

The Charter

AVON CODE

Chapter C

CHARTER

ARTICLE I
INCORPORATION - POWERS OF THE TOWN

Section 1-1. INCORPORATION

All that territory now the town of Stoughton, in the county of Norfolk, comprised within the following limits, that is to say: beginning at a point on the easterly line of Stoughton, where the Old Colony railroad crosses said easterly line; thence southwesterly along the westerly side of said Old Colony railroad about four hundred and sixty rods to a point on the westerly side of the culvert where Salisbury brook passes under said railroad; thence in a straight line south about five hundred and thirty-two rods to the westerly side of Oak street, where it intersects South street; thence southerly again along the westerly side of Oak street about seventy-five rods to the Brockton line; thence easterly along said Brockton line about six hundred and eighty-seven and one-half rods to the Holbrook line; thence in a straight line northerly about eight hundred and ninety-four rods along the Holbrook line and the Randolph line to the point of beginning, is hereby incorporated as a town by the name of Avon, and said Avon is hereby invested with all the powers, privileges, rights and immunities, and made subject to all the duties, liabilities and requisitions to which other towns, are entitled and subjected by the constitution and laws of this Commonwealth, (c. 47, Acts of 1888)

So much of the towns of Randolph and Holbrook, in the county of Norfolk, with all the inhabitants and estates thereon as is thus bounded and described, to wit:- Beginning at a stone bound on the westerly side of Main street in the boundary line between said towns of Randolph and Avon (formerly Stoughton) marked R on one side and S on the opposite side, and thence running in a straight line over territorial land of said Randolph and of said Holbrook to a point in said Holbrook midway between two main tracks of the Old Colony railroad as now existing and distant north sixteen degrees, fifteen minutes east, six hundred ninety-four and eight-tenths feet from the southerly side line of High street in said Holbrook; thence turning and running south sixteen degrees, fifteen minutes west, midway between said tracks, one thousand five hundred sixteen and four-tenths feet to a point of curvature in said Holbrook and intersecting said southerly line of High street at a point distant south fifty-six degrees, thirteen minutes east, one hundred sixty-seven and seventy-two one hundredths feet from a stone bound set in said southerly line of High street; thence running by a curve to the left of five thousand seven hundred and thirty feet radius, one thousand three hundred twenty-three and forty-five one hundredths feet to a point of tangency in said Holbrook; thence running midway between said tracks south three degrees, one minute west, five hundred thirty-five and forty-five one hundredths feet to the boundary line between said towns of Holbrook and Avon; thence running northwesterly by said boundary line between the towns of Randolph, Holbrook and Avon to the point of beginning, containing an area of about fourteen acres of the territory of said town of Randolph and about one hundred thirty acres of the territory of said town of Holbrook, is hereby set off and separated from said towns of Randolph and Holbrook and annexed to and made part of said town of Avon. (c. 257, Acts of 1889)

Section 1-2. POWERS OF THE TOWN

The town may, by the adoption, amendment or repeal of local by-laws, exercise any power or perform any function which the general court has power to confer upon it and which is not inconsistent with the constitution or laws enacted by the general court in conformity with its powers or denied to the town by its own charter. (HRA, s. 6, c. 43B, s. 14)

ARTICLE II
LEGISLATIVE BODY

Section 2-1. COMPOSITION

All the qualified inhabitants (are eligible to) meet, deliberate, act and vote in their natural and personal capacities, in the exercise of their corporate powers." (2 Grey 84, 101:1854)

Each qualified inhabitant of the town has an indisputable right to vote upon every question presented, as well as to discuss it, or there is no town meeting. (229 Mass. 601: 1918)

Section 2-2. TIME OF MEETINGS

The annual meeting of the town shall be held in February, March, April or May. Other meetings of the town may be held at such other times as the board of selectmen may order. (c.39:s.9)

The board of selectmen shall call a special town meeting whenever they are requested to do so, in writing, by two hundred or more registered voters. (c.39:s.10)

Section 2-3. MANNER OF CALLING MEETINGS

Every town meeting shall be called by a warrant issued by the board of selectmen which shall state the time and place at which the meeting is to convene and the subjects which are to be acted upon. (c.39:s.10)

If a majority of the members of the board of selectmen have vacated their offices a minority of the board of selectmen may call a town meeting. If there are no selectmen in office the town clerk may call a town meeting, and if there is no town clerk a justice of the peace may call a town meeting (c.39:s.11)

If the board of selectmen unreasonably refuse to call a special town meeting a justice of the peace may call one upon the written petition signed by ten percent of the whole number of registered voters of the town. (c.39:s.12)

Section 2-4. QUORUM

A town by-law may establish the number of voters necessary to constitute a quorum for the purpose of conducting town meeting business, provided, however, that fewer voters may vote to adjourn from time to time. (c.39:s.13)

Section 2-5. RULES OF PROCEDURE

The town may, by by-law, adopt rules and regulations governing the proceedings of town meetings. (c.39:s.15)

Section 2-6. SUBJECT MATTER AT TOWN MEETINGS

The board of selectmen shall insert in the warrant for an annual town meeting all subjects which are requested of them, in writing, by ten or more registered voters. The board of selectmen shall insert in the warrant for a special town meeting all subjects which are requested of them, in writing, by one hundred or more registered voters. (c.39:s.10)

Section 2-7. PRESIDING OFFICER

A moderator shall preside and regulate the proceedings at every town meeting. The moderator shall decide all questions of order, make public declaration of all votes and may, in open session, administer the oath to any town officer. (c.39:s.14,15)

Section 2-8. COMMITTEES

The town shall, by by-law, provide for a finance or advisory committee which shall, as may be provided in such by-law, consider any, or all municipal questions for the purpose of making reports or recommendations to the town. Unless some other provision is made for the submission of an annual budget to the town meeting the finance committee shall do so. (c.39:s.16)

**ARTICLE III
ELECTED OFFICERS**

Section 3-1. BOARD OF SELECTMEN

- (a) Composition, Term of Office - A board of selectmen shall be elected which shall consist of three members. The term of office of each member shall be for three years, so arranged that the term of one member shall expire each year. (c.41:s.1)
- (b) Powers and Duties - The board of selectmen shall be the chief executive and administrative office in the town. The board of selectmen shall exercise a general superintendency over the administration of all affairs of the town. The board of selectmen shall, by the issuance of warrants, call all sessions of the town meeting and determine all subjects which shall be acted upon at such meetings. The board of selectmen shall approve all bills and payrolls as prepared by the town accountant before any payments are made by the town treasurer.¹ The board of selectmen shall have all of the other powers, duties and responsibilities which are given to boards of selectmen by general laws of the commonwealth. (Note: It is not practical to list the statutes giving specific powers to a board of selectmen, suffice it to say they are extensive.)

Section 3-2. SCHOOL COMMITTEE

- (a) Composition, Term of Office - A school committee shall be elected which shall consist of five members. The term of office of each member of the school committee shall be for three years. The terms of office of members of the school committee shall be so arranged that as nearly an equal number of terms as is possible shall expire each year. (c.41:s.1)
- (b) Powers and Duties - The school committee shall have the general charge and superintendency of the public schools of the town. The powers and duties of the school committee shall include: (1) to appoint a superintendent and all other officers and employees associated with the schools, to fix the salaries of all such persons, define their duties, make rules concerning their tenure of office, including their discharge, (2) to make all reasonable rules and regulations, consistent with law, for the administration, management and operation of the public schools of the town. The school committee shall have all of the other powers, duties and responsibilities which are given to school committees by general laws.

Section 3-3. BOARD OF ASSESSORS

- (a) Composition, Term of Office - A board of Assessors shall be elected which shall consist of three members. The term of office of each member of the board of Assessors shall be for three years, so arranged that the term of one member shall expire each year. (c.41:s.1)
- (b) Powers and Duties - The board of Assessors shall annually make a fair cash valuation of all of the estate, both real and personal, subject to taxation within the town. The board of Assessors shall annually determine the annual tax rate necessary to meet all sums voted by the town. The board of Assessors shall hear and decide all questions relating to the abatement of taxes levied by it. The board of Assessors shall have all of the other powers, duties and responsibilities which are given to boards of Assessors by general laws. (see c.59, generally)

Section 3-4. TOWN CLERK

1. Editor's Note: Now the Treasurer-Collector in accordance with Acts of 2012, Ch. 317.

- (a) Term of Office - A town clerk shall be elected for the term of three years. (c.41:s.1)
- (b) Powers and Duties - The town clerk shall be the keeper of vital statistics for the town, the custodian of the town seal and of all other records of the town, shall administer the oath of office to all town officers who are required to be sworn to their office, be the clerk of the town meeting, shall issue all such licenses and permits as are provided by law and shall be responsible for the conduct of all elections held in the town and of all other matters relating to elections. The town clerk shall have all of the other powers, duties and responsibilities which are given to town clerks by general laws. (Note: It is not possible to summarize all of the statutes which give specific powers to town clerks, suffice it to say they are extensive.)

Section 3-5. COLLECTOR OF TAXES²

- (a) Term of Office - A collector of taxes shall be elected for the term of three years. (c.41:s.1)
- (b) Powers and Duties - The collector of taxes shall upon receiving a tax list and warrant from the board of Assessors collect the taxes, and any interest thereon and shall make a written return of his doings shall give to the town treasurer³ an account of all fees and charges and shall pay over to the town treasurer all money received or collected. The collector of taxes shall have all of the other powers, duties and responsibilities which are given to collectors of taxes by general laws. (see c.41:s.38; c.44:s.59; c.60:ss.2, 3, 7, 13, 92, 95, 97).

Section 3-6. CONSTABLES

- (a) Number, Term of Office - Two constables shall be elected for terms of three years each. (c.41:1)
- (b) Powers and Duties - Constables may serve writs, warrants and processes in civil and criminal matters as authorized by law. They shall have the power of sheriffs to require aid in the execution of their duties. They shall take due notice of and shall prosecute all violations of law respecting the observance of the Lord's day, profane swearing and gaming. They shall serve all warrants and other processes directed to them by the board of selectmen for notifying town meetings and other purposes. (c.41:s.94)

Section 3-7. BOARD OF HEALTH

- (a) Composition, Term of Office - A board of health shall be elected which shall consist of three members. The term of office of a board of health member shall be for three years so arranged that the term of one member shall expire each year.(c.41:s.1)
- (b) Powers and Duties - The board of health shall be responsible for the formulation and enforcement of local rules and regulations affecting the environment and the public health and for the enforcement within the town of all state statutes and rules and regulations of the state affecting the public health. The board of health shall have all of the other powers, duties and responsibilities which are given to boards of health by general laws. (see c.111:ss. 26-32, and chapters 111-114, generally)

Section 3-8. TRUSTEES OF PUBLIC LIBRARY

- (a) Composition, Term of Office - A board of trustees of the public library consisting of three members shall be elected. The term of office of members of the board of library trustees shall be for three years

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each so arranged that the term of office of one member shall expire each year. (c.78:s.10)

- (b) Powers and Duties - The board of library trustees shall have the care, custody and management of the library and reading room and of all property of the town related to library purposes. All money raised or appropriated by the town for library purposes shall be expended by the board of library trustees and all money or property which the town may receive by gift or bequest shall be administered by the board of library trustees in accordance with the provisions of any such gift or bequest. The board of library trustees shall have all of the other powers, duties and responsibilities which are given to boards of library trustees by general laws. (c.78:ss.7-12)

Section 3-9. TOWN MODERATOR

- (a) Term of Office - A town moderator shall be elected for the term of three years. (c.39:s.14)
- (b) Powers and Duties - The town moderator shall preside, and regulate the proceedings at all town meetings; decide all questions of order; make public declaration of all votes, and may, in open session administer the oath of office to any town officer. No person shall address a town meeting without leave of the town moderator to do so and all persons shall at the request of the town moderator, be silent. (c.39: ss.9ff)

Section 3-10. PARK AND RECREATION COMMISSION

- (a) Composition, Term of Office - A town may elect a board of three or five park commissioners and prescribe their term of office. (c.45:s.2)
- (b) Powers and Duties - The board of park and recreation commissioners may lay out and improve public parks, and may make rules for the use and government of lands held by the town for park purposes. In addition, the board of parks and recreation commissioners may conduct and promote recreation, play, sport and physical education activities on land, or in buildings, owned or leased by it for such purposes. (c.45:ss. 5 and 14; see c.45, generally)

Section 3-11. PLANNING BOARD

- (a) Composition, Term of Office - A Planning board shall be elected which shall consist of five members. The term of office of a Planning board member shall be for five years, so arranged that as nearly an equal number of terms as possible shall expire each year. (c.412:s.81A)
- (b) Powers and Duties - It shall be the duty of the Planning board to make careful studies of the resources, possibilities and needs of the town and to make plans for the development of the town. The Planning board shall have the power to regulate the subdivision of land within the town by the adoption of rules and regulations governing such development. The Planning board shall make an annual report giving information regarding the condition of the town and any plans or proposals for its development and estimates of their cost. The Planning board shall have all of the other powers and duties which are given to Planning boards by general laws. (c.41:ss.81A to 81JJ, and c.40A, generally)

Section 3-12. SEWER COMMISSION

- (a) Composition, Term of Office - There shall be a sewer commission consisting of three members elected for terms of three years each so arranged that the term of one member shall expire each year. (c. 41, s. 63)
- (b) Powers and Duties - The sewer commissioners shall, as to sewers and drains, exclusively have the

powers, perform the duties and be subject to the liabilities and penalties of selectmen and road commissioners. (c. 41, s. 65)

Section 3-13. TOWN TREASURER⁴

- (a) Term of Office - A town treasurer shall be elected for the term of three years. (c. 41, s. 1)
- (b) Powers and Duties - The treasurer shall receive and take charge of all money belonging to the town. He shall, according to the orders of the town or its authorized officers, pay out and account for all disbursements in behalf of the town. He shall annually render a true account of his receipts and disbursements and report on all of his official acts. The town treasurer shall have all of the other powers and duties which are given to town treasurers by general laws. (c. 41, ss. 35-43A)

Section 3-14. TREE WARDEN

- (a) Term of Office - A tree warden shall be elected for the term of three years. (c. 41, s. 1)⁵
- (b) Powers and Duties - The tree warden shall have the care and custody of all public shade trees, shrubs and growths in the town, except those within a state highway or under the control of the park commissioners. (c. 87, s. 2)

Section 3-15. (RESERVED)⁶

Section 3-16. AVON HOUSING AUTHORITY

- (a) Composition, Term of Office - There shall be a housing authority which shall consist of five members serving for terms of five years each, so arranged that one term of office shall expire each year. Four of these members shall be elected by the voters of the town of Avon; the fifth member shall be appointed as provided by general law. (c.121B:s.5)
- (b) Powers and Duties - The housing authority shall make studies of the housing needs of the town and shall provide such programs to make available housing for families of low income or elderly persons of low income as it deems to be necessary. The housing authority shall have all of the other powers, duties, and responsibilities which are given to housing authorities by general law. (see c.121B, generally)

Section 3-17. AVON REDEVELOPMENT AUTHORITY

- (a) Composition, Term of Office - There shall be a redevelopment authority which shall consist of five members serving for terms of five years each, so arranged that one term of office shall expire each year. Four of these members shall be elected by the voters of the town of Avon; the fifth member shall be appointed as provided by general law.
- (b) Powers and Duties - The redevelopment authority shall make studies and shall determine what areas within the town are decadent, substandard or blighted open areas and shall prepare plans for the

4. Editor's Note: Now the Treasurer-Collector in accordance with Acts of 2012, Ch. 317.

5. Editor's Note: The Town voted 5-4-2021 ATM by Art. 17, pursuant to MGL c. 41, § 1B, to have the Town's elected Tree Warden become an appointed Tree Warden, subject to the approval of an official ballot question on the election warrant at the Annual Town Election. At the 4-12-2022 Annual Town Election, it was voted in the affirmative to have the Town's elected Tree Warden become an appointed Tree Warden. The term of the elected Tree Warden will end 4-9-2024.

6. Editor's Note: The elected Water Commission created under Chapter 236 of the Acts of 1889 ceased to exist effective 6-30-2014. See May 2013 ATM, Art. 13; and Acts of 2013, Ch. 133.

clearance, conservation or rehabilitation of such areas. The redevelopment authority shall have all of the other powers, duties and responsibilities which are given to redevelopment authorities by general laws.

**ARTICLE IV
APPOINTED OFFICERS**

Section 4-1. TOWN ACCOUNTANT

- (a) Appointment, Term of Office - There shall be a town accountant, appointed by the board of selectmen, to serve for a term of three years. (c.41:s.44)
- (b) Powers and Duties - The town accountant shall examine the books and accounts of all officers and committees intrusted with the custody or expenditure of money. The town accountant shall have free access to all books, accounts, bills and vouchers and shall examine the same at least once in each year, verify the cash balance of each of such officers and committees by actual count of the cash and by reconciliation of bank balances. The town accountant shall have all of the other powers, duties and responsibilities which are given to town accountants by general laws. (c.41:ss.49-55)

Section 4-2. COUNCIL ON AGING

- (a) Appointment, Term of Office - The town may, by by-law, provide for the establishment of a council on aging. (c.40:s.8B)
- (b) Powers and Duties - The council on aging shall coordinate and carry out programs designed to meet the problems of the aging (c.40:s.8B)

Section 4-3. ANIMAL INSPECTOR

- (a) Appointment, Term of Office - The board of health shall, annually, appoint an animal inspector. (c.129:s.15)
- (b) Powers and Duties - The animal inspector shall make regular and thorough inspections of all neat cattle, sheep, swine and other domesticated animals within the limits of the town, and, if he knows or has reason to suspect any are infected with or have been exposed to any contagious disease, he may order their quarantine. The animal inspector shall have all of the other powers, duties and responsibilities which are given to animal inspectors by general laws. (c.129:ss.15-25)

Section 4-4. BOARD OF APPEALS

- (a) Appointment, Term of Office - The zoning by-law of the town shall provide for the appointment of a board of appeals by the board of selectmen of either three or five members for terms of office so arranged that the term of one member shall expire each year. (c.40A:s.12 and c.41:s.81Z)
- (b) Powers and Duties - The board of appeals shall hear and decide all appeals taken to it concerning actions taken by other town officers and agencies under the zoning by-law and the subdivision rules and regulations adopted by the planning board. The board of appeals shall have such other powers, duties and responsibilities as are given to boards of appeal by general laws. (c.40A:s.14, and c.41:s.81AA)

Section 4-5. BUILDING INSPECTOR

- (a) Appointment, Term of Office - The chief administrative office of the town shall appoint a building inspector. (c.143:s.3)
- (b) Powers and Duties - The building inspector shall administer and enforce the provisions of the state

building code within the limits of the town. The building inspector shall also be the zoning enforcement officer for the town (c.143:s.3 and c.40A:s.7)

Section 4-6. BURIAL AGENT

- (a) Appointment - The veteran's agent appointed by the board of selectmen shall also be a burial agent. (c.115:s.7)
- (b) Powers and Duties - The burial agent shall cause to be interred the body of any veteran or adult dependent of a veteran who dies without sufficient means of defraying funeral expenses and the body of any dependent child of a veteran if the veteran and his wife, or the veterans widow, are without sufficient means to defray the expense, (c.115:s.7)

Section 4-7. CIVIL DEFENSE DIRECTOR

- (a) Appointment, Term of Office - The board of selectmen shall appoint a civil defense director. (c.639:s.13, Acts of 1950)
- (b) Powers and Duties - The civil defense director shall be responsible for preparing and carrying out of all emergency functions and services, including, but not limited to: police and fire fighting services; medical and other health related services; rescue engineering and air raid warning services; evacuation of persons from stricken areas; emergency welfare services; communications; radiological, chemical and other special weapons of defense; emergency transportation; existing or properly assigned functions of plant protection; temporary restoration of public utility services and functions. The civil defense director shall have all of the other powers, duties and responsibilities which are assigned to civil defense directors by general laws. (c.639, Acts of 1950, generally)

Section 4-8. CONSERVATION COMMISSION

- (a) Composition, Term of Office - The board of selectmen shall appoint a conservation commission consisting of five members for terms of three years each so arranged that the terms of as nearly an equal a number of members as possible shall expire each year. (c.40:s.8C) **[Amended May 2010 ATM by Art. 16]**
- (b) Powers and Duties - The conservation commission shall be responsible for the promotion and development of the natural resources of the town and for the protection of watershed resources of the town. The conservation commission shall have such other powers, duties and responsibilities which are given to conservation commissions by general laws. (see c.40, s.8C and c.131, s.40)

Section 4-9. DEVELOPMENT AND INDUSTRIAL COMMISSION

- (a) Composition, Term of Office - The board of selectmen shall appoint a development and industrial commission to consist of not less than five nor more than fifteen members to serve for terms of three years each so arranged that the terms of as nearly an equal a number of members as possible shall expire each year. (c.40, s.8A)
- (b) Powers and Duties - The development and industrial commission shall conduct researches into industrial conditions, investigate and assist in the establishment of educational or commercial projects for the purpose of expanding or strengthening the local economy. (c.40:s.8A)

Section 4-10. DOG OFFICER

- (a) Appointment, Term of Office - The board of selectmen shall, annually, appoint a dog officer. (c.140:s.151)
- (b) Powers and Duties - The dog officer shall be responsible for the enforcement of all laws relating to the care, custody and control of dogs. (c.140:ss. 136-174)

