Title 8

BUILDING REGULATIONS

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Chapter 1

UNIFORM CODES FOR BUILDING AND INDUSTRY

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8-1.01 General provisions.

(a) Definitions. When not defined in the codes adopted in Section 8-1.04, "person" shall mean any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

Unless the context suggests otherwise, whenever any of the following terms are used in the codes adopted in Section 8-1.04, such terms shall have the following meanings:

(1) "Building Official" means the City Manager or her/his authorized designee.

(2) "Chief appointing authority" means the City Council of the City of Avenal.

(3) "City" means the City of Avenal.

(4) "Governing body" means the City Council of the City of Avenal.

(5) "Chief electrical inspector" means the Building Official or her/his designee.

(6) "Administrative Authority" means the City Manager or her/his designee.

(7) "Appeal Board" and "Board of Appeals" means the City Council of the City of Avenal.

(8) "Authority having jurisdiction" and "local agency with jurisdiction" means the City of Avenal.

(b) Enforcement agency and administrative official—Designated. The provisions of this chapter shall be administered by the Building Official who, pursuant to Section 17964 of the Health and Safety Code of the State of California, is hereby designated and charged with the responsibility for enforcement of the state housing law and the rules and regulations promulgated thereunder in the City of Avenal. The Building Official is authorized and directed to enforce all provisions of this chapter including the codes hereby adopted and for such purpose he shall have the powers of a Police Officer.

(c) Liability. The Building Official or any employee charged with the enforcement of this chapter, acting in good faith and without malice for the City in the discharge of his duties, shall thereby render himself liable personally and he is hereby relieved from all personal liability for any damages that may accrue to persons or property as a result of an act required or by reason of any

act or omission in the discharge of his duties. Any suit brought against the Building Official or employee, because of such act or omission performed by him in the enforcement of this chapter, shall be defended by the City until the final termination of the proceedings.

(d) Violations. It shall be unlawful for any person to obstruct, violate, or cause to be violated any provisions of this chapter or codes herein adopted.

Each person guilty of any violation of this chapter and the adopted codes is guilty of a separate offense for each day the violation is allowed to exist.

A violation of the chapter and adopted codes shall be deemed to be an infraction for each separate offense and shall be punishable by a fine not to exceed five hundred dollars ($500.00).

The penalty provisions of this chapter shall supersede similar or conflicting provisions of all codes hereby adopted.

(e) Exemptions. In addition to exemptions specified in the Uniform Codes adopted by this Code, this chapter shall not be applicable to any work located primarily in a public way, public utility towers and poles, mechanical equipment not specifically regulated in this chapter, flood control or irrigation structures, irrigation pipes, or irrigation wells. Nor shall this chapter be applicable to buildings, structures, power plants, facilities, equipment or installations owned or to be constructed by or for a public utility corporation or a gas and oil industry subject to the jurisdiction of the State Public Utilities Commission, Federal Power Commission or the State Department of Natural Resources where said buildings, structures, powers plants, facilities, equipment or installations are specifically subject to regulation as to design, construction, and operation by said commission or department.

This chapter shall not be applicable to structures designed and constructed for the following farm uses: Buildings or structures to house birds, poultry or livestock, animal shade structures, hay sheds, granaries, silos, fences, buildings designed and intended to be used for the sale of seasonal agricultural products grown upon the farms upon which they are located and which sales buildings are of a size less than four hundred (400) square feet in area. The agricultural exemption provided for in this subsection shall be applicable only in the following zone districts: General Agricultural, Exclusive Agricultural, and Light Agricultural. Such farm buildings or structures are not to be for human habitation or places of employment where agricultural products are processed, treated, or packaged nor shall they be used by the public or attached to a dwelling. Said agricultural exemption shall not apply to any electrical, plumbing or mechanical activities which involve connection to electrical energy, combustible fuel, or domestic water systems. All persons claiming an agricultural exemption pursuant to this subsection shall, before commencing construction, make application with the Building Official and secure from said official a determination in writing that such construction is exempt from the requirements of this chapter.

The owner or person proposing to construct a building or structure or perform any work exempt from the provisions hereof may obtain the inspection service as provided in this chapter by applying for and obtaining the appropriate permit or permits and paying the regularly established fees therefor in the same manner as though said building, structure or work were not exempt pursuant to this section.

(f) Copies of codes on file. Not less than one copy of each code hereby adopted by reference, all certified by the City Clerk to be true copies, shall be filed in the office of said Clerk, and shall be left there for public inspection while this chapter is in force, provided that the copies, after certification thereof, may be kept in the office of the Building Official.

(Ord. 85-08 §§ 1, 2, 1987; Ord. No. 2011-02, § 2, 3-24-2011)

8-1.02 Board of Appeals.

(a) The City Council shall be the Board of Appeals provided for in each of the codes hereby adopted.

(b) The Building Official shall be an ex officio member and shall act as secretary to the Board.

(c) The Board of Appeals shall adopt reasonable rules and regulations for carrying out its duties.

(d) The findings and decisions of the Board of Appeals shall be in writing. Notice of any such decision shall be given to the appellant or applicant, and, unless otherwise provided, shall be given within five (5) days and may be given by depositing a copy thereof in the United States mail, postage prepaid within said five (5) days addressed to the person to be notified at his last known address. The failure of any person to receive such notice after such mailing shall not in any manner affect the validity of any proceeding.

(e) The decision of the Board of Appeals shall be final unless action is brought in a court of competent jurisdiction within thirty (30) days thereafter.

8-1.03 Relocation permits.

(a) No person, firm or corporation shall move any building or structure within or into the City without first obtaining from the Building Official a relocation permit and a building permit.

(b) Except as otherwise provided in this section, there shall not be issued a relocation permit for any building or structure which is included within any one or more of the following categories:

(1) Is so constructed or is in such condition as to constitute a danger of injury or death through collapse of the building, fire, defects in electrical wiring or any other substantial hazard, to the persons who will occupy or enter said building after relocation;

(2) Is infested with rats or other vermin or the wood members of the building are infested with rot, decay, or termites;

(3) Is so unsanitary or filthy that it would constitute a hazard to the health of the persons who will occupy said building after relocation or, if not intended for occupancy by human beings, would make it unsuitable for its intended use;

(4) Is in such condition or is of a type, character, size, or value and is so inharmonious with other buildings in the neighborhood of the relocation site, that placing the building at the proposed relocation site would substantially diminish the value of other property or improvements within a radius of five hundred (500) feet from the proposed relocation site;

(5) If the proposed use of the building is prohibited at the proposed relocation site under any zoning ordinance or other land use ordinance of the City;

(6) If the building or structure does not conform to all applicable provisions of law.

(c) Correction of defects before issuance; hearing.

(1) If the building or structure to be moved fails to meet any of the standards set forth in subsection (a) of this section, but it appears to the Building Official that the deficiencies can be corrected, the permit shall be issued only on condition that all deficiencies be corrected.

(2) In order to determine any matter regarding relocation of a building or structure, the Building Official may cause any investigation to be made which he believes necessary.

(d) Terms and conditions to issuance. In granting a relocation permit, there may be imposed such terms and conditions as are reasonable including but not limited to, changes, alterations, additions or repairs to the building or structure so that its relocation will not be materially detrimental or injurious to the public safety or welfare or to the property or improvements in the district to which it is to be moved. The terms and conditions upon which each permit is granted shall be in writing upon application and permit or appended thereto.

(e) Fees. The fee for relocation investigation service shall be established by the City Council by resolution and shall be a separate fee from any building, plumbing, electrical, or mechanical permit fee. In the event a building permit is issued, the fees for building or structure at its relocation site as estimated by the Building Official or his/her designee.

(f) Expiration and renewal of permits.

(1) A relocation permit shall expire and become null and void if the moving of the building or structure is not completed, and all terms and conditions of the relocation permit complied within six (6) months from the date of issuance of the permit.

(2) An application for extension of the six (6) months time limitation set forth in subsection (a) of this section may be submitted to the Board of Appeals within six (6) months from the date of issuance of the permit. The Board of Appeals shall hold a public hearing upon such application for extension of time. No such application shall be approved by the Board of Appeals except where it appears that the failure of applicant to comply with the terms and conditions of the permit was due to fire, legal acts of the public authorities, acts of God, or any other delay unavoidable or beyond the reasonable control of the applicant. An application for extension of time shall be denied by the Board of Appeals if the applicant fails to appear in person at the time and place set for the public hearing on such application, unless there is presented at such hearing a certificate of a licensed physician that such applicant is physically unable to appear at such hearing due to illness or other physical incapacity, or the applicant is represented at such hearing by an attorney.

(3) An extension of time granted by the Board of Appeals after due hearing thereon shall be for any period of time deemed reasonable by the Board of Appeals, in view of all of the facts and circumstances of the particular case, but in no event shall such extension of time exceed six (6) months from date of the expiration of the original permit.

(4) A second extension of time shall not be issued to any applicant by the Board of Appeals. The Board of Appeals may, in its discretion, accept an application for extension of time from a person who has succeeded to the ownership of property which was the subject of an extension of time granted to a former owner-applicant.

(g) Surety bond required. The Building Official shall not issue a relocation permit unless the applicant therefor shall first post with the Building Official a bond executed by the owner of the premises where the building or structure is to be located, as principal, and by a surety company authorized to do business in the state, as surety, or makes a deposit of cash or cashier's check or money order payable to the City of Avenal, as hereafter provided.

(h) Form and amount. The surety bond required by subsection (g) of this section shall:

(1) Be in form joint and several;

(2) Name the City as obligee;

(3) Be in an amount equal to the estimated cost plus ten (10) percent of the work required to be done in order to comply with all of the conditions of the moving permit, such estimate to be estimated by the Building Official. A deposit, if made in place of a surety bond, shall also be equal to the cost plus ten (10) percent of such work.

(i) Condition. Every bond posted and every deposit made pursuant to this article shall be conditioned as follows:

(1) That each and all of the terms and conditions of the moving permit shall be complied with to the satisfaction of the Building Official;

(2) That all of the work required to be done pursuant to the conditions of the moving permit shall be fully performed and completed within six (6) months from the date of the issuance of the permit, or within the period of any extension of time hereafter granted by the Building Official;

(3) The term of each bond posted pursuant to this article shall begin upon the date of the posting thereof and shall end upon the completion to the satisfaction of the Building Official of the performance of all the terms and conditions of the relocation permit.

(j) Procedure on default. Whenever the Building Official finds that a default has occurred in the performance of any term or condition of any relocation permit he shall give written notice thereof to the principal and to the surety on the bond.

