.

(b) Second violation. A written notice of the violation shall be issued by the Public Works Department personnel to the respective water customer of the City and a charge of twenty-five dollars ($25.00) shall be added to the next water bill of such customer as a one-time charge for such violation. Said customer shall pay the full amount of such charge within thirty (30) days of the date of said water bill.

(c) Third violation. A written notice of the violation shall be issued by the Public Works Department personnel to the respective water customer of the City and a charge of fifty dollars ($50.00) shall be added to the water bill of such customer as a one-time charge for such violation. Said customer shall pay the full amount of such charge within thirty (30) days of the date of said water bill.

(d) Fourth and subsequent violations. A written notice of the violation shall be issued by the Public Works Department personnel to the respective water customer of the City and a charge of one hundred dollars ($100.00) shall be added to the water bill of such customer as a one-time charge for such violation. Said customer shall pay the full amount of such charge within thirty (30) days of the date of said water bill.

(e) Leaks in customer's system. When a leak is discovered by a customer in a customer's water system and a customer is charged for water that the customer has not used, as a result of said leakage, it shall be the policy of the City to aid the customer in locating the leak. If the leak is repaired by the customer within a period of ten (10) days of the date the leak is discovered and the customer can establish that a portion of the charges identified in its water bill are in excess of the amount normally charged to the customer, that excess amount of water use caused by the leakage shall be charged to the customer at the standard water rate. If the leak is not repaired by the customer within the ten-day period, the portion of excess water usage which results from the leakage will be billed at two (2) times the standard water rate until the leak is repaired by the customer.

(f) Determination of number of offenses. In order to be defined as a violation other than a first violation, the violation must occur within one year of the date of the first violation.

(Ord. 2000-09, 2000; Ord. 91-02 § 2, 1991)

6-4.23 Notice.

The Public Works Department or its designee shall give notice of each violation to the customer committing such violation as follows:

(a) For any violation which does not include the installation of a flow restrictor or the discontinuance of water service to the customer for any time period whatsoever, the Public Works Department may give written notice of the fact of such violation to the customer personally or by regular mail.

(b) If the penalty assessed is or includes installation of a flow restrictor or the discontinuation of water service to the customer for any period of time whatsoever, notice of the violation shall be given in the following manner:

(1) By delivering a written notice to the customer personally; or

(2) If the customer is absent from or unavailable at either his place of residence or his assumed place of business, by leaving a copy with some competent member of the household or a person apparently in charge of the office or place of business, at least eighteen (18) years of age, who was informed of the general nature of the papers, and sending a copy through the United States Mail addressed to the customer at either his place of business or residence; or

(3) If such place of residence and/or business cannot be ascertained, or a competent member of the household or a person apparently in charge of the office or place of business at least eighteen (18) years of age cannot be found, then by affixing a copy in a conspicuous place on the property where the failure to comply is occurring and also by delivering a copy to a person there residing if such person can be found and also sending a copy through the United States Mail addressed to the customer at the place where the property is situated.

(c) All notices shall contain, in addition to the facts of the violation, a statement of the possible penalties for each violation and a statement informing the customer of his/her right to a hearing on the violation.

(d) Notice to the water user shall be given at both the billing and service address on file with the City.

(Ord. 91-02 § 3, 1991)

6-4.24 Hearing.

(a) Any water user receiving notice of a violation of Section 6-4.20 shall have a right to a hearing by the City Manager or his/her designee within fifteen (15) days of mailing or other delivery of the notice of violation.

(b) The water user's written request for a hearing must be received within ten (10) days of the issuance of the notice of violation. This request shall stay installation of a flow restricting device on the water user's premises and the imposition of any surcharge until the City Manager or his/her designee renders a decision. This decision shall be issued within ten (10) days of the hearing and it shall provide a copy to the water user.

(c) The decision of the City Manager or his/her designee may be appealed to the Avenal City Council or its designee by the water user's filing with the City Clerk a request for appeal within fifteen (15) days of service of the decision. Filing of such request stays implementation of any surcharge or installation of flow restrictor.

(d) The appeal hearing will be scheduled to occur within a reasonable period of time following filing of the appeal. No formal rules of evidence apply. All evidence customarily relied upon by reasonable persons in the conduct of serious business affairs will be allowed and the water user may present any such evidence which shows the alleged wasteful water use has not occurred. The decision of the City Council or its designee will be given in writing to the water user within fifteen (15) days of the appeal hearing and that decision shall be final.

(Ord. 91-02 § 4, 1991)

6-4.25 Exceptions.

Written application for an exception or adjustment may be made to:

City Manager

City of Avenal

919 Skyline Boulevard

Avenal, California 93204

The City Manager may (a) grant permits for the uses of water otherwise prohibited or (b) adjust the established requirements if the City Manager finds that:

To fail to do so would cause an emergency condition adversely affecting the health, sanitation, fire protection or safety of the customer or the public or adverse impacts such as loss of production or jobs.

No permit shall be granted unless the customer has adopted all practicable water conservation measures and/or has demonstrated to the City Manager's satisfaction that there are not alternatives to the use of water from the City water system and that the water of the City of Avenal will be used efficiently and without waste.

The City Manager's denial of an application for an exception or adjustment is final.

(Ord. 91-02 § 5, 1991)

6-4.26 City exempt.

The City of Avenal, its officers, employees and agents, when acting in the course and scope of their employment, shall be exempt from the provisions of this article; provided, however, the City Manager shall make rules and regulations as may be necessary in order for the City to conserve water resources and energy to the greatest extent practicable.

(Ord. 91-02 § 6, 1991)

6-4.27 The rights of the City.

The rights of the City of Avenal hereunder shall be in addition to any other rights of the City under any other applicable laws.

(Ord. 91-02 § 7, 1991)

6-4.28 Authorization to implement further restrictions.

The City Council of the City is hereby authorized from time to time to implement by resolution such additional measures which are determined by the City Council to be necessary in order to ensure an adequate supply of water for use by citizens of the City and to ensure the health and safety of the citizens of the City. Measures may be implemented either City-wide or by specific zones.

(Ord. 91-02 § 8, 1991)

6-4.29 Severability.

If any section, subsection, sentence, clause, phrase, word or portion of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this article. The City Council of the City hereby declares that it would have adopted the ordinance codified in this article and all provisions hereof irrespective of the fact that any one or more of the provisions be declared invalid or unconstitutional.

(Ord. 91-02 § 9, 1991)

Article 4. Drought Relief Surcharge Program

6-4.30 Intent and findings.

6-4.31 Definitions.

6-4.32 Responsibilities of the Community Development Director.

6-4.33 Non-transferability of water estimate.

6-4.34 Time limit for using water estimate.

6-4.30 Intent and findings.

(a) The intent of this chapter is to ensure that demand for water shall not exceed available supply and that the procurement of additional water supplies shall occur in a timely fashion.

(b) The City of Avenal finds that due to the fifth consecutive year of drought which resulted in a fifty (50) percent reduction in water deliveries to the City, that providing water to new construction, expansions or new occupancies would create an excessive cost to the City.

(c) The City of Avenal also finds that in order to allow for further development, the proposed water user shall pay a drought relief surcharge fee which will be used exclusively to purchase additional water.

(d) The City of Avenal further finds that the imposition of such a fee, which will be used to secure additional water, is necessary to insure that the public health, safety and welfare would not be jeopardized.

(e) Finally, upon adoption of this ordinance the building moratorium declared on March 14, 1991 shall become null and void.

(Ord. 91-07 (part), 1991)

6-4.31 Definitions.

The following definitions shall be used for interpreting this chapter:

"Fee table" means a table that indicates the average annual water use of different land uses that is used in calculating how much water a proposed project needs over the next ten (10) years and how much it will cost. The table shall be developed and incorporated in this chapter by resolution as Exhibit "A."

"Project" means new construction, additions to existing facilities, changes or intensification of use or occupancies in an existing facility, or demolition and replacement of existing facilities.

"Water estimate" means the estimated water use of the proposed project over a ten (10) year period.

(Ord. 91-07 (part), 1991)

6-4.32 Responsibilities of the Community Development Director.

The Community Development Director is charged with:

(a) Developing and periodically updating the fee table in a fair and reasonable manner;

(b) Insuring that no building permits are issued unless the fee is paid.

(Ord. 91-07 (part), 1991)

6-4.33 Non-transferability of water estimate.

(a) Payment of the surcharge shall entitle the project proponent only to a specific project in a specific location. Minor amendments to projects which do not change the type or intensity of use may be approved so long as the amount of water does not increase and the project site and proponent do not change.

(b) Payment of the surcharge shall entitle the project proponent to its water estimate for a specific project and cannot be transferred to another project, property, or person, except that a transfer to a new person may be allowed under the following circumstances, subject to City Council approval:

(1) Death of the project proponent, in which case the water estimate may be transferred to the legal heirs; or

(2) Bankruptcy of the project proponent, in which case the water estimate may be transferred to the creditors along with other project entitlement;

(3) In both cases set out in subdivision (1) and (2) of this subsection, the Council may also authorize the transfer of the water estimate along with other project entitlements to a new developer.

(c) Additionally, in cases of personal hardship not involving the death of the project proponent or bankruptcy, the Council may also authorize the transfer of the water estimate and other project entitlements to a new developer.

(d) Personal hardship shall be defined as follows:

(1) Unforeseeable circumstances beyond the control of the project proponent which place the proponent so near to bankruptcy that denial of the hardship application would force the proponent into bankruptcy.

(2) A long-term serious illness or disability which incapacitates the proponent from completing the project.

(e) A personal hardship may only be approved by the Council, after review by the Planning Commission.