Section 4-11. FENCE VIEWERS

- (a) Appointment, Term of Office - The board of selectmen shall, annually, appoint two or more fence viewers. (c.49:s.1)
- (b) Powers and Duties - The fence viewers shall be responsible for the enforcement of sections one through twenty-one of chapter forty-nine of the General Laws, and may determine when a partition fence is required. They shall have all of the other powers, duties and responsibilities which are given fence viewers by general laws. (c.49:ss.1-21)

Section 4-12. FINANCE COMMITTEE

- (a) Composition, Term of Office - The town shall, by by-law, provide for the appointment of a finance or advisory committee.
- (b) Powers and Duties - The finance or advisory committee shall consider any or all municipal questions, as may be provided in such by-law, for the purpose of making recommendations to the town. Unless some other provision is made for the submission of an annual budget to the town meeting, the said committee shall do so. (c.39:s.16)

Section 4-13. FIRE CHIEF AND FIRE DEPARTMENT

- (a) Appointment, Term of Office - The board of selectmen shall appoint a fire chief and shall fix his salary within the amount annually appropriated for such purpose. The fire chief may be removed, for cause, by the board of selectmen at any time after a public hearing. (c. 48, s. 42)
- (b) Powers and Duties - The fire chief shall have full charge of extinguishing fires in the town and the protection of life and property in the event of fire. The fire chief shall have full and absolute authority in the administration of the fire department, shall make all rules and regulations for its operation, shall report to the board of selectmen from time to time as it may require and shall annually report to the town on the condition of the department with his recommendations. (c. 48, s. 42)

Section 4-14. HIGHWAY SUPERINTENDENT

(Superintendent of Streets)

- (a) Appointment, Term of Office - The board of selectmen shall appoint, annually, a superintendent of streets. (c. 41, s. 66)
- (b) Powers and Duties - The superintendent of streets, under the direction of the board of selectmen, shall have full charge of all repairs and labor upon public ways and sidewalks and in relation to such matters he shall have the powers, perform the duties, and be subject to the liabilities and penalties of surveyors of highways and road commissioners. (c. 41, s. 68)

Section 4-15. HISTORICAL COMMISSION

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- (a) Composition, Term of Office - The board of selectmen shall appoint a historical commission which shall consist of not less than three nor more than twelve members. The terms of members shall be for three years each, so arranged that as nearly an equal number of terms as possible shall expire each year. (c.40:s.8D)
- (b) Powers and Duties - The historical commission shall act for the preservation, promotion and development of the historical assets of the town. The commission shall have such additional powers, duties and responsibilities as are given historical commissions by general law. (c.40:s.8D)

Section 4-16. INDUSTRIAL DEVELOPMENT FINANCE AUTHORITY

- (a) Composition, Term of Office - The board of selectmen shall appoint a board of directors of an industrial development financing authority which shall consist of five members. The term of office of each member shall be for five years, so arranged that the term of one member shall expire each year. At least one member of the said board of directors shall be experienced in financial matters, one in real estate matters and one in town government. (c. 40D, s. 3)
- (b) Powers and Duties - The industrial development financing authority shall have all of the powers and duties which are afforded to such authorities under chapter 40D of the General Laws to finance projects designed to attract new industry to the town or to substantially expand existing industries. (see c. 40D, generally)

Section 4-17. INSPECTOR OF GAS PIPING AND GAS APPLIANCES

- (a) Appointment, Term of Office - The town shall provide for the appointment of an inspector of gas piping and gas appliances who shall be a licensed plumber or a licensed gas fitter. (c.143:s.30)
- (b) Powers and Duties - The inspector of gas piping and gas appliances shall be responsible for the enforcement of the rules and regulations adopted by the gas regulatory board (see c.25: s. 12H). The inspector of gas piping and gas appliances shall have all of the other powers, duties and responsibilities as are given such inspectors by general laws. (c.143:s.80)

Section 4-18. LOCK UP OFFICER

- (a) Appointment, Term of Office - The board of selectmen shall annually appoint a keeper of the lock up. (c.40:s.35)
- (b) Powers and Duties - The keeper of the lock up shall have the care and custody of the town lock up and of all persons who are committed to the lock up. (c.40:s.34-37 inclusive)

Section 4-19. MEASURERS OF WOOD AND BARK

- (a) Appointment, Term of Office - The town shall annually choose one or more measurers of wood and bark or may, by vote fixing the number to be chosen, delegate to the board of selectmen the authority to appoint such measurers of wood and bark. (c.94:s.296)
- (b) Powers and Duties - The measurers of wood and bark shall be responsible for the enforcement of the laws relating to the sale of wood and bark within the town. (c.94:ss. 296 to 303, inclusive)

Section 4-20. MOTH SUPERINTENDENT

(Superintendent of Insect Pest Control)

- (a) Appointment, Term of Office - The board of selectmen shall appoint a superintendent of insect pest control for a term of three years. (c. 132, s. 13)
- (b) Powers and Duties - The superintendent of insect pest control shall be responsible for the suppression of the public nuisances named in section eleven of chapter one hundred thirty-two. (c. 132, s. 13, see c. 132, generally)

Section 4-21. PARKING CLERK

- (a) Appointment - The board of selectmen shall designate or appoint a parking clerk. (c. 90, s. 20A 1/2)
- (b) Powers and Duties - The parking clerk shall report to the board of selectmen and shall supervise and coordinate the processing of parking notices in the town. (c. 90, s. 20A-E)

Section 4-22. PERSONNEL BOARD

- (a) Composition, Term of Office - The town may, by by-law, provide for a personnel board. (c. 41, s. 108C)
- (b) Powers and Duties - The personnel board may administer compensation plans established pursuant to paragraph (b) of section five of chapter thirty-one, plans established pursuant to section one hundred and eight A of chapter forty-one and any other by-laws adopted pursuant to section twenty-one a of chapter forty. (c. 41, s. 108C)

Section 4-23. PLUMBING INSPECTOR

- (a) Appointment, Term of Office - An inspector of plumbing shall be appointed by the building inspector. (c.142,s.11)
- (b) Powers and Duties - The plumbing inspector shall be responsible for the enforcement of all rules and regulations regarding the installation, alteration and repair of all plumbing in the town. (c.142:ss.11-13; c.142, generally)

Section 4-24. POLICE CHIEF AND POLICE DEPARTMENT

- (a) Appointment - The board of selectmen shall appoint a police chief and such other police officers as they deem necessary. (c. 41:s. 97A)
- (b) Powers and Duties - The chief of police shall be in immediate control of all town property used by the department, and of the police officers, whom he shall assign to their respective duties and who shall obey his orders. The police department under the direction of the police chief shall have full charge of keeping the peace and the enforcement of all laws. (c. 41:ss. 97A, and 98)

Section 4-25. REGISTRARS OF VOTERS

- (a) Appointment, Term of Office - The board of selectmen shall appoint a board of registrars of voters to consist of three persons, appointed for terms of three years each and the town clerk who shall serve ex officio. (c.51:s.15)
- (b) Powers and Duties - The board of registrars of voters shall supervise the qualification of persons to vote, certify the signatures on nomination papers and petitions, and shall hold hearings and decide disputes with regard to any of the foregoing matters. (c.51:generally)

Section 4-26. SEALER OF WEIGHTS AND MEASURES

- (a) Appointment, Term of Office - The board of selectmen shall appoint one or more sealers of weights and measures. (c.98:s.34)
- (b) Powers and Duties - The sealer of weights and measures shall test, adjust and seal all devices used for the weighing and measuring of commodities and shall be responsible for the enforcement of all laws relating to weights and measures. (c.98:ss.34-56C)

Section 4-27. SUPERINTENDENT OF SCHOOLS

- (a) Appointment, Term of Office - The school committee shall appoint a superintendent of the schools and fix the term of his appointment. (c.71:s.59)
- (b) Powers and Duties - The superintendent of schools shall be the executive officer of the school committee, and under its general direction, shall have the care and supervision of the public schools, shall assist it in keeping its records and accounts and in making such reports as are required by law, and shall recommend to the school committee teachers, textbooks and courses of study. (c.71:s.59)

Section 4-28. TOWN COUNSEL

- (a) Appointment - The board of selectmen may appoint a town counsel in such manner and for such term as it or the town by by-law may determine (c.40:s.5, clauses 15, 16 and 16A)
- (b) Powers and Duties - The town counsel shall perform such duties as may be required of such officer by town by-law, by vote of the board of selectmen, or otherwise. (c.40:s.5, clauses 15, 16, and 16A)

Section 4-29. VETERAN'S GRAVES OFFICER

- (a) Appointment, Term of Office - The board of selectmen shall annually, in April, appoint a veteran's graves officer. (c.115:s.9)
- (b) Powers and Duties - The veteran's graves officer shall be responsible to see that every veteran's grave is suitably kept and cared for. (c.115:s.9)

Section 4-30. VETERAN'S SERVICES DIRECTOR

- (a) Appointment, Term of Office - The board of selectmen shall appoint a veteran's services director. (c.115:s.10)
- (b) Powers and Duties - The veteran's services director shall furnish information, advice and assistance to veteran's relative to employment, education, medical care, pensions and other benefits to which they are or may be entitled. (c.115:s.10)

Section 4-31. WIRE INSPECTOR

- (a) Appointment - The board of selectmen shall appoint a wire inspector. (c.166:s.32)
- (b) Powers and Duties - The wire inspector shall supervise every wire over, under or in streets or buildings and every wire within a building which is designed to carry electricity (c.166:s.32)

ARTICLE V
SPECIAL POWERS OF THE TOWN

Note: The items contained in this article represent powers/authority not available to the town under 'general' laws, but made available to it by an 'acceptance' statute or a special law.

Section 5-1. TOWING OF VEHICLES

The board of selectmen may, through appropriate rules and regulations adopted by it, authorize the police chief, or any member of the police department the rank of sergeant or higher the police chief may designate, to cause vehicles which are illegally parked to be towed and stored at the owner's expense. (c. 40, s. 21D)

See TM 3/6/62, article 35

Section 5-2. ENFORCEMENT OF PARKING REGULATIONS

The parking regulations of the town may be enforced through a local non-criminal procedure. (c. 90, s. 20 1/2)

See TM June 1, 1982, article 18

Section 5-3. RECALL OF ELECTED OFFICERS

The town's voters may remove elected officials from office, prior to the time at which their term of office would otherwise expire, through a petition and special election process. A single voter may request the issuance of recall petitions, which, if returned within thirty days after their issuance and signed by ten percent of the voters in each of the town's precincts, will require a special election to be held seventy days, or more, later. (c.246:1984)

Section 5-4. SPECIAL FINANCIAL AUTHORITY

- (a) Water Liens - If the rates and charges for supplying water remain unpaid after the date established for such payment such rates and charges shall constitute a lien against the real estate for which the service was supplied. (c. 40, ss. 42A through 44F)

See town election March 24, 1924

- (b) Appropriation Offsets - The town may specify, when making an appropriation for the annual operating costs of any town agency that such costs are to be offset by the estimated receipts from user fees charged by the said agency. (c. 44, s. 53E)

See TM May 1, 1984, article 16

- (c) Expenditures from the Receipts of Certain School Related Funds - The school committee in the conduct of adult education, continuing education and community school programs may establish separate accounts into which the receipts from such programs may be deposited and from which expenditures made without further appropriation. (c. 71, s. 71E)

See TM June 2, 1981, article 21

- (d) Special Assessments to Cover Cost of Laying Certain Water Pipes - The town may, by by-law, provide for the levy of special assessments to meet the whole or part of the cost of laying pipes in

public and private ways for the conveyance or distribution of water to its inhabitants. (c. 40, s. 42G)

See TM March 2, 1971, article 24

Section 5-5. NON-CRIMINAL ENFORCEMENT OF TOWN BY-LAWS, RULES AND REGULATIONS

The town has accepted the provisions of MGL c. 40, section 21D which permits it to provide for the enforcement of violations of its by-laws and rules and regulations by a non-criminal procedure.

See ATM May 3, 1988, article 12

ARTICLE VI
SPECIAL PROVISIONS RELATING TO TOWN EMPLOYEES

Section 6-1. Civil Service

With certain exceptions, the members of the police department are covered by civil service. (c. 31, s. 48)

See TM March 1, 1932, article 18

Section 6-2. Workmen's Compensation

Persons in the employ of the town of Avon have been covered by the special provisions in the state Workmen's Compensation law since 1914. The selectmen were authorized in 1967 to keep the list of employees covered, current. (c. 152, s. 69)

See town Election, March 3, 1914 and TM March 7, 1967, article 28

Section 6-3. Pension and Retirement Benefits

Pensions have been provided for town 'laborers' since 1912. The state contributory retirement system for municipal employees generally was adopted in 1946. (c.32)

See State election November 5, 1912, and November 5, 1946

Section 6-4. Group Insurance

The town has provided group medical and life insurance for town employees since 1967. (c.32B)

See TM March 13, 1967

Bylaws

Administrative Legislation

GENERAL PROVISIONS

Chapter 1

GENERAL PROVISIONS

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

ARTICLE I

Powers of Town; Adoption of Bylaws; Word Usage**§ 1-1. Powers of Town.**

- A. The Town of Avon shall have all of the corporate powers of a body politic possible for a town to have under the Constitution and laws of the Commonwealth of Massachusetts as fully and completely as though they were specifically enumerated in the Code of General Bylaws.
- B. All of the powers of the Town under the Code of General Bylaws shall be construed liberally in favor of the Town and no enumeration or omission contained herein shall in any way be construed as limiting the general powers stated in this Code of General Bylaws.

§ 1-2. Scope of bylaws.

The following bylaws shall constitute the code of bylaws by which the Town of Avon shall be governed, elect officers and regulate the conduct of the inhabitants, and shall be in lieu of all other bylaws previously adopted and/or amended, with the exception of the Zoning Bylaw adopted May 17, 1977, and as amended, which shall remain in full force and effect.⁷

§ 1-3. Word usage.

For the purpose of this bylaw, certain terms and words shall have the following meanings:

- A. Words or phrases specifying or naming any officer, board, committee, or commission of the Town of Avon shall be construed as including the lawful successor of the person or persons having the powers and performing the duties of such officers, boards, committees, or commissions.
- B. Except where the context forbids such construction, words in these bylaws importing the singular use will include the plural, and words importing the plural will include the singular, and words importing one gender shall include all genders and boards.
- C. The word "owner" as applied to a building or land shall include any part owner, joint owner, tenant in common or joint tenant of the whole or part of such building or land.
- D. The word "occupant" as applied to a building or land shall include any person who occupies the whole or part of such building or land, either alone or with others.
- E. The word "person" shall include firms and corporations.
- F. The word "officer" shall include officers and boards in charge of departments, and the members of such boards.
- G. Words purporting to give a joint authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or persons.

§ 1-4. Amendment, repeal and adoption. [Amended 1-28-2023STM by Art. 9]

Any or all of these bylaws may be amended or repealed, or other bylaws may be adopted, at any Annual or Special Town Meeting by a majority vote of those voters in attendance. The Select Board may insert in the warrant of any Annual or Special Town Meeting an article to amend or repeal any or all of these bylaws or

7. Editor's Note: See Ch. 255, Zoning.

to adopt other bylaws or registered voters of the Town of Avon may petition the Town to amend or repeal any of these bylaws or to adopt other bylaws according to the provisions of MGL c. 39, § 10.

§ 1-5. Interpretation.

These bylaws shall not interfere with or annul any rule, regulation or permit of any Town officer, board, committee or commission, provided that, unless specifically excepted, where this bylaw is more stringent it shall control.

§ 1-6. Validity.

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

ARTICLE II

Penalties**§ 1-7. Violations and penalties; maximum penalty.**

Any person who shall violate any of the provisions of these bylaws may be penalized in accordance with MGL c. 40, § 21D, Noncriminal Disposition, or by indictment or on complaint brought in the District Court. Except as may otherwise be provided by law and as the District Court may see fit to impose as a penalty, the maximum penalty to be imposed shall be as provided in MGL c. 40, § 21.

§ 1-8. Noncriminal disposition.

Any person who shall violate any of the provisions of these bylaws, the violation of which is subject to a specific penalty, may be penalized in the manner of noncriminal disposition which is provided in MGL c. 40, § 21D. The noncriminal method of disposition may, in addition, be used to enforce the provisions of any rule or regulation adopted by any officer or multiple-member body of the Town for which a specific penalty is provided. For the purposes of this section, the term "enforcing person" shall mean any police officer of the Town of Avon, and any other person specifically authorized under the terms of a particular bylaw, rule or regulation.

AVON CODE

Chapter 7

BOARDS, COMMISSIONS AND COMMITTEES

**[HISTORY: Adopted by the Town Meeting of the Town of Avon as indicated in article histories.
Amendments noted where applicable.]**

ARTICLE I

Residency Requirements**[Adopted 5-7-2019 ATM by Art. 8]****§ 7-1. Town residency required.**

No person shall be appointed to or serve on a board, commission or committee of the Town or any other board, commission or committee for which the appointment thereto is by a Town board or officer, unless such person is a resident of the Town. Any person serving as a member of a board, commission or committee who, during the term of office for which appointed, ceases to be a resident of the Town shall be deemed to have vacated such membership.

§ 7-2. Applicability.

The provisions of this bylaw shall not apply to ex-officio members [including any nonresident Town officer(s) or employee(s) representing the Town in such capacity] and non-voting members. Additionally, nonresident members of a board, commission or committee holding such membership at the time this bylaw becomes effective shall also be exempt until the expiration of their terms.

ARTICLE II

Finance Committee**[Adopted 5-7-2019 ATM by Art. 8]****§ 7-3. Membership; qualifications; secretary.**

The Finance Committee shall consist of seven voters. No person who is an elected officer of the Town, member of any board of the Town, except as otherwise provided by law or a vote of the Town, or any employee of the Town shall be qualified to serve as a member of the Finance Committee. The Finance Committee may appoint a secretary, who shall not be a member of the Committee and who may receive such compensation as the Committee may vote from any appropriation for the use and expenses of said Committee.

§ 7-4. Appointment of members; terms.

The Moderator each year shall appoint or reappoint at the Annual Town Meeting members of the Finance Committee, whose terms expire by limitation in that particular year, who shall serve for a term of three years, and he shall fill vacancies on said Committee as they occur.

§ 7-5. Vacancies.

If any member of the Finance Committee is absent from four consecutive meetings of the Finance Committee, except in case of illness, said Committee shall declare his position vacated and shall instruct the Moderator to fill any vacancy or vacancies.

§ 7-6. Reports of expenditures. [Amended 1-28-2023STM by Art. 9]

Using such forms as may be required by the Finance Committee, each Town department, board or officer shall, on or before the first day of February, submit a detailed record of expenditures for the current fiscal year to the Select Board. Said record shall be accurate through the month of December, and the remaining months of the fiscal year may be estimated.

§ 7-7. Proposed expenditures.

Each Town department, board or officer shall, on or before the first day of February, submit detailed estimates of the amounts necessary for the proper maintenance of the department for the ensuing fiscal year, with such explanatory statements as may be required by the Finance Committee, and an estimate of necessary capital outlays.

§ 7-8. Duties.

It shall be the duty of the Finance Committee to study the financial and other affairs of the Town and to advise all officers of the Town as to expenditures and recommendations for appropriations to be made by them. All officers of the Town shall, on the request of the Committee, furnish it with all the facts, figures, and all other information pertaining to their several departments. The Finance Committee shall consider all articles in the warrants for all Town Meetings and report in print to the Town prior to each Town Meeting, Annual and Special, their estimates and recommendations for action of the Town. The Finance Committee report shall be distributed to each dwelling within the Town not less than seven days prior to the Annual Town Meeting, and posted in not less than seven public places, including the Post Office, three days prior to a Special Town Meeting.

§ 7-9. Reserve fund.

The Finance Committee shall control the reserve fund. Transfers from any sum appropriated by the Town as a reserve fund shall be made by this Committee as authorized by law; provided, however, that the Finance Committee shall not appropriate any money from the reserve fund to finance any article defeated at a Town Meeting.

ARTICLE III

Capital Planning and Outlay Committee
[Adopted 5-7-2019 ATM by Art. 8]**§ 7-10. Composition; appointment; terms. [Amended 1-28-2023STM by Art. 9]**

There shall be a Capital Planning and Outlay Committee, which shall consist of seven members appointed by the Select Board for terms of three years each, so arranged that as nearly an equal a number of terms as is possible shall expire each year.

§ 7-11. Capital improvement program.

The Capital Planning and Outlay Committee shall annually prepare a five-year capital improvement program and a proposed expenditure plan for the ensuing fiscal year.

A. The report shall include:

- (1) A clear, concise general summary of its contents;
- (2) A list of all capital improvements and other capital expenditures proposed to be undertaken or made during the five fiscal years next ensuing, with supporting information as to the need for each capital improvement or other capital acquisition to be made;
- (3) Cost estimates, methods of financing and recommended time schedules and sequences to be followed;
- (4) The estimated annual cost of operating and maintaining each facility and item of major equipment involved.

B. The information contained in the report is to be revised, annually, with regard to each item still pending or in the process of being acquired, improved or constructed.

C. Every Town agency shall cooperate fully with the Capital Planning and Outlay Committee and shall provide to the Committee such information as it may request concerning the anticipated capital requirements of the Town agency.

ARTICLE IV

Council on Aging**[Adopted 5-7-2019 ATM by Art. 8]****§ 7-12. Purpose; appointment; membership; terms. [Amended 1-28-2023STM by Art. 9]**

The Select Board shall appoint a Council on Aging to coordinate and carry out programs designed to meet the problems of the aging in coordination with the Department of Elder Affairs established under MGL c. 40, § 8B. The Council shall consist of seven members. The Select Board shall annually appoint or reappoint members for the Council on Aging to fill expired terms. Such appointments shall be for three-year terms.