(k) Contents of notice of default. In a notice of default the Building Official shall state the work to be done, the estimated cost thereof, and the period of time deemed by him to be reasonably necessary for the completion of such work.

(l) When work to be done by City. If after written notice the required work is not performed within the time specified in such notice, then the City at its option may, through its authorized officers or agents, cause such work to be done, or cause such building or structure to be demolished and the premises cleared, and the surety shall pay over to the county or to the Building Official the actual cost of such work or demolition, plus an additional sum of ten (10) percent; provided, however, that in no case shall the liability of the surety exceed the amount of the surety bond; or the City may, at its option, through its Building Official or other authorized agent, require the surety to cause the required work to be performed or require the surety to demolish the structure or building or clear, clean and restore the site; provided, that in neither case shall the liability of the surety exceed the amount of the surety bond.

(m) Use of cash deposit. If a cash bond has been posted the Building Official shall give notice of default, as provided above to the principal, and if compliance is not had within the time specified the Building Official shall proceed without delay and without further notice or proceeding whatever, to use the cash deposit or any portion of such deposit to cause the required work to be done by contract or otherwise in his discretion. The balance, if any, of such cash deposit, upon the completion of the work, shall be returned to the depositor or to his successors or assigns after deducting the cost of the work plus ten (10) percent thereof.

(n) Return of deposit. When a cash bond has been posted, the Building Official shall return the cash to the depositor or to his successors or assigns upon the termination of the bond, except any portion thereof that may have been used or deducted as elsewhere in this article provided.

(o) Inspections. The Building Official, the surety and the duly authorized representatives of either shall have access to the premises described in the relocation permit for the purpose of inspecting the progress of the work.

(p) Interference with work. In the event of any default in the performance of any term or condition of the relocation permit, the surety or any person employed or engaged on its behalf, or the Building Official, or any person employed or engaged on his behalf, may go upon the premises to complete the required work or to remove or demolish the building or structure. The owner, his representative, successor or assign, or any other person who interferes with or obstructs the ingress or egress to or from any such premises, or any authorized representative or agent of any surety or of the City engaged in the work of completing, demolishing or removing any building or structure for which a relocation permit has been issued, after a default has occurred in the performance of the terms or conditions thereof, is guilty of an infraction.

(Ord. 91-06 § 24, 1991; Ord. 87-04 § 2, 1987)

8-1.04 Building Standards Code.

The following publications are hereby adopted by reference and incorporated into this chapter in their entirety, except as expressly amended or superseded by the provisions of this chapter, with the same effect as if fully set forth herein verbatim:

(a) California Building Standards Administrative Code, 2010 edition, found in Part 1 of Title 24 of the California Code of Regulations;

(b) California Building Code, including the Appendix Chapters thereto, 2010 edition, found in Part 2 of the California Code of Regulations;

(c) California Residential Building Code, 2010 edition, found in Part 2.5 of Title 24 of the California Code of Regulations;

(d) California Electrical Code, 2010 edition, found in Part 3 of Title 24 of the California Code of Regulations;

(e) California Mechanical Code, 2010 edition, found in Part 4 of Title 24 of the California Code of Regulations;

(f) California Plumbing Code, 2010 edition, found in Part 5 of Title 24 of the California Code of Regulations;

(g) California Energy Code, 2010 edition, found in Part 6 of Title 24 of the California Code of Regulations;

(h) California Historical Building Code, 2010 edition, found in Part 8 of Title 24 of the California Code of Regulations;

(i) California Fire Code, 2010 edition, found in Part 9 of Title 24 of the California Code of Regulations;

(j) California Existing Building Code, 2010 edition, found in Part 10 of Title 24 of the California Code of Regulations;

(k) California Green Building Standards Code, 2010 edition, found in Part 11 of Title 24 of the California Code of Regulations;

(l) California Reference Standards Code, 2010 edition, 2010 edition, found in Part 12 of Title 24 of the California Code of Regulations; and

(m) Uniform Code for the Abatement of Dangerous Buildings, 1997 edition, as published by the International Conference of Building Officials.

(Ord. No. 2011-02, § 4, 3-24-2011)

Editor's note—Ord. No. 2011-02, § 3, adopted March 24, 2011, repealed the former § 8-1.04. Section 4 of said ordinance enacted a new § 8-1.04 as set out herein. The former § 8-1.04 pertained to Uniform Building Code and derived from Ord. No. 85-08, §§ 3, 4, adopted 1985; Ord. No. 87-04, §§ 3, 4, adopted 1987; Ord. No. 89-13, §§ 2, 3, adopted 1989; Ord. No. 93-01, § 2, adopted 1993; Ord. No. 2008-01, §§ 1,2, adopted April 10, 2008.

8-1.05 Deletion or revision of certain provisions.

(a) The following sections of the codes adopted in Section 8-1.04 are deleted:

(1) [Reserved.]

(b) The following sections of the relevant codes adopted in Section 8-1.04 are revised to read in their entirety as follows:

(1) [Reserved.]

(Ord. No. 2011-02, § 4, 3-24-2011)

Editor's note—Ord. No. 2011-02, § 3, adopted March 24, 2011, repealed the former § 8-1.05. Section 4 of said ordinance enacted a new § 8-1.05 as set out herein. The former § 8-1.05 pertained to Uniform Electrical Code and derived from Ord. No. 85-08, § 5, adopted 1985; Ord. No. 87-04, § 5, adopted 1987; Ord. No. 89-13, § 4, adopted 1989; Ord. No. 93-01, § 3, adopted 1993.

8-1.06 Fees.

Notwithstanding any other provision of this chapter or any code adopted in Section 8-1.04, any person desiring a permit required by any code adopted in Section 8-1.04 shall, at the time of filing an application therefor, pay a fee as set by resolution of the City Council.

(Ord. No. 2011-02, § 4, 3-24-2011)

Editor's note—Ord. No. 2011-02, § 3, adopted March 24, 2011, repealed the former § 8-1.06. Section 4 of said ordinance enacted a new § 8-1.06 as set out herein. The former § 8-1.06 pertained to Plumbing Code and derived from Ord. No. 85-08, § 6, adopted 1985; Ord. No. 87-04, § 6, adopted 1987; Ord. No. 89-13, §§ 5, 6, adopted 1989; Ord. No. 93-01, § 4, adopted 1993.

8-1.07 Appeal Board.

Whenever any code adopted in Section 8-1.04 specifies a Board of Appeals or Advisory Board, or in the absence of such specifications, the City Council or its designee(s) shall serve as such board, and may determine the suitability of alternative materials and/or methods of construction and may provide a reasonable interpretation of the applicable provisions.

(Ord. No. 2011-02, § 4, 3-24-2011)

Editor's note—Ord. No. 2011-02, § 3, adopted March 24, 2011, repealed the former § 8-1.07. Section 4 of said ordinance enacted a new § 8-1.07 as set out herein. The former § 8-1.07 pertained to Uniform Mechanical Code and derived from Ord. No. 85-08, §§ 7, 8, adopted 1985; Ord. No. 87-04, §§ 7, 8, adopted 1987; Ord. No. 89-13, § 7, adopted 1989; Ord. No. 93-01, § 5, adopted 1993.

8-1.08 Copy of code.

At least one copy of the codes adopted in Section 8-1.04 may be inspected during normal business hours by any member of the public in the office of the City Clerk.

(Ord. No. 2011-02, § 4, 3-24-2011)

Editor's note—Ord. No. 2011-02, § 3, adopted March 24, 2011, repealed the former § 8-1.08. Section 4 of said ordinance enacted a new § 8-1.08 as set out herein. The former § 8-1.08 pertained to Uniform Administrative Code and derived from Ord. No. 87-04, § 9, adopted 1987; Ord. No. 89-13, § 8, adopted 1989; Ord. No. 93-01, § 6, adopted 1993.

8-1.09 No liability.

The provisions of this chapter shall not be construed as imposing upon the City of Avenal any liability or responsibility for damage to persons or property resulting from defective work, nor shall the City of Avenal, or any official, employee or agent thereof, be held as assuming any such liability or responsibility by reason of the review or inspection authorized by the provisions of this chapter, or issuance of any permits or certificates under this chapter or the codes adopted by in Section 8-1.04.

(Ord. No. 2011-02, § 4, 3-24-2011)

8-1.10 Violation—Penalty.

Unless otherwise required by applicable law, any violation of any provision of this Chapter, including the codes adopted in Section 8-1.04, shall be punishable as set forth in Title 1, Chapter 2 of the Avenal Municipal Code.

(Ord. No. 2011-02, § 4, 3-24-2011)

Chapter 2

RADIO AND TELEVISION ANTENNAS

Sections:

8-2.01 **Licenses—Required—Fees—Terms—Exceptions.**

8-2.02 **Permits—Required—Exceptions.**

8-2.03 **Permits—Applications—Fees.**

8-2.04 **Permits—Issuance.**

8-2.05 **Bonds.**

8-2.06 **Erection requirements.**

8-2.07 **Erection qualifications.**

8-2.08 **Inspections.**

8-2.09 **Maintenance inspections—Notices of dangerous conditions.**

8-2.10 **Exemptions.**

8-2.01 Licenses—Required—Fees—Terms—Exceptions.

(a) Required. Before any person shall engage in the business of erecting outdoor antennas in the City, such person shall first procure from the City a license so to do and, except as otherwise provided in subsection (d) of this section, shall pay the license tax imposed on such business. Such person shall register his name in a book provided for that purpose at the office of the City Clerk, giving his full name, residence, and place of business. In the event he moves his business from one place to another in the City, he shall make the corresponding change in the register accordingly and file therewith his affidavit that such name and place of business as registered are correctly stated.

For the purposes of this section, any person who, for a pecuniary or other remuneration, erects or installs two (2) or more outdoor antennas in any one calendar year shall be deemed to be engaged in the business of the erection and installation of outdoor antennas.

(b) Fees. Antenna erection licenses shall be issued by the City on the payment of an annual fee of Twenty and no/100ths ($20.00) Dollars or a semiannual fee of Ten and no/100ths ($10.00) Dollars. The fee of a license for a fraction of a year shall be Ten and no/100ths ($10.00) Dollars.

(c) Terms. Such license fees shall be for the calendar year or one-half (1/2) year, or any fraction thereof, and shall be payable in advance to the Finance Director.

(d) Exceptions. Persons already paying a business license tax to the City shall not be required to pay an antenna erection license tax in addition thereto; provided, however, such persons shall otherwise comply with the provisions of this chapter, including those requiring registration, the filing of affidavits, and the furnishing of bonds.

8-2.02 Permits—Required—Exceptions.

