ORDINANCE NO. 2020 -07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AVENAL RATIFYING ACTION TAKEN ON JUNE 25, 2020 TO MAKE MANDATORY ALL COMMERCIAL BUSINESSES, STORE OWNERS AND OTHERS WORKING IN PLACES OF BUSINESS WITHIN THE CITY LIMITS OF AVENAL TO WEAR APPROPRIATE FACIAL COVERINGS; AND FURTHER, REQUIRE THE PUBLIC/CUSTOMERS/PATRONS TO WEAR FACIAL COVERINGS WHILE IN STORES/PLACES OF BUSINESS DUE TO THE COVID 19 PANDEMIC.

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

TITLE 4 – PUBLIC SAFETY

CHAPTER 13: MANDATORY WEARING OF FACIAL COVERINGS is added to the Avenal Municipal Code:

WHEREAS, Title 4-2.01 et seq. of the City of Avenal Municipal Code empowers the Director of Emergency Services for the City of Avenal to request the City Council to declare/proclaim the existence or threatened existence of a local emergency when the City of Avenal is affected or likely to be affected by the actual or threatened existence of extreme conditions of disaster and peril to the safety of persons within the City; and

WHEREAS, the City Council of the City of Avenal does hereby find as follows:

1. International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus, known as "Coronavirus 2019," (COVID-19); and
2. COVID-19 is not yet fully understood, reported symptoms and illnesses from COVID-19 range from mild to severe which could result in death; and
3. Center for Disease Control and Prevention has stated that certain populations face elevated risk and widespread transmission of COVID-19 which would translate into large numbers of people needing medical care at the same time and other critical infrastructure may also be affected; and
4. On January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared the outbreak of a "Public Health Emergency of International Concern"; and
5. On January 31, 2020, the U.S. Department of Health and Human Services declared a Public Health Emergency to aid the nation's healthcare community in responding to COVID-19; and
6. On March 4, 2020, the Governor of the State of California declared a State of Emergency to make additional resources available, formalize emergency actions already underway

across multiple state agencies and departments, and help the state prepare for the spread of COVID-19; and

7. On March 12, 2020, the City began actively implementing measures to prevent the spread of COVID-19 and to prepare for any and all emergency actions in response to the spread of COVID-19; and
8. On March 13, 2020, the President of the United States of America declared a National Emergency noting the federal government would make $50 billion in emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and
9. On March 24, 2020, the City Council of the City of Avenal declared a Local Emergency due to COVID 19 which remains in effect; and
10. The spread of COVID 19 has also affected California with the increased spread of cases including identified cases within the Central Valley; and
11. The City of Avenal intends to continue taking the necessary steps to protect the public health and safety of our community; and, to assist when and where needed in responding to COVID 19 issues/concerns/matters during this local, state, and national public health emergency; and

WHEREAS, as a result of the above-described emergency, there is a continuing need to protect all citizens and the public at large within the City of Avenal from the risks relating to the COVID 19 pandemic; and

WHEREAS, the CDC recommends wearing facial coverings in public where other physical distancing measures are difficult to maintain to help prevent the spread of the virus; and

WHEREAS, published information indicates that wearing facial coverings significantly reduces the spread of COVID 19; and

WHEREAS, requiring facial coverings to be worn by any person in an indoor public place within the City of Avenal best promotes health, safety and efforts to limit the spread of COVID 19 necessary to protect the public health and safety, and is needed for the continuity of social and commercial life during the State of Emergency while enabling the continuation of essential services and businesses.

WHEREAS, the City of Avenal concludes that the safety of the public and its citizens is best protected by implementing the following: **all commercial businesses within the City Limits shall make mandatory the wearing of facial coverings by the public/customers/patrons within places of business due to the COVID 19 Pandemic;** and

WHEREAS, the purpose of this Ordinance is to encourage services, businesses and individuals to comply with health recommendations to minimize the spread of COVIC 19 and keep people safe and is not intended to be punitive.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Avenal:

SECTION 1: That all places of business within the City of Avenal shall require mandatory wearing and use of facial coverings (over the nose and mouth) by individuals as follows:

A. When entering, exiting, or waiting in an indoor line to enter a place of business that is open to the public; and while inside a place of business in the areas within the place of business that are accessible to, and are intended for the use of, the public.

For purposes of this Ordinance, "place of business" means any facility, building or structure operated by or for a business engaged in the sale or other transaction of any kind for anything of value in exchange for goods, commodities, services or temporary lodging and that is open to the general public or by appointment and includes, but is not limited to: grocery stores, retail stores, pharmacies, health care facilities, restaurants and bars while indoors, gyms and similar facilities, but does not include religious facilities.