ARTICLE V

General Bylaw Committee**[Adopted 5-7-2019 ATM by Art. 8]****§ 7-13. Purpose; membership; terms. [Amended 1-28-2023STM by Art. 9]**

There shall be a standing General Bylaw Committee to study, review and recommend additions, deletions, and changes to the Avon General Bylaws and to hold public hearings thereon and to submit recommendations to the Select Board. Said General Bylaw Committee shall consist of five members to be appointed by the Select Board; one member initially for one year, one member initially for two years, and one member initially for three years, with succeeding terms of three years; and two members whose initial and succeeding terms shall be for one year.

Chapter 15**DEPARTMENTAL REVOLVING FUNDS**

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-3-2022ATM by Art. 14.

Amendments noted where applicable.]

§ 15-1. Purpose.

This bylaw establishes and authorizes revolving funds for use by Town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by MGL c. 44, § 53E1/2.

§ 15-2. Expenditure limitations.

A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this bylaw without appropriation subject to the following limitations:

- A. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
- B. No liability shall be incurred in excess of the available balance of the fund.
- C. The total amount spent during a fiscal year shall not exceed the amount authorized by Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Select Board and Finance Committee.

§ 15-3. Interest.

Interest earned on monies credited to a revolving fund established by this bylaw shall be credited to the general fund.

§ 15-4. Procedures and reports.

Except as provided in MGL c. 44, § 53E1/2, and this bylaw, the laws, charter provisions, bylaws/ordinances, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town/city funds shall apply to the use of a revolving fund established and authorized by this bylaw. The Town Accountant shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.

§ 15-5. Authorized revolving funds. The Table establishes:

- A. Each revolving fund authorized for use by a Town department, board, committee, agency or officer;
- B. The department or agency head, board, committee or officer authorized to spend from each fund;
- C. The fees, charges and other monies charged and received by the department, board, committee, agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the Town Accountant;

§ 15-5

DEPARTMENTAL REVOLVING FUNDS

- D. The expenses of the program or activity for which each fund may be used;
- E. Any restrictions or conditions on expenditures from each fund;
- F. Any reporting or other requirements that apply to each fund; and
- G. The fiscal years each fund shall operate under this bylaw.

A. Revolving Fund	B. Department, Board, Committee, Agency or Officer Authorized to Spend from Fund	C. Fees, Charges or Other Receipts Credited to Fund	D. Program or Activity Expenses Payable from Fund	E. Restrictions or Conditions on Expenses Payable from Fund	F. Other Requirements/ Reports	G. Fiscal Years
COA Van	Director, Council on Aging	Van fares	Expenditures related to COA Van/ Transportation Program	None		Fiscal Year 2023 and subsequent years
COA Lunch	Director, Council on Aging	Program fee	Expenditures related to COA lunch program	None		Fiscal Year 2023 and subsequent years
Park and Recreation	Park and Recreation Commission	Program fees	All recreation department expenditures	Shall not be used to pay salary cost for any full-time employees		Fiscal Year 2023 and subsequent years

AVON CODE

Chapter 19

ELECTIONS

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

GENERAL REFERENCES

Town meetings — See Ch. 84.

§ 19-1. Annual Town Election; poll hours.

The election of Town officers and the determination of such matters as are required by law to be determined by secret ballot shall be held on the second Tuesday in April. The polls shall be opened no later than 7:00 a.m. and shall remain open until 8:00 p.m.

§ 19-2. Notice of Town election; sample warrants.

Notice of election of Town officers shall be posted by the Chief of Police or any other designated police officer of the Town in no less than seven public places, including the Post Office, and not less than 20 samples of the election warrant shall be left in each of the public places for distribution at least seven days before the date fixed for the election.

EMERGENCY SERVICES

Chapter 23

EMERGENCY SERVICES

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8; amended in its entirety 1-28-2023 STM by Art. 9 . Subsequent amendments noted where applicable.]

§ 23-1. Police Department.

The Select Board shall appoint a Chief of Police and such other officers as it deems necessary. The Chief of Police shall from time to time make suitable regulations governing the Police Department and the officers thereof. The Chief of Police shall be in immediate control of all Town property used by the Department and the police officers whom he shall assign to their respective duties and who shall obey his orders.

§ 23-2. Fire Department.

The Fire Department shall be administered by an officer known as the Chief of the Fire Department, who shall be appointed by the Select Board subject to the terms of a written contract. Such contract shall provide for automatic renewal unless, after a public hearing, the Select Board shall vote not to renew said contract. The Chief shall receive such salary as determined by the Select Board, at no time to exceed the amount annually appropriated therefor. The Chief may be removed for cause by the Select Board at any time after a public hearing. All employees, equipment, operation and procedures of the Department shall be under the direction of the Chief, subject to the General Laws, bylaws and collective bargaining agreements. The Chief of the Fire Department shall act as Forest Warden and shall be authorized to appoint deputy wardens and fix compensation therefor, subject to the approval of the Select Board.

Chapter 30**FINANCES**

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

§ 30-1. Governing law.

The Town's financial affairs shall be governed by the applicable sections of the General Laws and amendments and additions thereto.

§ 30-2. Loans.

- A. Cancelled bonds and notes. The Town Treasurer-Collector shall file and keep safely all cancelled bonds, notes and script of the Town which have been paid from the treasury.
- B. Loans. When authorized to execute a loan for a sum in excess of \$10,000, the Town Treasurer-Collector shall advertise for bids thereon; provided, however, that loans in anticipation of taxes need not be so advertised.

§ 30-3. Fees.

- A. Fees to the Town Treasury. Except as otherwise provided by law, all Town officers shall pay into the Town Treasury all fees received by them by virtue of their office.
- B. Setting of fees. Except as otherwise provided by law, each issuing agent for licenses or permits shall annually set the fee, if any, for each license or permit. Each issuing agent shall post a schedule of fees for the ensuing year with the Town Clerk, who shall maintain a posting thereof.

§ 30-4. Public procurement requirements.

- A. All Town procurement shall follow the provisions of state law, including but not limited to MGL c. 30B, MGL c. 30, § 39m, and MGL c. 149.
- B. Emergency exception. Nothing in this bylaw shall prevent the awarding of a contract without advertising or appropriation in cases of emergency declared by the Select Board and as provided by MGL c. 44, § 31. **[Amended 1-28-2023STM by Art. 9]**
- C. Appropriation limit. No contract for the purchase of equipment, supplies, or materials, or to do any public work, or erect, construct, alter, remodel, demolish or repair any building shall be awarded in excess of the appropriation therefor or in excess of the current funds thereof, in accordance with MGL c. 44, § 31, except as provided by state law. Where the contract equals or exceeds \$10,000, the Town Accountant must certify that funds are available in the appropriate account which match the value of the contract prior to award, and in accordance with MGL c. 44, §§ 31C. **[Amended 5-4-2021 ATM by Art. 19; 5-3-2022ATM by Art. 13]**

§ 30-5. Performance bonds.

Performance bonds shall be provided for contracts as required by applicable state law.

§ 30-6. Personal property. [Amended 5-4-2021 ATM by Art. 19; 1-28-2023STM by Art. 9]

- A. Sale of Town's personal property. Any officer or board in charge of a department may, with the approval of the Select Board and through the Chief Procurement Officer, sell or otherwise dispose of any personal property or material in the custody of and belonging to such department not required for its use. The disposal of these goods must conform to the provisions of MGL c. 30B, § 15, as may from time to time be amended.
- B. Transfer of Town's personal property. Any board or commission or officer in charge of a department may effect the transfer of personal Town property assigned to that agency to any other board or department within the Town with the express permission of the Select Board and notification to the Town property officer, if any. This transfer can only be made effective after the transferring agency has maintained possession of the property for a period of one year. Temporary loans of equipment between governmental agencies of the Town may be executed through notifications to the Town property officer, if any. The responsibility for the assigned personal property shall remain with the loaning agency.

Chapter 55**OFFICERS AND EMPLOYEES**

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

§ 55-1. Select Board. [Amended 1-28-2023STM by Art. 9]

- A. Legal proceedings. The Select Board shall have full authority as agents of the Town to institute and prosecute suits in the name of the Town and to appear and defend suits brought against it and to appear in proceedings before any tribunal, unless it is otherwise specifically ordered by a vote of the Town.
- B. Annual Town Report. The Select Board shall annually cause to be printed an Annual Town Report, to be made available at the Town offices to all residents no later than April 1.
- C. Warrants for Town Meetings. The Select Board shall prepare the warrant for Town Meetings. All articles must be submitted to the Board for consideration for the warrant for any Annual or Special Town Meeting.
- D. Licensing.
 - (1) The Select Board shall act as the licensing board for the Town and shall issue all local licenses required by law or bylaw, except as otherwise provided by law or bylaw.
 - (2) The Select Board may establish and modify annually fees for the issuance of any license or permit required under the bylaws, unless otherwise provided by law, and publish annually a list of such fees.
 - (3) Any license or permit granted under these bylaws, or any bylaws amendatory or additional thereto, may be revoked by the Select Board.
 - (4) The Select Board may issue licenses for health clubs, health spas, massage businesses or related establishments, provided that the applicant shall comply with ensuing laws, bylaws and regulations adopted by the Board of Health.
- E. Real estate. The Select Board shall act as the real estate board for the Town; to buy and sell land for the Town when and as authorized by a vote of the Town. The sale of property is to be advertised twice within a period of 30 days prior to the date of the sale in one or more newspapers of daily circulation in the Town.
- F. Regulation of ways. The Select Board may from time to time make reasonable rules and regulations as to the use of Town ways and ways under the control of the Town.
- G. Street excavations. No person shall make any excavation within the limits of any public way in the Town except by permit of the Select Board. Such permit shall be subject to such restrictions and conditions as set forth by the Select Board and Superintendent of Streets. Final issuance of such permit will be upon acceptance of written application, payment of proper fee and posting of bond, if so required. Such permit may be revoked at any time if conditions or restrictions of such permit are violated.
- H. Appointment powers. The Select Board shall make all appointments not otherwise provided for by law or bylaw. Annual appointments shall be made on the first Thursday in June to be effective July 1

to coincide with the Town's fiscal year. All appointments will be made on an approved budget for that office.

- I. Naming of ways. The Select Board shall approve the name of all ways within the Town, but no present name of any way shall be given to another.
- J. Naming of facilities. The naming of all public or Town-owned facilities shall be the duty of the Select Board after consultation with the Town agency having control over or responsibility for such facility.

§ 55-2. Legal representation. [Amended 1-28-2023STM by Art. 9]

- A. Town Counsel. The Select Board may annually appoint a Town Counsel, who shall be an attorney at law and a member in good standing of the Massachusetts Bar. Such appointment shall coincide with the Town's fiscal year.
- B. Special Town Counsel. The Select Board may, from time to time, employ special or additional counsel, whenever, in its judgment, the necessity therefor arises.

§ 55-3. Gas Inspector. [Amended 1-28-2023STM by Art. 9]

The Select Board shall annually appoint an Inspector of Gas Piping and Gas Appliances whose duty shall be the enforcement of rules and regulations of the state in accordance with MGL c. 143, § 3O.

§ 55-4. Wiring Inspector. [Amended 1-28-2023STM by Art. 9]

- A. The Select Board shall annually appoint an Inspector of Wiring who shall be responsible for the enforcement of the State Board of Fire Prevention Regulations as provided in MGL c. 143, § 3L.
- B. The Select Board shall annually appoint an Alternate Wiring Inspector whose duty shall be the enforcement of the State Board of Fire Prevention Regulations as provided in MGL c. 143, § 3L, during the temporary absence or disability of the Wiring Inspector.

§ 55-5. Collector of Taxes.⁸

The Collector of Taxes shall use all proper means of collecting taxes which a Town Treasurer, when appointed as Collector, may use.

§ 55-6. Building Inspector.

- A. The Select Board shall, pursuant to the provisions of MGL c. 143, § 3 and 780 CMR 105.3, appoint an Inspector of Buildings to administer and enforce the provisions of the State Building Code within the Town. The person appointed as Inspector of Buildings shall, in addition, be charged with the enforcement of the Zoning Bylaw, as provided in MGL c. 40A, § 7.⁹ **[Amended 1-28-2023STM by Art. 9]**
- B. The Inspector of Buildings, in seeking compliance with the provisions of any section of any law, bylaw, rule or regulation which he is charged with enforcing, and in addition to any other method available to him, may prosecute any such violations under the provisions of MGL c. 40, § 21D. If no other specific penalty is provided, the penalty to apply in cases brought under MGL c. 40, § 21D shall

8. Editor's Note: The Office of Treasurer-Collector for the Town of Avon was established by Laws of 2012, Ch. 317.

9. Editor's Note: See Ch. 255, Zoning.

be posted with the Town Clerk for each offense.

- C. The Select Board shall appoint an Alternate Inspector of Buildings to administer and enforce the provisions of the State Building Code within the Town during the temporary absence or disability of the Inspector of Buildings. **[Amended 1-28-2023STM by Art. 9]**

Chapter 61**PERSONNEL**

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

GENERAL REFERENCES

Boards, commissions and committees — See Ch. 7.

Officers and employees — See Ch. 55.

§ 61-1. Applicability; rates of pay.

- A. All Town departments and positions shall be subject to the provisions of the personnel system established pursuant to this bylaw except officials elected by popular vote, employees under individual employment contracts, employees subject to a collective bargaining agreement with the Town and employees under the direction and control of the School Committee.
- B. All employees covered shall receive the rate of pay and be subject to the provisions set forth in the personnel system established pursuant to this bylaw as determined to be applicable to them by the Personnel Board hereinafter established. Nothing in the bylaw shall be construed to be in conflict with MGL c. 31 relating to civil service, or with MGL c. 150E relating to public employee collective bargaining, which shall prevail if there is any conflict.

§ 61-2. Equal employment opportunity.

- A. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, transfer, compensation, benefits, or any other personnel action because of political affiliation, race, creed, color, national origin, age, gender, sexual orientation, handicap, or other non-merit factor is prohibited.
- B. This policy, issued in accordance with the Equal Employment Opportunity Act and Massachusetts Fair Practice Law, affects all employment practices.

§ 61-3. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

CASUAL EMPLOYEE — A person occupying a paid position appointed by and reporting to the Select Board or a department head in the service of the Town. The fixed annual salary of such positions is established and funded by vote at an Annual Town Meeting. **[Amended 1-28-2023STM by Art. 9]**

CLASS — A position or group of positions in the Town service sufficiently similar in respect to duties and responsibilities and authority so that the same descriptive title may be used to designate each position allocated to the class, that the same tests of fitness may be used to choose qualified employees and that the same scale of compensation can be made to apply with equity.

CLASSIFICATION PLAN — See § 61-5.

COMPENSATION — The base salary or base wages earned by any employee by reason of services performed.

CONTINUOUS EMPLOYMENT — Uninterrupted employment except for required military service, authorized holidays and authorized leave status.

DEMOTION — The movement of an employee from a position in one class to a position in another class at a lower level.

DEPARTMENT HEAD — The officer, board, or other body having immediate supervision of the employee and/or the work unit.

DESIGNATED HOLIDAYS — Holidays listed in § 61-11A of this bylaw.

DISMISSAL — The permanent involuntary termination of a person from Town service.

EMPLOYEE — A person occupying a paid position appointed by the Select Board in the service of the Town. **[Amended 1-28-2023STM by Art. 9]**

EMPLOYMENT DATE — The date on which an employee commences performance of duties and is placed on the payroll.

EMPLOYMENT YEAR — A three-hundred-sixty-five-day period beginning on the date on which an employee commences performance of duties and is placed on the payroll.

ENTRANCE RATE — The rate of pay at which an employee is hired.

EXAMINATION — All tests of fitness taken together that are applied to determine the fitness of applicants for positions of any class.

EXEMPT EMPLOYEE — A salaried employee under the Fair Labor Standards Act.

FULL-TIME EMPLOYMENT — A work schedule consisting of a minimum of seven hours per day, five days per week totaling 35 hours or more per week, for 52 weeks less authorized holidays and authorized leave status, which is funded for an entire year.

JOB SKILLS ASSESSMENT SYSTEM — A mechanism to determine the proper placement of a position on the Classification and Compensation Plan.

MAXIMUM RATE — The Step 5 level of any classification range in the Compensation Plan payable to an employee.

MINIMUM RATE — The Step 1 level of compensation of any classification range in the Compensation Plan payable to an employee.

NEW POSITION — A post of employment in the Town's service that is created by the Personnel Board.

OCCUPATIONAL INJURY — An injury which occurs while an employee is performing his/her duties and responsibilities during hours actually worked.

OVERTIME — Hours, authorized by a department head, worked by an employee in excess of 40 hours in a work week.

PART-TIME EMPLOYMENT — A work schedule regularly more than 10 hours and less than 20 hours per week less authorized leave time.

PAY ADJUSTMENT — A change in compensation.

PERFORMANCE EVALUATION — An assessment of an employee's performance by the department head.

PERSONNEL ADMINISTRATOR — The designated employee responsible for maintaining and administering the Town's personnel policies.

POSITION — A post of employment in the Town's service as listed in § 61-7 of this bylaw requiring a job description outlining duties and responsibilities of an employee.

PROBATIONARY PERIOD — A working test period following an appointment during which an employee is required to demonstrate, by conduct and actual performance of the duties, fitness for the position to which appointed.

PROMOTION — A change from a position of lower class and compensation level to a position with greater responsibilities in a higher class and compensation level.

RANGE — The dollar differential between the minimum and maximum rates in each classification in the Compensation Plan payable to an employee.

SEASONAL EMPLOYEE — An appointed employee with a climate-related work assignment that is no more than 16 consecutive weeks.

STEP INCREASE — The incremental increase received on a fixed date that may or may not be tied to performance.

STEP RATE — The percent between the incremental increases contained in the classification range.

TOWN — The Town of Avon, Massachusetts.

§ 61-4. Personnel Board.

A. Membership.

- (1) Pursuant to MGL c. 41, §§ 108A and 108C, there shall be a Personnel Board consisting of three unpaid members responsible for the administration and maintenance of the Classification and Compensation Plan. They shall not be employees, appointed members of any other board, or elected officials of the Town. Personnel Board members may serve on other committees of the Town that do not have any paid employees.
- (2) The members of the Board shall be appointed by the Moderator. Each Personnel Board member shall serve for a term of up to three years to commence on the first day of the Town's fiscal year (July 1).
- (3) The Moderator shall appoint members of the Board on a staggered basis, so that each full term shall expire in three consecutive years.
- (4) If any member of the Personnel Board shall resign or otherwise vacate his/her office before the expiration of his/her term, his/her successor shall be appointed by the Moderator to serve the balance of the unexpired term.
- (5) Board members shall be sworn in to office by the Town Clerk.

B. Duties and responsibilities.

- (1) The Board shall administer the Classification and Compensation Plan and ensure that there is uniform interpretation and application of it.
- (2) The Board shall establish such policies, procedures and regulations as it deems necessary for the administration of the Plan, in consultation with the Personnel Administrator, and may employ assistance and incur expenses as it deems necessary, subject to appropriation of funds.
- (3) The Board shall, annually at the first meeting following the Annual Town Meeting and/or

immediately following the appointment of a new member or members, meet and organize by electing a Chair. A majority of the Board shall constitute a quorum for the transaction of business. The votes of the majority of all members of the Board shall be necessary on any matter upon which it is authorized or required to act. **[Amended 1-28-2023STM by Art. 9]**

- (4) The Board shall maintain written descriptions of jobs or positions in the Plan, describing the essential functions, requirements, and general duties. The descriptions shall not be interpreted as complete or limiting definitions, and employees shall perform any additional duties assigned by their supervisor.
- (5) The Board shall make an annual report, in writing, to the Select Board for publication in the Annual Town Report. **[Amended 1-28-2023STM by Art. 9]**
- (6) The Board by its own authority may reclassify an existing position, and no position may be reclassified until the Board shall determine that such reclassification is consistent with the purpose and provisions of the Plan.
- (7) The Board by its own authority may create new classifications or change existing classifications that shall be consistent with the purpose and provisions of the Plan.
- (8) The Board from time to time shall review the work of all positions covered by the Plan. Such reviews to be scheduled so that all positions shall be reviewed at intervals of not more than five years.
- (9) The Board shall annually review the compensation schedules. It shall keep informed as to the pay rates and policies in effect in other towns of similar size and budget and in towns in the surrounding geographic area. It shall make recommendations to the Town so as to maintain fair and equitable compensation levels.
- (10) After the recommendation of the Personnel Administrator, supported by written documentation of special reasons and/or exceptional circumstances, the Personnel Board may authorize an entrance rate higher than the minimum rate. The Board may authorize any other variance to the Plan it may deem necessary for the proper functioning of the Town. No variance shall become effective until the necessary funds have been appropriated.
- (11) The Board shall establish the Town's personnel policies in consultation with the Personnel Administrator, and shall amend those policies, as it deems necessary. No policy shall be changed without a majority vote of the Personnel Board. The Personnel Administrator shall be responsible for maintaining and administering all personnel policies.
- (12) The Board, as it deems necessary, may propose amendments to the personnel bylaws for consideration by the Town at the Annual Town Meeting.

§ 61-5. Classification Plan.

A. Administration of Classification Plan.

- (1) The Personnel Board is responsible for the classification of all positions in the Town, except those positions filled by popular election, employees under individual employment contracts with the Town, employees covered by collective bargaining agreements and employees of the School Committee.
- (2) The Classification Plan shall consist of Schedule A of § 61-7 of this bylaw.