It shall be unlawful for any person, either as owner, agent, servant, or employee of the owner, or as an independent contractor for the owner, or otherwise, to install any outdoor antenna system for radio or television receiving apparatus or equipment, or any additions to or substitutions for such system, unless and until a permit for such installation, or for such additions to or substitutions therefor, shall have been first obtained from the Public Works Director; provided, however, no permit shall be required when both of the following conditions exist:

(a) The antenna is so located that if it swings or falls, such antenna will not come in contact with electric power lines carrying in excess of seven hundred fifty (750) volts; and

(b) The antenna is so located that if pivoted about its base to a horizontal position, no portion of the antenna will extend beyond the property lines of the real property on which such antenna is erected.

8-2.03 Permits—Applications—Fees.

Any person desiring to erect, construct, or maintain any outdoor antenna system for radio or television receiving apparatus or equipment, or any additions to or substitutions for such system, shall, unless exempted by the provisions of Section 8-2.02 of this chapter, make a written application for such permit to the Public Works Director upon such forms as may be prescribed by the Public Works Director and pay the fee, as established by the City Council by resolution, for each installation. Such permit fee shall entitle the applicant to one inspection without further charge. For each reinspection required, a reinspection fee, as established by the City Council by resolution, shall be paid.
(Ord. 91-06 § 26, 1991)

8-2.04 Permits—Issuance.

If the Public Works Director finds that the proposed installation or work complies in every respect with the provisions of this chapter, he shall issue the permit required by the provisions of Section 8-2.02 of this chapter to the applicant thereof.

8-2.05 Bonds.

It is unlawful for any person engaged in the business of the erection and installation of outdoor antennas to erect or install any such outdoor antenna in the City without first furnishing a bond in the sum of one thousand dollars ($1,000.00), which shall be signed by two (2) good and sufficient sureties who shall justify for such amount over and above all their just debts and liabilities and all property owned by such sureties exempt from execution, or which bond shall be executed by a surety company authorized to transact business in the State. Such bond shall be approved by the City Attorney and filed with the City Clerk.

The condition of each bond shall be that, in the event the principal named in the bond shall faithfully perform his duty in the installation or erection of an outdoor antenna in compliance with the provisions of this chapter, such obligation shall be void, but in the event the principal shall fail to comply with the provisions of this chapter in the erection of any outdoor antenna or shall install an unsafe antenna and refuse or neglect to correct or remove the antenna after notice from the Public Works Director, he may direct such work to be removed or corrected, and the cost and expense of such removal or correction, not exceeding the sum of one thousand dollars ($1,000.00), shall be collectible from the principal and the sureties on such bonds. Each such bond shall be for a period of time which shall expire on June 30 of each year. It shall be the duty of the licensee to renew such bond upon the expiration of the term for which it is given, and failure on the part of any such person to renew such bond immediately upon the expiration of such term shall have the same effect as if no bond had been given.

For the purposes of this section, any person who, for a pecuniary or other remuneration, erects or installs two (2) or more outdoor antennas in any one calendar year shall be deemed to be engaged in the business of the erection and installation of outdoor antennas.

8-2.06 Erection requirements.

Whether or not a permit is required by the provisions of this chapter, outdoor radio and television antennas erected in the City shall be erected in compliance with the applicable regulations of the Civil Aeronautics Authority and the following requirements:

(a) The antenna mast or tower shall be secured to a structure strong enough to carry the weight of the installation with necessary allowances for wind and vibration.

(b) The mast shall be securely anchored to the structure.

(c) Antennas shall not be attached to, or supported by, vent pipes. Mast supports and guy wire anchors shall be secured in such a way that the supporting structure is not damaged or weakened.

(d) Radio and television masts, except those of a telescoping type, which extend more than ten (10') feet above the top of their bases, shall be strengthened with three (3) or more substantial guy wires at intervals of not more than each twenty (20') feet of height, or fraction thereof.

(e) The Public Works Director shall require guy attachments at closer intervals than twenty (20') feet if, in his opinion, such closer spacing is necessary to provide proper support and rigidity for the mast.

(f) Telescoping type masts shall have at least three (3) substantial guy wires attached to the top of each section.

(g) A lightning arrester, suitable for the frequency for which the television apparatus is designed and approved by the Underwriters' Laboratories, Inc., for television leads shall, if available, be provided for each lead-in conductor and shall be located outside the building and as near as practicable to the entrance of the conductor into the building. The arrester shall not be located near combustible material or in a hazardous location.

(h) Every metal mast or tower shall be grounded by a conductor of suitable size. The conductor should be bonded to a water pipe if possible.

8-2.07 Erection qualifications.

An antenna may be erected in compliance with the provisions of this chapter by anyone, and no requirements as to qualifications are imposed by the provisions of this section.

8-2.08 Inspections.

When any installation for which a permit is required by the provisions of this chapter has been completed, the person in whose name such permit has been granted, within seventy-two (72) hours, shall notify the Public Works Director that the work is ready for final inspection. Thereupon, the work shall be promptly inspected by the Public Works Director, and if the work complies in all respects with the provisions of this chapter and with the permit, a certificate of approval shall be given by the Public Works Director to the permittee. In the event the work does not comply in all respects with the provisions of this chapter and with the permit, a certificate of approval shall be withheld until and unless a subsequent inspection discloses compliance. In the further event the antenna, as erected, does not comply with the provisions of this chapter or in other respects does not appear to be erected, supported, and guyed in a reasonably safe manner, the Public Works Director shall instruct the person who erected such antenna to either make corrections so the antenna, as erected, will comply with the provisions of this chapter and reasonable safety, or to remove the antenna.

A request for a reinspection shall be accompanied by the payment of the reinspection fee set forth in Section 8-2.03 of this chapter.

Except for test purposes, and except for cases not requiring the issuance of a permit, no television or radio antenna shall be placed in use until a certificate of approval is obtained.

8-2.09 Maintenance inspections—Notices of dangerous conditions.

Nothing set forth in this chapter, nor the fact that any person has theretofore obtained a certificate of approval, shall be construed to prevent the City, through its duly authorized inspectors under the direction of the Public Works Director, from inspecting any antenna system in use in the City in order to ascertain whether or not such antenna system continues to remain in a safe condition and in compliance with the provisions of this chapter. In the event any condition is found which might result in danger to life or property, the Public Works Director shall give written notice to the owner or operator of such antenna at his last known address, setting forth such condition and requiring the condition of such antenna to be corrected within fifteen (15) days after such notice. If such condition is not corrected within such time, the maintenance thereafter of any such defective installation by the owner or user thereof shall be unlawful.

8-2.10 Exemptions.

(a) Amateur radio operators. The provisions of this chapter shall not apply to or control any person who holds a valid Amateur Radio Operator and Station License issued by the Federal Communications Commission while such person is engaged in an activity under the authority of such license. If such person engages in the installation of antennas other than those which pertain to his hobby under such license, the provisions of this chapter shall apply insofar as such installation is concerned.

(b) Demonstrators. The provisions of this chapter requiring a permit and certificate of approval shall not be applicable to television antennas installed for demonstration purposes where the duration of their existence shall not exceed three (3) days; provided, however, before any such demonstration antennas are installed, oral approval therefor shall be obtained from the Public Works Director. No fee shall be charged for such oral approval.

Chapter 3

UNSAFE BUILDINGS

Sections:

8-3.01 Building defined.

8-3.02 Adoption of the Uniform Code for Building Conservation.

8-3.01 Building defined.

For the purposes of this chapter, "building" means structures of any kind.

8-3.02 Adoption of the Uniform Code for Building Conservation.

Except as otherwise provided in this chapter, that certain code known and designated as the "Uniform Code for Building Conservation" together with appendices thereto as adopted by the International Conference of Building Officials is hereby referred to, adopted and made a part of this chapter with the same effect as if fully set forth herein and is declared to be the Building Conservation Code of the City. (Ord. 89-08 § 11, 1989)

Chapter 4

SIGN CODE

Sections:

8-4.01 Adoption of the Uniform Sign Code.

8-4.01 Adoption of the Uniform Sign Code.

That certain code, known and designated as the "Uniform Sign Code," 1991 Edition, published by the International Conference of Building Officials is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to any amendments, additions, and deletions set forth in this chapter, and the code shall be known as the Sign Code of the City.
(Ord. 89-13 § 13, 1989; Ord. 93-01 § 7, 1993)

Chapter 5

FLOOD DAMAGE PREVENTION*

Sections:

Article 1. Statutory Authorization, Findings of Fact, Purpose and Methods

8-5.101 Statutory authorization.
8-5.102 Findings of fact.
8-5.103 Statement of purpose.
8-5.104 Methods of reducing flood losses.

Article 2. Definitions

8-5.201 Definitions.

Article 3. General Provisions

8-5.301 Lands to which this chapter applies.
8-5.302 Basis for establishing the areas of special flood hazard.
8-5.303 Compliance.
8-5.304 Abrogation and greater restrictions.
8-5.305 Interpretation.
8-5.306 Warning and disclaimer of liability.
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Article 4. Administration

8-5.401 Designation of the Floodplain Administrator.
8-5.402 Duties and responsibilities of the Floodplain Administrator.
8-5.403 Development permit.
8-5.404 Appeals.

Article 5. Provisions for Flood Hazard Reduction

8-5.501 Standards of construction.
8-5.502 Standards for utilities.
8-5.503 Standards for subdivisions and other proposed development.
8-5.504 Standards for manufactured homes.
8-5.505 Standards for recreational vehicles.
8-5.506 Floodways.

*Editor's note—Ord. No. 2009-01, §§ 1.0—6.0, adopted March 12, 2009, amended title 8, chapter 5, in its entirety to read as herein set out. Former chapter 5, §§ 8-5.101—8-5.104, 8-5.201, 8-5.301—8-5.307, 8-5.401—8-5.404, 8-5.501—8-5.506, 8-5.601—8-5.603, pertained to similar subject matter, and derived from Ord. No. 95-07, §§ 1—6, adopted 1995.

Article 6. Variance Procedure

8-5.601 Nature of variances.

8-5.602 Conditions for variances.

8-5.603 Appeal Board.

Article 1. Statutory Authorization, Findings of Fact, Purpose and Methods

8-5.101 Statutory authorization.

The Legislature of the State of California has, pursuant to Government Code sections 65302, 65560, and 65800, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Avenal hereby adopts the following floodplain management regulations and hereby repeals Ordinance No. 95-07. (Ord. No. 2009-01, § 1.1, 3-12-2009)

8-5.102 Findings of fact.

(a) The flood hazard areas of City of Avenal are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(b) These flood losses are caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contributes to flood losses.