(f) Application for transfer of the water estimate as part of a hardship shall be made in writing by the project proponent and that following information shall be provided:

(1) Nature of personal hardship;

(2) Cause of hardship;

(3) Circumstances of the personal hardship to justify the request.

(g) A project proponent must be the record owner of a property in order to be eligible to obtain the water estimate.

(h) The water estimate shall run with the project and the property and except as provided above may be transferred to a new person after final occupancy has been approved by the City. The project which has been approved by the City for phased development may be transferred with the project to a new person after a phase has been approved for final occupancy.

(Ord. 91-07 (part), 1991)

6-4.34 Time limit for using water estimate.

(a) The water estimate shall be available for the period in which the building permit is valid. Construction shall proceed with due diligence.

(b) Extensions of this time limit or reissuance of expired water estimate can be granted by the Planning Commission only if the applicant can prove to the satisfaction of the Planning Commission that application for all necessary permits and construction were delayed due to hardship. In all cases the water estimate shall expire two (2) years from the date it is issued.

(Ord. 91-07 (part), 1991)

Chapter 5 MAINTENANCE AND ABATEMENT OF PROPERTY NUISANCES [1]

Sections:

Exhibits:

6-5.01 Purpose—Nuisance defined.

6-5.02 Authority to declare nuisance.

6-5.03 Authority to abate nuisance.

6-5.04 Special standards and exceptions.

6-5.05 Recordation of abatement notices and instruments.

6-5.06 Notice of Abatement Citation.

6-5.07 Service of Notice of Abatement Citation.

6-5.08 Abatement work—Extension of time.

6-5.09 Fines assessed.

6-5.10 Appeal of Notice of Abatement Citation.

6-5.11 Performance of abatement—City authority.

6-5.12 Entering property for abatement work.

6-5.13 Summary abatement—Notice and costs.

6-5.14 Administrative and abatement costs.

6-5.15 Costs of abatement—Record keeping.

6-5.16 Appeal of costs of abatement.

6-5.17 Notice of lien.

6-5.18 Confirmed assessment—Collection.

6-5.19 Remedies of private parties.

6-5.20 Alternatives.

6-5.21 Enforcement authority.

6-5.22 Violation—Penalty.

6-5.23 Violation—Abatement.

6-5-24 Effective date.

Exhibit 1

Exhibit 2

Exhibit 3

6-5.01 Purpose—Nuisance defined.

(a) The Council declares that its purpose in adopting this chapter is to establish a procedure to cause the abatement of Municipal Code violations. The procedures established in this section shall be in addition to any other legal remedy, criminal or civil, established by law which may be pursued to address violation of this Municipal Code. The chapter is also intended to be used as an alternative to existing nuisance abatement procedures established in other chapters of this Code, if any exist.

(b) The City Council declares that any condition caused, maintained or permitted to exist in violation of any provision of this Code which obstructs, injures, or interferes with the reasonable or free use of property belonging to a neighborhood, community or any considerable number of persons and poses a serious threat to the public's safety and welfare, shall be deemed a public nuisance and may be summarily abated consistent with the procedures provided for in this action.

(c) The following acts and conditions, when performed or existing upon any lot, piece, parcel of land, or structure within the City, are defined as and declared to be public nuisances when of such magnitude as to be injurious or potentially injurious to the public health, safety or welfare, or which have a tendency to degrade the appearance and property values of surrounding property or which cause damage to public rights-of-way are as follows (but are not limited to):

(1) Land erosion. Land where erosion, subsidence, or surface water drainage problems exist;

(2) Fire hazards. Dry or dead shrubs, dead trees, combustible refuse or waste, or any material as determined by the City Fire Department to constitute a fire hazard to a building, improvement, crop or other property;

(3) Hazardous obstructions. An obstacle, landscaping or thing installed, or maintained on private property near a roadway intersection obstructing the line of vision by reaching a height of more than three feet above the adjoining top of curb at the applicable corner of roadway intersection or three feet six inches above the nearest pavement surface where there is no curb;

(4) Polluted water. A swimming pool, or other body of water that is abandoned, unattended, unfiltered or not otherwise maintained, resulting in water becoming polluted. "Polluted water" is defined as water that includes, but is not limited to bacterial growth, remains of deceased animals, reptiles, rubbish, refuse, debris, papers or other materials that because of its nature or location constitutes an unhealthy, unsafe, or unsightly condition;

(5) Uniform codes. The violation of a provision of the following uniform codes:

(i) The Uniform Building Code as amended by the City Council,

(ii) The National Electrical Code as amended by the City Council,

(iii) The Uniform Fire Code as amended by the City Council,

(iv) The Uniform Housing Code as amended by the City Council,

(v) The Uniform Plumbing Code as amended by the City Council,

(vi) The Uniform Mechanical Code as amended by the City Council;

(6) Zoning ordinance. The violation of a provision of the land use regulations of the City as set forth in Titles 8 and 9 of this Code;

(7) Water and sewer systems. Violation of a provision of the water and sewer system regulation as set forth in Title 6 of this Code;

(8) Public peace, morals and welfare. Violation of a provision of the regulations of the City as set forth in Titles 4 and 5 of this Code;

(9) Alleys. It shall be unlawful for any person occupying property fronting on any public alleyway in the City to fail, refuse or neglect to keep the portion of such alley between the middle of the alley way and the property line of such property free from accumulation of weeds, garbage, rubbish, combustible material or any other material of any kind or nature;

(10) Defacement of property. A building or structure that is marked or defaced with spray paint, dye or like substance in a manner commonly described as graffiti, for a period of time exceeding fourteen (14) days;

(11) Exterior walls. All exterior walls and surfaces visible from the public right-of-way, including but not limited to doors, windows and trim, shall be free from holes, breaks, and loose or rotting materials. In addition, all exterior walls and surfaces visible from the public right-of-way, shall be weatherproofed and properly coated, where required, to prevent deterioration or rust;

(12) Rubbish and garbage. Garbage or trash cans or containers which cause offensive odors to neighbors and the accumulation of rubbish or garbage in exterior property and premises visible from the public right-of-way;

(13) Lawns. Lawns or grasses in excess of six (6) inches high and visible on the property;

(14) Storage. Abandoned, wrecked, dismantled, or inoperative automobiles, trailers, campers, boats, or similar vehicles, broken or discarded household furnishings, appliances, boxes and cartons, lawn maintenance equipment, discarded building materials or similar materials, accumulated or stored in yard areas for a period of time exceeding fourteen (14) days;

(15) Attractive nuisances. Those objects which, by their nature, may attract children or other curious individuals including, but not limited to, unprotected and/or hazardous pools, ponds, iceboxes, refrigerators, or excavations;

(16) Vacant buildings. Buildings or structures which are unoccupied and which have been left unlocked or otherwise open or unsecured from intrusion by persons, animals or the elements;

(17) Signs. Except where such signs are legally permitted:

(i) Signs, both on-site and off-site which advertise uses no longer conducted or products no longer on the premises,

(ii) Signs located on any commercial or industrial building or any other building which has been vacant for more than forty-five (45) days, and

(iii) Temporary signs which advertise or are related to events which have already taken place;

(18) Drying of clothes in the front yard; and

(19) Fences or walls which violate zoning regulations regarding height, or which are in a hazardous condition, or which are in disrepair, or which hinder free access to public sidewalks.

(Ord. 2002-05 § 1, 2002: Ord. 2002-02 (part), 2002)

6-5.02 Authority to declare nuisance.

(a) Code Enforcement Officer(s) of the City of Avenal and all other authorized personnel shall be vested with the authority to determine whether or not a public nuisance, as defined herein, may exist on any private property and cause a written notice to be issued to abate such nuisance.

(b) In addition to the authorized personnel listed in subsection (a) of this section, the City Council may declare the existence of a public nuisance at any time.

(Ord. 2002-02 (part), 2002)

6-5.03 Authority to abate nuisance.

(a) Whenever a public nuisance is maintained or exists in the City, either under the general law or defined to be such under this Code, it shall be the duty of the Code Enforcement Officer(s) of the City and/or any other specific department charged with enforcement of the conditions as they are maintained or exist, and they are hereby authorized and empowered to abate the same by removal, destruction or abatement of the act or thing constituting a nuisance in accordance with the provisions of this chapter.

(b) Nothing in this section shall be construed to limit or restrict the ability of the Police and Fire Departments in the performance of their duties.

(Ord. 2002-02 (part), 2002)

6-5.04 Special standards and exceptions.

With the following exceptions, the procedures provided in this chapter may be used in the abatement of all nuisances.

(a) Summary abatement. All conditions which are determined by the Code Enforcement Officer(s) of the City to pose an immediate risk to the health and safety of persons or property within the City may be abated summarily in accordance with those procedures set forth in Section 6-5.13.

(b) Substandard structures. All notices issued to correct violations or to abate nuisances to a substandard structure shall contain a provision notifying the owner that, in accordance with Sections 17274 and 24436.5 of the Revenue and Taxation Code, a tax deduction may not be allowed for interest, taxes, depreciation, or amortization paid or incurred on the property in the taxable year. The abatement of substandard buildings or structures is addressed in Chapter 8 of this Code.

(c) Abandoned vehicles. The abatement and removal, as public nuisances, of abandoned,wrecked, dismantled, or inoperative vehicles or parts thereof from private property or public property and

for the recovery of costs of administration and the removal is not subject to the provisions of this chapter.

(Ord. 2002-02 (part), 2002)

6-5.05 Recordation of abatement notices and instruments.

All notices and instruments relating to the abatement proceeding or special assessment are entitled to recordation pursuant to Section 38772.5 of the California Government Code. Any document generated pursuant to this chapter may, in the discretion of the City and/or its authorized agent, be recorded against the subject property.

(Ord. 2002-02 (part), 2002)

6-5.06 Notice of Abatement Citation.

