

**BEFORE THE CITY COUNCIL OF THE
CITY OF AVENAL**

**IN THE MATTER OF:
Resolution Calling City Election for Voter
Approval of General Transactions and Use
of One Percent; and Specifications of the
Election Order.**

RESOLUTION 2022- 40

WHEREAS, approval of a local transactions and use tax ensures that the City of Avenal (“City”) has more local funding for vital City services which cannot be taken by the State, ensuring our tax dollars are spent locally for the benefit of residents of Avenal;

WHEREAS, when a City seeks voter approval of a new local transactions and use tax, Article XIIC § 2(b) of the California Constitution requires the election to be consolidated with the general municipal election for City council members, except in cases in which a City Council has unanimously declared that there is a fiscal emergency;

WHEREAS, in recent years the City has experienced insufficient growth in sales tax revenues and other State revenues while the scope and cost of providing essential City services has increased along with inflation;

WHEREAS, projected deficits in the General Fund and other operating funds threatens a reduction in staffing and services in all departments including public safety personnel and other essential City services potentially placing Avenal residents at risk in emergency situations;

WHEREAS, the City’s expenditure trends, and reduction of federal funding of public safety positions, point to a potential deficit in the General Fund and/or other operating funds in the upcoming fiscal years which will limit the City’s ability to meet public safety standards, fund recreational programs and facilities, maintain and improve parks, repair and improve streets, and provide other general and essential services;

WHEREAS, the City Council received information during the budget review process for the last couple of years which demonstrated that the City will be operating at a significant General Fund and/or other operating fund deficits commencing in fiscal year 2022 and said deficit is estimated to continue in current and subsequent fiscal years even with significant cuts to expenditures;

WHEREAS, the City Council desires revenue measures be placed on the ballot of the November 8, 2022 to seek voter approval of a proposed general transactions and use tax (“**general sales tax**”) as authorized by Revenue and Taxation Code § 7285.9;

WHEREAS, the statutory deadline to authorize submittal of said general sales tax measure to the County of Kings's elections office is scheduled to expire on or about August 11, 2022 for the November 8, 2022 regular election date and the County's administrative deadline for submittal of relevant documentation is August 11, 2022;

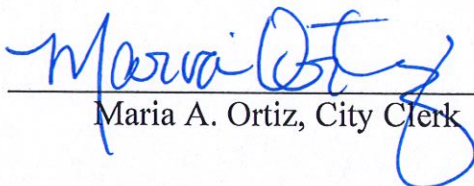
WHEREAS, the new general sales tax would be imposed upon retail transactions involving sale and/or use of personal property. The tax rate would be one percent (1%, or one penny per dollar) of the sales price of the property. The general sales tax revenue would be collected by the California Department of Tax and Fee Administration as with other sales taxes. Collection of all or any portion of the tax could be temporarily suspended by a unanimous vote of the City Council. The tax would require approval of at least a majority of voters voting on the measure and approval of this resolution by at least two-thirds vote of all members of the City Council;

WHEREAS, based upon all of the information presented to the City Council as of the date of this resolution, both written and oral, including the staff reports, minutes and other relevant materials, the general sales tax does not constitute a project under CEQA Guidelines 15060(c)(2), 15061(b)(3) and 15378(b)(2) and (4) and therefore review under CEQA is not required; and

WHEREAS, on **June 23, 2022**, the City Council held a public meeting to consider placing a general sales tax ordinance before the voters of the City of Avenal at an election to be held on **November 8, 2022**.

UPON MOTION OF COUNCIL MEMBER Gravelle, SECONDED BY COUNCIL MEMBER Hernandez, THE FOLLOWING WAS PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL AT AN OFFICIAL MEETING HELD June 23, 2022, BY THE FOLLOWING VOTE:

AYES: Gravelle, Hernandez, Ramirez, Preciado
NOES: None
ABSTAIN: None
ABSENT: Verdugo

ATTEST: 
Maria A. Ortiz, City Clerk

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL:

FOUND the foregoing recitals to be true and ORDERED that an election be held within the City of Avenal on the **8th day of November, 2022**, for the purpose of submitting to all voters within the City a ballot measure with the following specifications:

1. Pursuant to the California Constitution, Article XIIIIC, § 2(b), Government Code § 53724 and Elections Code § 9222, the City Council of the City of Avenal hereby calls and orders an election at which it shall submit to the qualified voters of the City, a measure relating to the adoption of a transactions and use tax. This measure shall be designated by an alphabetical letter by the Kings County elections official or other qualified official, and the City Manager shall in writing request one or more alphabetical letter designations.