- B. Determining classifications. In allocating classes of positions to appropriate classification levels, the Personnel Board shall utilize an objective job skills assessment system to address the complexity and level of responsibility of each class of positions. The Personnel Board shall consult with the Personnel Administrator to determine a final classification.
- C. Classification review. The Personnel Board shall review all positions in each classification at a minimum of every five years. At any given time the Personnel Administrator may request, in writing, that a specific position or class be reviewed for applicability to current job conditions and situations. To the extent possible, the Personnel Board shall act on those requests within one month from the date of the written request.
- D. Creating a new position/changing the classification of an existing position.
- (1) To create a new position or to change the classification of an existing position, the Personnel Administrator must submit documentation to the Personnel Board and receive approval from the Board, prior to hiring or substantially changing the duties of any employee.
 - (2) Upon determination by the Personnel Board, in consultation with the Personnel Administrator, the new or changed position may be added to the Classification Plan at any time, and ratified by a vote of the Town at the next Annual Town Meeting.
 - (3) No position shall be classified, and no class shall be assigned a different compensation grade, until the Personnel Board has determined such reclassification or such reassignment to be consistent with the Classification and Compensation Plan.
- E. Titles of positions. The titles of all positions on the Classification Plan shall be the official title of each incumbent position and shall be used to the exclusion of all other titles on payrolls, budget estimates, job descriptions, and other official records and reports of the Town.

§ 61-6. Compensation Plan.

- A. The Compensation Plan shall consist of:

Schedule A	Classification of Nonunion Positions by Official Title and Grade within the Classification Plan
Schedule C	Annual Salary for (regularly scheduled 35 hours) Managerial, Administrative, Professional Positions
Schedule D	Annual Salary for Exempt (regularly scheduled 40 hours) Managerial and Superintendency Positions
Schedule E	A fixed salary voted at the Annual Town Meeting (positions to be determined)
Schedule F	Hourly Rates for more than 10 hours to less than 20 hours Part-Time Positions
Schedule G	Hourly Rates for 10 or fewer hours per week; Occasional, Seasonal, or On-call Positions

- B. The salary/hourly wage range of a class shall be the salary/hourly range for every position in that

class.

- C. Except for the special authorization given the Personnel Board under Subsection F(3), the hiring rate of a new employee shall be the Step 1 salary/hourly wage rate for the position being filled.
- D. No department head shall fix the salary of any employee in a classification position except in accordance with the Compensation Plan.
- E. No person shall be appointed, employed or paid as an employee of the Town in any position subject to the provisions of the Classification Plan under any title other than those appearing in § 61-7, Schedule A, or those positions created by the Personnel Board in accordance with the duties and responsibilities in § 61-4B(7) of this bylaw.
- F. An employee in continuous full-time or part-time (more than 10 hours to less than 20 hours) employment shall receive the increment between his/her present rate and the next higher step rate as follows:
 - (1) The eligibility date for a step increase shall be established on the first pay period following 12 months after the date of hire and annually on the first pay period after the anniversary date of hire in each subsequent year until the maximum step in the pay range is reached.
 - (2) Step increases to the next higher step are dependent upon a satisfactory performance evaluation by the department head and the approval of the Personnel Administrator. An employee denied a step increase may appeal the decision to the Personnel Board.
 - (3) Step increases beyond the next sequential step in the compensation schedule require the approval of the Personnel Board in consultation with the Personnel Administrator.
- G. Schedule G employees in continuous employment shall qualify for step increases if the following conditions are met:
 - (1) If an employee has fulfilled the lesser of the terms of his/her seasonal agreement, 52 weeks in an active pay status, or has continuously been available for on-call work for at least 48 weeks annually.
 - (2) Step increases are dependent upon a satisfactory performance evaluation as stated in Subsection F(2).
- H. An employee receiving a promotion to a vacant position or to a new position (as defined in § 61-3, Definitions) shall, upon assignment resulting from such promotion, receive the minimum rate of that position. If the employee's existing rate is higher than the minimum rate of the new or vacant position he/she shall advance to the next step above his/her present rate. An employee may, for good cause shown, receive an increase of one or more steps at the time of promotion or reclassification upon a recommendation (including supporting documentation) from the Personnel Administrator, subject to the approval of the Personnel Board.
- I. If an employee is transferred to a lower-rated position for any reason, he/she shall enter it at a step rate in the new classification determined by the Personnel Board in consultation with the Personnel Administrator.
- J. Department heads shall include in their estimates for their annual budget proposals, as required by MGL c. 41, § 2, a pay adjustment section setting forth in detail the amounts which will be required for anticipated pay adjustments during the ensuing year and will furnish a copy of it to the Personnel

Board.

K. The adjustments provided for in this section shall be subject to the availability of appropriated funds.

§ 61-7. Classification, salary, wage and longevity pay schedules.

The following schedules constitute the Classification and Compensation Plan of the Town Avon as defined in § 61-3 of this bylaw:

Schedule A	Classification of Non-Union Positions by Official Title and Grade within the Classification Plan
Schedule B	Unassigned
Schedule C	Annual Salaried Positions (regularly scheduled 35 hours full-time)
Schedule D	Annual Salary Positions (regularly scheduled 40 hours full-time), Exempt
Schedule E	Casual Positions - hours necessary to complete work assignments
Schedule F	Hourly Wage Positions - more than 10 hours to less than 20 hours
Schedule G	Hourly Wage positions - 10 hours or fewer, occasional on-call, seasonal (up to 35 hours per week for 16 weeks)
Schedule H	Longevity Pay

A. Schedule A: Classification of Non-Union Positions by Official Title and Grade within the Classification Plan.

Position Title	Compensation Grade
Librarian	D4 exempt
Superintendent - Department of Public Works	D8 exempt
Town Accountant	C12
Executive Secretary	— exempt
Administrative Assistant	C8 nonexempt
Clerical, Secretary Group	
Senior Circulation Assistant	F7
Circulation Assistant	F6
Library Shelver	F5
Advanced Secretary (boards, committees, commissions)	F7

Position Title	Compensation Grade
Basic Secretary (boards, committees, commissions)	F6
Clerk/Typist (boards, committees, commissions)	F5
Data Base Technician Analyst - Department of Public Works	F9
Labor, Custodial Group	
Senior Custodian	F8
Custodian	F7
Groundskeeper	F8
Bus Driver - COA	F5
Cook - COA	F7
Assistant Cook - COA	F6
Public Safety Group	
Police Dispatcher - part-time, nonunion	F9
Occasional, Seasonal, On-Call Group	
Director - Summer Park/Recreation Program	G10
Assistant Director - Summer Park/Recreation Program	G8
Counselor - Summer Park/Recreation Program	G7
On-Call Clerk - COA	G9
Compost Site Attendant	G7
Seasonal Park/Recreation Groundskeeper	G11
Casual Group	To be determined

B. (Reserved)

C. Schedule C: Annual Salary.

Regularly Scheduled 35 Hours - Administrative, Managerial, Professional

Raise Factors: 1.09

Class	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
C3	21,404.85	21,894.79	22,409.11	22,922.14	23,436.45	23,950.76	24,465.06
C4	23,117.09	23,810.96	24,525.35	25,261.11	26,018.27	26,775.41	27,532.56
C5	24,965.27	25,714.30	26,485.72	27,280.32	28,098.72	28,917.12	29,735.52
C6	26,962.24	27,771.54	28,603.93	29,462.05	30,345.91	31,229.78	32,113.64

Class	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
C7	29,118.24	29,991.67	30,891.43	31,818.06	32,772.60	33,727.14	34,681.68
C8	31,447.39	32,391.37	33,362.28	34,363.96	35,393.87	36,423.77	37,453.66
C9	33,962.52	34,980.88	36,031.31	37,111.23	38,224.57	39,337.90	40,451.24
C10	36,679.01	37,779.45	38,913.25	40,080.65	41,282.16	42,483.67	43,685.17
C11	39,613.53	40,802.48	42,026.55	43,286.82	44,584.78	45,882.74	47,180.70
C12	42,980.29	44,698.93	46,040.50	47,421.72	48,844.37	50,267.01	51,689.64
C13	46,205.96	47,592.42	49,020.19	50,491.03	52,005.76	53,520.48	55,035.20
C14	49,902.33	51,399.09	52,942.03	54,530.29	56,165.13	57,799.98	59,434.82
C15	53,894.98	55,512.30	57,177.67	58,891.88	60,658.64	62,425.40	64,192.16
C16	58,206.99	59,952.57	61,752.02	63,604.57	65,512.72	67,420.86	69,329.00

D. Schedule D: Annual Salary.

Regularly Scheduled 40 Hours Exempt - Managerial, Superintendency

Class	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
D2	37,374.16	38,495.39	39,650.24	40,839.76	42,064.95	43,290.15	44,515.34
D3	40,365.12	41,576.07	42,823.35	44,108.05	45,431.29	46,754.53	48,077.75
D4	43,593.36	44,901.16	46,248.19	47,635.64	49,064.71	50,493.78	51,922.85
D5	47,080.67	48,493.09	49,947.88	51,446.32	52,989.71	54,533.08	56,076.46
D6	50,847.59	52,373.01	53,944.20	55,562.53	57,229.41	58,896.28	60,563.14
D7	54,914.62	56,562.06	58,258.92	60,006.70	61,806.89	63,607.08	65,407.26
D8	59,308.72	61,087.98	62,920.62	64,808.24	66,752.48	68,696.72	70,640.95
D9	64,051.67	65,973.22	67,952.42	69,990.99	72,090.72	74,190.45	76,290.17
D10	69,176.83	71,252.13	73,389.69	75,591.39	77,859.14	80,126.88	82,394.63
D11	74,711.13	76,952.47	79,261.04	81,638.86	84,088.03	86,537.19	88,986.35
D12	80,687.92	83,108.55	85,601.81	88,169.86	90,814.96	93,460.06	96,105.15
D13	87,143.10	89,757.40	92,450.12	95,223.62	98,080.33	100,937.04	103,793.75

E. (Reserved)

F. Schedule F: Hourly Rate.

More than 10 hours to less 20 hours per week

Class	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
F2	9.44	9.56	9.71	9.84	9.97	10.10	10.22
F3	10.11	10.24	10.40	10.55	10.68	10.81	10.93
F4	10.93	11.08	11.24	11.41	11.56	11.70	11.83
F5	11.84	12.02	12.22	12.39	12.59	12.79	12.98
F6	12.51	12.74	12.94	13.16	13.36	13.56	13.76
F7	13.87	14.18	14.51	14.83	15.13	15.42	15.71
F8	14.82	15.15	15.52	15.88	16.25	16.62	16.99
F9	15.49	15.95	16.41	16.87	17.35	17.81	18.27
F10	16.98	17.51	18.03	18.55	19.09	19.62	20.14
F11	18.49	19.01	19.55	20.09	20.61	21.12	21.64

G. Schedule G: Hourly Rate.

Ten or fewer hours per week, occasional, on-call or seasonal.

Class	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
G7	8.98	9.43	9.69	9.81	9.94	10.06	10.18
G8	10.26	10.71	10.97	11.09	11.22	11.34	11.45
G9	11.54	11.99	12.25	12.38	12.50	12.62	12.74
G10	12.83	13.27	13.54	13.66	13.78	13.91	14.03
G11	14.11	14.56	14.82	14.94	15.07	15.18	15.29
G12	15.39	15.84	16.10	16.23	16.35	16.47	16.59

H. Schedule H: Longevity Pay. Full-time employees shall receive longevity pay according to the following schedule:

Years of Full-Time Service Completed	Amount per Year
5 years of service	\$300
10 years of service	\$500
15 years of service	\$700
20 years of service	\$900
25 years of service	\$1,000

- (1) Any break in employment for any reason, other than for military service, of less than one year shall not cause loss of longevity earned to date; however, any time not actually worked in Town service shall not be credited toward longevity totals.
- (2) Longevity pay to which an employee is entitled shall be paid in a lump sum by means of a check

separate from his/her regular compensation in the first pay period next following the date he/she completes the number of years of service and shall continue to be paid each year thereafter on the anniversary of such pay period.

§ 61-8. Probationary period.

All employees must complete a ninety-day probationary period successfully, as determined by the department head and approved by the Personnel Administrator, to be considered suitable for retention.

§ 61-9. Work week.

A. The work week for each position shall be as follows:

Schedule	Description	Hours in Work Week
Schedule C	Exempt full time employees	Regularly scheduled 35 hours
Schedule D	Exempt full time employees	Regularly 40 hours exempt
Schedule E	Casual Employees	Hours necessary to complete work assignments
Schedule F	Part-time employees	More than 10 hours to less than 20 hours per week
Schedule G		10 or fewer hours per week regularly scheduled employees
Seasonal employees		Up to 35 hours per week for a maximum of 16 consecutive weeks
Occasional		As determined by the supervisor
On call		As determined by the supervisor

- B. Hours worked do not include lunch periods.
- C. Nonexempt employees working more than a six-hour shift must be allowed to take a thirty-minute unpaid meal break (the Massachusetts Meal Break Law).
- D. An employee may work through his/her meal period with the approval of the department head, and only in those circumstances where the department head deems it to be in the best interest of the Town.
- E. An employee shall not be required to work through his/her meal period.
- F. If an employee works through a meal break, the employee may choose to have compensatory time off or be paid for the time worked. If the employee chooses compensatory time, the time off must be approved in advance by the department head at the convenience of the Town.

§ 61-10. Overtime compensation.

A. Overtime shall be required only when necessary operations cannot be performed by on-duty

employees during their regular work week. The overtime work must be preapproved by the immediate supervisor.

- B. Full-time nonexempt employees shall be paid overtime at a rate of 1 1/2 times their regular compensation rate for any hours worked in excess of 40 hours in a work week.
 - (1) Employees working a thirty-five-hour work week shall be paid straight time for the first five hours exceeding 35 hours in a work week.
 - (2) Overtime shall be paid only for actual hours worked. Actual hours worked exclude sick time, holiday pay, vacation pay or administrative pay.
- C. All employees shall be required to work overtime as deemed necessary by the department head.
- D. Salaried employees in Schedules C and D of § 61-7, designated as exempt under the Fair Labor Standards Act, are exempt from the overtime provisions of this section.

§ 61-11. Holiday pay.

- A. All full-time employees shall be entitled to the following 12 paid holidays when the holiday falls within the regular work week:

New Year's Day	Labor Day
Martin Luther King, Jr. Day	Columbus Day
Presidents Day	Veterans Day
Patriot's Day	Thanksgiving Day
Memorial Day	Christmas Eve
Independence Day	Christmas Day

- (1) If a holiday should fall on a Saturday, it shall be celebrated on the preceding Friday; should a holiday fall on a Sunday, it shall be celebrated on the following Monday.
 - (2) To be eligible for holiday pay, an employee:
 - (a) Must have worked his/her scheduled work day immediately prior to and his/her scheduled work day immediately after the holiday; or
 - (b) Must have been in full pay status preceding and following the holiday in accordance with other provisions of this bylaw.
- B. Payment under provisions of this section shall be made to an employee as follows:
 - (1) If paid on an hourly basis, an employee shall receive one day's pay at his/her regular rate based on the number of hours regularly worked on the day on which the designated holiday occurs.
 - (2) If an exempt employee is paid on an annual basis, the employee shall be granted each designated holiday without loss of pay.
- C. Employees required to work on holidays.
 - (1) A nonexempt full-time employee who shall be required by his/her department head to work on any said holiday shall receive, in addition to his/her regular holiday pay for which he/she is

entitled under Subsection A, an additional 1 1/2 times his/her regular hourly rate for each hour worked, not to exceed the number of hours in his regular daily work schedule or, at the request of the employee, he/she may be granted compensatory time off within seven days at the convenience of the department in lieu of overtime pay.

- (2) An exempt employee required to work on any said holiday shall be entitled to compensatory time off within seven days, at the convenience of the department.
- D. A part-time employee who shall be required to perform work on any holiday under Subsection A shall be entitled to 1 1/2 times his/her regular hourly rate of pay.
- E. If a designated holiday occurs while an employee is on vacation leave, no charge for the holiday shall be made against the vacation leave.

§ 61-12. Vacation leave.

- A. Vacation leave shall be granted from July 1 to June 30.
- B. Full-time employees shall be granted vacation leave as follows:

Years of Service	Vacation Leave
Less than 1 year	1 day for every 5 weeks worked
1 year or more, less than 5 years	10 days
5 years or more, less than 10 years	15 days
10 years or more, less than 15 years	25 days
15 years or more	30 days

- C. Absence due to sickness may be charged to vacation leave at the employee's request with the approval of the department head.
- D. If a designated holiday under § 61-11A occurs while an employee is on vacation leave and the employee is eligible for holiday pay, no charge for the holiday shall be made against the vacation leave.
- E. No paid vacation shall be taken during an employee's ninety-day probationary period.
- F. Vacation leave shall be granted to an employee, provided the request shall not cause a work disruption to the Town. All vacation leave shall be subject to the approval of the department head.
- G. Vacation days shall not be granted in less than one-day increments unless approved by the department head.
- H. Vacation leave must be used in the fiscal year in which it is granted.
 - (1) Subject to the approval of the department head, in consultation with the Personnel Administrator, an employee may carry over up to 10 vacation days to the following year.
 - (2) Any vacation days in excess of 10 days at the end of the fiscal year shall be forfeited without compensation.
- I. Whenever the employment of a full-time nonunion employee is terminated during the year by

dismissal, by resignation, by retirement or death, the employee or his/her estate shall be paid at the regular rate of compensation, payable at the termination of employment, an amount in lieu of earned but unused vacation.

§ 61-13. Sick leave.

- A. A full-time employee in continuous employment who has completed 26 weeks of service from the date of his/her hire shall be granted sick leave in accordance with the provisions of this section when the employee:
 - (1) Is incapacitated for the performance of his/her duties by nonoccupational sickness or injury.
 - (2) Is required to give care and attendance to his/her spouse, child, parent or other person in his/her immediate household.
- B. A full-time employee shall accrue sick leave at the rate of 1 1/4 days for each full month the employee is on the payroll in good standing, up to a total of 15 days per employment year. Leave may be accumulated from one employment year to the next.
- C. For absenteeism greater than five working days, a certificate from a health care provider (as defined by FMLA 1993; § 61-17 of this bylaw) must be furnished to the Personnel Administrator.
- D. The department head shall be authorized to approve or disapprove requests for sick leave. An employee who is absent from duty on account of sickness or injury shall notify the department head before or at the beginning of his/her scheduled work day. Approved sick leave must be reported by the department head to the Personnel Administrator on forms provided by the Town.
- E. In those cases where an employee's sick leave is not approved by the department head, his/her absence shall be considered to be unauthorized.
- F. Any employee who is unable to work because of an occupational injury, which is incurred in the course of his employment by the Town and which is compensable under the provisions of the Massachusetts Worker's Compensation Act, MGL c. 152, shall, upon his written request to the Personnel Administrator, receive as a charge against his accrued sick leave the difference between his current salary and the amount he receives as worker's compensation.
- G. Notwithstanding any provision of this bylaw, the Family and Medical Leave Act of 1993 shall be followed in accordance with its provisions.
- H. Whenever the employment of a full-time nonunion employee is terminated during the year by retirement or death, the employee or his/her estate shall receive 35% of the amount of pay at the rate of compensation which he/she is receiving at the time of his/her retirement or death for unused sick leave up to 240 days' accumulation.

§ 61-14. Bereavement leave.

A full-time employee may be granted, with the approval of the department head, up to four days' leave immediately following the death of a person in his or her immediate family without loss of pay. "Immediate family" is defined as the employee's spouse, parent, child, sibling, grandparent, brother-in-law, sister-in-law, daughter-in-law, son-in-law, mother-in-law, father-in-law, grandparent of spouse, and/or a person in the employee's household.

§ 61-15. Court leave.

- A. Jury duty. Any full-time employee summoned to jury duty shall be excused from his or her work for the period necessary to perform jury duty.
- (1) If the jury fee, exclusive of travel allowances, received by the employee for jury duty shall be less than the regular pay received by him/her from the Town, the difference between the jury fees and the employee's regular pay shall be paid to the employee by the Town. However, as a condition for receiving such payment, the employee agrees that if discharged from jury duty for a reasonable portion of his/her regular work hours, the employee shall report to his/her supervisor for such work as may be assigned.
 - (2) An employee who desires the benefit of this section shall be required to present weekly to the department head or to the Personnel Administrator a certificate by the court verifying the time spent by the employee in jury duty during the week.
 - (3) Any part-time employee summoned to jury duty shall be subject to Subsection A(1) and (2) above as long as the employment hours of a juror reasonably may be determined, by a schedule established during the three-month period preceding the term of service of the juror, to be the same hours as jury duty. If the hours of employment and/or jury duty do not coincide, Subsection A(1) and (2) above do not apply.
- B. Court time. Any employee who shall be required to attend proceedings in court as a litigant, or as a witness, other than as part of his/her regular employment with the Town, shall do so in an unpaid status.

§ 61-16. Military leave.

- A. It shall be the employee's responsibility to notify his/her department head of the dates he/she is leaving for military service and to provide written proof from military or selective service officials to the department head indicating the date of departure and length of service required. A copy of such proof shall be filed with the Town's Personnel Administrator.
- B. An hourly employee in the Military Reserve or National Guard shall be paid the difference between total compensation received while on Reserve or Guard duty and the regular compensation rate paid the employee by the Town, not to exceed 17 work days in any given twelve-month period.
- C. Salaried employees shall receive their regular pay up to 17 days per fiscal year, during Military Reserve or National Guard service. Employees who enter the Armed Forces of the United States or who are activated in the Military Reserve or the National Guard shall be granted a leave of absence during service in the Armed Forces, not to exceed 90 days beyond discharge from military service.

