ORDINANCE NO. 2011-02

AN ORDINANCE REPEALING SECTIONS 8-1.04 THROUGH 8-1.08 OF THE AVENAL MUNICIPAL CODE AND ENACTING NEW SECTIONS THAT ADOPT UNIFORM CODES IN THE CALIFORNIA CODE OF REGULATIONS TITLE 24, 2010 EDITION OF THE CALIFORNIA BUILDING STANDARDS CODE, INCLUDING THE FOLLOWING PARTS: PART 1 California Building Standards Administrative Code, PART 2 California Building Code, PART 3 California Electrical Code, PART 4 California Mechanical Code, PART 5 California Plumbing Code, PART 6 California Energy Code, PART 8 California Historical Building Code, PART 9 California Fire Code, PART 10 California Existing Building Code, PART 11 California Green Building Standards Code and PART 12 California Reference Standards Code.

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

Section 1. PURPOSE. The provisions of this ordinance are enacted to provide minimum requirements and standards for the protection of the public health, safety, welfare, and property and are to be liberally construed to obtain the beneficial purpose thereof. This ordinance is intended to comply with Health and Safety Code section 17922 and other applicable statutes by adopting, by reference, relevant portions of the 2010 California Building Standards Code, Title 24 of the California Code of Regulations, subject to the definitions, clarifications, and the amendments set forth in this ordinance, if any.

Section 2. CODE AMENDMENT. Subsection (a) of section 8-1.01 of the Avenal Municipal Code is hereby amended to read in its entirety as follows:

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.

(b) 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.

Section 3. REPEAL. Existing Sections 8-1.04 through 8-1.08, inclusive, of the Avenal Municipal Code are hereby repealed in their entirety.

Section 4. CODE AMENDMENT. Sections 8-1.04 through 8-1.10 of the Avenal Municipal Code are hereby added to read in their entirety as follows:

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.

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.]

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.

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.

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.

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.

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.

Section 5. CEQA REVIEW. The City Council hereby finds that this ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment] and 15061(b)(3) [there is no possibility the activity in question may have a significant effect on the environment]. In addition to the foregoing general exemptions, the City Council further finds that the ordinance is categorically exempt from review under CEQA under the Class 8 categorical exemption [regulatory activity to assure the protection of the environment]. The City Manager is hereby directed to ensure that a Notice of Exemption is filed pursuant to CEQA Guidelines section 15062 [14 C.C.R. § 15062].

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

Section 7. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or

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

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

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

THE FOREGOING ORDINANCE was passed and adopted by the City Council of the City of Avenal, State of California, on **March 24, 2011** at a regular meeting of said Council duly and regularly convened on said day by the following vote:

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

Dagoberto Ovalle [redacted], Mayor Pro Tem
CITY OF AVENAL

ATTEST:
PAMELA BONILLA, City Clerk
CITY OF AVENAL

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