2. The ordinance imposing a general transactions and use tax (“**general sales tax**”) to be approved and adopted by the voters is set forth in **EXHIBIT A** attached hereto and incorporated by this reference. The City Council hereby approves said ordinance, the form thereof, and its submission to the voters of the City at an election to be held on **November 8, 2022**, as required by Revenue and Taxation Code § 7285.9, subject to the approval of a majority of the voters voting on the measure at the election called by the adoption of the instant resolution. The ordinance enacts a general sales tax at the rate of one percent (1%, or one penny per dollar) on the gross receipts of any retailer upon the sale of all tangible personal property sold at retail within the City and one percent (1%, or one penny per dollar) of the sales price of tangible personal property stored, used or otherwise consumed in the City.

3. In accordance with Elections Code § 12111 and Government Code § 6061, the City Clerk is hereby authorized and directed to cause notice of the measure to be published once in a newspaper of general circulation, printed, published and/or circulated in the City of Avenal and hereby designated for that purpose by the City Council of the City of Avenal. The City Clerk may enlist the assistance of the County of Kings elections office to prepare and publish the required notice.

4. Pursuant to the requirements of the laws of the State of California relating to cities within said State, the following proposed measure ballot label shall be added to the ballot for the **November 8, 2022**, election and thereby submitted to the voters of the City:

Avenal Essential City Services Funding

To preserve the safety and character of Avenal, and maintain essential general City services for Avenal residents including police, 911 emergency response, fire protection, disaster preparedness, recreational programs and facilities, park maintenance and improvements, street maintenance and repairs and other essential services, shall Ordinance No. 2022-04, imposing a 1-cent general sales and use tax, be adopted? Estimated revenues between \$400,000 and \$500,000 annually, indefinitely.

Yes

No

5. The full text of the ballot label appearing in the preceding section shall be printed in the sample and final ballots but the full text of Ordinance No. 2022-04 shall not be printed in the sample and final ballots and voter information guide. In compliance with Elections Code § 9223, the City Clerk shall promptly print, certify and post in the Office of the City Clerk and on the City's website, a copy of Ordinance No. 2022-04 and the ballot label appearing in the preceding section, and shall provide a copy of them to any City voter upon request and free of charge.
6. The official ballot to be used at said election shall conform to the laws of the State of California with relation thereto.
7. The City Council hereby requests and consents to the County of Kings elections official's consolidation of this election with other elections, if any, which may be held in whole or in part of the territory of the City, as provided in Elections Code §§ 10400 *et seq.*, on **November 8, 2022**, for the ease and convenience of the registered voters and to take advantage of any cost savings possible by such consolidation.
8. The City Clerk may enlist the assistance of the County of Kings elections official in regard to the said consolidated general municipal election, as the City Clerk deems reasonably necessary or convenient.
9. The City will reimburse the County of Kings for the actual cost incurred by the county elections official in conducting the municipal election upon receipt of an invoice stating the amount due as determined by the elections official in accordance with all applicable laws. The City Manager is authorized to sign an appropriate written agreement between the City and the County of Kings for that purpose, following review and approval as to form by the City Attorney.
10. The election shall be held and conducted as provided by law for holding municipal elections.