(Ord. No. 2009-01, § 1.2, 3-12-2009)

8-5.103 Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood prone, mudslide [i.e. mudflow] or flood-related erosion areas. These regulations are designed to:

(a) Protect human life and health;

(b) Minimize expenditure of public money for costly flood control projects;

(c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) Minimize prolonged business interruptions;

(e) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;

(f) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;

(g) Ensure that potential buyers are notified that property is in an area of special flood hazard; and

(h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(Ord. No. 2009-01, § 1.3, 3-12-2009)

8-5.104 Methods of reducing flood losses.

In order to accomplish its purposes, this chapter includes regulations to:

(a) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;

(b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

(d) Control filling, grading, dredging, and other development which may increase flood damage;

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(Ord. No. 2009-01, § 1.4, 3-12-2009)

Article 2. Definitions

8-5.201 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"A zone." See "Special flood hazard area."

"Accessory structure" means a structure that is either:

(1) Solely for the parking of no more than two (2) cars; or

(2) A small, low cost shed for limited storage, less than one hundred fifty (150) square feet and one thousand five hundred dollars ($1,500.00) in value.

"Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

"Alluvial fan" means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

"Apex" means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

"Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard." See "Special flood hazard area."

"Base flood" means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this chapter.

"Base flood elevation (BFE)" means the elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1—30, VE and V1—V30 that indicates the water surface elevation resulting from a flood that has a one (1) percent or greater chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade, i.e., below ground level, on all sides.

"Building." See "Structure."

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Encroachment" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of Ordinance No. 95-07 (adopted on May 25, 1995).

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"FEMA" means the Federal Emergency Management Agency of the United States.

"Flood," "flooding," or "flood water" means:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and

(2) The condition resulting from flood-related erosion.

"Flood boundary and floodway map (FBFM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

"Flood insurance rate map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood insurance rate map, the flood boundary and floodway map, and the water surface elevation of the base flood.

"Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source. See "Flooding."

"Floodplain Administrator" is the local official designated by the City of Avenal to administer and enforce the floodplain management regulations.

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain management regulations" means this chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion

control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "Regulatory floodway."

"Floodway fringe" is that area of the floodplain on either side of the "Regulatory floodway" where encroachment may be permitted.

"Fraud and victimization" as related to Article 6 of this chapter, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City of Avenal will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty (50) to one-hundred (100) years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

"Governing body" is the local governing unit, i.e. county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

"Hardship" as related to Article 6 of this chapter means the exceptional hardship that would result from a failure to grant the requested variance. The City of Avenal requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement (see "Basement" definition).

(1) An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:
   a. The flood openings standard in Section 8-5.501(c)(3);
   b. The anchoring standards in Section 8-5.501(a);
   c. The construction materials and methods standards in Section 8-5.501(b); and
   d. The standards for utilities in Section 8-5.502.

(2) For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "Basement" definition). This prohibition includes below-grade garages and storage areas.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

"Market value" is defined in the City of Avenal Substantial Damage/Improvement Procedures. See Section 8-5.402(b)(1).

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

"New construction", for floodplain management purposes, means structures for which the "start of construction" commenced on or after the effective date of Ordinance No. 95-07 (adopted on May 25, 1995), and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of Ordinance No. 95-07 (adopted on May 25, 1995).

"Obstruction" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock,

gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"One-hundred-year flood" or "100-year flood." See "Base flood."

"Program deficiency" means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.

"Public safety and nuisance" as related to Article 6 of this chapter, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational vehicle" means a vehicle which is:

(1) Built on a single chassis;

(2) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Remedy a violation" means to bring the structure or other development into compliance with State or local floodplain management regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Sheet flow area." See "Area of shallow flooding."

"Special flood hazard area (SFHA)" means an area in the floodplain subject to a one (1) percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, AO, A1—A30, AE, A99, or, AH.

"Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as

dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

"Violation" means the failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

"Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(Ord. No. 2009-01, § 2.0, 3-12-2009)

Article 3. General Provisions

8-5.301 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Avenal.

(Ord. No. 2009-01, § 3.1, 3-12-2009)

8-5.302 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the "Flood Insurance Study (FIS) for City of Avenal dated June 16, 2009, with accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), dated June 16, 2009, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter

and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the City Council by the Floodplain Administrator. The study, FIRMs and FBFMs are on file at:

Avenal Planning Department
919 Skyline Boulevard
Avenal, California 93204

(Ord. No. 2009-01, § 3.2, 3-12-2009)

8-5.303 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards) shall constitute a misdemeanor. Nothing herein shall prevent the City of Avenal from taking such lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 2009-01, § 3.3, 3-12-2009)

8-5.304 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 2009-01, § 3.4, 3-12-2009)

8-5.305 Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

(a) Considered as minimum requirements;
(b) Liberally construed in favor of the City of Avenal; and
(c) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 2009-01, § 3.5, 3-12-2009)

8-5.306 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Avenal, any officer or employee thereof, the State of California, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. No. 2009-01, § 3.6, 3-12-2009)

8-5.307 Severability.

This chapter and the various parts thereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

(Ord. No. 2009-01, § 3.7, 3-12-2009)

Article 4. Administration

8-5.401 Designation of the Floodplain Administrator.

The Community Development Director is hereby appointed to administer, implement, and enforce this chapter by granting or denying development permits in accord with its provisions.
(Ord. No. 2009-01, § 4.1, 3-12-2009)

8-5.402 Duties and responsibilities of the Floodplain Administrator.

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

(a) Permit Review. Review all development permits to determine:
  (1) Permit requirements of this chapter have been satisfied, including determination of substantial improvement and substantial damage of existing structures;
  (2) All other required state and federal permits have been obtained;
  (3) The site is reasonably safe from flooding;
  (4) The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City of Avenal; and
  (5) All letters of map revision (LOMR's) for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on conditional letters of map revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

(b) Development of Substantial Improvement and Substantial Damage Procedures.
  (1) Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."
  (2) Assure procedures are coordinated with other departments/divisions and implemented by City of Avenal staff.

(c) Review, Use and Development of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 8-5.302, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Article 5.

NOTE: A base flood elevation may be obtained using one of two methods from the FEMA publication, FEMA 265, "Managing Floodplain Development in Approximate Zone A Areas—A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995.

(d) Notification of Other Agencies.
  (1) Alteration or relocation of a watercourse:
    a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
    b. Submit evidence of such notification to the Federal Emergency Management Agency; and

c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

(2) Base flood elevation changes due to physical alterations:

a. Within six (6) months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a letter of map revision (LOMR).

b. All LOMR's for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on conditional letters of map revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

(3) Changes in corporate boundaries: Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

(e) Documentation of Floodplain Development. Obtain and maintain for public inspection and make available as needed the following:

(1) Certification required by Section 8-5.501(c)(1) and Section 8-5.504 (lowest floor elevations);

(2) Certification required by Section 8-5.501(c)(2) (elevation or floodproofing of nonresidential structures);

(3) Certification required by Section 8-5.501(c)(3) (wet floodproofing standard);

(4) Certification of elevation required by Section 8-5.503(a)(3) (subdivisions and other proposed development standards);

(5) Certification required by Section 8-5.506(b) (floodway encroachments); and

(6) Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

(f) Map Determination. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 8-5.404.

(g) Remedial Action. Take action to remedy violations of this chapter as specified in Section 8-5.303.

(h) Biennial Report. Complete and submit biennial report to FEMA.

(i) Planning. Assure community's general plan is consistent with floodplain management objectives herein.

(Ord. No. 2009-01, § 4.2, 3-12-2009)

8-5.403 Development permit.

A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in Section 8-5.302. Application for a development permit shall be made on forms furnished by the City of Avenal. The applicant shall provide the following minimum information:

(a) Plans in duplicate, drawn to scale, showing:
   1. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;
   2. Proposed locations of water supply, sanitary sewer, and other utilities;
   3. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
   4. Location of the regulatory floodway when applicable;
   5. Base flood elevation information as specified in Section 8-5.302 or Section 8-5.402(c);
   6. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
   7. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section 8-5.501(c)(2) of this chapter and detailed in FEMA Technical Bulletin TB 3-93.

(b) Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Section 8-5.501(c)(2).

(c) For a crawl-space foundation, location and total net area of foundation openings as required in Section 8-5.501(c)(3) of this chapter and detailed in FEMA Technical Bulletins 1-93 and 7-93.

(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(e) All appropriate certifications listed in Section 8-5.402(e) of this chapter.

(Ord. No. 2009-01, § 4.3, 3-12-2009)

8-5.404 Appeals.

The City Council of the City of Avenal shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.

(Ord. No. 2009-01, § 4.4, 3-12-2009)

Article 5. Provisions for Flood Hazard Reduction

8-5.501 Standards of construction.

In all areas of special flood hazards the following standards are required:

(a) Anchoring. All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(b) Construction Materials and Methods. All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:
   (1) With flood resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;

(2) Using methods and practices that minimize flood damage;
(3) With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
(4) Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

(c) Elevation and Floodproofing.
(1) Residential construction. All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:
a. In AE, AH, A1—30 Zones, elevated to or above the base flood elevation.
b. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two (2) feet above the highest adjacent grade if no depth number is specified.
c. In an A zone, without BFE's specified on the FIRM [unnumbered A zone], elevated to or above the base flood elevation; as determined under Section 8-5.402(c).

Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

(2) Nonresidential construction. All new construction or substantial improvements of non-residential structures shall either be elevated to conform with Section 8-5.501(c)(1) or:
a. Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under Section 8-5.501(c)(1), so that the structure is watertight with walls substantially impermeable to the passage of water;
b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
c. Be certified by a registered civil engineer or architect that the standards of Section 8-5.501(c)(2)a. and b. are satisfied. Such certification shall be provided to the Floodplain Administrator.

(3) Flood openings. All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must meet the following minimum criteria:
a. For non-engineering openings:
(i) Have a minimum of two (2) openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
(ii) The bottom of all openings shall be no higher than one foot above grade;
(iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and
(iv) Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter; or
b. Be certified by a registered civil engineer or architect.

(4) Manufactured homes.
   a. See Section 8-5.504.
(5) Garages and low cost accessory structures.
   a. Attached garages.
      (i) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. See Section 8-5.501(c)(3). Areas of the garage below the BFE must be constructed with flood resistant materials. See Section 8-5.501(b).
      (ii) A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.
   b. Detached garages and accessory structures.
      (i) "Accessory structures" used solely for parking (two (2) car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Article 2, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:
         1. Use of the accessory structure must be limited to parking or limited storage;
         2. The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
         3. The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
         4. Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;
         5. The accessory structure must comply with floodplain encroachment provisions in Section 8-5.506; and
         6. The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 8-5.501(c)(3).
      (ii) Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 8-5.501.