Where the Code Enforcement Officer(s) of the City and/or other authorized personnel has determined a violation and/or nuisance to exist on private property, the Code Enforcement Officer shall issue a first Notice of Abatement Citation, and serve the same in accordance with the provisions of Section 6-5.07 on the landowner and the person, if other than the landowner, occupying or otherwise in apparent charge or control of the property. The first Notice of Abatement Citation shall be substantially in the form as provided in Exhibit 1 at the end of this chapter, and shall contain the following information:

(a) The name and address of the owner of the property, if known;

(b) The street address or assessor's parcel number and location description sufficient for identification of the property on which the violation and/or public nuisance exists;

(c) A statement of the nuisance and/or Code or ordinance violation;

(d) A statement to require the violator(s) to obtain all appropriate permits and correct the violation or abate the public nuisance within the time period identified in the citation which time period shall not exceed ten (10) days from the date of service of the citation, unless the Code Enforcement Officer(s) identifies a longer period of time on the administrative citation;

(e) A statement advising that the disposal of material removed from the property in order to comply with the citation shall be disposed of in the manner required by law;

(f) A statement advising that if the required work is not commenced within the time specified, the Code Enforcement Officer may proceed to cause the work to be done, and bill the persons named in the citation for all abatement costs and administrative expenses of the City and/or levy the costs against the property by recordation of a notice of lien in accordance with Section 6-5.17 of this chapter;

(g) The amount of the fine imposed for the violation(s), if any;

(h) Explanation of how the fine shall be paid and the consequences of failure to pay the fine;

(i) Signature of the Code Enforcement Officer(s) and the signature of the violator if the violator can be located. If the violator refuses or does not sign the citation, the lack of such signature shall in no way affect the validity of the citation and subsequent proceedings; and

(j) A statement advising the person or persons identified in the citation that they may appeal the issuance of the citation in accordance with Section 6-5.09 of this chapter.

(Ord. 2002-02 (part), 2002)

6-5.07 Service of Notice of Abatement Citation.

(a) The first Notice of Abatement Citation, and all subsequently issued Abatement Citations, shall be served upon each owner by personal service on the owner(s); or by certified mail, addressed to each owner at the address shown at the last available assessment roll, or as otherwise known.

(b) Copies of said notice shall also be posted at the conspicuous places on the property.

(Ord. 2002-02 (part), 2002)

6-5.08 Abatement work—Extension of time.

Upon receipt of a written request from any person required to comply with the first Notice of Abatement Citation, the Code Enforcement Officer(s) may grant an extension of time within which to complete the work or abatement if the Code Enforcement Officer(s) determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property and if such person has begun and is diligently accomplishing the work or abatement. The Code Enforcement Officer(s) shall have the authority to place reasonable conditions on such extensions.

(Ord. 2002-02 (part), 2002)

6-5.09 Fines assessed.

(a) The City Council by resolution may establish the amount of the fine to be assessed by the Abatement Citations issued by Code Enforcement Officer(s). If the violator or property owner fails to correct the violation and maintain compliance with the first Notice of Abatement Citation for a period of twelve (12) months, subsequent citations may be issued for the same violation(s), in the same manner as provided for herein in regards to first Notice of Abatement Citations. The amount of the fine for each subsequent Abatement Citation issued in regards to the same violation, shall increase at a rate specified in the City Council resolution.

(b) Fines shall be made payable to the City and shall not excuse the failure to correct the violation nor shall it bar further enforcement by the City.

(c) The failure of any person to pay a fine assessed by the first Notice of Abatement Citation and/or any subsequently served Abatement Citation, may result in the assessment of an additional late fee to be charged. The amount of the late fee, if assessed, shall not exceed ten percent (10%) of the total amount of the fine owed.

(d) The failure of any person to pay a fine assessed by the first Notice of Abatement Citation and/or any subsequent served Abatement Citation, within the time specified on the citation constitutes a debt to the City. To enforce the debt, the Code Enforcement Officer may file a claim with the small claims court; impose an assessment lien as set forth in Section 6-5.17; or pursue any other legal remedy to collect such money.

(Ord. 2002-02 (part), 2002)

6-5.10 Appeal of Notice of Abatement Citation.

(a) Any person receiving a first Notice of Abatement Citation, and/or any subsequently issued Abatement Citation, may appeal the issuance of the citation to the Avenal Planning Commission.

(b) The Notice of Appeal must be submitted in writing, must specify the basis for the appeal in detail, and must be filed with the City within ten (10) calendar days after the date on the Abatement Citation. If the deadline falls on a weekend or City holiday, the deadline shall be extended until the next regular business day. The City will make available to the public that form set forth in Exhibit 2. A

Notice of Appeal which substantially complies with the requirements of this section shall be accepted, despite it not being submitted on the City-approved form.

(c) If the Notice of Appeal is filed in accordance with the provisions set forth herein in subsection (b) of this section, the enforcement of the violations identified in the Abatement Citation(s) and the requirement to pay any fine shall be stayed until the date that the appeal hearing is held by the Avernal Planning Commission; except that, if the Code Enforcement Officer(s) determines that the violation(s) identified in the citation(s) constitute an immediate threat to the health or safety of the occupant of the property or the public in general, the Code Enforcement Officer shall proceed with enforcement of the violations.

(d) As soon as practicable after receiving the written notice of appeal, the Avenal Planning Commission and/or its designated agent shall fix a date, time and place for the hearing. Written notice of the date, time and place for the hearing shall be served at least ten (10) calendar days prior to the date of the hearing to the party appealing the Abatement Citation(s) by any one of the following means:

(1) Personal service;

(2) First class mail and posting the notice of hearing conspicuously on or in front of the property on which the violation is located.

(e) The failure of any person with an interest in the property to receive such notice shall not affect the validity of any proceedings taken under this chapter. Service by normal delivery mail in the manner described above shall become effective on the date of mailing.

(f) Failure of any person to file an appeal in accordance with the provisions of this section shall constitute waiver of that person's rights to administrative determination of the merits of the Abatement Citation(s) and the amount of the fine.

(g) The Planning Commission shall conduct an orderly proceeding and accept oral and written evidence regarding the Abatement Citation(s) in the following manner:

(1) The Director or the Code Enforcement Officer(s) shall present testimony and evidence relating to the violation and the appropriate means of correcting the violation.

(2) The owner, agent or person responsible for the violation may present testimony or evidence concerning the violation and the means and time for correction.

(h) The Planning Commission may sustain, modify or overrule the Abatement Citation. The decision of the Planning Commission regarding any appeal is the final administrative order and decision.

(Ord. 2002-02 (part), 2002)

6-5.11 Performance of abatement—City authority.

If the violator and/or property owner fails to comply with the requirements of the Abatement Citation(s) within the time periods set forth therein, the work to be performed and/or the abatement of the nuisance may, in the discretion of the Code Enforcement Officer, be performed by the City or by a contractor retained by the City.

(Ord. 2002-02 (part), 2002)

6-5.12 Entering property for abatement work.

The Code Enforcement Officer(s) or any employee, contractor or authorized representative of the City, may enter upon private property to abate the violation and/or nuisance in accordance with the provisions of this chapter. No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City whenever such person is engaged in the work or abatement, or in performing any necessary act preliminary to or incidental to such work or abatement, as authorized or directed pursuant to this chapter.

(Ord. 2002-02 (part), 2002)

6-5.13 Summary abatement—Notice and costs.

Whenever the Code Enforcement Officer(s) determines that a violation or public nuisance is so imminently dangerous to life or adjacent property that such condition must be immediately corrected or isolated, the Code Enforcement Officer(s) may institute the following procedures:

(a) Notice. The Code Enforcement Officer(s) shall attempt to make contact through a personal interview, or by telephone, with the landowner or the person, if any, occupying or otherwise in apparent charge or control of the property. In the event contact is made, the Code Enforcement Officer(s) shall notify such person or persons of the danger involved and require that such condition be immediately resolved, removed, repaired, or isolated so as to preclude harm to any person or property.

(b) Abatement. In the event the Code Enforcement Officer(s) is unable to make contact as herein above noted, or if the appropriate persons, after notification by the Code Enforcement Officer(s), do not take action as specified by the Code Enforcement Officer(s), within twenty-four (24) hours or such lesser time as the circumstances may warrant in the discretion of the Code Enforcement Officer(s), then the Code Enforcement Officer(s) may, with the approval of the Public Works Director/Chief Code Enforcement Officer and/or the Community Development Director, take all steps deemed necessary to repair, remove or isolate such dangerous condition or conditions with the use of City forces or a contractor retained by the City.

(c) Costs. The Code Enforcement Officer(s) shall keep an itemized statement of the work and abatement costs and administrative expenses incurred by the City in repairing, removing or isolating such condition or conditions. Administrative expenses may be recovered in the same manner that work and abatement costs are recovered.

(Ord. 2002-02 (part), 2002)

6-5.14 Administrative and abatement costs.

Whenever a violation or public nuisance is found to exist as a result of an inspection, that actual work and abatement costs and reasonable administrative expenses as determined by the Code Enforcement Officer(s) shall be paid by the property owner.

(Ord. 2002-02 (part), 2002)

6-5.15 Costs of abatement—Record keeping.

The Code Enforcement Officer(s) shall keep an itemized account of the expenses and costs incurred by the City in the work and abatement of any violation or public nuisance. Upon completion of the work and abatement, the Code Enforcement Officer(s) shall prepare a report specifying the work and abatement performed, the itemized costs of the work on the property, including direct and indirect costs, a description of the property, and the names and addresses of the persons entitled to service pursuant to Section 6-5.07 of this Chapter. Any such report may include expenses and costs on any number of properties, whether or not contiguous to each other. Each person named in the Abatement Citation(s) shall be jointly and severally liable for such work and abatement costs and administrative expenses, and the amount of such costs and expenses shall be a debt owed to the City. Such report shall be served upon the persons identified therein in accordance with Section 6-5.07, together with a demand that the amount identified therein be paid within thirty (30) days of receipt of the report.