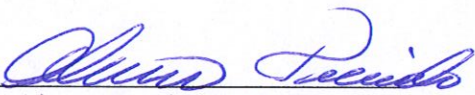
11. The notice of the time and place of holding the election is given and the City Clerk is directed to give further or additional notice of the election in the time, form and manner as required by law. The City Clerk may enlist the assistance of the County of Kings elections office in regard to the same.
12. The City Clerk is hereby directed to submit to the City Attorney a certified copy of the measure pursuant to Elections Code § 9280. The City Attorney is hereby authorized and directed to prepare an impartial analysis of the ballot measure showing the effect of the measure on the existing law and operation of the measure, said analysis to be submitted by the City Attorney to the County of Kings elections office, or other appropriate office, for printing by the date set by the County of Kings elections official for the filing of arguments for and against the measure. The analysis shall not exceed five hundred (500) words in length and shall otherwise comply in all respects with the applicable provisions of the Elections Code.
13. In accordance with the provisions of the Elections Code §§ 9290 *et seq.*, the Mayor or Mayor Pro Tempore or their designee from the City's staff is authorized and directed to submit an argument in support of the measure and a response to any argument in opposition to the measure.
14. The City Clerk in conjunction with the County of Kings election official shall fix and determine a date for submission of all forms of arguments for or against said measure, including rebuttal arguments under Elections Code § 9285 which are hereby authorized for this and all future elections, and said date(s) shall be posted in the Office of the City Clerk.
15. The election on the measure set forth in sections 2 and 4 of this resolution shall be held and conducted, the votes canvassed and the returns made, and the results ascertained and determined as provided for herein. In all particulars not prescribed in this resolution, the election shall be held as prescribed in the Elections Code of the State of California, including but not limited to Elections Code § 10262(a) pursuant to Elections Code § 10101 to the extent applicable. The Board of Supervisors of the County of Kings or other appropriate county official is authorized to canvas the returns of that election with respect to the votes cast in the City of Avenal and certify the results to the City Council. At the next regular meeting of the City Council occurring after the returns of the election have been canvassed and the certification of the results to the City Council, the City Council shall cause to be entered in its minutes a statement of the results of the election.
16. The City Manager is hereby authorized and directed to expend the funds necessary and convenient to pay for the City's cost of placing the measure on the election ballot.

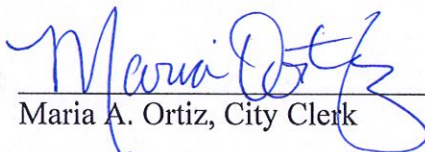
17. The City Clerk is hereby ordered to certify to the adoption of this resolution and to file copies hereof, so certified, with the Clerk of the Board of Supervisors of the County of Kings and with the elections official of the County of Kings, and to enter it into the book of original resolutions.

18. Authorized the Mayor, City Manager, City Clerk and the respective city and county election officials to carry out the terms and conditions of this resolution and to take all steps reasonably necessary, proper and/or convenient and/or incidental thereto, including the signing of any updated version of this resolution which is reasonably necessary to conform to the requirements of the County of Kings and applicable laws.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Avenal held on the 23rd day of June, 2022, by the following vote:

AYES: Gravelle, Hernandez, Ramirez, Preciado
NOES: None
ABSTAIN: None
ABSENT: Verdugo

APPROVED: 
Alvaro Preciado, Mayor

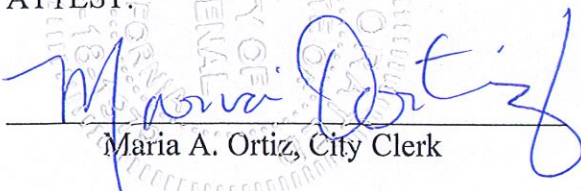
ATTEST: 
Maria A. Ortiz, City Clerk

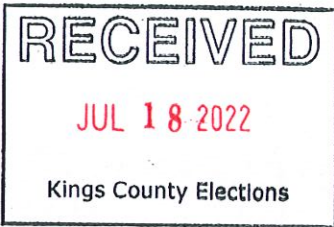
CLERKS CERTIFICATE

City of Avenal }
County of Kings } ss.
State of California }

I, Maria A. Ortiz, City Clerk of the City of Avenal, hereby certify that this is a full, true and correct copy of **Resolution No. 40** duly passed by the City Council of the City of Avenal at a regular meeting thereof held on the 23rd day of June 2022, by the vote as set forth therein.

DATED: 6/23/22

ATTEST: 
Maria A. Ortiz, City Clerk



ORDINANCE NO. 2022-04

AN ORDINANCE OF THE CITY OF AVENAL ENACTING A ONE CENT GENERAL SALES TAX.

THE PEOPLE of the City of Avenal do ordain as follows:

Section 1. PURPOSE. The provisions of this ordinance are necessary for the safety of the public and for the preservation of essential city services for the residents of the City of Avenal ("City"). By adopting Resolution No. 2022-40 by a vote of at least two-thirds vote of all members of the City Council, the City Council authorized placing this ordinance before the voters of the City of Avenal at an election to be held on **November 8, 2022.**

Section 2. CODE ADOPTION. Chapter 5B of Title 3 of the Municipal Code of the City of Avenal is added to read in its entirety as follows:

**Chapter 5B
TRANSACTIONS AND USE TAX**

5B-010: SHORT TITLE.

