ORDINANCE NO. 2018-01

AN ORDINANCE OF THE AVENAL CITY COUNCIL AMENDING VARIOUS SECTIONS OF THE AVENAL ZONING ORDINANCE TO ENSURE CONSISTENCY WITH STATE LAW AND THE GENERAL PLAN 2035

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

Section 1: Title 9, Table 9-1 of the Avenal Municipal Code is hereby amended to revise the following language:

> NON-RESIDENTIAL PERMITTED USES (p. 27): Change ~~Solar Energy Electrical Generators~~ to Solar Energy Systems and categorize into "Residential," "Commercial," and "Utility" systems. Allow commercial-scale solar as a Permitted use in all zones except in Downtown Commercial Zone and Open Space, Parks, and Recreation zones and where a CUP is already required.

Section 2: Title 9, Table 9-3 of the Avenal Municipal Code is hereby amended to revise the following language:

> RESIDENTIAL PERMITTED USES (pp. 1, 2 - Licensed Daycare - Children): Change ~~6 or fewer~~ to 7 or fewer children and ~~7 to 14~~ to 8 to 14 children

Section 3: Title 9, Table 9-3 of the Avenal Municipal Code is hereby amended to revise the following language:

> RESIDENTIAL PERMITTED USES (p. 8): Add Solar Energy Systems and categories "Residential," "Commercial," and "Utility". Permit residential-scale solar in Residential Estate and Single Family Residential zones and require a CUP in Medium Density Multi-Family Residential and High Density Multi-Family Residential zones.

Section 4: Title 9, Section 9.02.02 of the Avenal Municipal Code is hereby amended to revise the following language:

P-D	Precise Development District
C-L	Cluster Combining District
S-DO	Skyline Boulevard Design Overlay District

Section 5: Title 9, Section 9.03.02 of the Avenal Municipal Code is hereby amended to revise the following language:

DEFINITIONS

Kiosk Vendor. Any small, standalone structure with not more than two open sides that is used for selling goods or services, including modified shipping container shops, restaurants, food trucks, and outdoor dining or beverage gardens, but not including canopies or shade structures on public right-of-ways.

Solar Energy System. Any photovoltaic system or similar device that is utilized for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

Section 6: Title 9, Section 9.10.13 of the Avenal Municipal Code is hereby amended to revise the following language:

FENCES (INCLUDING WALLS AND HEDGES)

F. Maintenance of Fences: All fences, walls and hedges shall be maintained in a structurally sound and attractive manner. Adjoining property owners shall share equal responsibility for the cost of construction or repairs for any fence dividing their properties in accordance with California Civil Code Section 841.

Section 7: Title 9, Section 9.10.14 of the Avenal Municipal Code is hereby amended to revise the following language:

E. The number of dogs per household shall be limited to three with the exception of newborns through the age of six (6) months. ~~Any number of puppies shall be allowed until they reach the age of six (6) months.~~

Section 8: Title 9, Section 9.12.14 of the Avenal Municipal Code is hereby amended to revise the following language:

G. The number of dogs per household shall be limited to three with the exception of newborns through the age of six (6) months. ~~Any number of puppies shall be allowed until they reach the age of six (6) months.~~

Section 9: Title 9, Section 9.19.01 of the Avenal Municipal Code is hereby amended to revise the following language:

J. Multi-Family Development Standards

9. Multi-Family Architecture

g) Solar Energy Systems shall be installed in accordance with the requirements set forth in Section 9.54.
~~Solar panels, when used, shall be integrated into the roof design, flush with the roof slope. Frames shall be colored to match the roof colors. Natural aluminum finish is strongly discouraged. Any mechanical equipment shall be enclosed and completely screened from view.~~

L. Planned unit Development/Small Lot Subdivisions

1. Density

The underlying residential use district and combining district shall determine the maximum number of dwelling units allowed in a planned unit development or small lot subdivision. Where a parcel or parcels having more than one land use district, the maximum number of dwelling units shall be determined by adding together the allowable density for each land use district area. Any new development shall not exceed the density provisions for the underlying zoning district. Density increases shall be granted in accordance with the Zoning Ordinance through density bonuses, infill projects, or affordable housing.

Mixed-use development which includes a Convenience Center or a Neighborhood Center shall have a minimum site area of 10 acres. Sites that are less than 10 acres in size shall be considered upon recommendation of the Planning Commission.