(Ord. 2002-02 (part), 2002)

6-5.16 Appeal of costs of abatement.

The written demand for payment identified in Section 6-5.15 shall advise the person or persons identified in the written demand that they may appeal the demand for payment and the calculation of the amounts identified in the Code Enforcement Officer's report within ten (10) days from the date of service of the written demand, which appeal must be made in accordance with the provisions of Section 6-5.10. The appeal shall be conducted in accordance with the provisions of Section 6-5.10.

(Ord. 2002-02 (part), 2002)

6-5.17 Notice of lien.

(a) Notice of lien. If a violator fails to pay a fine within the time period identified on the administrative citation or should the violator fail to pay the costs of abatement within the time period identified in Section 6-5.15 or within ten (10) days after the date of the decision of the Planning Commission and/or hearing body, should the Planning Commission and/or hearing body affirm the collection of a fine or the costs of abatement, the Code Enforcement Officer(s) may execute and file in the office of the County Recorder a notice of lien of substantially that form set forth in Exhibit 3.

(b) Recordation. Immediately upon the recording of the notice of lien, the assessment shall constitute a lien on the real property assessed. Such lien shall, for all purposes, be upon a parity with the lien of state and local taxes.

(Ord. 2002-02 (part), 2002)

6-5.18 Confirmed assessment—Collection.

(a) Assessment book. The notice of lien, after recording, may be delivered to the tax assessor of Kings County, who shall enter the amount on the county assessment book opposite the description of the real property, and the amount shall be collected together will all other taxes levied thereon against the real property.

(b) Collection. Thereafter, the amount set forth in the notice of lien shall be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and interest and to the same procedure under foreclosure and sale in case of delinquency as provided for ordinary county taxes. All laws of county taxes are made applicable to such assessment. The amount set forth in the notice of lien shall be returned to the City to the fund designated for code enforcement activities.

(Ord. 2002-02 (part), 2002)

6-5.19 Remedies of private parties.

The provisions of this chapter shall not affect the rights of private parties to pursue any and all legal remedies.

(Ord. 2002-02 (part), 2002)

6-5.20 Alternatives.

Nothing in this chapter shall prevent the City Council from requesting the City Attorney to commence a civil or criminal proceeding to abate a violation and/or public nuisance as an alternative to the proceedings set forth in this chapter.

(Ord. 2002-02 (part), 2002)

6-5.21 Enforcement authority.

Enforcement of this chapter by the City may be accomplished by the Code Enforcement Officer(s) in any manner authorized by law. The procedures set forth in this chapter shall not be exclusive and shall not in any manner limit or restrict the City from enforcing other City ordinances or abating violations and/or public nuisances in any other manner provided by law.

(Ord. 2002-02 (part), 2002)

6-5.22 Violation—Penalty.

(a) Any person who removes any notice or order posted as required in this chapter without the consent of the City is guilty of an infraction.

(b) Any person who obstructs, impedes or interferes with any representative or contractor of the City or with any person who owns or holds any estate or interest in real property, buildings or premises which has been ordered to be vacated, repaired, rehabilitated or demolished or brought into compliance with this chapter, when any of the aforementioned individuals are engaged in work involving the abatement, is guilty of an infraction.

(Ord. 2002-02 (part), 2002)

6-5.23 Violation—Abatement.

(a) It is unlawful for a person to violate any provision or to fail to comply with any of the requirements of this chapter. A violation of any of the provisions or failing to comply with any of the mandatory requirements of this chapter shall constitute an infraction which shall be punishable as set forth in Section 1-2.01 of this Code.

(b) Each such person may be charged with a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by such person and shall, upon conviction, be punished accordingly.

(Ord. 2002-02 (part), 2002)

6-5-24 Effective date.

(a) This chapter shall be effective March 28, 2002.

(b) If any section, subsection, sentence, clause, word or phrase of this chapter is held unconstitutional or otherwise invalid, such decision shall not affect the validity of the remainder of the chapter. The City Council hereby declares that it would have passed the ordinance codified in 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. 2002-02 (part), 2002)

Exhibit 1

ABATEMENT CITATION

☐ **First Notice** $ 50.00
☐ **Second Notice** $ 100.00
☐ **Third Notice** $ 250.00

CASE NO. COA-_____

Violation & Penalty: Any person or entity violating any provision of the Avenal Municipal Code shall be guilty of an infraction. A person or entity shall be deemed guilty of a separate offense for each and every day a violation is committed or continues to exist. Section 6-5.22 and 6-5.23 Avenal Municipal Code. An increased fine may be imposed for each day the violation continues to exist. Section 6-5.09.

Date:	Time:	Day of Week: Mon Tues Wed Thurs Fri Sat Sun
Name of Violator:		
Address of Violator:		Phone Number of Violator
Name of Land Owner		
Address of Land Owner		Phone Number of Land Owner
Address or location of Violation		
Violations of A.M.C. Sections		
Description of Violation(s)		

Conditions to Abate Violation(s)

Number of Days to Abate_____

FINE $_____ (The fine shall be waived, provided the violation is corrected as determined by the Code Enforcement Officer within the time stated on this citation.)

☐ **ISSUING OFFICER**: _____
919 Skyline, Blvd., Avenal, California, (559) 386-5766

APPEAL: Within ten (10) calendar days following the date of this notice, as set forth above, you may appeal this citation to the Avenal Planning Commission by filing an Appeal application with the City of Avenal, 919 Skyline Blvd., Avenal, California. (559) 386-5766. Section 6-5.10 of the Avenal Municipal Code.

If Violation(s) Not Abated:

1. If the violator and/or property owner fails to comply with the requirements of this notice of violation within the time periods set forth herein, the work to be performed and/or the abatement of the violation will be performed by the City or by a contractor retained by the City at the expense of the violator. Section 6-5.11 of the Avenal Municipal Code.
2. If the City's cost of abatement is not paid in full by the violator within thirty (30) days, the City will place a lien on the real property on which the violation has occurred to collect all City expenses to abate the violation. Section 6-5.17 of the Avenal Municipal Code.
3. The City will also seek any and all other civil or administrative remedies provided by law to cause the violation(s) to be abated. Section 6-5.20 and 6-5.21.

I have read and understand the conditions to abate this violation, and the consequences if not abated.

X _____SIGNATURE

Citation is still valid if not signed by the violator.

Copies: WHITE Original File; PINK Violator; YELLOW Property Owner; GOLD City Attorney

City of Avenal 919 Skyline Blvd., Avenal, CA 93204 Phone: (559) 386-5766 Fax: (559) 386-0629

Exhibit 2

Oasis On The Sun

CASE NO. _____ Date Appeal Filed: _____

Notice of Appeal of Abatement Citation

Note: Any Notice of Appeal must be submitted in writing within ten (10) calendar days after the date on the subject Abatement Citation. If the deadline falls on a weekend or City holiday, the deadline shall be extended to the next regular business day. Section 6-5.10(B) of the Avenal Municipal Code. The filing of a timely and proper Notice of Appeal stays the enforcement of the violations identified in the Abatement Citation(s) and the requirement to pay any fine arising therefrom. Section 6-5.10(B) of the Avenal Municipal Code.

PERSON FILING APPEAL, PLEASE FILL OUT INFORMATION BELOW

Name of Appellant:	
Address of Appellant:	Phone Number of Appellant
Name of Land Owner:	
Address of Land Owner	Phone Number of Land Owner
Address or location of Violation	
Basis for appeal of Citation and/or Fine:	

I have submitted this appeal under Section 6-5.10 of the Avenal Municipal Code:

X _____ SIGNATURE

Copies: WHITE Original File; PINK Violator; YELLOW Property Owner; GOLD City Attorney

City of Avenal 919 Skyline Blvd., Avenal, CA 93204 Phone: (559) 386-5766 Fax: (559) 386-0629

Exhibit 3

NOTE OF LIEN

Pursuant to the authority vested by the provisions of Ordinance No. ;#rule;, the City Manager of the City of Avenal did, on or about the ;#rule; day of _____, 200_____, cause the following work to be performed at the premises hereinafter described in order to abate a public nuisance on said real property:

_____

_____

The Avenal Planning Commission did on the _____ day of _____, 200_____, 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 (the sum of $;$rule;); and the same shall be a lien upon said real property until the same has been paid in full and is charged of record.

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

_____

_____

FOOTNOTE(S):

--- (**1**) ---

Editor's note— Prior ordinance history: Ordinances 89-08 (part), 89-01, 91-06, 94-07, 98-04 and 99-04. (Back)

Chapter 6 FOOD ESTABLISHMENTS AND FOOD HANDLERS

Sections:

6-6.01 Definitions.

6-6.02 Permit required—Conditions and term.

6-6.03 Suspension of permit.

6-6.04 Notice of violations.

6-6.05 Hearings.

6-6.06 Revocation of permit for repeated violations.

6-6.07 Suspension of permit for refusal of entry.

6-6.08 Summary suspension of permit.

6-6.09 Closing of establishment for violation—Supervision.

6-6.10 Food handler's cards.

6-6.11 Building and vehicle specifications approval.

6-6.12 Sanitation requirements.

6-6.13 Rules and regulations generally.

6-6.14 Fixed outdoor food vending operations—Where permissible.

6-6.15 Mobile outdoor food vending operations—Where permissible.

6-6.16 Outdoor food vending operations—Permit required.