§ 61-17. Other leave.

- A. Family and Medical Leave Act (FMLA). The Federal Government requires that the Town provide leave to eligible employees under the Family and Medical Leave Act of 1993.
- (1) Employees who are eligible for the family and medical leave shall have worked for the Town for a total of 12 months and shall have worked at least 1,250 hours over the previous 12 months.
 - (2) An eligible employee may take up to 12 work weeks of unpaid leave during any twelve-month period for one or more of the following reasons:
 - (a) Parental leave: the birth of a son or daughter and the care of the newborn child of an employee;

- (b) Adoptive leave: the placement with the employee of a son or daughter for adoption or foster care;
 - (c) To care for an immediate family member (spouse, child, or parent) with a serious health condition; or
 - (d) To take medical leave when the employee is unable to work because of a serious health condition.
 - (3) Timing of twelve-month leave period. The twelve-month period used for determining an employee's 12 weeks of leave entitlement shall be a "rolling" twelve-month period measured backward from the date the employee begins the use of the leave.
 - (4) In accordance with the FMLA, the employer may designate any qualifying leave as FMLA leave. An eligible employee may elect or an employer may require that an employee substitute any of the employee's accrued paid vacation, floating holiday or sick leave for any of the leave provided under this Act. However, an employer is not required to provide paid sick leave in any situation in which the employer would not normally provide such leave.
 - (5) All requirements of the Family and Medical Leave Act of 1993 shall be considered included in this bylaw.
- B. The Small Necessities Leave Act of 1998 (SNLA), MGL c. 149, § 52D. This leave is in addition to any leave an employee may be entitled to under the FMLA.
- (1) This act provides up to 24 hours of unpaid leave during any twelve-month period to an eligible employee for the purpose of:
 - (a) Participating in school activities directly related to the educational advancement of the employee's child, such as parent-teacher conferences or interviewing for a new school;
 - (b) Accompanying the employee's child to routine medical or dental appointments, such as check-ups or vaccinations; and
 - (c) Accompanying an elderly relative of the employee to routine medical or dental appointments and appointments for other professional services related to the elder's care, such as interviewing at nursing or group homes.
 - (2) Employees shall be eligible for leave under this section under the following conditions:
 - (a) Those who have been employed for at least 12 months.
 - (b) Those who have provided at least 1,250 hours of service, including paid vacation and sick leave, in the 12 months prior to the leave request.
 - (3) Timing of twelve-month leave period. The twelve-month period used for determining an employee's 24 hours of leave entitlement shall be a "rolling" twelve-month period measured backward from the date the employee begins the use of the leave.
 - (4) The following limits shall apply to the leave granted under this section:
 - (a) An employee is required to provide his/her employer with at least seven days' notice when the need for leave is foreseeable. If the need for leave is not foreseeable, the employee is required to provide the employer with such notice as is practicable under the

circumstances.

- (b) An eligible employee may elect or an employer may require that an employee substitute any of the employee's accrued paid vacation, floating holiday or sick leave for any of the leave provided under this Act. However, an employer is not required to provide paid sick leave in any situation in which the employer would not normally provide such leave.
- (c) An employee may take leave under this Act on an intermittent or reduced-leave basis.
- (5) All requirements of the Small Necessities Leave Act shall be considered to be included in this bylaw.

C. Paid personal leave.

- (1) A full-time employee shall be granted three paid personal days on the first pay period of the fiscal year.
- (2) Personal leave must be used in the fiscal year in which it is granted. No personal leave may be carried over from one fiscal year to the next.
- (3) An employee must request personal leave in advance and must be approved by the department head in conjunction with the Personnel Administrator at the convenience of the Town.
- (4) In the event of an employee's termination during the year by dismissal, by resignation, by retirement or death, any unused personal leave shall be forfeited.

D. Leave of absence.

- (1) An employee may request a leave of absence for personal reasons that may be charged to his/her vacation leave upon written request to the department head and with the approval of the Personnel Administrator. Such absences, however, may not be charged to vacation beyond that which the employee has earned at the time of application.
- (2) Except as otherwise provided for in this bylaw, all leaves of absence shall be without compensation.
- (3) An employee's request for a leave of absence must be approved by the Personnel Administrator.

§ 61-18. Physical examinations.

- A. Those employees in the positions listed in Subsection A(1) shall be given a conditional offer of employment pending the results of a pre-employment physical. No employee in Subsection A(1) shall be appointed until the pre-employment physical examination is conducted. The Personnel Administrator will receive notice from the designated physician regarding the candidate's ability to perform the essential functions of the position. If a potential employee is deemed not qualified as a result of the pre-employment physical, he/she will be notified in writing.
 - (1) The following employees filling the positions listed below must have a pre-employment physical: COA cook, COA assistant cook, COA bus driver, Water Superintendent, Highway Superintendent, Senior Custodian, Custodian, Groundskeeper, Seasonal Groundskeeper, Compost Site Attendant, Park and Recreation Director, Assistant Director and Counselors.
- B. Any physical examination required by the Town shall be paid for by the Town.

§ 61-19. Amendments to personnel bylaws.

- A. The Classification Plan, the Compensation Plan and/or other provisions of the personnel bylaws shall be amended by vote of the Town only at the Annual Town Meeting.
- B. Such proposed amendments, other than those originating with the Board, shall not be voted on at an Annual Town Meeting until they have been presented by signed petition to and acted upon by the Personnel Board.
 - (1) Such proposed amendments must be submitted to the Personnel Board at least 75 calendar days prior to the closing of the Annual Town Meeting warrant.
 - (2) Upon receipt of such petition, the Board shall hold a hearing at a regularly or specially scheduled Personnel Board meeting within 30 days for the interested parties to consider the proposed amendment. The Board shall notify the petitioner at least 10 days prior to the meeting.
 - (3) If the Personnel Board shall fail to act on an amendment so presented within 30 days after the hearing thereon, the Board shall be deemed to have disapproved the amendment. The petitioner may then submit the petition to the Select Board for inclusion in the Annual Town Meeting warrant. **[Amended 1-28-2023STM by Art. 9]**
- C. The Board shall report its recommendations on any proposed amendment to the Select Board and the Finance Committee, and make its recommendations with regard to any amendment at the Annual Town Meeting at which the amendment is to be considered. **[Amended 1-28-2023STM by Art. 9]**
- D. Pursuant to MGL c. 41, § 108A, amendments to the Compensation Plan require a public hearing held not less than two weeks nor more than two months after public notice as defined in MGL c. 41, § 108A prior to the Annual Town Meeting. The publication of any proposed amendment in the Town warrant for the Annual Town Meeting shall be deemed to satisfy the requirement of a public hearing as stated in this subsection.

§ 61-20. Severability.

The invalidity of any section of this bylaw shall not invalidate any other section or provision thereof.

Chapter 72**REPORTS AND RECORDS**

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

GENERAL REFERENCES

Boards, commissions and committees — See Ch. 7.

Town meetings — See Ch. 84.

Officers and employees — See Ch. 55.

§ 72-1. Annual reports and required information. [Amended 1-28-2023STM by Art. 9]

All boards, commissions, committees and department heads shall annually submit to the Select Board, on or before February 1, detailed reports of all monies paid out of the Town Treasury during the preceding financial year, with such information and recommendations as they may deem proper; also, the records of the Town Meetings held during the preceding calendar year and an abstract of births, marriages and deaths of the year to be furnished by the Town Clerk shall also be printed annually with these reports. The Select Board shall also, in their annual report, state specifically what Town ways or county ways have been laid out, what damages have been assessed and paid, what claims are outstanding and what suits are pending against the Town. They shall also state what ways, which have been ordered laid out or accepted, remain to be constructed. They shall also make a detailed statement of the repairs made upon the public buildings.

§ 72-2. Publication, distribution of annual reports. [Amended 1-28-2023STM by Art. 9]

The Select Board shall publish and distribute the Annual Report under the terms of Chapter 55, § 55-1B, of the Avon General Bylaws.

§ 72-3. Real estate valuation list. [Amended 1-28-2023STM by Art. 9]

The Board of Assessors, beginning in the year 1987 and every third year thereafter, shall furnish to the Select Board for publication in the Annual Town Report a true and accurate copy of the real estate valuation list showing the names of the property owners, address and all other information as shown on said lists, as well as a true and accurate copy of the personal property lists as permitted by law.

§ 72-4. Town employee listing.

The Town Treasurer-Collector shall annually publish a list of Town employees by department. Such list shall include the base salary of said employees and the gross wages paid said employees for the previous calendar year.

§ 72-5. Collective bargaining agreements.

All boards and/or committees acting as agents of the Town entering into collective bargaining agreements and/or employment contracts with any Town employee shall, within 30 days of signing such agreement, cause to be filed a copy of said document with the Town Clerk. No Town Meeting, Annual or Special, shall ratify a contract or agreement which has not been on file with the Town Clerk at least 10 days prior to the

vote of Town Meeting.

§ 72-6. Committee minutes.

All committees of the Town, elected or appointed, shall record minutes of every meeting and cause to be filed with the Town Clerk a copy of same within five days of the meeting at which the minutes were approved.

Chapter 84**TOWN MEETINGS**

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

GENERAL REFERENCES

Boards, commissions and committees — See Ch. 7.

Reports and records — See Ch. 72.

Elections — See Ch. 19.

§ 84-1. Annual Town Meeting.

The Annual Town Meeting shall be held on the first Tuesday in May at 7:30 in the afternoon.

§ 84-2. Notice of Town Meetings.

Notice of the Annual Town Meeting and every Special Town Meeting shall be posted by the Chief of Police or any other designated police officer of the Town in not less than seven public places in the Town, including the Post Office, and not less than 20 copies of the warrant shall be left in each of the public places for distribution at least seven days before the date fixed for the Annual Town Meeting and 14 days before the date set for a Special Town Meeting.

§ 84-3. Notice of adjourned Town Meeting.

Notice of every adjourned meeting to another calendar day shall be posted by the Town Clerk in at least seven public places, including the Post Office, and the notice shall refer to the article numbers in the warrant which have not been considered.

§ 84-4. Town Meeting procedure.

- A. Rules of procedure. Town Meetings shall be governed by the general rules of parliamentary procedure, except as modified by law or these bylaws and as consistent with orderly and democratic procedure.
- B. Seating of voters. At any session of a Town Meeting held for the transaction of Town business (other than for the election of such officers as are required by law to be elected by ballot), no person whose name is not on the lists of voters or who does not hold a certificate of registration shall be admitted to the part of the hall reserved for voters. The Moderator shall determine the bounds of such reserved space.
- C. Minutes of previous meeting. The first business in order of each adjourned meeting shall be the reading of the records of the previous session, unless reading is waived by a majority vote of the voters present and voting.
- D. Motions to be in writing. A motion, if required by the Moderator, shall be reduced to writing before being submitted to the meeting.

- E. Limitation on speaking. With the exception of the maker of the motion and the Chairperson of the Finance Committee and/or their designees, or upon a motion duly seconded and voted in the majority requesting a person to speak at any time, no person may speak a second time to a question as long as any member desires to speak who has not spoken to the question or may speak more than twice without first obtaining leave of the meeting except, in either case, for the brief correction of an error in or misunderstanding of his previous statement, or may speak more than 10 minutes the first time, nor more than five minutes each successive time thereafter, without approval of the meeting.
- F. Reconsideration. No action shall be reconsidered unless public notice of the intention to move for a reconsideration has been given from the floor within one hour after the vote has been declared, said motion to be in order only at the same session of said meeting. The remaining portion, if any, of said hour may be used for debate of such a motion at the next succeeding session of said meeting if and when debate is interrupted by adjournment of the session at which the motion is made. A motion may be made by any voter to reconsider a matter previously acted upon, which shall require an affirmative vote of 2/3 of those present and voting to be reconsidered.
- G. Voting.
 - (1) All voting in a Town Meeting shall be by a showing of hands unless otherwise required by law. In the instance of the need for a two-thirds-positive vote to approve an article, the Moderator may declare that a two-thirds vote has been achieved without calling for a polling or division of the meeting; provided, however, if said vote is declared and immediately questioned by seven or more voters, he shall verify it by polling the voters or by dividing the meeting. In such instance, the Moderator shall appoint tellers to verify the vote. (2013) Upon a motion properly made and seconded and passed by the meeting, the Moderator shall call for a secret ballot on any article involving an appropriation.
 - (2) Electronic voting. Subject to the availability of a system to enable electronic voting at Town Meeting using wireless handheld mobile devices, the Moderator may count the vote, or conduct a roll call vote, on any matter before the Town Meeting by the use of such an electronic vote-counting system.
- H. Quorum. A quorum shall consist of 50 registered voters. No motion, except to adjourn to a stated time (meeting evening or end), shall be voted on at any Town Meeting, Annual or Special, adjournment thereof when at any such meeting less than a quorum is present; with the exception, however, that at a third adjournment for lack of a quorum, the Moderator may accept a motion to adjourn sine die.
- I. Reports of committees; discharge. When a report of a committee is placed in the hands of the Moderator, it shall be deemed to be properly before the meeting for its action thereon. Unless otherwise voted, a committee is automatically discharged upon the acceptance of its final report.
- J. Failure to report by committee; discharge. All committees shall report as directed by the Town. If no report is made within a year after appointment, unless provided otherwise at the time of the appointment, the committee shall be discharged unless granted an extension of time by the Town.
- K. Appropriations for committees. No appropriation shall be made to any committee of the Town unless such request for appropriation is included in the warrant.
- L. Department heads. The head of any Town department, including the Superintendent of Schools, shall be seated with their respective department and be allowed to speak or answer questions pertaining to their respective department at any Annual or Special Town Meeting.

- M. Participation by nonvoters. Any nonvoter who desires to speak at an Annual Town Meeting or a Special Town Meeting must state his name and address to the Moderator and the topic to be discussed. The meeting may grant such person such right by a majority vote of those voting.
- N. Annual Town Meetings shall act upon the operating budget of the Town stating the salary of elected officials and allocating expenses and wages for all Town departments first. Upon completion of the operating budget, all other articles shall be taken by a lottery draw.
- O. Special Town Meetings shall take articles by lottery draw exclusively.

§ 84-5. Preparation of Town Meeting warrant.

- A. The Select Board shall be responsible for preparing the Town Meeting warrant. **[Amended 1-28-2023STM by Art. 9]**
- B. In general. All articles must be submitted to the Select Board according to the terms of this section to be included on any warrant. **[Amended 1-28-2023STM by Art. 9]**
- C. Closing date, Annual Town Meeting. The final date for inserting an article on the Annual Town Meeting warrant shall be the second Thursday in February.
- D. Closing date, Special Town Meeting. The final date for inserting an article of a Special Town Meeting warrant shall be set by the Select Board, but no final date shall be set that will not allow the Finance Committee at least 21 calendar days to review the warrant and prepare and print a recommendation for that Special Town Meeting or unless the Finance Committee in writing waives that time period. **[Amended 1-28-2023STM by Art. 9]**
- E. Delivery to Finance Committee. The Select Board shall prepare and print the Annual Town Meeting warrant and deliver such warrant to the Finance Committee no later than the second Wednesday in March. **[Amended 1-28-2023STM by Art. 9]**
- F. Names of petitioners. All articles shall appear on the warrant with the name of the officer, board, committee or commission that sponsors the article, or if such article is a petition, the name of the principal sponsor shall appear with the article.
- G. Reopening of warrants. The Select Board shall have the power to open any warrant and insert additional articles therein. **[Amended 1-28-2023STM by Art. 9]**

General Legislation

Chapter 103**ALARM SYSTEMS**

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

§ 103-1. Definitions.

For the purpose of this bylaw, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future; words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

ALARM SYSTEM — An assembly of equipment and devices or a single device such as a solid-state unit which plugs directly into a 110-volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this bylaw.

FALSE ALARM —

- A. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or his employees or agents.
- B. Any signal or oral communication transmitted to the Police Department requesting or requiring or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion, robbery or burglary, or attempt thereof.
- C. For the purpose of this definition, activation of alarm systems by Acts of God, including, but not limited to, power outages, hurricanes, tornadoes, earthquakes, and similar weather or atmospheric disturbances, shall not be deemed to be a false alarm.

§ 103-2. Control and curtailment of signals emitted by alarm systems.

- A. Every alarm user shall submit to the Police Chief and/or his designee the names and telephone numbers of his residence and place of employment and at least two other persons who are authorized to respond to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed. The alarm user will be responsible to keep this information current and updated.
- B. All alarm systems installed after the effective date of this bylaw which use an audible horn or bell shall be equipped with a device that will shut off such horn or bell within 10 minutes of activation of the alarm system.
- C. Any alarm system emitting a continuous and uninterrupted signal for more than 10 minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under Subsection A of this section, and which disturbs the peace, comfort or repose of a community, a neighborhood, or a considerable number of inhabitants of the area where the system is located shall constitute a public nuisance. Upon receiving complaints regarding such continuous and uninterrupted signal, the Police Chief and/or his designee shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated

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ALARM SYSTEMS

by the alarm user under Subsection A of this section in an effort to abate the nuisance. The Police Chief and/or his designee shall cause to be recorded the names and addresses of the complainants and the time each complaint was made.

§ 103-3. Automatic dialing devices interconnected to Police Department

- A. No automatic dialing device shall be interconnected to any telephone numbers at the Police Department after the effective date of this bylaw.
- B. Within six months after the effective date of this bylaw, all automatic dialing devices interconnected to any telephone numbers at the Police Department shall be disconnected therefrom. The user of each such device shall be responsible for having the device disconnected upon notification of the Police Chief and/or his designee.

§ 103-4. Exception for Town or governmental agencies.

The provisions of § 103-5, Violations and penalties, of this bylaw shall not apply to any Town or governmental agency.

§ 103-5. Violations and penalties.

- A. Upon receipt of three or more false alarms within a calendar year, the Police Chief and/or his designee may order the user to discontinue the use of the alarm.
- B. The user shall be assessed a fee that shall be posted with the Town Clerk for a false alarm service fee for each false alarm in excess of three occurring within a calendar year. All fees assessed hereunder shall be paid to the Town of Avon c/o the Town Treasurer-Collector.

AVON CODE

Chapter 107

ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

GENERAL REFERENCES

Loitering — See Ch. 165.

Streets, sidewalks and public property — See Ch. 205.

§ 107-1. Public consumption prohibited.

No person shall consume, or attempt to use or consume, any intoxicating liquor, beer or wine in or upon any public place or place to which the public has a right to access or any place to which the public has access as invitees or licensees, including but not limited to all public ways, roads, sidewalks, parking lots, parks and commons, cemeteries, municipal buildings and schools and the grounds and athletic fields appurtenant thereto, and which shall include any motor vehicle or bicycle when parked or moving upon any of the aforementioned places or locations. Nothing herein shall be construed to prohibit the duly licensed use and consumption of said liquors as provided by law or the use and consumption of said liquors in or upon private property or dwellings as may be permitted by law.

BUILDINGS

Chapter 115

BUILDINGS

[HISTORY: Adopted by the Town Meeting of the Town of Avon as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 255.

ARTICLE I

Key Lock Boxes**[Adopted 5-7-2019 ATM by Art. 8]****§ 115-1. Key boxes and gate override switches required.**

Any building other than a residential structure containing five or fewer dwelling units having a fire alarm system or other fire protection system shall provide a secure key box installed at a location accessible to members of the Fire Department in the event of an emergency. The secure key box shall contain keys to the fire alarm control panels and any other keys as may be necessary to operate or service any fire protection system or devices. Electrically operated gates shall be equipped with an over-ride switch. The secure key box and over-ride switch shall be of a type approved by the Fire Chief and shall be located and installed as approved by the Fire Chief. Multiple secure key boxes or over-ride switches may be required by the Fire Chief.

§ 115-2. Violations and penalties.

- A. Any owner or other person having control of a building who after receiving instructions concerning such installation from the Fire Chief shall fail within 30 days to provide such a secure key box or over-ride switch shall be subject to a penalty that shall be posted with the Town Clerk for each day on which such violation shall continue.
- B. Noncriminal disposition. Any person found in violation of this article by any police officer, or the Chief of the Fire Department, or the officer in charge of any shift in the Fire Department, may be cited by such person for such offense pursuant to the noncriminal disposition provisions of these bylaws.¹⁰ The penalty for each offense, so cited, shall be posted with the Town Clerk. Each day on which a violation exists shall be deemed to be a separate, distinct offense.

10. Editor's Note: See Ch. 1, General Provisions.

ARTICLE II

Abandoned and Dilapidated Buildings
[Adopted 5-7-2019 ATM by Art. 8]**§ 115-3. Findings and purpose.**

- A. Abandoned and dilapidated buildings encourage blighted and unsecured properties; cause the surrounding neighborhood to suffer from stagnant or declining real estate values; and create significant maintenance and monitoring costs to the Town of Avon.
- B. Accordingly, it is the intent of this bylaw to protect public health, public safety, security, general welfare and quiet enjoyment of occupants, abutters, and neighborhoods by requiring the registration of all abandoned and dilapidated buildings, as defined herein, and, by doing so, expedite the prompt rehabilitation and permanent occupancy of such buildings.