This chapter shall be known as the City of Avenal Transactions and Use Tax Ordinance. The City of Avenal hereinafter shall be called "city." This chapter shall be applicable within the incorporated territory of the city.

5B-020: OPERATIVE DATE.

"Operative date" refers to the first day of the first calendar quarter commencing more than one hundred ten days after the adoption of this chapter.

5B-030: PURPOSE.

This chapter is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with section 7251) of Division 2 of the Revenue and Taxation Code and section 7285.9 of Part 1.7 of Division 2 which authorizes the city to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

- B. To adopt a retail transactions and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.
- C. To adopt a retail transactions and use tax ordinance which imposes a tax and provides a measure therefore which can be administered and collected by the California Department of Tax and Fee Administration in a manner which adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting California state sales and use taxes.
- D. To adopt a retail transactions and use tax ordinance which can be administered in a manner which will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

5B-040: CONTRACT FOR ADMINISTRATION.

Prior to the operative date, the city shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided that if the city shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

5B-050: TRANSACTIONS TAX RATE.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the city at the rate of one percent (1%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this chapter.

5B-060: PLACE OF SALE.

For the purposes of this chapter, all retail sales shall be deemed consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations as may be prescribed and adopted from time to time by the California Department of Tax and Fee Administration.

5B-070: USE TAX RATE.

An excise tax is hereby imposed upon the storage, use or other consumption within the city of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption within said territory at the rate of one percent (1%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

5B-080: ADOPTION OF STATE LAW PROVISIONS.

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein.

5B-090: LIMITATIONS UPON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- A. Wherever the State of California is named or referred to as the taxing agency, the name of this city shall be substituted therefore. However, the substitution shall not be made in any of the following:
 1. Insofar as the word "state" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State

Department of Tax and Fee Administration, State Treasury or the Constitution of the State of California;

2. Whenever the result of said substitution would require action to be taken by or against this city or any agency, officer or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this chapter;
 3. As to those sections referring to the exterior boundaries of the State of California;
 4. As to those sections, including but not necessarily limited to, where the result of the substitution would be to:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the state under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; or
 - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code; and
 5. Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 and 6828.
- B. The word "city" shall not be substituted for the word "state" in the phrase "retailer engaged in business in this State" in section 6203 and in the definition of that phrase in section 6203.

5B-100: PERMIT NOT REQUIRED.

If a seller's permit has been issued to a retailer under section 6067 of the Revenue and Taxation Code, an additional seller's permit shall not be required by this chapter.

5B-110: EXEMPTIONS AND EXCLUSIONS.

- A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax the gross receipts from:
1. The amount sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or the amount of any state-administered transactions or use tax;
 2. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States or any foreign government;
 3. Sales of property to be used outside the city which is shipped to a point outside the city, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the city shall be satisfied:
 - a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with section 9840) of the Vehicle Code by registration to an out-of-city address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-city and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address;

4. Sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this chapter; and
 5. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by a lease prior to the operative date of this chapter.
 6. For the purposes of subsections 4 and 5 of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- C. There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this city of tangible personal property:
1. The amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 commencing with section 7200) or the amount of any state-administered transactions or use tax;
 2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government. This exemption is in addition to the exemptions provided by sections 6366 and 6366.1 of the Revenue and Taxation Code;
 3. If the purchaser became obligated to purchase the property for a fixed price by a contract entered into prior to the operative date of this chapter;
 4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for

which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this chapter;

5. For the purposes of subsections 3 and 4 of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised;
 6. Except as provided in subsection 7, a retailer engaged in business within the city shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the city or participates within the city in making the sale of the property, including but not limited to soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the city or through any representative, agent, canvasser, solicitor, subsidiary, or person in the city under the authority of the retailer; and
 7. A "retailer engaged in business within the city" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel or aircraft at an address within the city.
- D. Any person subject to use tax under this chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

5B-120: AMENDMENTS.

- A. This Chapter may be amended by ordinance of the Avenal City Council without a vote of the People except that, as required by Article XIII C of the California Constitution, voter approval is required for any

amendment which would increase the rate of any tax levied pursuant to this Chapter above the maximum rates established by this Chapter.

B. All amendments subsequent to November 8, 2022 to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this Chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this Chapter. Said amendments shall not require voter approval.