8. Maintenance and Completion of Open Space, Amenities, Landscaping, and Manufactured Slopes

No lot or dwelling unit in the development shall be sold unless a corporation, home owner's association, assessment district or other approved appropriate entity has been legally formed with the right to assess those properties which are jointly owned or benefited to operate and maintain all of the mutually available features of the development including, but not limited to, existing natural features, open space, amenities, and landscaping. Conditions, Covenants and Restrictions (CC&R's) may be developed and recorded for the

development subject to the review and approval of the City Attorney. The recorded CC&R's shall not be under the jurisdiction of the City for enforcement. No lot or dwelling unit shall be sold unless all approved and required open space, amenities, landscaping, or other improvements, or approved phase thereof, have been completed or completion is assured by a financing guarantee method approved by the City Engineer. Existing natural features shall be preserved and enhanced to the maximum extent feasible, consistent with General Plan policies within the Conservation, Open Space, Parks and Recreation Element.

Section 10: Title 9, Chapter 9.54 is hereby added to the Avenal Municipal Code with the following language:

SKYLINE BOULEVARD DESIGN OVERLAY DISTRICT (S-DO)

9.54.01 PURPOSE & APPLICATION. The purpose of the Skyline Boulevard Design Overlay District (S-DO) is to establish development and design standards for properties located along Skyline Boulevard. The design standards in the S-DO district shall be in addition to the Base District with which the S-DO District is combined. In the event of any conflict or inconsistency between the requirements of this overlay district and the base zoning district, the overlay district standards shall be preemptive, but only to the extent of such conflict or inconsistency.

9.54.02 DEVELOPMENT AND DESIGN STANDARDS

a) All new developments in the S-DO District shall have a landscape setback of 20 feet, where existing development does not preclude.
b) All new developments shall provide special entry treatment along intersecting streets within S-DO District, including low retaining walls with ornamental planting, commercial center signage integrated into the entry, and other aesthetically pleasing design features, including, but not limited to, rock outcroppings.
c) All new developments in the S-DO District shall adopt a street tree standard to include large trees indigenous to the area as specified in Chapter 9.63.02. Trees located along commercial developments in S-DO District shall be planted in clusters to provide adequate viewing windows.

Section 11: Title 9, Chapter 9.55 of the Avenal Municipal Code is hereby added to the Avenal Municipal Code with the following language:

9.55 SOLAR ENERGY SYSTEMS

9.55.01 PURPOSE. It is the policy of the City of Avenal to encourage the installation of solar energy systems, including ground-mounted, roof-mounted, and carport systems, that minimize impacts to the environment.

9.55.02 RESIDENTIAL

A. The City of Avenal shall permit residential solar energy systems not exceeding 10 kW AC or 30kW thermal as part of the building permit review process pursuant to California Government Code Section 65850.5.

B. Solar panels shall be integrated into the roof design, flush with the roof slope. Frames shall be colored to match the roof colors. Natural aluminum finish is prohibited.

C. Solar panels may extend up to 4 feet above the height limit, and/or the ridge of a pitched roof.

D. Mechanical equipment related to solar energy systems shall be enclosed and completely screened from view.

9.55.03 COMMERCIAL (MULTI-FAMILY RESIDENTIAL AND NON-RESIDENTIAL)

A. Where allowed in specific zones, solar energy systems with capacity between 10-250 kW DC and covering less than 40,000 square feet shall meet all setback requirements and shall not project more than 6 feet above the maximum allowed height and/or elevation of any roof.

9.55.04UTILITY

A. Utility-scale solar, including ground-mounted systems, shall be installed on a large scale and may occupy greater than 40,000 square feet and may have capacity of 250 kW Dc or greater.

B. The solar energy system should be designed to be compatible with surrounding uses and landscape. All solar installations are required to follow the guidelines stated below to minimize aesthetic impacts.

1. Provide adequate fencing to limit public access.

2. Glare from solar systems to adjacent properties or roadways should be minimized without impacting the efficiency of the system. Limit the number of light fixtures provided on sites containing solar energy systems.

3. Utilize animal-permeable design to allow movement of small animals.

4. All appurtenant structures such as transformers or substations should be shielded from public view or designed to reduce visual impacts.

5. All signs or advertising should be nonobtrusive and easily visible.

Section 12: Title 9, Section 9.60.08 of the Avenal Municipal Code is hereby amended to add the following language:

E. Driveways for residential developments shall be a minimum of ten (10) feet in width with fifteen (15) feet of unobstructed vertical clearance. Driveways for commercial and industrial developments shall be a minimum of twenty (20) feet in width with a minimum of fifteen (15) feet of vertical clearance. Driveways shall be constructed of durable materials, such as concrete, asphalt, paving stones, paving tiles, or decomposed granite, that will prevent the transport of particulates from the lot to the street.

S. An alley may be used to provide access to off-street parking. A four foot setback from the alley shall be provided from the garage door.

T. Multi-family developments of 12 units or more shall include electric vehicle charging facilities in five percent of parking spaces, with a minimum of two such spaces.