6-6.17 Fixed or mobile outdoor food vending operation—Special occasions.

6-6.18 Permit issuance, findings and conclusions.

6-6.19 Denial of permit.

6-6.20 Revocation of permit.

6-6.21 Notification of revocation.

6-6.22 Appeals.

6-6.23 Enforcement.

6-6.24 Trash receptacles and removal.

6-6.25 Insurance provisions.

6-6.26 Noise level.

6-6.27 Prohibited conduct.

6-6.28 Pre-existing businesses.

6-6.29 Nuisance.

6-6.30 Penalty.

6-6.01 Definitions.

The following terms used in this chapter shall have the meanings indicated in this section:

(a) "Health Department" or "Department" shall mean the Kings County Health Department, which acts as the health department of the incorporated cities in Kings County pursuant to resolutions made under the provisions of Sections 476 and 477 of the Health and Safety Code of the State.

(b) "Health Officer" shall mean the County Health Officer or his deputy or assistant duly authorized to act in his behalf in case of his absence or incapacity.

(c) "Inspector" shall mean a sanitarian, as defined in Section 540 of the Health and Safety Code of the State, employed by the Health Department, or the Health Officer or any deputy health officer authorized to inspect premises or equipment for the enforcement of this chapter.

(d) "Premises" shall include land, buildings, and vehicles wherein food is handled, stored, distributed, prepared, processed, served or sold, and also equipment installed or used in food establishments or on such premises.

(e) "Outdoor food seller" shall include any individual and/or entity engaged in the handling, preparation, storage, distribution or service of food products for profit from a mobile outdoor food vending operation or fixed mobile outdoor vending operation. The term "outdoor food seller" is intended to include all individuals and/or entities engaged in the conduct described herein, whether or not the actual owner of the outdoor food vending operation.

(f) "Mobile outdoor food vending operation" shall refer to the handling, preparation, storage, distribution or service of food products for profit by an outdoor food seller from a non-fixed location vehicle, hand-cart, or other mobile vending vehicle which is equipped or primarily used for retail sales of fruits, vegetables or produce, and/or prepared, pre-packaged, or unprepared, unpackaged food of any kind, on any public street, alley or highway or private street or alley within the City of Avenal. For purposes of this chapter, any ice cream truck, shall be considered a "mobile outdoor food vending operation."

(g) "Fixed outdoor food vending operation" shall include the handling, preparation, storage, distribution or service of food products for profit by an outdoor food seller from any fixed-location vending vehicle which is equipped or primarily used for retail sales of fruits, vegetables or produce, and/or prepared, pre-packaged, or unprepared, unpackaged food of any kind on any public street, alley or highway or any private real property parcel, street or alley within the City of Avenal. For purposes of this chapter, a barbeque stand, which is capable of being transported by hitch or trailer, but which at the time of operation does not move from location to location,

shall be considered a "Fixed outdoor food vending operation." "Fixed outdoor food vending operation" shall not include the outdoor retail sale of fruits, vegetables, produce, and/or prepared, pre-packaged, or unprepared, unpackaged food of any kind by a licensed business establishment operating primarily from an indoor facility or restaurant, so long as; (1) such retail sale does not involve the use of a vehicle, hand-cart, mobile barbeque stand, and/or other mobile vehicle, and (2) such retail occurs on the same parcel as the indoor facility or restaurant to which it is incidental.

(h) "Outdoor dinning permit" shall mean a permit, issued by the City of Avenal in accordance with the requirements set forth in this chapter, which authorizes an individual and/or entity to conduct a mobile or fixed outside food vending operation within City limits.

(i) "Permit applicant" shall mean the legal owner of the outdoor food vending operation for which an outdoor dinning permit is sought and/or issued from the City.

(j) "Amplified sound making devices" shall mean horns, music, whistles or other sounds broadcast through a loud speaker or other mechanical device aimed at increasing the normal volume of the broadcast.

(Ord. 84-07 (part), 1984; Ord. No. 2006-01, § 1, 1-26-2006)

6-6.02 Permit required—Conditions and term.

(a) It shall be unlawful for any person or other legal entity to operate within the incorporated area of the City, any business in which food is prepared, sold, or served for public consumption upon the premises or elsewhere, or any food processing or manufacturing plant, or any store, vehicle, facility for the sale, storage, or retail or wholesale distribution of foods or beverages without first applying for and receiving a food-vending permit for such operations issued by the Health Department pursuant to the provisions of this chapter.

(b) The places of business for which such permits are required shall include, but shall not be limited to, any restaurant, cafe, lunch counter, cafeteria, soda fountain, ice cream parlor, soft drink stand, fruit and vegetable stand, grocery, meat market, bakery, popcorn or peanut stand, bottling plant, wholesale warehouse, food-vending vehicle, and business which service vending machines located in the City, regardless of the location of the facilities from which such vending machines are serviced.

(c) This chapter shall not apply to cigar stands, or other places of business or vehicles where no food of any kind is sold, other than candy or soft drinks received and sold in sealed containers, nor to vehicles engaged in the delivery of food products to wholesale or retail establishments for resale, nor shall the provisions of this chapter apply to churches, church societies, private clubs, or other nonprofit associations of a religious, philanthropic, civic improvement, social, political, or educational nature which purchase food, food products, or beverages or which receive donations of food, food products, or beverages for service without charge to their members, or for service or sale at a reasonable charge to their members, or to the general public at occasional fundraising events, for consumption on or off the premises at which the food, food products, or beverages are served or sold, if the service or sale of such food, food products, or beverages does not constitute a primary purpose or function of the club or association, and if no employee or member is assigned full-time to care for or operate equipment used in such arrangement.

(d) Every applicant for a food-vending permit shall file with the Health Department a written application which shall state the name and address of the applicant, the location of the food-handling business, the character of the business which is proposed to be conducted, and such other information as the Health Department may require.

(e) No permit shall be granted, renewed, or reinstated unless the Health Department determines, upon making an investigation, that the place of business for which the application is made is equipped, operated, and maintained in a safe and sanitary, and healthful manner, and that no conditions exist

on the premises which are, or which may be, unsafe, insanitary, unwholesome, or detrimental to the health of the patrons, consumers, employees, or the general public.

(f) No permit shall be granted, renewed or reinstated unless the Health Department determines that the condition of the premises is in accordance with the requirements of all applicable provisions of the Health and Safety Code of the State, of this chapter, and of all rules and regulations promulgated under Section 6-6.13 of this chapter, and that such premises are capable of being operated in accordance with such laws and regulations.

(g) Permits may be granted at any time during the year and shall expire one year after the date of issuance. Each permit shall be posted in a conspicuous place on the premises or vehicle for which it is issued.

(h) The fee for the permit required by the provisions of this section shall be ten dollars ($10.00) per year for businesses employing five (5) employees or less, plus one dollar ($1.00) for each employee in excess of five (5).

(Ord. 84-07 (part), 1984)

6-6.03 Suspension of permit.

A permit issued pursuant to the provisions of this chapter or preceding provisions may be suspended under the procedure set forth in this section through Section 6-6.10 of this chapter for any of the following reasons:

(a) Violations of State laws;

(b) Violations of the provisions of this chapter;

(c) Violations of the rules and regulations adopted pursuant to Section 6-6.13 of this chapter; or

(d) Upon a recommendation for revocation of the permit, pending a hearing thereon.

(Ord. 84-07 (part), 1984)

6-6.04 Notice of violations.

When any of the aforesaid laws, the provisions of this chapter, or rules and regulations have been violated, an inspector may serve written notice thereof, entitled "Notice of Violation," specifying:

(a) The acts and conditions constituting each violation;

(b) The provision violated thereby;

(c) The corrective stops required;

(d) The date by which all such corrections shall be completed allowing a reasonable period therefor;

(e) That the permittee has a right to a hearing, upon request; and

(f) That if no hearing is requested, and if the Health Department does not receive notice that all such corrections have been made before 9:00 a.m. of the date named under subsection (d) of this section, the permit will be suspended from that time until such violations are corrected.

(Ord. 84-07 (part), 1984)

6-6.05 Hearings.

The permit holder shall have the right to a hearing on all violations listed in the notice. The permit shall, however, be suspended unless the Health Department receives from the permit holder, before 9:00

a.m. of the date specified under subsection (d) of Section 6-6.04 of this chapter, a written or oral request for a hearing or notice that all violations have been corrected as specified.

The hearing shall be held by the Health Officer or his duly authorized representative who is a qualified sanitarian as defined in Section 540 of the Health and Safety Code of the State and registered as provided in Section 542 thereof, but shall not be the inspector who reported the violations or who inspected any corrective measures taken.

The person conducting the hearing shall make a written order as to each alleged violation listed on the notice and shall deliver a signed copy thereof to the permittee. As to each violation, the order shall either:

(a) Suspend the permit until it is corrected; or

(b) Extend the time or modify the measures to be taken for correction before the suspension; or

(c) Declare that the violation has been corrected so as to comply with the applicable law; or

(d) Declare that there was no violation.

(Ord. 84-07 (part), 1984)

6-6.06 Revocation of permit for repeated violations.

If there shall have been three (3) or more notices of violation issued within the twelve-month period immediately preceding the current violation as to the premises in question as provided in Section 6-6.04of this chapter, and not overruled upon hearing, the order of the person conducting the hearing or, if no hearing is held, of the inspector who is responsible for the third such notice, shall recommend to the Health Officer whether or not the permit shall be revoked as provided in this section. If it is so recommended, the permit may be ordered suspended forthwith by the Health Officer pending the hearing on such proposed revocation.

Upon such recommendation for revocation by the person conducting the hearing, the permit in question may be revoked by the Health Officer after hearing upon his finding that such violations were serious enough and showed such lack of responsibility toward the public health as to require such revocation to protect the public health.