SECTION 2: That all places of business shall require all employees that interact with the public to wear a facial covering. All places of business may refuse to sell or otherwise enter into any transaction of any kind for anything of value in exchange for goods, commodities, services with those who do not comply with the Emergency Ordinance. This requirement shall not apply to employees in the situations where the State of California has ordered that facial coverings are not required, including but not limited to the following:

A. Where facial coverings in the work setting are prohibited by law or regulation;
B. Where facial coverings are in violation of documented industry standards;
C. Where facial coverings are not advisable for health reasons;
D. Where the employee is working alone in an assigned work area not open to the public; and
E. Where there is a functional (practical) reason for an employee not to wear a facial covering.

Employers or business operators must provide written justification upon request by the City as to why an employee is exempt from wearing a facial covering.

SECTION 3. That the requirement to wear a facial covering imposed by this Ordinance does not apply to the following:

A. Any individual:

1. Who cannot wear a facial covering due to a medical condition, mental health condition or Developmental disability;
2. Who is unable to remove the facial covering without assistance; or
3. Who should not wear facial coverings under Centers for Disease Control and Prevention ("CDC") guidance.

An individual is not required to produce medical documentation of the condition or disability, except an employer may require such documentation from an employee in accordance with state and federal law:

B. Individuals under 2 years old
C. Restaurant and bar patrons while eating or drinking or while seated outdoors.

The facial covering requirements otherwise apply to the indoor spaces of a restaurant or bar.

D. In settings where it is not practicable or feasible to wear a facial covering such as when receiving dental services, medical treatments, or while swimming.
E. While actually engaged in exercising in a gym or other similar indoor facility so long as physical separation of not less than six feet is maintained and the individual wears a facial covering at all times when not actually engaged in exercising.
F. When an individual is in his or her work office, conference room, or other workspace not intended for use by the general public.
G. When inside a personal or commercial vehicle either parked or moving.
H. Individuals while acting in their official capacity as a public safety employee or emergency responder when wearing a facial covering would interfere with or limit their ability to carry out their official duties or functions. These include police and peace officers, firefighters, and other public safety or emergency medical personnel who support public safety operations.
I. Individuals complying with the directions of public safety employees or emergency responders as described in 3(H).

SECTION 4: For the purposes of this Ordinance, "facial covering" means a piece of cloth, fabric, or other material that fully covers the mouth and nose and that is secured with ear straps or otherwise tied so as to prevent slipping. A facial covering may he factory-made or may he handmade and improvised from household materials. Facial coverings include, but are not limited to, bandanas, scarfs, medical masks, and cloth masks, and also include respirators, N95 masks or other personal protective equipment that provides a higher level of protection than a facial covering defined in this Section. A facial covering shall he worn so as to cover the mouth and nose in compliance with the CDC's guidance on wearing facial coverings.

SECTION 5: That whomever violates this Ordinance shall be guilty of an infraction and subject to penalty as per the Avenal Municipal Code (AMC), Title 1, Chapter 2, Section 1-2.01 – 1-2.06 as follows:

> ***Each person shall be guilty of a separate offense for each and every day during any portion of which any violation or any provision of this Code, or the provisions of any Code adopted by reference by this Code, is committed, continued or permitted by such person and shall be punished accordingly.***
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> ***Any person convicted of an infraction under the provisions of the Code shall be punished for a first conviction by a fine of not more than fifth dollars($50.00); for a second conviction within a period of one year by a fine of not more than one hundred dollars ($100.00); and, for a third or any subsequent conviction***

within a period of one year by a fine of not more than two hundred fifty dollars ($250.00).

***Amendments to fines established for such violations(s) shall be governed by California Government Code Section 25132 and set by Resolution consistent therewith.*

SECTION 6: That the appropriate City Officials are authorized to do all things necessary and/or provided for by law to carry out the terms of Sections 1-5 hereof. The Avenal Emergency Services Director and City Code Enforcement Officer shall provide to the City Council a regular report of activity related to any enforcement pursuant to this Emergency Ordinance.

SECTION 7: That this Ordinance does hereby ratify action taken at the June 25, 2020 City Council Meeting; and, further, shall remain in effect during the declared Local Emergency adopted on March 24, 2020 and until the emergency no longer exists as per City Council action.

SECTION 8: That this Ordinance is an emergency measure necessary for the immediate preservation of the public health, peace, property, safety and general welfare of the City and its residents/public.

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SECTI ON 7: That this Ordinance does hereby ratify action taken at the June 25, 2020 City Council Meeting; and, further, shall remain in effect during the declared Local Emergency adopted on March 24, 2020 and until the emergency no longer exists as per City Council action.

SECTION 8: That this Ordinance is an emergency measure necessary for the immediate preservation of the public health, peace, property, safety and general welfare of the City and its residents/public.

PASSED AND ADOPTED by the City of Avenal on the **24th** day of **September**, 2020 by the following roll call vote:

AYES: **CARRIZALES, HERNANDEZ, RAMIREZ, PRECIADO.**

NOES: **NONE.**

ABSTAIN: **NONE.**

ABSENT: **NONE.**

BY: _____

Alvaro Preciado, MAYOR

ATTEST:

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Maria A. Ortiz, CITY CLERK