(Ord. No. 2009-01, § 5.1, 3-12-2009)

8-5.502 Standards for utilities.

(a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
   (1) Infiltration of flood waters into the systems; and
   (2) Discharge from the systems into flood waters.
(b) On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

(Ord. No. 2009-01, § 5.2, 3-12-2009)

8-5.503 Standards for subdivisions and other proposed development.

(a) All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than fifty (50) lots or five (5) acres, whichever is the lesser, shall:
   (1) Identify the special flood hazard areas (SFHA) and base flood elevations (BFE).

(2) Identify the elevations of lowest floors of all proposed structures and pads on the final plans.

(3) If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a letter of map revision based on fill (LOMRF) to the Floodplain Administrator:

a. Lowest floor elevation.

b. Pad elevation.

c. Lowest adjacent grade.

(b) All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.

(c) All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(d) All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

(Ord. No. 2009-01, § 5.3, 3-12-2009)

8-5.504 Standards for manufactured homes.

(a) All manufactured homes that are placed or substantially improved, on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:

(1) Within Zones A1—30, AH, and AE on the community's flood insurance rate map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1—30, AH, and AE on the community's flood insurance rate map that are not subject to the provisions of Section 8-5.504(a) will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:

(1) Lowest floor of the manufactured home is at or above the base flood elevation; or

(2) Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

(Ord. No. 2009-01, § 5.4, 3-12-2009)

8-5.505 Standards for recreational vehicles.

(a) All recreational vehicles placed in Zones A1—30, AH, and AE will either:

(1) Be on the site for fewer than one hundred eighty (180) consecutive days; or

(2) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(3) Meet the permit requirements of Section 8-5.403 of this chapter and the elevation and anchoring requirements for manufactured homes in Section 8-5.501(a).

(Ord. No. 2009-01, § 5.5, 3-12-2009)

8-5.506 Floodways.

Since floodways are an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(a) Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1—30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City of Avenal.

(b) Within an adopted regulatory floodway, the City of Avenal shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(c) If Sections 8-5.506(a) and (b) are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Article 5.

(Ord. No. 2009-01, § 5.6, 3-12-2009)

Article 6. Variance Procedure

8-5.601 Nature of variances.

The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.

The variance criteria set forth in this section of the chapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the City of Avenal to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances form the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

(Ord. No. 2009-01, § 6.1, 3-12-2009)

8-5.602 Conditions for variances.

(a) Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Articles 4 and 5 of this chapter have been fully considered. As the lot size increases beyond one-half (1/2) acre, the technical justification required for issuing the variance increases.

(b) Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in Article 2 of this chapter) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(c) Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

(d) Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the City of Avenal need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City of Avenal believes will both provide relief and preserve the integrity of the local ordinance.

(e) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars ($25.00) for one hundred dollars ($100.00) of insurance coverage, and

(2) Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Recorder of the County of Kings and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(f) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

(g) Variances shall only be issued upon a:

(1) Showing of good and sufficient cause;

(2) Determination that failure to grant the variance would result in exceptional "hardship" to the applicant; and

(3) Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see "Public safety and nuisance"), cause "fraud and victimization" of the public, or conflict with existing local laws or ordinances.

(h) Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of Sections 8-5.602(a) through (d) are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

(i) Upon consideration of the factors of Section 8-5.602(a) and the purposes of this chapter, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(Ord. No. 2009-01, § 6.2, 3-12-2009)

8-5.603 Appeal Board.

(a) In passing upon requests for variances, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the:
  (1) Danger that materials may be swept onto other lands to the injury of others;
  (2) Danger of life and property due to flooding or erosion damage;
  (3) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
  (4) Importance of the services provided by the proposed facility to the community;
  (5) Necessity to the facility of a waterfront location, where applicable;
  (6) Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  (7) Compatibility of the proposed use with existing and anticipated development;
  (8) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  (9) Safety of access to the property in time of flood for ordinary and emergency vehicles;
  (10) Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
  (11) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

(Ord. No. 2009-01, § 6.3, 3-12-2009)

Chapter 6

INTERIM SCHOOL FACILITIES

Sections:

8-6.01 Title of provisions.
8-6.02 Purpose of provisions.
8-6.03 Authority.
8-6.04 Definitions.
8-6.05 Findings—Notice.
8-6.06 Findings—Hearing.
8-6.07 Determinations of applicability.
8-6.08 Dedication of land or payment of fees—Procedures.
8-6.09 Collection of fees.
8-6.10 In-lieu fees.
8-6.11 Dedication of land.
8-6.12 Amendment of fee schedule.
8-6.13 Use of fees—Account keeping.
8-6.14 Further levying of fees or dedications restricted.
8-6.15 Failure to complete development—Effect.
8-6.16 Termination of requirements.

8-6.01 Title of provisions.

This chapter shall be known and may be cited as the "Interim School Facilities Fees Ordinance."
(Ord. 85-09 (part), 1985)

8-6.02 Purpose of provisions.

The purpose of this chapter is to provide a method for financing interim school facilities necessitated by conditions of overcrowding caused by new residential developments.
(Ord. 85-09 (part), 1985)

8-6.03 Authority.

This chapter is adopted pursuant to the provisions of Chapter 4.7, commencing with Section 65970 of Division 1 of Title 7 of the Government Code.
(Ord. 85-09 (part), 1985)

8-6.04 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) "Conditions of overcrowding" shall mean that the total enrollment of a school, including enrollment from the proposed development, exceeds the capacity of such school as determined by the governing body of the school district.

(b) "Dwelling unit" means a building or portion thereof, or a mobile home, designed for residential occupation by one person or a group of two (2) or more persons living together as a domestic unit. "Dwelling unit" shall not mean remodels or room additions to existing residential structures, hotel or motel units, or the rebuilding of a legally established dwelling unit destroyed or damaged by accident, catastrophe, or act of God.

(c) "Interim school facilities" shall mean temporary classrooms not constructed with a permanent foundation and defined as a structure containing one or more rooms, each of which is designed, intended and equipped for use as a place for formal instruction of pupils by a teacher in a school, temporary classroom toilet facilities not constructed with a permanent foundation; and reasonable site preparation and installation of temporary classrooms and toilet facilities.

(d) "Reasonable methods for mitigating conditions of overcrowding" shall include but is not limited to the following concepts:

(1) Agreements between a developer and the affected school district whereby temporary-use buildings will be leased to or for the benefit of the school district or temporary-use buildings owned by the developer or school district will be used;

(2) The use of all available revenues, including general fund, to the full extent authorized by law;

(3) The use of school district property for temporary-use buildings;

(4) The use of classroom double-sessions and the use of year-round school programs;

(5) The use of funds which could be available from the sale of surplus school district real property and the use of funds available from any other source.

(e) "Residential development" shall mean a project containing residential dwellings, including mobile homes, of one or more units or a subdivision of land for the purpose of constructing one or more residential dwelling units.

(Ord. 85-09 (part), 1985)

8-6.05 Findings—Notice.

If the governing body of the Reef-Sunset Unified School District makes a finding supported by clear and convincing evidence that:

(a) Conditions of overcrowding exist in one or more attendance areas within the district which conditions will impair the normal functioning of educational programs, including the reason for such conditions existing; and

(b) All reasonable methods of mitigating the conditions of overcrowding have been evaluated and no feasible method for reducing such conditions exists, the governing body of the school district shall notify the Council. The notice of findings sent to the Council shall specify the mitigation measures considered by the school district and shall include a discussion of at least the following possible mitigation devices:

(1) The lease of temporary use buildings from developers;

(2) Classroom double-sessions;

(3) The year-round use of school facilities;

(4) The use of school district property for temporary use buildings;

(5) Utilization of existing school space;

(6) The use of funds which could be available from the sale of surplus school district real property and the use of funds available from any other source.

(Ord. 85-09 (part), 1985)

8-6.06 Findings—Hearing.

(a) Within sixty (60) days of receipt of notice of the findings of the governing board, complete with supporting documentation, the City Council shall hold a public hearing on the findings and the requested fees and land dedications.

(b) Notice of the time and place of the public hearing shall be given at least ten (10) days before the hearing in the manner following:

(1) Such notice shall be given by publication once in a newspaper of general circulation, published in the City and circulated in the school district, or if there is none, then in a newspaper of general circulation published and circulated in the City;

(2) By mailing a copy of such notice to the governing board of the school district;

(3) By mailing a copy of such notice to any person who may file a request in writing therefor with the City Clerk and who shall furnish therewith an envelope addressed for such purpose with postage prepaid.

(c) Such notice shall also identify the school district, and generally describe the boundaries of the attendance area or areas in question, and shall refer to the notice of findings of the governing board of the school district and state when and where the same may be examined by any interested person.

(d) After public hearing and receipt of findings complying with the requirements of this chapter, the City Council shall, by resolution, either concur in or reject such findings. Such findings may be rejected only if the Council determines that such findings are not supported by the weight of the evidence.

(e) If the City Council does not concur with the amount of fees to be paid, it shall, by resolution, adopt such amount of fees or as it may deem proper in lieu of that requested by the governing board.

(f) After conclusion of the hearing, the City Council shall declare its decision and any findings in such matter. The City Clerk shall mail a copy of the resolution of order to the City Council and findings to each person to whom notice of the hearing was required to be mailed under this section.

(g) If the Council, by resolution, concurs with the school district findings, then within the attendance area where it has been determined that conditions of overcrowding exist, the Council shall not approve an ordinance rezoning property to a residential use, grant a discretionary permit for residential use, or approve a tentative subdivision map for residential purposes within such area unless the Council makes one of the following findings:

(1) That the powers authorized by this chapter will be exercised in such area; or

(2) That there are specific overriding fiscal, economic, social, or environmental factors which, in the judgment of the Council, would benefit the City, thereby justifying the approval of a residential development otherwise subject to this chapter.

(Ord. 85-09 (part), 1985)

8-6.07 Determinations of applicability.

If the Council concurs with the school district's findings, and if the Council determines that there are no overriding factors which excuse the exercise of this chapter, the Council shall adopt a resolution

designating the area to which this chapter shall apply. Within such areas, this chapter shall apply to any residential development which results in one or more dwelling units, including a residential subdivision of one or more lots, multiple residential projects of one or more units, and mobile home parks with one or more spaces. This chapter shall not apply to the conversion of existing residential units to another form of ownership or operation, nor to a development which limits residency to persons fifty (50) years of age or older. If such a development subsequently allows residence by younger persons, this chapter shall be applicable at that time.
(85-09 (part), 1985; Ord. 86-01 (part), 1986)

8-6.08 Dedication of land or payment of fees—Procedures.