(Ord. 84-07 (part), 1984)

6-6.07 Suspension of permit for refusal of entry.

It shall be a violation of the provisions of this chapter for any person to deny or hinder entry by any inspector for the purpose of inspecting any of the premises described in Section 6-6.02 of this chapter, or any portion thereof; and in such event the inspector may forthwith suspend the food-vending permit issued for the premises.

(Ord. 84-07 (part), 1984)

6-6.08 Summary suspension of permit.

Whenever an inspector finds insanitary or other conditions in the operation of any food establishment which in his judgment constitute an immediate and substantial hazard to the public health, he shall issue a written notice to the permit holder or person in charge of the premises as provided in Section 6-6.04 of this chapter, except that instead of the matter specified under subsection (f) of said section, it shall state that the permit shall be immediately suspended and shall set forth the substance of the following sentence. Any person to whom such an order is issued shall immediately comply therewith, but, upon request made to the inspector who orders the suspension, or to the Health Officer or his authorized representative, either personally or by telephone or in writing, he shall be afforded a hearing as soon as possible, and notice of its setting may be given in the same manner as the request.

(Ord. 84-07 (part), 1984)

6-6.09 Closing of establishment for violation—Supervision.

When any permit is first suspended pursuant to the provisions of this chapter, or when any premises governed hereby as defined in Section 6-6.02 of this chapter shall have been closed for business and left in an insanitary condition, the Health Department shall have the power to insure that the premises are closed down in a manner which will not endanger the public health. If the permittee or his employee in charge cannot be found, or is unwilling or unable to remedy to condition of the premises, the owner of the premises shall be notified of the insanitary conditions and shall be required to take such remedial action as may be necessary to obviate such condition.

(Ord. 84-07 (part), 1984)

6-6.10 Food handler's cards.

It shall be unlawful for any person to engage in the handling, serving, preparation, or storage of food or drink in any bakery, butcher shop, restaurant, hotel, fountain, tavern, or other eating or drinking place in the City, or in the sanitizing of utensils in any of the foregoing establishments, for a period of time longer than fifteen (15) working days, or for any food establishment operator to employ or permit any person to engage in such activities therein for longer than said period of time unless such person holds a food handler's card issued by the Health Officer. All food handler's cards shall expire one year from date of issuance. A fee of one dollar ($1.00) shall be charged for each card issued. As a prerequisite to the issuance of a food handler's card, every person engaged in the aforesaid activities shall obtain and have in his possession a current and negative x-ray card which may be obtained without charge from the Health Department. In addition to the x-ray examination, the Health Officer may, as a prerequisite to the issuance of a food handler's card, impose any other requirement, including physical or other tests and examinations, which may be necessary for the protection of the public health. The Health Officer shall not give any treatment required for any condition revealed by such examination or such tests, and the Health Department shall not be responsible in any manner for the cost of such treatment.

(Ord. 84-07 (part), 1984)

6-6.11 Building and vehicle specifications approval.

Prior to the construction, conversion, or alteration of a building for use as a food establishment or the construction or purchase of a model of vehicle not previously under permit to any person in the City, two (2) copies of the plans and specifications therefor shall be submitted to the Health Department. The Health Officer or his authorized deputy shall thereafter issue his certificate stating what modifications, if any, he deems are required for compliance with applicable laws.

(Ord. 84-07 (part), 1984)

6-6.12 Sanitation requirements.

All businesses and premises for which a permit is required by this chapter shall be constructed, equipped, operated, and maintained so as to comply with the provisions of Articles 2 through 6, inclusive, of Chapter 11 of Division 21 of the Health and Safety Code of the State.

(Ord. 84-07 (part), 1984)

6-6.13 Rules and regulations generally.

The Health Officer may adopt and enforce rules and regulations necessary to administer the provisions of this chapter, including regulations pertaining to:

(a) Forms for applications, permits, and notices;

(b) Forms and procedures for hearings upon the granting; and

(c) Inspections of premises and reporting thereon.

(Ord. 84-07 (part), 1984)

6-6.14 Fixed outdoor food vending operations—Where permissible.

(a) Traffic. Fixed outdoor food vending operations are not permitted where the speed, volume or proximity of vehicular traffic is not compatible with the safe operation of a fixed outside food vending operation.

(b) Adjacent to Established Business. All fixed outdoor food vending operations must be adjacent to, and incidental to, the operation of an indoor restaurant, mini-mart, grocery store and/or other licensed business establishment within the City. No fixed outdoor food vending operation may be located on a vacant parcel within the City.

(c) Pedestrian Traffic. Fixed outdoor food vending operations are permitted only where the sidewalk is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operation of the proposed activity. The outdoor food vending operation shall be located in a manner to leave not less than five (5) consecutive feet of sidewalk width at every point which is clear and unimpeded for pedestrian traffic.

(d) Hours. Hours of operation for any fixed outdoor food vending operation are to coincide with those of the adjoining indoor licensed business establishment.

(Ord. No. 2006-01, § 2, 1-26-2006)

6-6.15 Mobile outdoor food vending operations—Where permissible.

(a) Traffic. Mobile outdoor food vending operations are not permitted where the speed, volume or proximity of vehicular traffic is not compatible with the safe operation of a mobile outside food vending operation.

(b) Public Rights-of Way. Mobile outdoor food vending operations are permitted on public rights-of-way. Except as otherwise provided within this chapter, mobile outdoor food vending operations may not be operated from private property.

(c) Hours. No mobile outside food vending operation shall conduct business before 10:30 a.m. and after 6:00 p.m., November through February. In the months of March through October, mobile outside food vending operations may be operated between the hours of 10:30 a.m. and 8:00 p.m.

(Ord. No. 2006-01, § 2, 1-26-2006)

6-6.16 Outdoor food vending operations—Permit required.

(a) Any permit applicant desiring to engage in the operation of a fixed or mobile outdoor food vending operation within the City, must submit an application for an outdoor food vending permit prior to the operation of such fixed or mobile outdoor food vending operation. Such application shall be accompanied by a non-refundable application fee in such amount established by resolution of the City Council. The permit shall be subject to renewal on a semi-annual basis, unless otherwise provided herein.

(b) An application for a permit under this section shall furnish the following information and documentation as part of or in conjunction with such application:

(1) The present or proposed address or area from which the outdoor food vending operation is going to be conducted.

(2) The location where restocking and overnight parking of any vending unit whether operated as a fixed or mobile outdoor food vending operation is going to take place.

(3) The full and true name under which the fixed or mobile outdoor food vending operation will be conducted.

(4) Copies of all licenses and permits issued by the City, County, or State of California in relation to the fixed or mobile outdoor food vending operation.

(5) The full and true name and any other names used by the permit applicant during the last ten (10) years.

(6) The full and true name and any other names used by any individual expected to act as an outdoor food seller for the business.

(7) The present residence address and telephone number of the permit applicant and any outdoor food seller associated with the business.

(8) California Driver's License number of the permit applicant and all outdoor food sellers associated with the business.

(9) Acceptable written proof that the permit applicant is at least eighteen (18) years of age.

(10) The height, weight, color of eyes and hair, and date of birth of the permit applicant and any outdoor food seller associated with the business.

(11) The business, occupation or employment history of the permit applicant for the three (3) year period immediately preceding the date of the application.

(12) The permit history of the permit applicant, for the three (3) year period immediately preceding the date of the filing of the application, including whether such permit applicant, in previously operating in this or any other City, County, State or territory, has ever had any similar license or permit, or franchise revoked or suspended, and if so, the circumstances of such suspension or revocation.

(13) Written proof of insurance.

(14) When any change occurs regarding the written information required in this chapter, prior to, or following, issuance of a permit, the permit applicant shall give written notification of such change to the City within two (2) weeks after such change.

(c) In addition to the above, where a permit applicant intends to conduct the outdoor food vending operation from a fixed location within the City of Avenal, the permit applicant must submit with his/her application, a written authorization form fully completed by the individual and/or entity which owns the location from which the outdoor food vending operation will be operated. Written authorization forms shall be made available to any permit applicant at City Hall.

(d) Every vehicle, hand-cart and/or other mobile vehicle from which a permit applicant wishes to operate a fixed or mobile outdoor food vending operation, shall be inspected by the City as part of the application process. The purpose of such inspection is to confirm whether or not the vehicle, hand-cart and/or other mobile vehicle meets with all applicable provisions of the Health and Safety Code of this State, of this chapter, and of all rules and regulations promulgated under the Avenal Municipal Code. It is also the purpose of such inspection that the City determine whether or not a proposed fixed or mobile outdoor food vending operation is capable of being operated in accordance with State, County and City laws and regulations.

(Ord. No. 2006-01, § 2, 1-26-2006)

6-6.17 Fixed or mobile outdoor food vending operation—Special occasions.

(a) Discretion to Suspend. For purposes of a City sanctioned event (i.e., Old Timer's Day), the City may in its discretion suspend the requirement herein that all fixed or mobile outdoor food vending operations obtain a Permit prior to operation within the City. The City may also in its sole discretion suspend any other requirement set forth in this chapter which the City believes is unnecessary for purposes of the City sanctioned event. Notice of such suspension shall be posted by the City at City Hall. Such notice shall clearly delineate any requirements for operation of a fixed or mobile outdoor food vending operation during the suspension period. Any operator of a fixed or mobile outdoor food vending operation during a City sanctioned event for which a suspension has been issued, is deemed to have notice of, and consented to be bound by, all posted requirements.

