ORDINANCE NO. 2012– 01

AN ORDINANCE AMENDING APPLICATION REQUIREMENTS FOR PERMITS ISSUED TO MOBILE OUTDOOR FOOD VENDING OPERATORS AND ENACTING REQUIREMENTS FOR WRITTEN PERMITS ISSUED TO OUTDOOR FOOD SELLERS.

THE CITY COUNCIL OF THE CITY OF AVENAL DOES ORDAIN AS FOLLOWS:

Section 1. PURPOSE. The provisions of this ordinance are intended to protect consumers and to promote the efficient administration of the City's regulation of food establishments and food handlers.

Section 2. CODE AMENDMENT. Subsection (b)(8) of section 6-6.16 of the Municipal Code of the City of Avenal, is amended to read in its entirety as follows:

Section 6-6.16 Outdoor Food Vending Operations – Permit Required.

...

8. A copy of the State of California driver's license of each Permit Applicant and all Outdoor Food Sellers working for such Permit Applicant(s), when the permit is to be used for a Mobile Outdoor Food Vending Operation from a motor vehicle that is required to be registered for use on public roadways; Otherwise, when the Permit Applicant(s) and all Outdoor Food Sellers working for the Permit Applicant(s) will conduct a Fixed Outdoor Food Vending Operation or a Mobile Outdoor Food Vending Operation without the use of a motor vehicle required to be registered for use on public roadways, only a copy of the California Identification Card of each Permit Applicant(s) and all of his/her/its Outdoor Food Sellers must be provided.

Section 3. CODE ENACTMENT. Subsection (i) is hereby added to section 6-6.18 of the Municipal Code of the City of Avenal, is amended to read in its entirety as follows:

Section 6-6.18 Permit Issuance, findings and conclusion.

...

(i) Each Outdoor Food Vending Permit issued under this chapter must be in writing. Any permit issued under this chapter to any person conducting a Mobile Outdoor Food Vending Operation

without a motor vehicle that is required to be registered for use on public roadways, must indicate that the permit is not valid for use while conducting a Mobile Outdoor Food Vending Operation from a motor vehicle.

Section 4. CEQA REVIEW. The City Council hereby finds that this ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment] and 15061(b)(3) [there is no possibility the activity in question may have a significant effect on the environment]. The City Manager is hereby directed to ensure that a Notice of Exemption is filed pursuant to CEQA Guidelines section 15062 [14 C.C.R. § 15062].

Section 5. NO LIABILITY. The provisions of this ordinance shall not in any way be construed as imposing any duty of care, liability or responsibility for damage to person or property upon the City of Avenal, or any official, employee or agent thereof.

Section 6. PENDING ACTIONS. Nothing in this ordinance or in the codes hereby adopted shall be construed to affect any suit or proceeding pending or impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance or code repealed by this ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 7. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Avenal hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof

be declared invalid or unenforceable.

Section 8. CONSTRUCTION. The City Council intends this ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this ordinance shall be construed in light of that intent. To the extent the provisions of the Avenal Municipal Code as amended by this ordinance are substantially the same as provisions in the Avenal Municipal Code existing prior to the effectiveness of this ordinance, then those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

Section 9. EFFECTIVE DATE. The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof. Prior to the expiration of fifteen (15) days from the passage hereof a certified copy of this ordinance shall be posted in the office of the City Clerk pursuant to Government Code section 36933(c)(1) and a summary shall be published once in the Avenal Chimes, a newspaper printed and published in the City of Avenal, State of California, together with the names of the Council members voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the City Council of the City of Avenal, State of California, on the 26th day of January, 2012, at a regular meeting of said Council duly and regularly convened on said day by the following vote:

AYES: PRECIADO, OVALLE, CASIDA, CURTY.
NOES: NONE.
ABSTAIN: NONE.
ABSENT: GRAVELLE.

HARLIN CASIDA, Mayor
CITY OF AVENAL

ATTEST:
PAMELA BONILLA, City Clerk,
CITY OF AVENAL

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