Upon the adoption of the resolution referred to in Section 8-6.07 of this chapter, developments subject to this chapter shall dedicate land, pay fees in lieu thereof, or a combination of both, for classroom and related facilities for elementary or high schools as a condition of the approval of such residential developments provided that:

(a) The land or fees, or both, transferred to the school district shall be used only for the purpose of providing interim elementary or high school classrooms and related facilities; and

(b) The location and amount of land to be dedicated or the amount of fees to be paid, or both, shall bear a reasonable relationship and will be limited to the needs of the community for interim elementary or high school facilities and shall be reasonably related and limited to the need for schools caused by the development; provided, however, the fees shall not exceed the amount necessary to pay five (5) annual lease payments for the interim facilities. In lieu of the fees, the builder of a residential development, at his or her option and at his or her expense, may provide interim facilities, owned or controlled by such builder, at the place designated by the school district, and, at the conclusion of the fifth school year, the builder, at the builder's expense, shall remove the interim facilities from such place; and

(c) A finding is made by the Council that the facilities to be constructed from such fees or the land to be dedicated, or both, is consistent with the General Plan.

(Ord. 85-09 (part), 1985)

8-6.09 Collection of fees.

The fees required by this chapter shall be imposed at the time the building permit is issued, irrespective of whether a tentative map has been approved prior to the adopting of this chapter. In cases where a building permit is not required, the payment or dedication of land shall be a condition precedent to the provision of water to the project by the City. Such fees shall be placed in an interest-bearing trust account, to be used for no other purpose. The City Manager and Superintendent of Schools shall administratively adopt procedures for the transfer of the funds from the City to the school district. Such fees shall not be considered City "proceeds of taxes" under Article XIIIB of the Constitution of the State.
(Ord. 85-09 (part), 1985)

8-6.10 In-lieu fees.

No fees shall be imposed on a development covered by this chapter where at the time of the issuance of a building permit, the Building Official of the City shall have on file a letter from the superintendent of the Reef-Sunset School District, stating that an agreement or arrangement between the developer and the school district has been reached offsetting any impacts from that specific development.
(Ord. 86-01, 1986)

8-6.11 Dedication of land.

If the school district requests dedication rather than the payment of the fee, the value of the land dedicated shall be substantially identical to the amount of fees which would have been collected. Such value shall be based on the market value of the land at the time of filing the tentative map. The school district may not require dedication rather than the payment of fees if the subdivision consists of fifty (50) parcels or less.

(Ord. 85-09 (part), 1985)

8-6.12 Amendment of fee schedule.

The Council, by resolution, may amend the fee schedule adopted by this chapter upon its own initiative or upon a request by the school district to do so.

(Ord. 85-09 (part), 1985)

8-6.13 Use of fees—Account keeping.

The school district receiving funds pursuant to this chapter shall maintain a separate account for the fees paid and shall file a report with the Council on the balance in the account at the end of the previous fiscal year and the facilities leased, purchased, or constructed during the previous fiscal year. In addition, the report shall specify which attendance areas will continue to be overcrowded when the fall term begins and where conditions of overcrowding will no longer exist. Such report shall be filed by August 1 of each year and shall be filed more frequently at the request of the Council.

If overcrowding conditions no longer exist, the City shall cease levying any fee or requiring the dedication of any land pursuant to this chapter.

(Ord. 85-09 (part), 1985)

8-6.14 Further levying of fees or dedications restricted.

One year after the receipt of an apportionment pursuant to the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 22, commencing with Section 17700 of Part 10 of the Education Code of the State) for the construction of a school, the City shall not be permitted thereafter to levy any fee or to require the dedication of any land within the attendance area of the district. However, any time after the receipt of the apportionment there may be a determination of overcrowding if there is the further finding:

(a) That during the period of construction additional overcrowding would occur from continued residential development; and

(b) That any fee levied and any required dedication of land levied after the receipt of the construction apportionment can be used to avoid the additional overcrowding prior to the school being available for use by the school district.

Any amount of fees collected or land dedicated after the receipt of the construction apportionment and not used to avoid overcrowding shall be returned to the person who paid the fee or made the land dedication.

(Ord. 85-09 (part), 1985)

8-6.15 Failure to complete development—Effect.

(a) If a final subdivision map, parcel map, conditional use permit, development plan, or building permit is cancelled, voided, or lapses, and if the City still retains the land and/or fees collected for it, and if the applicant so requests, the Council shall order that such land and/or fees be returned to the applicant.

(b) If a final subdivision map, parcel map, conditional use permit, development plan, or building permit is cancelled or voided, and if the school district still retains the land or fees transferred to it by the City, and if the applicant so requests, the school district shall return to the applicant such land and/or fees.

(Ord. 85-09 (part), 1985)

8-6.16 Termination of requirements.

(a) If overcrowding conditions cease to exist in any attendance area of a school district as to which fee or land dedication requirements have been imposed pursuant to this chapter, the governing board of the district shall promptly adopt a resolution so finding and send a certified copy of it to the City Council.

(b) When it is determined by the City Council that conditions of overcrowding no longer exist in an attendance area, whether or not such determination follows a resolution by the governing board as provided in subsection (a) of this section, the requirements of this chapter shall cease to apply therein.

(Ord. 85-09 (part), 1985)

Chapter 7

LANDSCAPING REQUIREMENTS

Sections:

8-7.01 **Scope.**
8-7.02 **Purpose.**
8-7.03 **Definitions.**
8-7.04 **General requirements.**
8-7.05 **Requirements for Zone Districts RRE and R.**
8-7.06 **Requirements for Zone Districts RM, PO, T, CC, CS, CH, CN and IG.**
8-7.07 **Paved parking lot requirements.**
8-7.08 **Penalties.**
8-7.09 **Public nuisance.**

8-7.01 Scope.

All new residential, commercial and industrial construction shall comply with the landscaping requirements set out in this chapter.
(Ord. 91-04 § 2, 1991)

8-7.02 Purpose.

The City desires to regulate land use in order to stabilize economic and social aspects of the City's neighborhoods and business districts, to promote aesthetic considerations, to promote family environments, and to maintain consistent standards for basic residential, business and industrial sites.
(Ord. 91-04 § 3, 1991)

8-7.03 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application:

(a) "Appeal" means a request for a review of the Building Official's interpretation of any provision of this chapter or a request for a variance.
(b) "Building Official" means the City Manager or any assistant or regular employee designated by him to act in his stead.
(c) "Climate Zone 9" is defined in the most current edition of Sunset New Western Garden Book.
(d) "Corner lot" means a lot situated at the intersection of two (2) or more streets which have an angle of intersection of not more than one hundred thirty-five (135) degrees.
(e) "Enforcement agency" means the City Building Department or its designee.
(f) "Landscape" means trees, shrubs, ground cover, mail boxes, lights, trellises, or any similar growth or structure.
(g) "Landscape architect" is as defined in Business and Professions Code Section 5536(a).
(h) "Landscape contractor" means a person, firm or corporation which holds a valid C-27 contractor's license issued by the State of California.

(i) "New construction" means structures not presently in existence and shall not include additions or alterations to existing structures.

(j) "Paved parking lot" shall include parking stalls, driveways and maneuvering areas.

(k) "Zone districts" is as defined in Title 9 of this Code.

(Ord. 91-04 § 4, 1991)

8-7.04 General requirements.

(a) Every property owner or occupant shall be responsible for the maintenance and care of all trees, shrubs and vegetation required by this chapter and in the street right-of-way abutting such property.

(b) Landscaping shall be kept free from weeds and undesirable grasses.

(c) All vegetation shall be maintained free of physical damage or injury from lack of water, excess chemical fertilizer or other toxic chemical, blight, or disease, and any such vegetation which shows signs of such damage or injury at any time shall be replaced by the same, similar, or substitute vegetation of a size, form, and character which will be comparable at full growth.

(d) Landscaped mounds shall not be constructed on natural slopes steeper than 2:1 or where the toe of the mound is within twelve (12) feet horizontally of the top of existing or planned cut slope. The slopes of the mound shall be no steeper than 2.5:1. The toe of the mound shall be set back from property boundaries as far as necessary for safety of the adjacent properties and to prevent damage resulting from water runoff or erosion of the slope. The toe of the mound shall be set back from any buildings as far as is necessary to prevent damage as a result of water runoff or erosion of the slopes. In no case shall the toe of the mound be closer than five (5) feet of (from) any buildings. The toe of the mound abutting the street shall be set back from the sidewalk or street curb as far as necessary for safety of the sidewalk and street area, and to prevent damage resulting from water runoff or erosion of the slopes, but in no case shall the toe of the mound be closer than one foot of [from] the street right-of-way unless approved by the Building Official. All mounds shall be irrigated by an on-site sprinkler system and planted with vegetative material.

(e) All new construction shall have an underground irrigation system. The irrigation system shall be designed to irrigate all plant material. The system shall be designed to supply adequate on-site water to grow healthy plants under Avenal's climatic conditions. The irrigation plan shall indicate the type of heads, pipe size, backflow valve, water supply size and flow rate in gallons per minute.

(f) Where a landscaped area is required pursuant to this chapter, the owner or developer shall submit to the Building Official, for his review and approval, a plan of the landscaped area prepared by a licensed landscape architect or contractor. The plan shall include the names (scientific and common) of all plant material to be used. Such plan shall be approved by the Building Official prior to the issuance of building permits.

(g) Root barriers shall be installed whenever trees are planted within ten (10) feet of any sidewalks, paved areas or structures.

(h) Landscaped areas shall be sloped to drain away from all structures.

(i) All planting materials shall be capable of growing in Climate Zone 9.

(j) The use of drought tolerant planting material shall be encouraged.

(k) In Zone Districts RRE, R, RM, PO, T, CC, CS, CH, CN and IG, no solid fence, wall, hedge, or foliage exceeding three (3) feet in height shall be erected, planted or maintained within the area of

a corner lot, or a lot backing onto a street, described as follows: that area on the street side of a diagonal line connecting points measured from the intersection corner, twenty (20) feet on a minor street side of the lot and seventy (70) feet on the major street side of the lot.

(l) The Building Official shall maintain a list of recommended trees for public review.

(Ord. 91-04 § 5, 1991)

8-7.05 Requirements for Zone Districts RRE and R.

(a) Corner lot. The front yard and side yard (facing a street) shall be landscaped. The front yard and side yard shall have a minimum of three (3) fifteen-gallon trees. Tree varieties shall be approved by the Building Official. One tree shall be within ten (10) feet of the back of the sidewalk in the front yard and within five (5) feet of the back of the sidewalk in the side yard. The third tree may be located elsewhere in the yard.