C. The following amendments to this chapter must be approved by the voters of the city: increasing the tax rate or revising the methodology for calculating the tax such that a tax increase would result; imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of the preceding paragraph); or extending the effective date of this Chapter. Otherwise, the city council may amend this chapter without submitting the amendment to the voters for approval, provided that such ordinance amendment does not increase or decrease the tax rate approved by the voters. The People of the City of Avenal affirm that each and all of the following actions shall not constitute an increase of the rate of a tax:

- (1) The restoration of the rate of the tax to a rate which is no higher than the maximum allowed by this Chapter, if the City Council has acted to suspend or reduce the rate of the tax;
- (2) An action which interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the text of this Chapter;
- (3) The collection of the tax imposed by this Chapter, even if the City had, for some period of time, failed to collect the tax;
- (4) The establishment of a class of Persons which are exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this Chapter); or
- (5) The City Council's adoption of a resolution, as authorized by Section 5B-140, to raise the tax rate, provided that the rate may not be increased to a rate which is higher than the maximum established in this Chapter.

5B-130: ENJOINING COLLECTION FORBIDDEN.

No injunction, writ of mandate or prohibition, or other legal or equitable process shall issue in any suit, action or proceeding in any court against the state or the city, or against any officer of the state or the city, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

5B-140: SUSPENSION OF COLLECTION.

The City Council shall have authority to temporarily suspend collection of all or a portion of the tax imposed by this chapter by resolution unanimously approved by all members of the entire City Council, subject to the restrictions in the City agreement with the California Department of Tax and Fee Administration. The City Council may at any time also repeal or supersede such resolution. However, the authority to levy the tax imposed by this chapter shall not expire or otherwise terminate, unless terminated by a duly enacted ordinance which is approved at a regular meeting of, and by unanimous vote of all five (5) of the seats on, the City Council.

Section 3. 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 15060(c)(2), 15061(b)(3) and 15378(b)(2) and (4). 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 4. 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 5. 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 6. 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 7. 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, if any, 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 7. EFFECTIVE DATE. Pursuant to Elections Code § 9217, this ordinance shall be deemed adopted on the date when the final vote is declared by the City Council and this ordinance shall go into effect ten (10) days after that date, contingent upon approval by a majority of the voters voting on the measure in the November 8, 2022 election. However, pursuant to Revenue and Taxation Code § 7265, the authority to levy the general sales tax in the foregoing ordinance shall take effect first day of the first calendar quarter commencing more than one hundred ten (110) days after the adoption of this ordinance, or at such other time authorized within Section 2.

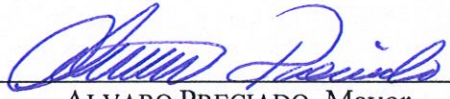
THE FOREGOING ORDINANCE was approved by the City Council of the City of Avenal, State of California, on June 23, 2022 at a regular meeting of said Council duly and regularly convened on said day by the following vote:

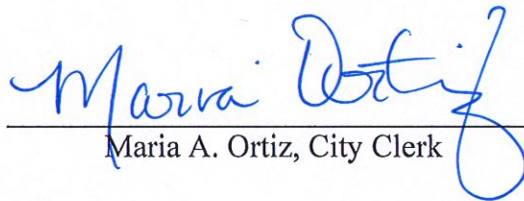
AYES: **Gravelle, Hernandez, Ramirez, Preciado**

NOES: **None**

ABSTAIN: **None**

ABSENT: **Verdugo**


ALVARO PRECIADO, Mayor

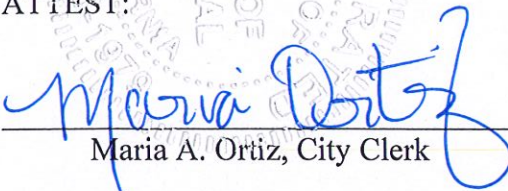
ATTEST: 
Maria A. Ortiz, City Clerk

CLERKS CERTIFICATE

City of Avenal }
County of Kings } ss.
State of California }

I, Maria A. Ortiz, City Clerk of the City of Avenal hereby certify that the foregoing is a full, true and correct copy of an ordinance approved by the City Council of the City of Avenal at a meeting held on the 23 day of June, 2022, by the vote as set forth therein.

DATED: June 23, 2022

ATTEST: 
Maria A. Ortiz, City Clerk