(b) Application for Waiver. Upon request, the City may also waive the requirements herein for obtaining a Permit for the operation of a fixed or mobile outdoor food vending operation within the City. Such waiver may occur where the fixed or mobile outdoor food vending operation shall be conducted only during a City sanctioned event and/or during a private special event for which City approval has been obtained. [Hereinafter "event waiver".] Individuals wishing to obtain an event waiver must submit to the City, at least forty-five (45) days prior to the scheduled event, a written request for waiver of those requirements set forth in Section 6-6.16 and/or any other Section contained within this chapter from which the individual and/or operation wishes to be exempt.

(c) Response to Application. Within fifteen (15) days after receipt of a request for an event waiver, the City shall issue to the applicant either; (1) an event waiver for operation of a fixed or mobile outdoor food vending operation, specifying any conditions and/or requirements of the same, or (2) a written rejection of the request for an event waiver. Any rejection of a request for an event waiver shall not preclude the applicant from thereafter submitting an application which satisfies the requirements of this chapter for the operation of a fixed or mobile outdoor food vending operation within City limits.

(d) Term of Suspension and/or Waiver. Any suspension and/or event waiver granted by the City under this Section shall not extend beyond the date and time of the event for which it was granted. All event waivers and suspensions provided for under this Section shall be issued at the sole discretion of the City and/or its designated agent. Determinations by the City regarding the issuance and scope of such suspensions and/or event waivers are final.

(e) Number of Event Waivers: Nothing contained in this section shall require that the City issue event waivers in any form and/or number.

(f) Failure to Comply: Any fixed or mobile outdoor food vending operation operating within the City pursuant to a City suspension and/or event waiver which fails to operate within the restrictions and/or requirements imposed by the City in regards thereto, shall be subject to immediate closure by the City and/or its designated agents for the duration of the subject event for which the suspension and/or event waiver was granted.

(Ord. No. 2006-01, § 2, 1-26-2006)

6-6.18 Permit issuance, findings and conclusions.

The City of Avenal shall issue the outdoor dinning permit within twenty (20) days after receiving a completed permit application, providing all of the following requirements have been met:

(a) The required fees have been paid;

(b) The application conforms in all respects to the provisions of this chapter;

(c) The permit applicant has not made a material misrepresentation of fact in the application;

(d) The permit applicant has not had a similar permit denied or revoked by the City within a period of one year prior to the date of such application;

(e) The permit applicant does not have any outstanding debt owed to the City;

(f) The permit applicant has obtained all necessary food-vending permits and other licenses required for such operations, as issued by the Health Department and/or the State of California; and

(g) The proposed vehicle, hand-cart and/or other mobile vending vehicle from which the permit applicant intends to operate his/her outdoor vending operation, has been found by the City to meet all applicable provisions of the Health and Safety Code of this State, of this chapter, and of all rules and regulations promulgated under Section 6-6.13 of the Avenal Municipal Code, and that such premises are capable of being operated in accordance with such laws and regulations.

(h) The proposed vehicle, hand-cart and/or other mobile vending vehicle from which the permit application intends to operate his/her outdoor vending operation, including all equipment utilized within the proposed vehicle, is in working order, and in good physical condition.

(Ord. No. 2006-01, § 2, 1-26-2006)

6-6.19 Denial of permit.

(a) All conditions of Section 6-6.16 must be met before the outside dinning permit is issued. Written notice of denial will be provided by the City of Avenal and will indicate grounds for denial. Notice of denial shall be deemed served on the date of personal service or when the notice is deposited in the United States mail, postage prepaid, and addressed to the permit applicant at his or her address as set forth in the permit application.

(b) Any applicant whose application for an outside dinning permit been denied by the City may appeal such denial to the City Manager by filing a written notice of appeal with the City Manager's office no later than ten (10) days following service of this notice of the decision. Notice of appeal must be accompanied by the appeal fee and is deemed filed with the City on the date of receipt by the City. The appeal fee shall be set by resolution of the City Council.

(c) No person or entity whose permit request is denied on appeal shall be eligible to re-apply for a period of six (6) months from the date of the denial of his/her permit request.

(Ord. No. 2006-01, § 2, 1-26-2006)

6-6.20 Revocation of permit.

Any outdoor dinning permit may be revoked by the City upon a showing of good cause. Good cause may be found, but is not limited to, any of the following:

(a) Providing false information as a basis for permit issuance.

(b) Failure of the permit applicant, or any employees or subcontractors of the permit applicant, to comply with the regulations set forth in this chapter, the Avenal Municipal Count, County regulations and/or State law.

(c) Conviction of a violation, or plea of guilty or nolo contendere, by the permit applicant, or any employee, subcontractor or independent contractor of the permit applicant, of any state law or municipal ordinance while in the course of conducting vending operations from a vehicle pursuant to the permit.

(d) Conviction of a violation, or a plea of guilty or nolo contendere, by the permit applicant of any applicable provision or requirement of this chapter.

(Ord. No. 2006-01, § 2, 1-26-2006)

6-6.21 Notification of revocation.

Notification of the permit applicant shall be made either by personal delivery or by regular mail, addressed to the permit holder at such permit holder's residence address as set forth on the application for a permit. Service shall be deemed made on the permit applicant on the date personally delivered or on the date of mailing. A permit applicant may appeal such revocation to the City Manager by filing a written notice of appeal with the City Manager within ten (10) days following the date of service of such decision and payment of the appeal fee as prescribed by resolution of the City Council. The date of filing of said notice of appeal shall be the date said notice and appeal fee are received by the City. If a timely appeal is filed, the revocation shall be stayed pending the decision of the City Manager. Otherwise the suspension or revocation shall become effective immediately upon expiration of said appeal period.

No person or entity whose permit is revoked shall be eligible to apply for a new permit for a period of six (6) months following such revocation.

(Ord. No. 2006-01, § 2, 1-26-2006)

6-6.22 Appeals.

Revocation shall not be effective until expiration of the appeal period. Upon receipt of a timely request for a hearing on appeal, the City Manager or his designated representative shall hear such appeal within twenty (20) days of the request and shall provide the appellant not less than five (5) days advance notice of the hearing. The decision of the City Manager shall be based upon those criteria as set forth in this chapter, which is applicable to the issuance or revocation of such permit. The appellant shall be notified of the decision of the City Manager by mailed, written notice. The decision of the City Manager shall be final. No revocation of a permit pursuant to this chapter shall be deemed effective during the pendency of a timely filed appeal until the date of mailing of the City Manager's decision; provided, however, no permit holder shall operate during any period of time in which the insurance coverage required by this chapter is not in full force and effect.

(Ord. No. 2006-01, § 2, 1-26-2006)

6-6.23 Enforcement.

The City Manager, Police Officers, the Planning and Building Director, the Finance Director, City Code Enforcement Officers, the Fire Chief, and their designees, have the authority to enforce the provisions of this chapter.

(Ord. No. 2006-01, § 2, 1-26-2006; Res. No. 2010-64, 10-28-2010)

6-6.24 Trash receptacles and removal.

(a) All outdoor food vending operations shall be equipped with refuse receptacles large enough to contain all refuse generated by the operation of such vehicle;

(b) All outdoor food sellers engaged in the operation of an outdoor food vending operation shall pick up all refuse generated by such operation within a fifty (50) foot radius of the vehicle before such vehicle is moved and/or closed for the night. All refuse collected by an outdoor food seller shall be disposed of at an approved solid waste facility.

(Ord. No. 2006-01, § 2, 1-26-2006)

6-6.25 Insurance provisions.

All outdoor food vending operations shall have liability insurance as required by City.

(Ord. No. 2006-01, § 2, 1-26-2006)

6-6.26 Noise level.

(a) Any use of amplified sound making devices, including vehicle horns, to advertise, draw attention to, or announce the presence of any such vehicle shall be prohibited within the residential areas of the City.

(b) Non-amplified sound making devices shall not be used while the vehicle is stopped, parked, or otherwise in a stationary position, on any public street in an area zoned for residential use within the City. When used in a residential area, non-amplified sound shall not be audible to a person of normal sensitivity for a distance of more than five hundred (500) feet.

(c) All sound equipment and/or devices utilized by any outdoor food vending operation shall be kept and maintained in good working condition.

(Ord. No. 2006-01, § 2, 1-26-2006)

6-6.27 Prohibited conduct.

(a) No person shall vend from a fixed or mobile outdoor vending operation which is stopped, parked or standing on any public street, alley or highway, or any private property location, in any of the following situations:

(1) No mobile outdoor vending operation shall be allowed to operate within five hundred (500) feet of any active public school property, park, playground or recreational facility;

(2) No mobile outdoor vending operation shall be allowed to operate within three hundred (300) feet of any other mobile outdoor vending operation which is engaged in the operation of vending;

(3) No mobile outdoor vending operation shall be allowed to operate within one hundred (100) feet of an intersection (including public alleys);

(4) No mobile outdoor vending operation shall be allowed to operate when the posted speed limit on the public street, alley or highway is greater than twenty-five (25) miles per hour.

(5) When the mobile outdoor vending operation vehicle or fixed outdoor vending operation is parked or located in violation of any other provision of this Code or the California Vehicle Code.

(6) When the mobile outdoor vending operation vehicle is duly registered and licensed by the State of California with an unladen weight exceeding six thousand (6,000) pounds.

(7) When the mobile outdoor vending operation is not legally stopped or parked adjacent to the right side of the roadway;

(8) When the prospective customer is standing or sitting in another vehicle;

(9) When the prospective customer is located in that portion of the street, alley or highway, which is open to vehicular traffic; or

(10) When the outdoor vending operation is located within any parkway, alley, sidewalk or within a no parking area, or other public property.

(b) Re-stocking of a mobile outdoor vending operation vehicle is prohibited on a public street or alley.

(c) No outdoor vending operation shall attach to or receive any utilities from private or public property.