(b) Interior lot. The front yard shall be landscaped. The front yard shall have a minimum of two (2) fifteen-gallon trees. The tree varieties shall be approved by the Building Official. One tree shall be located within ten (10) feet of the back of the sidewalk. The other tree may be located elsewhere in the front yard.

(Ord. 91-04 § 6, 1991)

8-7.06 Requirements for Zone Districts RM, PO, T, CC, CS, CH, CN and IG.

Each parcel or lot in these Zone Districts shall have a minimum of one fifteen-gallon tree for every two (2) parking spaces.

(Ord. 91-04 § 7, 1991)

8-7.07 Paved parking lot requirements.

(a) General.

(1) Fifty (50) percent of paved parking lot's surface shall be shaded by tree canopies within fifteen (15) years of planting.

(2) Trees planted to satisfy the requirements of these guidelines are landscaping as defined by this Code and are subject to established landscaping requirements.

(b) Site plan required. A landscaping plan which details the degree of compliance with the Landscape Ordinance is required. The plan shall show:

(1) All landscaped areas.

(2) Tree canopies drawn to scale representing the estimated canopy at a fifteen-year growth period.

(3) The total area in square feet of the paved parking lot, driveways, and maneuver areas; and the area shaded by tree canopies. A schedule listing total parking area, shaded area, and the percentage of parking area shaded should be included.

(4) A schedule of the specific names of proposed trees and their sizes.

(5) Such plan shall be approved by the Building Department prior to issuance of building permits. However, the plan is encouraged to be submitted at the time of site plan review.

(c) Methodology.

(1) To simplify the process of determining compliance, the true angle of deflection of natural sunlight shall not be considered. Shaded areas shall be assumed to be only those portions of a paved parking lot directly beneath the shading canopy or drip line.

(2) Shading shall be provided by tree canopies except that any portion of a paved parking lot directly beneath and shaded by a man-made structure (overhangs and covered parking for instance) shall be deleted from the requirements of these performance standards and shall be subtracted from the area of the parking lot to be shaded.
(3) Credit shall be given only for surface area shaded. Multiple canopies shading the same surface area will not be counted as multiple credit.
(4) Landscape planters beneath the canopy may be considered as shaded paved parking areas for the purpose of determining compliance.
(5) Where more than five (5) trees are to be planted in the entire parking area, tree species shall be mixed.
(6) Trees planted along the perimeter of a lot may be counted as providing shade for the full area of their canopy.
(7) If the degree of overlap between trees is less than fifteen (15) percent all trees may be counted as shading one hundred (100) percent of their canopy. If the degree of overlap is fifteen (15) percent or greater then it will be necessary to perform individual calculation to determine the area of shading.
(8) A community service area, free from tree planting, may be allowed if a facility first demonstrates that it has met the minimum shading requirements on the overall site.
(9) A ten (10) percent minor deviation of the shading standard may be approved by the Building Official in accordance with established procedures in this Code if it is found that the normal standards would impose an undue hardship.

(d) Minimum tree requirements.
(1) Provide one fifteen-gallon tree for every two (2) required parking spaces.
(2) Disperse trees over the parking lot area to provide fifty (50) percent shading of the parking area surface within fifteen (15) years. Trees shall also be planted in the required landscaped areas along the periphery of the development in order to shade and enhance adjacent property and public rights-of-way.
(3) Trees shall be maintained in good health. Trees shall not be topped to reduce the natural height or headed to reduce the overall crown of the tree. Thinning cuts are preferred to remove dead, diseased or dying growth and to establish well spaced and strong scaffold structure for public safety and shade value.

(e) Minimum sight triangle.
(1) Ten (10) feet in traffic areas.
(2) Thirty (30) to thirty-five (35) feet at street intersections.
(3) One hundred (100) feet at major street intersections.
(4) Trees within triangle shall be trimmed up to eight (8) feet minimum above the surface of the parking lot.
(5) Other landscaping (groundcover and shrubs) shall not exceed two and one-half ($2^1/_2$) feet above the parking surface.

(Ord. 91-04 § 8, 1991)

8-7.08 Penalties.

Any person, entity or corporation violating any of the provisions of this chapter shall be deemed guilty of an infraction.
(Ord. 91-04 § 9, 1991)

8-7.09 Public nuisance.

Any work in violation of the provisions of this chapter or any land use contrary to the provisions of this chapter shall be and is hereby declared to be unlawful and a public nuisance. The City Manager shall initiate all necessary legal proceedings for the abatement, removal and enjoinment necessary to accomplish these ends, and may apply to a court of competent jurisdiction to grant such relief as will abate the use and restrain and enjoin the person, firm or corporation or organization from maintaining or using the site contrary to the provisions of this chapter. The remedies prescribed by this section are cumulative and not exclusive.

(Ord. 91-04 § 10, 1991)

Chapter 8

STREET ADDRESS NUMBERS ON RESIDENTIAL AND COMMERCIAL STRUCTURES

Sections:

8-8.01 **Display requirement.**

8-8.02 **New structures.**

8-8.03 **Change of address.**

8-8.04 **Type, color, size and numbers.**

8-8.05 **Lighting of numbers.**

8-8.06 **Specification of numbers.**

8-8.07 **Enforcement.**

8-8.08 **Penalty for violation.**

8-8.01 Display requirement.

All residential and commercial structures that have a separate address must display their address number.
(Ord. 97-03 § 1 (part), 1997)

8-8.02 New structures.

The owner and builder of a new residential and/or commercial structure must display the assigned address number before the start of flammable construction.
(Ord. 97-03 § 1 (part), 1997)

8-8.03 Change of address.

Within thirty (30) days after receiving written notification of an address change, all owners or persons in charge of an existing residential and/or commercial structure must display the new number and remove all obsolete numbers.
(Ord. 97-03 § 1 (part), 1997)

8-8.04 Type, color, size and numbers.

Address numbers on residential and commercial structures shall be posted in a manner as to be visible from the street on which the property is located. Such numerals shall not be less than three (3) inches high, shall have a minimum width stroke of one-fourth (1/4) inch, shall be of contrasting color from the background, and shall not be obscured from the street by shrubs, trees, buildings or other objects.
(Ord. 97-03 § 1 (part), 1997)

8-8.05 Lighting of numbers.

All new residential and commercial buildings shall have self internally lighted address numbers.

(a) For purposes of this section, "new residential and commercial buildings" shall refer to all residential and commercial structures erected in the City and metropolitan area after the passage of the ordinance codified in this chapter.

(Ord. 97-03 § 1 (part), 1997)

8-8.06 Specification of numbers.

All owners or persons in charge of residential and/or commercial structures shall cause the proper numbers to be placed upon the same in accordance herewith and in conformity with the numbers assigned by the Building Inspector.
(Ord. 97-03 § 1 (part), 1997)

8-8.07 Enforcement.

It is hereby made the duty of the Compliance Official to enforce this chapter.
(Ord. 97-03 § 1 (part), 1997)

8-8.08 Penalty for violation.

Any person and owner failing to so number any residential house, building, or other structure owned or occupied by him in accordance with this chapter shall be guilty of an infraction, and if convicted of such infraction, shall be punishable by: (1) a fine not to exceed fifty dollars ($50.00) for the first offense; (2) a fine not to exceed one hundred dollars ($100.00) for the second offense within one year; and (3) a fine not to exceed two hundred fifty dollars ($250.00) for any additional violation within one year.

(a) For purposes of this chapter, each day that a violation of the provisions of this chapter continues shall be deemed a separate offense.

(b) For purposes of this section, "within one year" shall refer to the date of the latest conviction to the date of the earliest offense.

(Ord. 97-03 § 1 (part), 1997)

Chapter 9

CONSTRUCTION AND DEMOLITION DEBRIS

Sections:

8-9.01 **Findings and statement of intent.**
8-9.02 **Definitions.**
8-9.03 **Requirements for newly constructed structures.**
8-9.04 **Diversion requirement.**
8-9.05 **Diversion requirement exemption.**
8-9.06 **Exempt covered projects.**
8-9.07 **Waste management plan.**
8-9.08 **Deposit required.**
8-9.09 **On-site practices.**
8-9.10 **Reporting.**
8-9.11 **Violations; fines/penalties.**
8-9.12 **Appeals.**
8-9.13 **Option to revise.**

8-9.01 Findings and statement of intent.

(a) WHEREAS, under California law as embodied in the California Waste Management Act of 1989 (California Public Resources Code Sections 40000 et seq.), the City of Avenal ("City") is required to prepare, adopt and implement source reduction and recycling plans to reach landfill diversion goals, and is required to make substantial reductions in the volume of waste materials going to the landfills, or face fines up to ten thousand dollars ($10,000.00) per day.

(b) WHEREAS, in order to meet these goals it is necessary that the City promote the reduction of solid waste, and reduces the solid waste going into landfills.

(c) WHEREAS, waste from construction, demolition, and renovation of buildings represents a significant portion of the volume of waste presently coming from the City and much of this waste is particularly suitable for recycling and reuse.

(d) WHEREAS, the City's commitment to the reduction of waste requires the establishment of programs for recycling and salvaging of construction and demolition (C&D) waste.

(e) WHEREAS, certain types of projects shall be exempt from these requirements.

(Ord. No. 2011-04, § 2, 4-14-2011)

8-9.02 Definitions.

(a) "Applicant" means the person applying for a construction, repair or demolition permit from the City of Avenal.

(b) "Building Official" means the City Manager or his/her designee.

(c) "City" means the City of Avenal or the Avenal Redevelopment Agency.

(d) "Covered project" includes any project which consists of one or more of the following:

(1) Demolition work only where the work is equal to or greater than one thousand (1,000) square feet;

(2) The renovation, remodel or addition to an existing structure, or the construction of a new structure where the cost of the work equals or exceeds one hundred thousand dollars ($100,000.00), as determined by the Building Official;
(3) Commercial, residential or multi-family residential development or any new structure that is equal to or greater than one thousand (1,000) square feet;
(4) Any project, regardless of size, funded by the City, including public works and capital improvement projects.

(e) "This chapter" means Chapter 9 of Title 8 of the Avenal Municipal Code. This Chapter shall be known as the "Construction and Demolition Debris Ordinance".
(f) "Construction and demolition debris" and "C&D debris" shall have the definition prescribed in Title 14, Division 7 of the California Code of Regulations, section 17381(e).
(g) "Disposal" and "disposed" mean to discard in a landfill.
(h) "Diversion requirement" means the requirement prescribed in Section 8-9.04 of this chapter.
(i) "Existing construction" means building, adding, altering, or repairing of any structure or any portion thereof including any tenant improvements to an existing structure.
(j) "Inert debris" shall have the definition prescribed in Title 14, Division 7 of the California Code of Regulations, Section 17381(k).
(k) "Permitee" means an applicant who has been granted a construction, repair or demolition permit from the City of Avenal.
(l) "WMP Compliance Official" means the City Manager or his/her designee.