Section 13: Title 9, Section 9.79.06 of the Avenal Municipal Code is hereby amended to add the following language:

All developed real property in the City shall be maintained at a level not less than the following standards. The City shall investigate potential violations of these standards on a complaint-driven basis.

H. Lighting

All exterior light fixtures shall be maintained in good working order free of broken lamps, lens, and light bulbs. Furthermore, the structural integrity of all supporting poles and mounting fixtures shall be maintained. All insulation and connections shall be intact and free of exposed wire. Outdoor lights must be shielded and directed to shine on improvements including plants on the zoning plot where the lights are located and not directly on other property or any public right-of-way.

O. Use of Canopies

a. All canopies shall be constructed out of durable materials, such as heavy duty polyester, polyethylene, and sheet metal, and kept in a serviceable, well-maintained, and presentable manner. Vinyl tarps are not an allowed canopy material.
b. All carports shall be constructed out of durable materials and must be securely attached to the ground in a way that does not create visual blight or a safety hazard.

Q. Walls, Fences, and Trash Enclosures

All fences, walls and hedges shall be maintained in a structurally sound and attractive manner. Adjoining property owners shall share equal responsibility for the cost of construction or repairs for any fence dividing their properties in accordance with California Civil Code Section 841.

T. Any telephone booth that is non-operational for more than 60 days must be removed at the cost of the owner or operator.

Section 14: Title 9, Section 9.79.07 of the Avenal Municipal Code is hereby amended to add the following language:

B. Additional Standards

3. Fencing. All fences, walls and hedges shall be maintained in a structurally sound and attractive manner. Adjoining property owners shall share equal responsibility for the cost of construction or repairs for any fence dividing their properties in accordance with California Civil Code Section 841.
5. Telephone Booth. Any telephone booth that is non-operational for more than 60 days must be removed at the cost of the owner/operator.

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.

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.

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.

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.

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 at a regular meeting of the Avenal City Council on the 12th day of April, 2018, by the following roll call vote:

AYES: WOOLLEY, GRAVELLE, OVALLE, MORENO, PRECIADO.
NOES: NONE.
ABSTAIN: NONE.
ABSENT: NONE.

Approved: _____
Alvaro Preciado, **MAYOR**

ATTEST:

_____
Maria A. Ortiz, **CITY CLERK**

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B. The solar energy system should be designed to be compatible with surrounding uses and landscape. All solar installations are required to follow the guidelines stated below to minimize aesthetic impacts.

1. Provide adequate fencing to limit public access.

2. Glare from solar systems to adjacent properties or roadways should be minimized without impacting the efficiency of the system. Limit the number of light fixtures provided on sites containing solar energy systems.

3. Utilize animal-permeable design to allow movement of small animals.

4. All appurtenant structures such as transformers or substations should be shielded from public view or designed to reduce visual impacts.

5. All signs or advertising should be nonobtrusive and easily visible.

Section 12: Title 9, Section 9.60.08 of the Avenal Municipal Code is hereby amended to add the following language:

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S. An alley may be used to provide access to off-street parking. A four foot setback from the alley shall be provided from the garage door.

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O. Use of Canopies

a. All canopies shall be constructed out of durable materials, such as heavy duty polyester, polyethylene, and sheet metal, and kept in a serviceable, well-maintained, and presentable manner. Vinyl tarps are not an allowed canopy material.
b. All carports shall be constructed out of durable materials and must be securely attached to the ground in a way that does not create visual blight or a safety hazard.

Q. Walls, Fences, and Trash Enclosures

All fences, walls and hedges shall be maintained in a structurally sound and attractive manner. Adjoining property owners shall share equal responsibility for the cost of construction or repairs for any fence dividing their properties in accordance with California Civil Code Section 841.

T. Any telephone booth that is non-operational for more than 60 days must be removed at the cost of the owner or operator.

Section 14: Title 9, Section 9.79.07 of the Avenal Municipal Code is hereby amended to add the following language:

B. Additional Standards

3. Fencing. All fences, walls and hedges shall be maintained in a structurally sound and attractive manner. Adjoining property owners shall share equal responsibility for the cost of construction or repairs for any fence dividing their properties in accordance with California Civil Code Section 841.
5. Telephone Booth. Any telephone booth that is non-operational for more than 60 days must be removed at the cost of the owner/operator.

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.

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.

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.

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.

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 at a regular meeting of the Avenal City Council on the 12th day of April, 2018, by the following roll call vote:

AYES: GRAVELLE, MORENO, WOOLLEY, OVALLE.
NOES: NONE.
ABSTAIN: NONE.
ABSENT: PRECIADO.

APPROVED: _____
Dagoberto Ovalle, **MAYOR PRO TEM**

ATTEST:

_____
Maria A. Ortiz, **CITY CLERK**