(d) No additional lighting other than that required by the California Vehicle Code may be installed or operated on a mobile outdoor vending operation vehicle.

(e) Mobile outdoor vending operation vehicles may, with the approval of the landowner, operate on private property (such as construction sites) for a period of not more than thirty (30) minutes in order

to provide meals/snacks for employees. Mobile vending units are not permitted on private property for any other purpose.

(f) No outdoor vending operation shall be parked, stopped, left standing, or located, in any manner, which blocks or impedes vehicular access to any driveway or restricts the free movement of other vehicles upon the public street.

(g) Operators of a outdoor vending operation may not provide tables and/or seating for their customers.

(h) No vehicle shall be parked or stored when not in use in any manner other than as defined in the California Uniform Retail Food Facilities Law, Section 114287.

(i) All outdoor vending operations shall be clearly identified as to business name, address and City of the person owing or operating the such. Such identification shall be easily legible, of professional quality, in letters which contrast with their background and are at least three (3) inches high with a minimum 3/8 inch wide stroke. Stick-on letters and paint which is peeling and/or otherwise illegible shall not be sufficient to satisfy the requirements of this subsection.

(j) All mobile outdoor vending operation vehicles operated within the City of Avenal shall be constructed or modified in a manner which allows the sale of products to occur only from the right-side of the vehicle. Any motorized vehicle constructed in a manner which allows the sale of products to occur from both the right- and left-sides of the vehicle, shall, within ninety (90) days after the passage of this ordinance, be modified in a safe and sanitary manner to meet the requirements of this section.

(k) Mobile outdoor vending operation vehicles shall include the following warning on the left-side of the vehicle:

"Do Not Cross Street—Food Will Be Sold on Both Sides of Street." or

"Do Not Cross Street—Ice Cream Will Be Sold on Both Sides of Street."

(l) In no case should any mobile outdoor vending operation remain immobile for more than five (5) minutes.

(m) In no case should any mobile outdoor vending operation be operated without a valid permit from the City, and full compliance with all City, County and State requirements for such operation.

(n) In addition to those requirements set forth above, all motorized ice cream trucks shall comply with the requirements set forth in the Destiny Nicole Stout Memorial Act as it is currently written and/or may be amended in the future (California Vehicle Code Section 22456).

(Ord. No. 2006-01, § 2, 1-26-2006)

6-6.28 Pre-existing businesses.

This section applies to all businesses or activities regardless of when the business or activity was established. Businesses existing prior to enactment of this section shall file a completed application for a vendor or operator permit or tax certificate within thirty (30) days of enactment of the chapter. Any permit issued under this chapter shall be non-transferable.

(Ord. No. 2006-01, § 2, 1-26-2006)

6-6.29 Nuisance.

Operation of a mobile or fixed outdoor food vending operation in any manner contrary to the provisions of this chapter is unlawful and constitutes a public nuisance. In addition to or in lieu of prosecuting a criminal action the City Attorney may commence an action or proceeding for the abatement, or removal of the nuisance as provided in Title 6 of the Avenal Municipal Code. The City Attorney may also apply to a court of jurisdiction for abatement or removal of the nuisance, or to restrain or enjoin operation of an outdoor vending operation in a manner contrary to the provisions of this chapter.

(Ord. No. 2006-01, § 2, 1-26-2006)

6-6.30 Penalty.

Every violation of the provisions of this chapter shall be deemed to be a misdemeanor punishable by imprisonment not exceeding six (6) months or by fine not exceeding one thousand dollars ($1,000.00), or by both fine and imprisonment. Notwithstanding the classification of a violation of this chapter as a misdemeanor, at the time an action is commenced to enforce the provisions of this chapter, the trial court, upon recommendation of the City Attorney, may reduce the charged offense from misdemeanor to an infraction. Any person convicted of an infraction under this chapter shall be punished by:

(a) A fine not exceeding one hundred dollars ($100.00) for a first violation.

(b) A fine not exceeding two hundred dollars ($200.00) for the second violation of this chapter within one year.

(c) A fine not exceeding five hundred dollars ($500.00) for each additional violation of this chapter within one year.

Each day a violation continues shall be regarded as a new and separate offense.

The City Council of Avenal, California, ordains that this chapter shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

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 effect the validity of the remainder of this chapter. The City Council of the City of Avenal 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. No. 2006-01, § 2, 1-26-2006)

Chapter 7 TRASH ENCLOSURES

Sections:

6-7.01 Intent of provisions.

6-7.02 Definitions.

6-7.03 Implementation—Installation and construction.

6-7.04 Exceptions to requirements.

6-7.05 Screening and accessibility of trash enclosures.

6-7.01 Intent of provisions.

The intent of this chapter is to ensure the construction of durable, permanent trash enclosure facilities, in locations that are inconspicuous but easily accessible to collection vehicles, for any project that will or could use garbage cans, mobile trash bins, or other similar facilities, as a means of storing garbage.

(Ord. 94-08 § 1 (part), 1995)

6-7.02 Definitions.

As used in this chapter:

"Addition" or "remodel" means any work done on a piece of property that requires a building permit.

"Current assessed value" means the value listed under the improvements column in the most current edition of the County Tax Assessor's roll on file in the City Clerk's office.

"Garbage can" means a container that is designed to be used for the storage of garbage.

"Mobile trash bin" means a metal trash container, equipped with wheels, having a capacity of one or more cubic yards, that is designed to be hydraulically lifted from the front or rear of a trash collection vehicle.

"Trash enclosure" means a permanent, immobile structure, designed for the screening and storage of garbage cans, a mobile trash bill, or other trash receptacles.

"Valuation" means the total price of improvements for a specific building permit, as determined by the City.

(Ord. 94-08 § 1 (part), 1995)

6-7.03 Implementation—Installation and construction.

(a) Title 6, Chapter 2 of this Code requires that all trash and garbage be placed in an appropriate receptacle. All garbage cans, mobile trash bins, receptacles as defined and regulated in Title 6, Chapter 2, and all recycling materials and containers for such recycling material shall be maintained and stored within a trash enclosure as defined and regulated in this chapter.

(b) A trash enclosure shall be installed or constructed for each of the following types of projects:

(1) The construction of any new commercial or office structure or any addition or remodel to any existing commercial or office structure, when the valuation of such addition or remodel, or the aggregate valuation of more than one remodel in any twelve (12) month period, exceeds ten (10) percent of the then-current assessed value of the improvements for the subject parcel;

(2) The construction of any new industrial, manufacturing, or warehousing structure, or any addition or remodel to an existing industrial, manufacturing, or warehousing structure, when the valuation of such addition or remodel, or the aggregate valuation of more than one addition or remodel in any twelve (12) month period, exceeds ten (10) percent of the then-current assessed value of the improvements for the subject parcel; and

(3) The construction of any new residential structure(s) for any apartment complex, condominium project, or planned unit development, when such project or planned unit development consists of five (5) or more units.

(c) A trash enclosure shall be installed or constructed for each occupied premises where receptacles, recycling containers, or recycled materials are required or maintained as follows:

(1) In addition to any other requirements of this Code, including Title 6, Chapter 2, every person or entity who owns or occupies a building on any property within a commercially zoned district shall comply with the provisions of this chapter and construct or install a trash enclosure on or before November 30, 1995. The Planning Director is authorized to grant an extension, not to exceed ninety (90) days, in the case of extreme hardship.

(2) In addition to any other requirements of this chapter, every person or entity who owns or occupies a building on property in industrial or manufacturing zoning districts shall comply with the provisions of this chapter and construct or install a trash enclosure on or before November 30, 1995. The Planning Director is authorized to grant an extension, not to exceed ninety days, in the case of extreme hardship.

(Ord. 95-09, 1995; Ord. 94-08 § 1 (part), 1995)

6-7.04 Exceptions to requirements.

(a) In addition, the requirements of this chapter may be applied by the City Council or Planning Commission as a condition to the granting of a use permit, variance, or ordinance amendment in any commercial, manufacturing, industrial, retail, planned community or multifamily zoning district.

(b) The Planning Director has the power to grant an exception to the requirement for a trash enclosure if it is determined that any use in the proposed structure will not generate enough trash to necessitate the use of a garbage can, trash bin, or number of trash receptacles to require screening and enclosure or if such cans, bins, or receptacles are maintained inside of a building.

(c) The Planning Director has the power to work with property and business owners to identify options which result in implementation of the spirit and intent of this chapter, where unique or unusual circumstances exist such as buildings constructed without setbacks or access to rear portions of the property.

(Ord. 94-08 § 1 (part), 1995)

6-7.05 Screening and accessibility of trash enclosures.

Trash enclosures shall be sited and constructed to provide adequate screening from public view of refuse, as follows:

(a) Trash enclosures shall not be located nearer than twenty (20) feet to streets or sidewalks, and shall be located to the rear of a building where possible.

(b) Trash enclosures should be easily accessible to collection vehicles and collection personnel. The area directly in front of any trash enclosure should be less than a two (2) percent slope to make manipulation of the trash bin as easy as possible. Trash enclosures shall be of sufficient size to store trash receptacles, or trash bins, as specified by the local solid waste disposal company.

(c) Trash enclosures shall be constructed to be as inconspicuous as possible. The contents of the enclosures shall be screened from public view.

(d) Trash enclosures shall be constructed of galvanized chain-link fence material equipped with redwood or vinyl slats, or a solid material such as wood or masonry matching the main structure may be used. Architectural review shall be required for all trash enclosures. A building permit is not required for trash enclosures which do not exceed six (6) feet in height and do not have a roof.

(e) Trash enclosures shall be located more than fifteen (15) feet from any front entrance to a structure.

(f) Trash enclosures shall be maintained in good condition on a continual basis.

(Ord. 94-08 § 1 (part), 1995)