(Ord. No. 2011-04, § 2, 4-14-2011)

8-9.03 Requirements for newly constructed structures.

(a) Diversion Requirement: It is required that at least fifty (50) percent of waste material, consisting of any combined proportion of construction and demolition debris and inert debris, generated from newly constructed low-rise residential and non-residential commercial construction shall be diverted from disposal.
(b) Waste Management Plan: Prior to starting the project, every applicant shall submit a properly completed "Waste Management Plan" (WMP) as required under Section 8-9.06 of this chapter.

(Ord. No. 2011-04, § 2, 4-14-2011)

8-9.04 Diversion requirement.

Unless otherwise exempted, each covered project must divert from disposal at least fifty (50) percent of waste material, consisting of any combined proportion of construction and demolition debris and inert debris, generated from said project.

(Ord. No. 2011-04, § 2, 4-14-2011)

8-9.05 Diversion requirement exemption.

(a) Application: If an applicant for a covered project experiences circumstances that the applicant believes make it infeasible to comply with the diversion requirement, the applicant may apply for a diversion exemption at the time the applicant submits a Waste Management Plan required under Section 8-9.07 of this chapter.
(b) Meeting with WMP Compliance Official: The WMP Compliance Official shall review the information supplied by the applicant and may meet with the applicant to discuss feasible ways of satisfying the diversion requirement. Upon request by the applicant, the WMP Compliance

Official may request that City staff attend this meeting or may require the applicant to request a separate meeting with the City staff. Based on the information supplied by the applicant, City staff (if applicable), and the WMP Compliance Official shall determine whether it is feasible for the applicant to satisfy the diversion requirement.

(c) Granting of Exemption: If the WMP Compliance Official determines that it is infeasible for the applicant to meet the diversion requirements, he or she shall determine the maximum feasible diversion rate for waste generated by the covered project and shall indicate the new diversion requirement the applicant shall be required to meet, and will inform the applicant in writing of the new requirement. The applicant shall then have fourteen (14) days to resubmit another WMP, which is in compliance with the new diversion requirement. If the applicant fails to resubmit, or if the resubmitted WMP does not comply with Section 8-9.07, the WMP Compliance Official shall disapprove the WMP in accordance with Section 8-9.07.

(Ord. No. 2011-04, § 2, 4-14-2011)

8-9.06 Exempt covered projects.

(a) A diversion deposit and a Waste Management Plan shall not be required for the following:
  (1) Work for which a building or demolition permit is not required.
  (2) Residential and non-residential alterations of less than one hundred thousand dollars ($100,000.00) in value.
  (3) Roofing projects that do not include tear-off of existing roof.
  (4) Work for which only a plumbing, only an electrical, or only a mechanical permit is required.
  (5) Seismic tie-down projects.
  (6) Emergency demolition required to protect the public health and safety.

(b) While not required, it shall be encouraged, that at least twenty-five (25) percent of all existing construction and demolition waste from exempt projects be diverted.

(Ord. No. 2011-04, § 2, 4-14-2011)

8-9.07 Waste management plan.

(a) Prior to starting the project, every applicant must submit a properly completed "Waste Management Plan" (WMP) to the WMP Compliance Official, in a form prescribed by that official, as a portion of the building or demolition permit process. The completed WMP must contain all of the following:
  (1) The estimated volume or weight of project waste to be generated by material type;
  (2) A determination of whether or not materials will be sorted on-site or mixed;
  (3) The maximum volume or weight of such materials that can feasibly be diverted via reuse, recycling or salvage for future use or sale by material type;
  (4) The vendor(s) that the applicant proposes to use to haul the materials;
  (5) Facility(s) the materials will be hauled to, and their expected diversion rates (by volume or weight) for each material type; and
  (6) Estimated volume or weight of construction and demolition waste that will be disposed.

(b) Because actual material weights are not available in this stage, estimates are used. In estimating the volume or weight of materials as identified in the WMP, the applicant shall use the standardized conversion rates approved by the City for this purpose. Approval of the WMP as complete and accurate shall be a condition precedent to the issuance of any building or demolition permit. If the applicant calculates the projected feasible diversion rate as described above, and concludes that

the projected diversion rate does not satisfy the applicable diversion requirement, the applicant must then submit information supporting the lower diversion rate. If this documentation is not included, the WMP shall be deemed incomplete.

(c) Approval: No building or demolition permit shall be issued for any covered project unless and until the WMP Compliance Official has approved the WMP. Approval shall not be required, however, where emergency demolition is required to protect public health or safety. The WMP Compliance Official shall only approve a WMP if he or she determines that all of the following conditions are satisfied:

(1) The WMP provides all of the information set forth in this section.

(2) The WMP indicates that at least fifty (50) percent of all construction and demolition waste generated by the project (or the new diversion goal set in accordance with the applicant's approved diversion exemption request) shall be diverted from disposal; and

(3) The applicant has submitted all required fees, deposits and/or bonds for the project.

(d) Non-Approval: If the WMP Compliance Official determines that the WMP is incomplete or fails to indicate that at least fifty (50) percent, or the new diversion goal set in accordance with the applicant's approved diversion exemption request (if applicable) of all construction and demolition waste generated by the project will be diverted from disposal, he or she shall either:

(1) Return the WMP to the applicant marked "Disapproved", including a statement of reasons, and will notify the building department, which shall then immediately stop processing the building or demolition permit application; or

(2) Return the WMP to the applicant marked "Further Explanation Required."

(Ord. No. 2011-04, § 2, 4-14-2011)

8-9.08 Deposit required.

(a) As a condition precedent to the issuance of any permit for construction or demolition for a covered project, the applicant shall post a deposit (cash, letter of credit, performance or surety bond, money order) in an amount to be determined by the Public Works Director and approved by the City Manager.

(b) The deposit shall be returned, without interest, in total or pro-rated, upon proof of satisfaction by the WMP Compliance Official that no less than the required percentage of construction and demolition waste tonnage generated by the covered project was diverted from disposal and has been recycled or reused or stored for later reuse or recycling. If a lesser percentage of construction and demolition waste tonnage than required is diverted, a proportionate share of the deposit shall be returned. The deposit shall be forfeited entirely or to the pro-rated extent that there was a failure to comply with the requirements of this chapter. The City may, by formal resolution, modify the amount of the required deposit.

(Ord. No. 2011-04, § 2, 4-14-2011)

8-9.09 On-site practices.

(a) During the term of the covered project, the applicant shall recycle and reuse the required percentage of waste, and keep records of the tonnage or other measurements approved by the City that can be converted to tonnage amounts. The WMP Compliance Official will evaluate and may monitor each covered project to determine the percentage of waste salvaged and recycled or reused from the covered project.

(b) For covered projects including both construction and demolition, diversion of materials shall be tracked and measured separately.

(c) To the maximum extent feasible, project waste shall be separated on-site if this practice increases diversion. For construction and/or demolition projects, on-site separation shall include salvageable materials (e.g., appliances, fixtures, plumbing, metals, etc.,) and dimensional lumber, wallboard, concrete and corrugated cardboard.

(Ord. No. 2011-04, § 2, 4-14-2011)

8-9.10 Reporting.

(a) Within fourteen (14) days after completion of the demolition phase of a covered project, and again within fourteen (14) days following the completion of the construction phase of a covered project, the applicant/permitee shall, as a condition precedent to final inspection and to issuance of any certificate of occupancy or final approval of project, submit documentation to the WMP Compliance Official that proves compliance with the requirements of Section 8-9.07 (Waste Management Plan) and Section 8-9.04 (diversion requirement). The documentation shall consist of a final completed WMP showing actual waste tonnage data, supported by original or certified photocopies of receipts and weight tags or other records of measurement from recycling companies, deconstruction contractors, and/or landfill and disposal companies. Receipts and weight tags will be used to verify whether waste generated from the covered project has been or are to be recycled, reused, salvaged or disposed. The applicant/permitee shall make reasonable efforts to ensure that all designated recyclable and reusable waste salvaged or disposed are measured and recorded using the most accurate method of measurement available.

(b) To the extent practical, all construction and demolition waste shall be weighed in compliance with all regulatory requirements for accuracy and maintenance. For construction and demolition waste for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the applicant shall use the standardized conversion rates approved by the City for this purpose.

(c) If a covered project involves both demolition and construction, the report and documentation for the demolition project must be submitted and approved by the WMP Compliance Official before issuance of a building permit for the construction phase of a covered project. Alternatively, the applicant may submit a letter stating that no waste or recyclable materials were generated from the covered project, in which case this statement shall be subject to verification by the WMP Compliance Official. Any deposit posted pursuant to Section 8-9.08 (deposit required) shall be forfeited if the applicant does not meet the timely reporting requirements of this section.

(Ord. No. 2011-04, § 2, 4-14-2011)

8-9.11 Violations; fines/penaltics.

Any permitee, applicant, contractor and owner whose covered project violates any provision of this chapter shall be subject to the penalty provisions of Title 1, Chapter 2 of the Avenal Municipal Code.
(Ord. No. 2011-04, § 2, 4-14-2011)

8-9.12 Appeals.

(a) Any person aggrieved by the decision or determination of the WMP Compliance Officer may appeal the same pursuant to Title 1, Chapter 4 of the Avenal Municipal Code.

(b) Decisions and determinations subject to appeal under this section include decisions and determinations pertaining to the requirements under this chapter, including but not necessarily be limited to:
  (1) The granting or denial of an exemption;
  (2) Rejection of a Waste Management Plan;
  (3) The amount or type of deposit required or released; and
  (4) Whether the applicant has acted in good faith.

(Ord. No. 2011-04, § 2, 4-14-2011)

8-9.13 Option to revise.

(a) Beginning on July 1, 2012, the City will evaluate the requirements of this Chapter to determine its effectiveness in reducing the amount of construction and demolition waste disposed. In this determination, the City will consider issues such as the amount of construction and demolition waste disposed, volume of construction and demolition activity, markets for construction and demolition waste, and other barriers encountered by applicants.

(b) If the City determines the construction and demolition waste disposed had the potential for diversion, then the City may amend these provisions and implement the necessary measures to divert more construction and demolition waste.

(Ord. No. 2011-04, § 2, 4-14-2011)