§ 115-4. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

ABANDONED AND/OR DILAPIDATED BUILDING — Any residential, commercial or industrial building that is abandoned or where the owner, by his or her action or inaction, has failed to correct a material health and/or safety condition at or in the building or surrounding premises. Evidence that a building may be abandoned and/or dilapidated includes, but is not limited to:

- A. Where a building is vacant for a length of time that is inconsistent with its use as a residential, commercial or industrial building; or
- B. Where there exists a lack of maintenance and/or a deterioration of a building or grounds which actually or potentially poses a risk to the public health, public safety, security, general welfare and quiet enjoyment of occupants, abutters, and/or neighborhoods; or
- C. Where a building is not safe and/or structurally sound or where the building or its interior is otherwise unfit for healthy or safe habitation or access; or
- D. Where the structural vandalism of a building remains unrepaired; or
- E. Where a lack of maintenance or use and/or a deterioration of the building and/or premises promotes a degradation of the surrounding neighborhood affecting the public health, public safety, security, general welfare and quiet enjoyment of occupants, and abutters; or
- F. Where there is no or inadequate response to requests from officials of the Town of Avon for verification of ownership and/or to orders to repair to property for more than 30 days after issuance of such requests and/or orders; or
- G. Where a building shows signs of decay, strewn trash, deterioration, or full or partial ruination through neglect or misuse; or
- H. Where any condition(s) independently, or in the context of the totality of circumstances, would lead a reasonable person to believe that a building is vacant and/or occupied by a person without a legal right of occupancy. Such conditions include, but are not limited to:
 - (1) Overgrown grass (one foot or higher) or noticeable amounts of dead vegetation;

- (2) Accumulation of unclaimed newspapers, circulars, flyers or mail;
- (3) Past-due utility notices or disconnected utilities;
- (4) Accumulation of trash, junk or debris;
- (5) The absence of window coverings such as curtains, blinds or shutters;
- (6) The absence of furnishings or personal items consistent with residential habitation;
- (7) A swimming pool in such disrepair that a dangerous condition may exist; and/or
- (8) Documented and confirmed reports by neighbors, passersby, delivery agents, government employees that the building is vacant.

SELECT BOARD — The Select Board of the Town of Avon.[**Amended 1-28-2023STM by Art. 9]**

BUILDING INSPECTOR — The Building Inspector of the Town of Avon or his or her designee.

OWNER — Every person, entity, service company, property manager or realtor, who, alone or severally with others:

- A. Has legal or equitable title to any building, dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
- B. Has care, charge or control of any building, dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park, in any capacity, including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate; or
- C. Is a mortgagee in possession of a building and/or premises; or
- D. Is an agent, trustee, or other person appointed by the court and vested with possession or control of a building and/or premises; or
- E. Is an officer or trustee of the association of unit owners of a condominium (each such person is bound to comply with the provisions of this bylaw as if he or she were the owner); or
- F. Operates a rooming house; or
- G. Is a trustee who holds, owns, or controls mortgage loans or mortgage-backed securities transactions and has initiated foreclosure proceedings.

PROPERTY — Any unimproved or improved real property, or portion thereof, including but not limited to buildings or structures located on said property, regardless of condition.

THIS BYLAW — Chapter 115, Article II, of the Town of Avon's General Bylaws, entitled, "Regulating the Security and Maintenance of Abandoned and Dilapidated Buildings within the Town of Avon."

§ 115-5. Registration; failure to register; change of ownership.

- A. Within 45 days of a written notice being given by the Building Inspector or his or her designee that a building is an abandoned and/or dilapidated building, the owner of such building shall register said building with the Avon Police Department, Avon Fire Department, Avon Building Department and Avon Health Department by providing each department, on a form to be provided by each such department, the name, address, and telephone number of the owner of the building, the street address of the building, and the map, block and parcel number of such building. If the owner does not have a

primary residence in the Commonwealth of Massachusetts or if the owner is a foreign legal entity, then the registration form shall also include the name, address and telephone number of a person who resides within the Commonwealth of Massachusetts and is authorized to accept service of process on behalf of the owner and who shall be designated as the owner's agent for purpose of receiving all notices issued pursuant to this bylaw.

- B. Failure to register an abandoned and/or dilapidated building shall be a violation of this bylaw. The owner of record shall notify each such department, as referred to above, about any changes in ownership of an abandoned and/or dilapidated building subsequent to registration.

§ 115-6. Annual registration fee; failure to pay.

- A. On or before October 15 of each calendar year, the Town of Avon shall send a billing statement, setting forth the annual registration fee, to the owner of the abandoned and/or dilapidated building. The annual registration fee shall be set by the Select Board pursuant to MGL c. 40, § 22F. **[Amended 1-28-2023STM by Art. 9]**
- B. On or before November 15 of each calendar year, the owner of any abandoned and/or dilapidated building shall pay to the Town of Avon an annual registration fee to cover the administrative cost of monitoring and ensuring the security and proper maintenance of such building, as set forth in said billing statement. Failure to pay the annual registration fee shall be a violation of this bylaw, and the full fee shall be deemed an assessment resulting from a violation of this bylaw. Such fee, and any fines issued for violations of this bylaw, shall constitute a "municipal charges lien" on the property on which the abandoned and/or dilapidated building is located, to be collected in accordance with MGL c. 40, § 58.

§ 115-7. Security and maintenance requirements.

The owner, as that term is defined herein, shall secure buildings subject to registration pursuant to this bylaw in such a manner as to prevent access by unauthorized persons, including but not limited to the following:

- A. Closing and locking of windows, doors (walk-through, sliding and garage), gates, swimming pools and any other opening of such size that it may allow a child to access the interior of the building;
- B. Reglazing or boarding of any broken window; and
- C. If directed to do so by the Town of Avon, implementing additional maintenance and/or security measures, including installing additional security lighting, increasing the frequency of on-site inspections, employing an on-site security guard(s), disconnecting utilities and removing meter boxes, or implementing other measures as may be required to stop the structural decline of the abandoned and/or dilapidated building and prevent unauthorized entry.

§ 115-8. Inspections; posting of information; authority to disconnect utilities.

- A. If the owner is a corporation and/or does not reside within the Commonwealth of Massachusetts, inspections of the abandoned and/or dilapidated building shall be periodically performed by or on behalf of said owner to verify that the requirements of this bylaw and any other applicable laws are being complied with.
- B. The abandoned and/or dilapidated building shall have signage posted, identifying in clear and conspicuous font the name and twenty-four-hour contact phone number of the owner and/or the duly

authorized agent of the owner.

(1) The posted sign shall be no less than 18 inches by 24 inches and shall be legible from a distance of 45 feet.

(2) The posted sign shall contain the words:

"THIS PROPERTY MANAGED BY [add name of Owner or Agent]" and "TO REPORT PROBLEMS OR CONCERNS PLEASE CALL [add 24-hour contact phone number]"

(3) The posted sign shall be placed on the interior of a window of the abandoned and/or dilapidated building that faces the main street or be secured to the front exterior of the building facing the main street or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the main street but not readily accessible to vandals. Exterior posting must be constructed of and printed with weather-resistant materials.

C. The Building Inspector, Police Chief, Fire Chief and the Health Agent, or their designees, shall have the authority to periodically inspect the exterior and interior of any building subject to this bylaw for compliance. The Building Inspector shall have the discretionary authority to disconnect utilities immediately if a potential hazard is apparent that may be dangerous to life and limb.

§ 115-9. Appeals. [Amended 1-28-2023STM by Art. 9]

Any person aggrieved by the requirements of this bylaw may appeal such requirements in writing to the Select Board. If said administrative appeal involves a registration fee, said administrative appeal shall be made no later than 15 calendar days after the receipt of the billing statement. The appeal request must be accompanied by a nonrefundable appeal cost to be set by the Select Board pursuant to MGL c. 40, § 22F. Upon the proper filing of an appeal, payment of the registration fee shall be stayed pending the outcome of the appeal. If, upon appeal of a registration fee, the decision of the Select Board is adverse to the owner, the payment of the registration fee shall be due within 10 calendar days of such decision.

§ 115-10. Other applicable law.

The provisions of this bylaw are in addition to, and not in lieu of, any and all other applicable provisions of the General Bylaws of the Town of Avon or any provisions of Chapter 255, Zoning, of the Town Code or any applicable regulations and laws of the Commonwealth of Massachusetts and/or the Town of Avon.

§ 115-11. Enforcement; violations and penalties.

A violation of this bylaw shall be subject to a fine of \$300 per offense, and each day that the violation is outstanding shall constitute a separate offense. The Building Inspector and/or his or her designee shall have the right to enforce this bylaw pursuant to noncriminal disposition procedures. This bylaw shall not supersede, preempt or negate any individual department's statutory authority to act independently on such matters.

§ 115-12. Severability.

If any provision of this bylaw is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

§ 115-13. Notice.

A copy of this Bylaw shall be mailed by the Building Inspector to all Owners of Abandoned and/or Dilapidated Buildings located in the Town of Avon.

Chapter 120**CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT**

[HISTORY: Adopted by the Town Meeting of the Town of Avon 6-29-2020 ATM by Art. 10.

Amendments noted where applicable.]

§ 120-1. Purpose and objectives.

- A. The purpose of this bylaw is to establish minimum stormwater management requirements and procedures in order to minimize damage to public and private property and infrastructure; safeguard the public health, safety, environment and general welfare; protect aquatic resources and wildlife habitat; protect the quality and health of water resources; conserve groundwater supplies; and foster climate change resiliency.
- B. This bylaw seeks to meet that purpose through the following objectives:
 - (1) Establish the Town of Avon as the legal authority to ensure compliance with the provisions of this bylaw and its accompanying Stormwater Management Rules and Regulations through a review process, inspections, monitoring, and enforcement.
 - (2) Establish administrative procedures for: the submission, review, and approval or disapproval of stormwater management permits; the inspection of approved active projects; and post-construction monitoring.
 - (3) Establish decision-making processes surrounding new development and redevelopment that protect watershed integrity and preserves and/or restores the health of local water resources such as lakes, ponds, streams, rivers, wetlands, and groundwater.
 - (4) Ensure compliance with requirements of the United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4) and other applicable state and federal mandates.

§ 120-2. Definitions.

For the purposes of this bylaw, the following terms shall have the meanings indicated:

AGRICULTURAL USE — The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and its implementing regulations.

APPLICANT — Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision of the Commonwealth of Massachusetts or the federal government to the extent permitted by law requesting a stormwater management permit for proposed land-disturbance activity.

BEST MANAGEMENT PRACTICE (BMP) — An activity, procedure, restraint, or structural improvement that helps reduce the quantity or improve the quality of stormwater runoff.

CERTIFICATE OF COMPLETION — Document issued by the Town of Avon Planning Board, its employees, or authorized agents upon receipt of a final inspection report and acknowledgement that all conditions of the stormwater management permit have been satisfactorily completed.

CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC) — A certified

specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.

ENFORCEMENT ORDER — A written order issued by the Planning Board to enforce the provisions of this bylaw.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Avon, MA.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT — A permit issued by the EPA or jointly with the Commonwealth of Massachusetts that authorizes the discharge of stormwater to waters of the United States.

NEW DEVELOPMENT — Any construction, land alteration, or addition of impervious surfaces on previously undeveloped sites resulting in a total disturbance of land equal to or greater than one acre (or activities that are part of a larger common plan of development disturbing greater than one acre) that does not meet the definition of redevelopment.

OWNER — A person with a legal or equitable interest in property.

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

PLANNING BOARD — Town of Avon Planning Board, its employees, or authorized agents designated to enforce this bylaw.

PROFESSIONAL ENGINEER (P.E.) — A registered professional engineer in good standing.

REDEVELOPMENT — Development, rehabilitation, expansion, demolition, or phased projects that disturb the ground surface or increase the impervious area on previously developed sites. Any construction, land alteration, or improvement of impervious surfaces resulting in total disturbance of land equal to or greater than one acre (or activities that are part of a larger common plan of redevelopment disturbing greater than one acre) that does not meet the definition of new development.

STORMWATER — Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PERMIT — The written approval granted by the Planning Board to undertake a construction activity pursuant to a stormwater management permit application. A valid stormwater management permit must be signed by a majority of the Planning Board participating at a duly noted public hearing, and such permit must be recorded at the Norfolk Registry of Deeds, prior to the start of any work.

WATERS OF THE COMMONWEALTH — All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwaters, and vernal pools.

WETLAND RESOURCE AREAS — Areas specified in the Massachusetts Wetlands Protection Act Regulations, 310 CMR 10.00, as amended, and in the Town of Avon General Bylaws, Chapter 239, Wetlands, as amended.

§ 120-3. Authority.

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34, and as authorized by the residents of the Town of Avon at the spring 2020 Town Meeting and as amended.

§ 120-4. Administration.

- A. The Planning Board shall be the permit granting authority (PGA) for this bylaw. Any powers granted to or duties imposed upon the Planning Board may be delegated in writing by the Planning Board to any Town employee, board, commission, committee or agent, hereby known as the "reviewing agent."
- B. The Planning Board shall not have jurisdiction over stormwater issues within areas where the Conservation Commission has jurisdiction under the Wetlands Protection Act and/or any local regulations.
- C. The Planning Board or its reviewing agent shall take any of the following actions as a result of an application for a stormwater management permit as specifically defined within the Stormwater Management Rules and Regulations promulgated as a result of this bylaw: approval, approval with conditions, or disapproval.
- D. A decision of the Planning Board or its reviewing agent shall be final. Further relief of a decision by the Planning Board or its reviewing agent made under this bylaw shall be appealed to the Superior Court, in accordance with MGL c. 249, § 4.

§ 120-5. Amendments and regulations.

The Planning Board may adopt, and periodically amend, the Stormwater Management Rules and Regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this bylaw by majority vote of the Planning Board, after conducting an advertised public hearing to receive comments on any proposed revisions. The hearings shall be duly advertised in a paper of general circulation in the Town of Avon no less than 14 days prior to the date of the public hearing. Failure by the Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

§ 120-6. Applicability and exemptions.

- A. No person may undertake a construction activity, including clearing, grading, or excavation, that results in a land disturbance to an area equal to or greater than one acre of land or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb an area equal to or greater than one acre of land within the Town of Avon without first obtaining a stormwater management permit issued by the Planning Board.
- B. Exemptions:
 - (1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04, as amended;
 - (2) Maintenance of existing landscaping, gardens, or lawn areas associated with a single-family dwelling;

- (3) The construction of fencing that will not substantially alter existing terrain or drainage patterns;
- (4) Normal maintenance and improvements of the Town of Avon publicly owned roadways and associated drainage infrastructure;
- (5) Emergency repairs to any stormwater management system or feature that poses a threat to public health or safety, or as deemed necessary by a Town department or board; and
- (6) Projects that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Handbook, the Town's Wetlands Protection Bylaw and with the stormwater management performance standards of this bylaw as reflected in an order of conditions issued by the Conservation Commission.

§ 120-7. Enforcement.

- A. The Planning Board, or an authorized agent of the Planning Board, shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. The Planning Board may issue a written order to enforce the provisions of this bylaw, which may include requirements to:
 - (1) Cease and desist from construction or land disturbing activity until there is compliance with this bylaw and the stormwater management permit;
 - (2) Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan;
 - (3) Maintain, install, or perform additional erosion and sediment control measures;
 - (4) Perform monitoring, analyses, and reporting;
 - (5) Remediate adverse impact resulting directly or indirectly from malfunction of the stormwater management system or erosion and sediment control system;
 - (6) Cease and desist from unlawful discharges, practices, or operations; and/or
 - (7) Remediate contamination in connection therewith.
- C. If the Planning Board determines that abatement or remediation of adverse impacts is required, the enforcement order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Avon may, at its option, undertake such work, and the property owner shall reimburse the Town's expense.
- D. Within 30 days after completing all measures necessary to abate the violation, the violator and the property owner shall be notified of the costs incurred by the Town of Avon, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Planning Board within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Planning Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall

begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57, after the 31st day at which the costs first become due.

§ 120-8. Entry to perform duties under this bylaw.

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Planning Board or its agents may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys, or sampling as the Planning Board or reviewing agent deems reasonably necessary.

§ 120-9. Waivers and provisions for relief.

- A. The Planning Board may waive strict compliance with any requirement of this bylaw promulgated hereunder, where:
- (1) Such action is allowed by federal, state and local statutes and/or regulations;
 - (2) It is in the public interest;
 - (3) A public safety issue exists; and/or
 - (4) It is consistent with the purpose and intent of this bylaw.
- B. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of this bylaw does not further the purposes or objectives of this bylaw. The Planning Board may require documentation to be submitted and stamped by a qualified and registered P.E or a certified professional in erosion and sediment control (CPESC).

§ 120-10. Civil relief.

If a person violates the provisions of this bylaw, permit, notices, or order issued thereunder, the Planning Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

§ 120-11. Criminal penalty.

Any person who violates any provision of this bylaw, order, or permit issued thereunder, shall be punished by a fine of not more than \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

§ 120-12. Remedies not exclusive.

The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state, or local law.

§ 120-13. Surety.

The Planning Board may require the permittee to post before the start of land disturbance or construction activity a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by Town counsel, and be in an amount deemed sufficient by the Planning Board

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to ensure that the work will be completed in accordance with the permit. If the project is phased, the Planning Board may release part of the bond as each phase is completed in compliance with the stormwater management permit but the bond may not be fully released until the Planning Board has received the final inspection report as required by the Stormwater Management Rules and Regulations and issued a certificate of completion.

§ 120-14. Severability.

If any provision, paragraph, sentence, or clause of this bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

Chapter 126**DOGS**

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

GENERAL REFERENCES

Board of Health animal regulations — See Ch. 300, Art. VI.

§ 126-1. License fees; exceptions.

- A. License fee. The annual fee for every dog license, except as otherwise provided by law, shall be set by and posted by the Town Clerk. Applications for a license for an altered dog must be accompanied by the certification of a veterinarian registered and licensed to practice in this commonwealth that the dog has been altered and is unable to reproduce by reason of alteration. Until a certificate of a veterinarian who has examined the dog in question is produced, the license fee for the licensing period shall be at the rate of an unaltered dog.
- B. Rabies vaccination. When application is made for a dog license, the applicant shall also exhibit proof, by a veterinarian's certificate, that the dog has been vaccinated against rabies, within the last three years if the dog is six months of age or over, as required by MGL c. 140, § 145B.
- C. Service dogs. No fee shall be charged for a license for service animals as defined by the Americans with Disabilities Act or regulations promulgated thereunder, provided that a certificate is exhibited certifying that the dog is so trained and is actually so used.
- D. Refunds. No license fee or part thereof shall be refunded because of a subsequent death, loss, spaying, and removal from this commonwealth or any other disposal of the dog, nor shall any license fee or part thereof paid by mistake be paid back after it has been paid to the Town pursuant to MGL c. 140, § 147.
- E. Late fee. In addition to the license fee as otherwise required by this section, the owner of any dog which has not been licensed on or before the last day of May in any year shall be subject to a late fee that shall be posted with the Town Clerk to be paid to the Town Clerk at the time such dog is licensed.

§ 126-2. Disturbing the peace.

No person shall own or keep in the Town any dog which by biting, excessive barking, howling or in any other manner disturbs the quiet of the public.

§ 126-3. Nuisance complaints. [Amended 1-28-2023STM by Art. 9]

If any person shall make a complaint first in writing to the Animal Control Officer that any dog owned or harbored within his jurisdiction is a nuisance by reason of vicious disposition or excessive barking or of other disturbance, the Animal Control Officer shall investigate such complaint, which may include an examination under oath of the complainant, and submit a written report to the Select Board of his findings and recommendations, together with the written complaint. Upon receipt of such report and examination

of the complainant and the owner of the dog, under oath, the Select Board, after a hearing, of which time the owner of the dog will be given due notice to appear, may make such order concerning the restraint, muzzling, disposal of such dog, dismissal of the complaint or such other action as may be deemed necessary. The Animal Control Officer, after investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed 14 days to enable the Select Board to issue their order following the receipt of the report of the Animal Control Officer. If the Select Board fail to act during the period of the interim order, upon expiration of the period the interim order is automatically vacated.

§ 126-4. Restraint or muzzling.

- A. The Animal Control Officer may restrain or muzzle, or issue an interim order to restrain or muzzle, for a period not to exceed 14 days, any dog for any of the following reasons:
- (1) For having bitten or threatened (worried) any person;
 - (2) If found at large or unmuzzled, as the case may be, while an order for the restraint of such dog is in effect;
 - (3) If found in a school, schoolyard or other recreational area;
 - (4) For having killed or maimed or otherwise damaged any domestic animal;
 - (5) For chasing any vehicle (including bicycles) upon any public way or way open to public travel in the Town;
 - (6) For any violation of § 126-2.
- B. All of the above are subject to penalties or fines.
- C. Upon restraining or muzzling, or issuing an interim order to restrain or muzzle, the Animal Control Officer shall submit, in writing, to the Select Board a report of his action and the reasons therefor. Upon receipt of such report, the Select Board may make such order concerning the restraint, muzzling or disposal of such dog as may be deemed necessary. If the Select Board fail to act upon the report during the period the dog is restrained or muzzled, upon expiration of the period, the interim order automatically is vacated. If the dog is ordered to be restrained or muzzled for six weeks of a twelve-month period, the Select Board must issue a permanent order of restraint, muzzling or disposal of said animal. **[Amended 1-28-2023STM by Art. 9]**

§ 126-5. Appeal of restraint or muzzling.

The owner or keeper of any dog that has been ordered to be restrained or muzzled or which has been restrained under this bylaw may, within 10 days after such order, bring a petition in the District Court, addressed to the Justice of the Court, praying that the order may be reviewed by the Court, and after such notice to the officer or officers involved as the Court may deem necessary it shall review such action, hear the witnesses and affirm such order unless it shall appear that it was made without proper cause or in bad faith, in which case such order shall be reversed. The decision of the Court shall be final and conclusive upon the parties.

§ 126-6. Leash law.

Any person owning or harboring a dog shall not cause or allow said dog to roam at large* in any of the streets or public ways or places within the confines of the Town of Avon, or upon the premises of anyone other than the owner or keeper, unless the owner or occupant of such premises expressly grants permission.

Under no circumstances shall a dog, even though secured by suitable lead, be allowed on private property, unless specific permission has been granted by the owner of said property. No dog shall be permitted in any public place or on any public thoroughfare, inclusive of all Town-owned property and properties under the authority of the Commonwealth of Massachusetts that are situated in the Town of Avon, unless said dog is restrained by a chain or lead not exceeding seven feet in length that is of suitable test for the size of dog that is being restrained, and is attended by a person of adequate age and discretion to properly control its actions or is at the heel** position beside a competent person and demonstrably obedient to the person's command.

*

"At large" meaning a dog which is: (1) unaccompanied by a person of adequate age and discretion to properly control its actions; and (2) unrestrained by a lead or chain of less than seven feet that is of suitable test for the size of dog being restrained.

**

"At heel" meaning a dog under complete control of a person of adequate age and discretion to control its actions as adequately as a dog that is on a lead.

§ 126-7. Unlicensed dogs; licensed dogs not wearing tags.

Any dog within the limits of the Town unlicensed or not wearing a valid license tag shall be impounded by the Animal Control Officer and not released until pound fees, in accordance with the General Laws, and pickup fees are paid and a current license is obtained from the Town Clerk. The pickup fee shall be posted with the Town Clerk, with said fee to go to the Town. Any dog not claimed within 10 days will become the property of the Town of Avon, and will be disposed of by the Animal Control Officer by whatever humane means are available.

§ 126-8. Dogs in estrus cycle.

If the Animal Control Officer determines that a dog in her estrus cycle (even when confined to the property of her owner or keeper) is attracting other dogs to her area, which condition causes disturbance on or damage to neighboring property or public area, he may pick up and impound the dog for the duration of her estrus cycle, releasing thereafter to the owner or keeper upon payment of pickup and pound fees; or the Animal Control Officer may require the owner or keeper to place and keep such dog, while in such cycle, in a commercial or boarding kennel or to remove it from the area so that the nuisance is abated.

§ 126-9. Pound facility. [Amended 1-28-2023STM by Art. 9]

The Select Board may select a commercial kennel facility within the Town or use the existing Town kennel to impound or keep dogs that have been apprehended by the Animal Control Officer as being strays or violators of the law, provided that both of the foregoing are within cost limitations and specifications set by the Select Board. The fee to impound and keep a dog in the Town kennel shall be posted with the Town Clerk.

§ 126-10. Violations and penalties.

- A. Any owner or keeper of a dog who shall fail to comply with any of the provisions of the bylaws and law governing dogs shall be subject to penalties as follows:

- (1) Failure to license a dog: \$35.
 - (2) Violation of leash law.
 - (a) First offense: \$35.
 - (b) Second offense: \$50.
 - (c) Third offense: \$50.
 - (d) Fourth offense: \$100.
 - (3) Dog bite. The Animal Control Officer must make a judgment to determine the severity and provocation of the bite to determine a processing procedure for this violation.
 - (a) First offense: \$50.
 - (b) Second offense: \$50.
 - (c) Third offense: \$100.
 - (4) Dog found in school yard, additional to Subsection A(2): \$50.
 - (5) Complaints such as, but not limited to, excessive outdoors barking, littering, defecating on sidewalks or private property and public playground; or schoolyards.
 - (a) First offense: \$25.
 - (b) Second offense: \$40.
 - (6) Failure to comply with order of restraint in accordance with MGL c. 140, § 168: \$100.
 - (7) Failure to comply with notice to kill or confine in accordance with MGL c. 140, § 164: \$100.
 - (8) Failure to vaccinate dogs against rabies in accordance with MGL c. 140, § 145B: \$100.
- B. The provisions of this bylaw may be enforced by the Animal Control Officer, or by any police officer of the Town of Avon, in the manner provided by MGL c. 40, § 21D.

ENTERTAINMENT, PUBLIC

Chapter 134

ENTERTAINMENT, PUBLIC

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8; amended in its entirety 1-28-2023STM by Art. 9. Subsequent amendments noted where applicable.]
§ 134-1. Permit required.

No person, or persons, shall play or perform any musical instrument, sing, parade, march or congregate in any public or Town way or public place without a written permit from the Select Board.

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Chapter 140

FIREARMS AND EXPLOSIVES

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8; amended in its entirety 1-28-2023STM by Art. 9. Subsequent amendments noted where applicable.]

§ 140-1. Permit required for discharge of firearms and explosives.

No person shall fire or discharge any firearm, weapon or explosive of any kind or nature, nor throw any missile within the limits of the Town, except in the performance of a duty required or justified by the law, without a written permit from the Select Board.

Chapter 151**ILLCIT DISCHARGE CONTROL**

[HISTORY: Adopted by the Town Meeting of the Town of Avon 6-29-2020 ATM by Art. 9.

Amendments noted where applicable.]

§ 151-1. Purpose and objectives.

- A. The United States Environmental Protection Agency has identified land disturbance and polluted stormwater runoff as major sources of water pollution. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Avon's water bodies and groundwater resources and to safeguard the public health, safety, and welfare and the natural resources of the Town. Increased volumes of stormwater and contaminated stormwater runoff are major causes of:
 - (1) Impairment of water quality and reduced flow in lakes, ponds, streams, rivers, wetlands, and groundwater;
 - (2) Contamination of drinking water supplies;
 - (3) Alteration or destruction of aquatic and wildlife habitat; and
 - (4) Flooding.
- B. The purpose of this bylaw is to prohibit and eliminate illicit connections and discharges; safeguard the public health, safety, environment, and general welfare; protect aquatic resources and wildlife habitat; protect the quality and health of water resources; conserve groundwater supplies; and foster climate change resiliency.
- C. This bylaw seeks to meet that purpose through the following objectives:
 - (1) To prevent pollutants from entering the Town of Avon's municipal storm drain system;
 - (2) To prohibit illicit connections and unauthorized discharges to the municipal storm drain system;
 - (3) To require the removal of all such illicit connections;
 - (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
 - (5) To establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

§ 151-2. Definitions.

For the purposes of this bylaw, the following terms shall have the meanings indicated:

CLEAN WATER ACT — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

DISCHARGE OF POLLUTANTS — The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth of Massachusetts from any source.

GROUNDWATER — Water beneath the surface of the ground, including confined or unconfined aquifers.

ILLCIT CONNECTION — A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

ILLCIT DISCHARGE — Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in § 151-7. The term does not include a discharge in compliance with an NPDES stormwater discharge permit or a surface water discharge permit, or resulting from firefighting activities exempted pursuant to § 151-7B of this bylaw.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Avon, MA.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT — A permit issued by the United States Environmental Protection Agency (EPA) or jointly with the Commonwealth of Massachusetts that authorizes the discharge of stormwater to waters of the United States.

NONSTORMWATER DISCHARGE — Discharge to the municipal storm drain system not composed entirely of stormwater.

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department, or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POLLUTANT — Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, whether originating at a point or nonpoint source, that is considered toxic to humans or the environment and may be introduced into any sewage treatment works or waters of the Commonwealth of Massachusetts. Pollutants shall include, but not be limited to:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Nonhazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes; sewage, fecal coliform, and pathogens;
- G. Dissolved and particulate metals;
- H. Animal wastes;
- I. Rock, sand, salt, and soils;
- J. Construction wastes and residues; and
- K. Noxious or offensive matter of any kind.

PROCESS WASTEWATER — Water which, during manufacturing or processing, comes into direct

contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

STORMWATER — Stormwater, snow melt, and surface water runoff and drainage.

SURFACE WATER DISCHARGE PERMIT — A permit issued by the Department of Environmental Protection pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

TOXIC OR HAZARDOUS MATERIAL OR WASTE — Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic or organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as toxic or hazardous under MGL c. 21C and MGL c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

WASTEWATER — Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product or waste product.

WATERCOURSE — A natural or man-made channel through which water flows, or a stream of water, including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH — All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwaters, and vernal pools.

§ 151-3. Applicability.

This bylaw shall apply to flows entering the municipal storm drainage system.

§ 151-4. Authority.

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and in accordance with the regulations of the federal Clean Water Act found at 40 CFR 122.34 and as authorized by the residents of the Town of Avon at the spring 2020 Town Meeting and as amended.

§ 151-5. Administration. [Amended 1-28-2023STM by Art. 9]

- A. The Select Board shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Department may be delegated in writing by the Town Administrator to employees or agents of the Board of Health, Department of Public Works, Department of Conservation, Building Department, or other Town Department.
- B. The decisions or orders of the Select Board shall be final. Further relief shall be to a court of competent jurisdiction.

§ 151-6. Amendments and regulations. [Amended 1-28-2023STM by Art. 9]

The Select Board may promulgate rules and regulations to effectuate the purposes of this bylaw after conducting an advertised public hearing to receive comments on any proposed revisions. The hearings shall be duly advertised in a paper of general circulation in the Town of Avon no less than 14 days prior to the

date of the public hearing. Failure by the Select Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

§ 151-7. Applicability and exemptions.

A. Prohibited activities:

- (1) Illicit discharges. No person shall dump, discharge, cause, or allow to be discharged any pollutant or nonstormwater discharge into the municipal storm drain system, into a watercourse, or into the waters of the Commonwealth of Massachusetts.
- (2) Illicit connections. No person shall construct, use, allow, maintain, or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation, or custom at the time of connection.
- (3) Obstruction of municipal storm drain system. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system.
- (4) Pumping of water. No owner or occupant shall direct, discharge, lead, or pump water, clear or otherwise, including groundwater, onto any public ways, streets, or adjacent property. Any pumping of groundwater shall be done in such a way that the water does not create a public nuisance to the Town or abutting properties. Any pumping of water into or out of the municipal storm drain system is prohibited without prior written approval from the Department of Public Works.

B. Exemptions:

- (1) Discharge or flow resulting from firefighting activities;
- (2) The following nonstormwater discharges or flows are exempt from this bylaw, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
 - (a) Waterline flushing;
 - (b) Flow from potable water sources;
 - (c) Springs;
 - (d) Natural flow from riparian habitats and wetlands;
 - (e) Diverted stream flow;
 - (f) Rising groundwater;
 - (g) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
 - (h) Discharge from landscape irrigation or lawn watering;
 - (i) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
 - (j) Water from individual residential car washing;
 - (k) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided

test data is submitted to the Town substantiating that the water meets the one ppm standard, and the pool is drained in such a way as not to cause a nuisance or public safety issue and complies with all applicable Town bylaws;

- (l) Discharge from street sweeping;
 - (m) Dye testing, provided verbal notification is given to the Department of Public Works prior to the time of the test;
 - (n) Nonstormwater discharge permitted under an NPDES permit or a surface water discharge permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
 - (o) Discharge for which advance written approval is received from the Board of Health or Conservation Commission as necessary to protect public health, safety, welfare or the environment; and
- (3) Discharge or flow that results from exigent conditions and occurs during a state of emergency declared by any agency of the federal or state government, or by the Avon Town Administrator, Select Board or Board of Health. **[Amended 1-28-2023STM by Art. 9]**

§ 151-8. Emergency suspension of storm drainage system access. [Amended 1-28-2023STM by Art. 9]

The Select Board may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Select Board may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

§ 151-9. Notification of spills.

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth of Massachusetts, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Avon Fire and Police Departments.

§ 151-10. Enforcement.

- A. The Select Board or an authorized agent of the Department of Public Works or Board of Health shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. **[Amended 1-28-2023STM by Art. 9]**
- B. The Select Board or an authorized agent of the Department of Public Works or Board of Health may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include: **[Amended 1-28-2023STM by Art. 9]**
 - (1) Elimination of illicit connections or discharges to the municipal storm drain system;

- (2) Performance of monitoring, analyses, and reporting;
 - (3) That unlawful discharges, practices, or operations shall cease and desist; and/or
 - (4) Remediation of contamination in connection therewith.
- C. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Avon may, at its option, undertake such work, and all costs incurred by the Town shall be charged to the violator, to be recouped through all available means, including the placement of liens on the property.
- D. Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Select Board within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Select Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57 after the 31st day at which the costs first become due. **[Amended 1-28-2023STM by Art. 9]**

§ 151-11. Entry to perform duties under this bylaw. [Amended 1-28-2023STM by Art. 9]

To the extent permitted by Massachusetts law, or if authorized by the owner or other party in control of the property, the Select Board or its agents may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys, or sampling as the Select Board deems reasonably necessary.

§ 151-12. Civil relief. [Amended 1-28-2023STM by Art. 9]

If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Select Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

§ 151-13. Criminal penalty.

- A. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder shall be punished by a fine of not more than \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- B. As an alternative to criminal prosecution or civil action, the Town of Avon may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, in which case the Select Board or an authorized agent of the Select Board shall be the enforcing person. The penalty for each violation shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. **[Amended 1-28-2023STM by Art. 9]**

§ 151-14. Remedies not exclusive.

The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

§ 151-15. Severability.

If any provision, paragraph, sentence, or clause of this bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

Chapter 158**JUNK, SCRAP METAL AND SECONDHAND DEALERS**

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

GENERAL REFERENCES

Pawnbrokers — See Ch. 179.

Yard sales — See Ch. 247.

§ 158-1. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

JUNK — Includes all collected junk, old metal with limited economic value, rags, paper or secondhand articles; excluding old gold and antique furniture.

JUNK DEALER — Any person, firm, or corporation in the Town engaged in the business of paying for or selling junk, old metal, rags, paper or secondhand articles, excluding old gold and antique furniture.

SCRAP METALS — Includes all ferrous and nonferrous metals.

SCRAP METALS RECYCLER — Any person, firm or corporation in the Town engaged in the business of paying for regulated metals that have served their original economic purposes, whether or not engaged in the business of performing the manufacturing process by which metals are converted into raw materials products consisting of prepared grades and having an existing or potential economic value.

§ 158-2. License required. [Amended 1-28-2023STM by Art. 9]

No person, including a scrap metals recycler, salvage yard operator, junk dealer or secondhand dealer, shall engage in the business of purchasing, selling, bartering or dealing any junk, scrap metals or any articles containing those metals, from the general public for the purpose of reselling or recycling the junk or scrap metals without first obtaining a license from the Select Board. No applicant shall be granted a scrap metals recycler license, or junk dealer's license unless the applicant is determined to be a suitable person, of proven character and reputation such as to suggest that the applicant will operate the business in conformity with the requirements of this bylaw. Each such license shall be signed by the Police Chief.

§ 158-3. License details and display.

Every applicant for a scrap metals recycler license or junk dealer's license shall provide the name, address, phone number and e-mail address of all persons having an interest in the license. In the case of a publicly traded corporation, the applicant shall provide the name, address, phone number and e-mail address of the designated individual having general oversight or management responsibility for the business operation. The keeper of a shop shall display his license in some conspicuous place in his shop. Each motor vehicle to be operated under the license shall have the number of the license attached to or painted upon the outside in a conspicuous place in figures at least two inches in height.

§ 158-4. Identification of seller of goods; maintenance of records.

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JUNK, SCRAP METAL AND SECONDHAND DEALERS

§ 158-6

- A. Every person licensed under this bylaw shall require the seller of any goods or merchandise to present a valid motor vehicle operator's license containing his or her photograph or other such suitable identification containing his or her photograph (passport, military, state or federal identification).
- B. For each sale, the licensee shall obtain and record the following information: the vehicle make, model, color, and registration of the seller.
- C. The licensee shall photograph the vehicle the seller uses to transport and the goods or merchandise being sold, so as to obtain a visual record of the general character and appearance of the goods or merchandise.
- D. The licensee shall maintain a record of the same, together with any other records required by law.
- E. Every seller shall sign a statement stating that the seller is the legal owner of the property, or is the agent of the owner authorized to sell the property.
- F. Records of such sales shall be maintained by the licensee for a minimum of two years.

§ 158-5. Records of transactions required; reports to police.

The licensee shall, upon request of the police, provide a report of all transactions, including the type and quantity of materials purchased, the seller's name, address, driver's license number and state of issuance, date of birth, vehicle registration number, vehicle make and model and color. Such report shall be in either written or electronic format as determined by the Police Chief or his or her designee. Such reports shall be provided no more frequently than once per day. Said licensee shall also respond fully and cooperatively to any inquiries for additional information from the police, including the opportunity to examine the licensee's records relating to specific purchases, and to view any materials on site.

§ 158-6. Holding period for property acquired by licensee.

- A. Every licensee shall hold for a minimum of 24 hours and shall notify immediately the Police Department of the following property purchased or received consisting of brass, bronze, copper, cast iron, stainless steel, and/or wrought iron:
 - (1) Statues and sculptures;
 - (2) Weather vanes;
 - (3) Downspouts;
 - (4) Handrails;
 - (5) Decorative fencing;
 - (6) Grave markers, sculptures, plaques and vases, the appearance of which suggest that the articles have been obtained from a cemetery;
 - (7) Manhole covers;
 - (8) Beer kegs;
 - (9) Contractor's, builder's or mechanic's type tools.
- B. During such holding period, such property shall be kept separate and distinct and shall not be

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disfigured or treated in any manner so as to alter or destroy its identity. The Chief of Police or his or her designee may issue an annual waiver for § 158-6 as long as § 158-4 and § 158-5 are maintained by the licensee.

§ 158-7. Enforcement; violations and penalties.

This bylaw shall be monitored and enforced by the Avon Police Department. Violations of any part of this bylaw shall be punished by a fine of \$300 for each offense pursuant to MGL c. 40, § 21. Additionally, the Town may seek equitable relief in Superior Court for any violation of this bylaw.

LOITERING

Chapter 165

LOITERING

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages — See Ch. 107.

Peddling, soliciting and canvassing — See Ch. 184.

Public entertainment — See Ch. 134.

Streets, sidewalks and public property — See Ch. 205.

§ 165-1. Prohibited conduct.

No person shall stand, repose or remain on any public way, sidewalk or public property in such a manner as to obstruct free passage nor shall any person stand or remain upon any public way, sidewalk or other public property for more than five minutes after having been directed to leave by a police officer.

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Chapter 171

MARIJUANA AND TETRAHYDROCANNABINOL

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

§ 171-1. Public consumption prohibited.

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in MGL c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

§ 171-2. Enforcement; violations and penalties. [Amended 1-28-2023STM by Art. 9]

This bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, enforcement by criminal indictment or complaint pursuant to MGL c. 40, § 21, by the Select Board, the Town Administrator, or their duly authorized agents, or any police officer. Whoever violates the provisions of this bylaw as it pertains to marijuana or tetrahydrocannabinol shall be punished by a fine not exceeding \$100 for the first offense, \$200 for the second offense, and \$300 for any third or subsequent offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under MGL c. 94C, § 32L.

Chapter 179**PAWNBROKERS**

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

§ 179-1. License required; definitions; scope. [Amended 1-28-2023STM by Art. 9]

No pawnbroker shall operate in the Town of Avon unless a license has been granted by the Select Board. The term "pawnbroker" shall mean a person, firm, or corporation who or which engages in or carries on the business of lending money on mortgages, deposits or pledges of wearing apparel, jewelry, ornaments, household goods or other personal property or of purchasing such property on condition of selling it back again at a stipulated price, when the property so mortgaged, pledged or purchased is deposited with the lender. This requirement for licensing as a pawnbroker shall not apply to loans made upon stock, bonds, notes or other written evidence of ownership of property or of indebtedness to the holder or owner of such securities.

§ 179-2. Application for license; renewal; term. [Amended 1-28-2023STM by Art. 9]

Application for license as a pawnbroker and for the renewal of such license shall be filed with the Town Clerk for submission to the Select Board for approval or disapproval. The application for the renewal of a license shall be filed with the Town Clerk a minimum of 30 days prior to its expiration. All licenses issued shall expire on May 1 following the date of issue unless sooner revoked.

§ 179-3. Application contents.

The application for a license shall state the name and address of any person or persons having any interest, financial or otherwise, in the business to be conducted under the license. If the applicant is a single proprietorship or a partnership, the name and address of the owner or each partner shall be stated. If the applicant is a corporation, the name and address of the President, Vice President, Clerk and Treasurer-Collector shall be stated.

§ 179-4. License fee; bond.

The fee for a license as a pawnbroker shall be established by ordinance. The licensee, at the time of receiving such license, shall file with the Town Treasurer-Collector a bond payable to the Town of Avon in the sum of \$300, with two sureties approved by the Town Treasurer-Collector, conditioned for the faithful performance of the duties and obligations pertaining to the business so licensed.

§ 179-5. Penalties for violation of licensing requirements.

Whoever, not being licensed, carries on the business of a pawnbroker or whoever, being licensed, carries on such business in any other place or manner than that designated in his license or carries on such business after notice to him that his license has been revoked shall be punished by a fine of \$50.

§ 179-6. Records to be kept. [Amended 1-28-2023STM by Art. 9]

Every pawnbroker shall keep a book in which, at the time of making a loan, shall be legibly written in the English language an account and description, including all distinguishing marks and numbers, of the articles pawned, the amount of money loaned thereon, the time of pawning them, the rate of interest to

be paid on such loan, and the name and residence of the person pawning such articles, and shall furnish a correct record of such transactions, containing all such information, once a week, or more often if required, to the Select Board or to any person designated by it. Every pawnbroker shall also photograph any person pawning articles and keep the photographs with said books as part of his records.

§ 179-7. Interest rates.

- A. Licensed pawnbrokers may charge the following rates of interest:
 - (1) For loans up to and including \$25, 3% per month;
 - (2) For loans over \$25, 3% per month;
- B. No such pawnbroker shall charge or receive any greater rate of interest and the rate shall be determined on the precise sum advanced by the lender.
- C. No pawnbroker shall make or receive any extra charge or fee for storage, care or safekeeping of any goods, articles or things pawned with the licensed pawnbroker. (MGL c. 140, § 78). MGL c. 140, §§ 70 to 85, delegates the licensing of pawnbrokers to cities and towns and requires that cities and towns obtain the Commissioner of Banks' approval of any locally adopted pawnbroker regulations, including provisions to set maximum interest rates.
- D. No pawnbroker may lawfully charge an interest rate that has not been approved by the Division of Banks.

§ 179-8. Record of loan.

Every pawnbroker shall, at the time of making such a loan, deliver to the person who pawns any article a memorandum or note signed by him and containing the substance of the entry required by § 179-6 hereof. No charge shall be made or required by any pawnbroker for such entry, memorandum or note.

§ 179-9. Right of entry for police.

The Chief of Police or any police officer authorized by him may at any time enter upon any premises used by a licensed pawnbroker for the purposes of his business, ascertain how he conducts his business, and examine all articles taken in pawn or kept or stored in or upon said premises and all books and inventories relating thereto. Every such pawnbroker, his clerk, agent or other person in charge of the premises shall exhibit to such officer on demand any or all of such articles, books and inventories.

§ 179-10. Penalties for violation of right-of-entry provisions.

A licensed pawnbroker, clerk, agent or other person in charge of such premises who refuses to admit thereto an officer authorized to enter the same, or who fails to exhibit to him on demand all such articles, books and inventories, and any person who willfully hinders, obstructs or prevents such officer from entering the premises or from making the examinations authorized in § 179-9 hereof shall be punished by a fine of \$200.

§ 179-11. Retention of articles deposited; sale.

Articles deposited in pawn with a licensed pawnbroker shall be retained by the lender on the premises occupied by the pawnbroker for the business for at least four months after the date of deposit. After the expiration of the four-month period, the pawnbroker may sell the articles in a commercially reasonable

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manner, apply the proceeds thereof in satisfaction of the debt or demand and the expense of the notice and sale, and pay any surplus to the person entitled thereto upon demand; provided that no such sale of any article shall be made unless not less than 10 days prior to the sale written notice of the intended sale shall have been sent by registered mail to the person entitled to the payment of any surplus, addressed to her or his residence, as appearing on the records of such pawnbroker. No article taken in pawn by such pawnbroker exceeding \$25 in value shall be disposed of otherwise than as here provided, any agreement or contract between the parties thereto to the contrary notwithstanding (MGL c. 140, § 71). Proof of notice by registered mail shall be kept in the records of the pawnbroker for one year after the date of the sale.

§ 179-12. Compliance with bylaw, statutes and regulations required.

All licensed pawnbrokers shall adhere not only to the provisions of this bylaw but to the provisions pertaining to pawnbrokers set forth in MGL c. 140, §§ 70 through 83, and to the rules and regulations of the Avon Police Department pertaining to pawnbrokers.

§ 179-13. Violations and penalties.

- A. Whoever violates any provision of this bylaw shall be punished by a fine of \$200, except where a different fine is imposed herein for any specific violation of the bylaw. The violation of any provision of this bylaw or the making of any false statements on the application for a license shall be cause for the revocation of the license.
- B. The penalties imposed herein for violations of this bylaw shall be assessed in accordance with the provisions for the noncriminal disposition of violations in MGL c. 40, § 21D, as amended.

§ 179-14. Firearms and weapons.

No pawnbroker shall sell, rent, or lease firearms, rifles, shotguns or machine guns. A pawnbroker who loans money secured by deposit or pledge of a firearm, rifle, shotgun, or machine gun, shall be punished, in accordance with the provisions of MGL c. 140, § 131B, by a fine of not more than \$500 or by imprisonment for not more than one year, or by both.

AVON CODE

Chapter 184

PEDDLING, SOLICITING AND CANVASSING

[HISTORY: Adopted by the Town Meeting of the Town of Avon as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Junk, scrap metal and secondhand dealers — See Ch. 158.

Pawnbrokers — See Ch. 179.

Loitering — See Ch. 165.

Yard sales — See Ch. 247.

ARTICLE I
Soliciting and Canvassing
[Adopted 5-7-2019 ATM by Art. 8]

§ 184-1. Authority and purpose.

This bylaw, adopted pursuant to MGL c. 43B, § 13 and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes registration requirements and specific operation requirements for all persons intending to engage in door-to-door canvassing or solicitation in the Town of Avon in order to:

- A. Protect its citizenry from disruption of the peaceful enjoyment of the residences and from the perpetration of fraud or other crimes; and
- B. Allow for reasonable access to residents in their home by persons or organizations who wish to communicate either commercial or noncommercial messages.

§ 184-2. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

CANVASSING — Includes any one or more of the following door-to-door activities:

- A. Person-to-person distribution of literature, periodicals, or other printed materials, but shall not include placing or dropping off printed materials on the premises;
- B. Circulation of petitions;
- C. Seeking to enlist membership in any organization;
- D. Seeking to present, in person, organizational information or doctrine.

REGISTERED SOLICITOR — Any person who has obtained a valid certificate of registration from the Town as required by this bylaw.

RESIDENCE — Includes every individual dwelling unit occupied for residential purposes by one or more persons.

SOLICITING — Includes any one or more of the following door-to-door activities:

- A. Selling or seeking to obtain orders for the purchase of goods or services for any kind of consideration whatsoever;
- B. Selling or seeking to obtain prospective customers for application or purchase of insurance of any kind;
- C. Seeking to obtain subscriptions to books, magazines, periodicals, newspapers or any other type of publication;
- D. Seeking to obtain gifts or contributions of money, clothing, or any other valuable thing for the support or benefit of any association, organization, corporation or project;
- E. Seeking to obtain information on the background, occupation, economic status, political or religious affiliation, attitudes, viewpoints, or the like of the occupants of a residence for the purpose of selling or using such data, wholly or in part, for commercial purposes.

§ 184-3. Registration required.

Every person or organization intending to engage in soliciting or canvassing door-to-door in the Town of Avon must register with the Police Department at least three days in advance by filing a registration application form with the Chief of Police.

A. Organization application forms shall include the following information:

- (1) The name and address of the organization applying for registration, and the names and addresses of the organization's principal officers;
- (2) The name, title and telephone number, IRS or social security number of the person filing the application form;
- (3) The name and addresses of the person(s), if any, who will be directly supervising the solicitation or canvassing operation in the Town of Avon;
- (4) A list of the names, addresses, dates of birth, and social security numbers of all individuals who will be employed in solicitation or canvassing by the applicant;
- (5) Period of time for which the certificate of registration is needed (Note: No certificate may be granted for longer than a ninety-day period.);
- (6) Names of the last three communities (if any) in which the organization has conducted a solicitation or canvassing operation.

B. Individual registration forms shall be required for all individuals, including those who are affiliated with an organization registered under Subsection A. Individual registration forms shall contain the following information:

- (1) Name and address of the present place of residence and length of residence at that address; if less than three years' residence at present address, the address of residence(s) during the past three years;
- (2) Date of birth;
- (3) Name and address and telephone number of the person or organization whom the applicant represents and the length of time the applicant has been associated with or employed by that person or organization;
- (4) Name and address of employer during the past three years if other than as listed in Subsection B(3);
- (5) Period of time for which the certificate of registration is needed (Note: No certificate may be granted for longer than a ninety-day period.);
- (6) Names of the last three communities (if any) in which the applicant has solicited or canvassed door-to-door;
- (7) Social security number;
- (8) Recent passport-sized photograph of the applicant to be affixed to the registration card;
- (9) Make, model and registration number of any vehicle to be used by the applicant while soliciting or canvassing.

§ 184-4. Registration fee.

Each applicant for registration or re-registration shall pay a fee as posted with the Town Clerk.

§ 184-5. Registration cards.

- A. The Police Chief shall furnish each person engaged in solicitation or canvassing with a registration card which shall contain the following information:
 - (1) The name of the person;
 - (2) A recent photograph of the person;
 - (3) The name of the organization (if any) which the person represents;
 - (4) A statement that the individual has been registered with the Town of Avon Police Department but that registration is not an endorsement of any individual organization;
 - (5) Specific dates or period of time covered by the registration.
- B. Persons engaged in solicitation or canvassing must carry the registration card at all times and present the card to any person solicited or upon request of any police officer.
- C. Registration cards are valid only for the specific dates or time period specified thereon and in no case for longer than 90 days.
- D. The Police Chief shall refuse to register an organization or individual whose registration has been revoked for violation of this bylaw within the previous two-year period, or who has been convicted of any crime affecting personal safety.

§ 184-6. Exceptions.

- A. Registration shall not be required for officers or employees of the Town, county, state or federal governments when on official business and candidates for public office.
- B. Individual registration shall not be required for minors under the age of 18 except in connection with canvassing or soliciting on behalf of a profit organization.

§ 184-7. Duties of solicitors.

- A. It shall be the duty of every solicitor or canvasser, upon going onto any residential premises in the Town of Avon, to first examine any notice which may be posted prohibiting solicitation. If such a notice is posted, the solicitor or canvasser shall immediately and peacefully depart from the premises.
- B. Any solicitor or canvasser who has gained entrance to any residence must do the following:
 - (1) Present his registration card for inspection by the occupant;
 - (2) Request that the occupant read the registration card;
 - (3) Inform the occupant in clear language of the nature and purpose of his business and, if he is representing an organization, the name and nature of that organization.
- C. It shall be the duty of every organization employing solicitors or canvassers or any individual granted an individual registration in accordance with § 184-3B to notify the Police Department daily as to

what area(s) of the Town they will be operating in.

§ 184-8. Restrictions on methods of solicitation.

It shall be unlawful for a solicitor or canvasser to do any of the following:

- A. Falsely represent, directly or by implication, that the solicitation or canvassing is being done on behalf of a governmental organization;
- B. Solicit or canvass at any residence where there is a posted sign prohibiting solicitation, without express prior permission of an occupant;
- C. Solicit or canvass at any residence without express prior permission of an occupant before 9:00 a.m. or after 8:00 p.m. where there is no sign posted otherwise limiting solicitation or the hours of solicitation.

§ 184-9. Violations and penalties.

- A. Any person or organization violating any of the provisions of this bylaw shall be subject to a fine that shall be posted with the Town Clerk for each offense.
- B. Any person or organization who or which for himself, itself or through its agents, servants or employees violates any provision of § 184-7 or 184-8 of this bylaw, or who knowingly provides false information on the registration application, or who is found, after investigation by a police officer, to have conducted himself or itself in a threatening, abusive or illegal fashion, shall have his, her or its registration revoked by the Chief of Police by written notice delivered to the holder of the registration in person, or sent to the holder by certified mail at the address set forth in the application.

§ 184-10. Appeals. [Amended 1-28-2023STM by Art. 9]

Any person or organization who or which is denied registration or whose registration has been revoked may appeal by filing a written notice of appeal with the Select Board. Such appeal must be filed within five days after the receipt of the written notice described in § 184-9B. The Select Board shall hear the appeal at its next scheduled meeting after the filing of the written notice of appeal; provided, however, that if the Select Board fails to make a determination within 30 days after the filing of the appeal, the registration shall be deemed granted or reinstated as the case may be.

§ 184-11. Severability.

Invalidity of any individual provision of this bylaw shall not affect the validity of the bylaw as a whole.

ARTICLE II

Sales on Public or Private Property

[Adopted 5-7-2019 ATM by Art. 8; amended in its entirety 1-28-2023STM by Art. 9]

§ 184-12. License required.

No person shall sell, solicit or display goods, products, articles, wares or merchandise of any kind or nature upon or adjacent to any Town way or in or upon any public property, or from door to door within the Town unless licensed by the Select Board.

SOLID WASTE

Chapter 196

SOLID WASTE

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

GENERAL REFERENCES

Junk, scrap metal and secondhand dealers — See Ch. 138.

Board of Health rubbish pickup and removal contracts — See Ch. 300, § 300-5.1 and § 300-5.2.

Streets, sidewalks and public property — See Ch. 205.

§ 196-1. Refuse and litter.

No person shall throw, place or deposit in any manner upon any way or public property any refuse, discarded materials of any kind and nature or paper, except in proper containers for the immediate removal therefrom. Police officers and health officers of the Town shall also enforce the provisions of MGL c. 270, § 16.

§ 196-2. Rubbish collection.

- A. No person as owner or as one in control of the premises shall place rubbish upon the sidewalk in a manner blocking pedestrian traffic.
- B. No person as owner or as one in control of the premises shall place rubbish on the curbside for pickup in advance of 24 hours prior to a scheduled pickup.

Chapter 201**STORAGE TANKS**

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

§ 201-1. Applicability.

The following shall apply to all single and multiple tanks, either buried or above ground, which have a capacity of at least 600 gallons and will at any time contain gasoline, kerosene, fuel oil (all grades), or other hydrocarbon liquids or any fluid which may cause contamination of a water supply.

§ 201-2. Vaults for aboveground tanks.

For aboveground tanks, the term "vault" as used herein shall be defined as a walled area having a base and being of sufficient volume to hold the entire volume of the enclosed tank or tanks.

§ 201-3. Construction of new tanks.

- A. All tanks newly installed in the Town of Avon shall be dual containment tanks or tanks placed within concrete vaults. The vault shall be constructed of materials which are impervious to the solution stored. Concrete vaults must be completely painted with a paint system impervious to the liquid stored.
- B. Filling, dispensing and venting piping systems for new tanks shall be installed within a conduit sloped to drain to the vault. The conduit shall be constructed of corrosion-resistant materials which are impervious to the solution stored.
- C. Construction details and materials shall be subject to the approval of the Fire Chief.
- D. A set of plans shall be submitted to the Fire Chief for his approval prior to installation work.

§ 201-4. Testing and repair or replacement of existing tanks.

- A. All existing tanks, including the filling, dispensing and venting piping systems, shall be tested for integrity by the Kent-Moore Tank System Tightness Test.
- B. The test shall be performed by qualified persons in accordance with standard practices in the presence of the Fire Chief. The owner shall be responsible for all costs and the test results shall be furnished to the Town.
- C. Any existing tank which fails the Kent-Moore Hydraulic test shall be either:
 - (1) Immediately replaced with a vaulted tank;
 - (2) If vaulted, immediately repaired; or
 - (3) Suitably dismantled or abandoned with its contents removed. Removal, repair or abandonment shall be done with approval of the Fire Chief and/or issuance of a permit by him where required by state regulations.

§ 201-5. Requirements for all tanks.

§ 201-5

STORAGE TANKS

- A. A perpetual inventory of the total product received, the total dispensed, and the total in storage shall be maintained for each tank in the Town of Avon. Any shortage of 50 gallons or more shall be immediately reported to the Fire Chief.
- B. Continued operation of licensed storage tanks is governed by MGL c. 148, § 13, requiring annual registration of such license.
- C. Annual registration applications shall be accompanied by a perpetual inventory of tank contents for the preceding year.
- D. There shall be at least a quarterly inspection by a qualified person of the vault sump for evidence of product, and a record of such inspection entered under that date in the perpetual inventory log.

§ 201-6. Violations and penalties. [Amended 1-28-2023STM by Art. 9]

Failure to adhere to any of this bylaw shall constitute a breach of Town bylaws and shall be cause for such penalty as may be prescribed by the Select Board; i.e., revocation or suspension of license, fine or fines, or both.

AVON CODE

Chapter 205

STREETS, SIDEWALKS AND PUBLIC PROPERTY

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages — See Ch. 107.

Loitering — See Ch. 165.

Public entertainment — See Ch. 134.

Peddling, soliciting and canvassing — See Ch. 184.

§ 205-1. Private drains.

No person shall construct or maintain any drain or conduit from any real property, home, shop or other building to or upon any street or way so as to discharge water or other matter in or upon any street, way, brook or storm drain.

§ 205-2. Markings. [Amended 1-28-2023STM by Art. 9]

No person shall write, mark or make notations upon any public way or property without written permit of the Select Board or Superintendent of Streets.

§ 205-3. Coasting. [Amended 1-28-2023STM by Art. 9]

No person shall coast or skate upon any Town way or property unless such place has been designated by the Select Board through public notice.

§ 205-4. Transportation of buildings. [Amended 1-28-2023STM by Art. 9]

No person shall move any building along or across any Town way without obtaining a permit for such moving from the Select Board. This permit shall definitely outline the route of such moving, and shall also specify dates within or upon which this moving is to be accomplished, and will require the applicant to post bond and contain such other terms, conditions and covenants as the Board may require.

SWIMMING POOLS

Chapter 209

SWIMMING POOLS

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

§ 209-1. Permit required; construction requirements. [Amended 1-28-2023STM by Art. 9]

No person owning land shall install, construct, or use a swimming pool, the capacity of which is 18 inches of water or more at its deepest point, without first obtaining a permit authorizing such work from the Inspector of Buildings, who, in conjunction with the Select Board, shall enforce the following requirements:

- A. The pool's location, dimensions, depths and volume in gallons shall be consistent with public health and safety and standard principles of building construction;
- B. All pools shall be enclosed by an enclosure a minimum of four feet in height including self-latching gates, which shall not be less than four feet in height above the ground;
- C. The type and size of filter systems and filtration and backwash capacities shall be approved by the Board of Health;
- D. The pool piping layout and all pipes and valves shall be approved by the Inspector of Plumbing;
- E. All wires, wiring and electrical connections and motors shall be approved by the Inspector of Wires.

§ 209-2. Inspections.

The permit shall be granted on condition that the pool may be inspected at reasonable times before or during its operation by any of the above-named officials or their representatives.

§ 209-3. Revocation of permit.

Failure to maintain said pool in safe condition pursuant to this bylaw shall result in revocation of said permit.

§ 209-4. Permit fee. [Amended 1-28-2023STM by Art. 9]

The Select Board may require the payment by the owner of a swimming pool of a permit fee for each permit granted.

AVON CODE

Chapter 222

VEHICLES, ABANDONED OR JUNK

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

GENERAL REFERENCES

Junk, scrap metal and secondhand dealers — See Ch. 158.

Zoning — See Ch. 255.

Vehicles and traffic — See Ch. 226.

§ 222-1. Outdoor storage of junk vehicles prohibited.

No person as owner or as one in control of a premises, unless licensed dealers as provided by law, shall keep in an area exposed to the view of the public and/or any abutter any vehicle which is worn out, discarded, ready for dismantling, collected or stored for salvage or for stripping unless such motor vehicle is properly registered with the Registry of Motor Vehicles. Any parts from such a vehicle shall be considered a junk motor vehicle for the purposes of this bylaw.

§ 222-2. Outdoor storage of unregistered motor vehicles.

The outdoor storage of more than one unregistered motor vehicle is prohibited.

§ 222-3. Violations and penalties; enforcement.

- A. Once a written violation notice is issued, the owner and/or person or entity in control of the property shall have 30 days to correct the violation without penalty. If the violation is not corrected within said 30 days, a fine per violation that shall be posted with the Town Clerk shall be imposed upon the owner and/or person or entity in control of the property, pursuant to MGL c. 40, § 21, or civil fines pursuant to MGL c. 40, § 21D.
- B. The provisions of this bylaw shall be enforced by the Building Inspector, Police Department and/or Prosecuting Officer of the Town of Avon Police Department. The Building Inspector shall be responsible for the maintenance of records pertaining to violations and penalties imposed hereunder.
- C. For the purposes of this section, the existence of a violation shall be deemed a separate offense for each day that such violation continues.
- D. If the owner or person or entity in control of the property fails to pay fines issued for violations of this bylaw, the Town may impose a lien upon the property pursuant to MGL c. 40, § 58.

VEHICLES AND TRAFFIC

Chapter 226

VEHICLES AND TRAFFIC

**[HISTORY: Adopted by the Town Meeting of the Town of Avon as indicated in article histories.
Amendments noted where applicable.]**

ARTICLE I

Winter Parking Ban

[Adopted 5-7-2019 ATM by Art. 8; amended in its entirety 1-28-2023STM by Art. 9]

§ 226-1. Authority to declare; effect; liability for removal costs.

The Select Board may annually declare a winter parking ban on Town ways and property to be in effect from November 15 to April 15 of the succeeding year. Such order shall grant authority to the Superintendent of Streets and the Chief of Police or their designated agents to cause to be removed any vehicle which interferes with snow removal or safe vehicular traffic upon public ways or property. All costs of removal and storage of such vehicle(s) shall be borne by the vehicle owner of record.

ARTICLE II

Parking of Commercial Vehicles
[Adopted 5-7-2019 ATM by Art. 8]

§ 226-2. Overnight, weekend and holiday restrictions.

There shall be no all-night and weekend parking of commercial vehicles of five tons, or more, on residential streets, unless for loading or unloading for a period of two hours from 9:00 a.m. to 6:00 p.m. of the same day. No parking at all on Sundays or holidays.

ARTICLE III

Fire Lanes**[Adopted 5-7-2019 ATM by Art. 8]****§ 226-3. Blocking private ways prohibited.**

It shall be unlawful to obstruct or block a private way with a vehicle or by any other means so as to prevent access by fire apparatus or equipment to any multiple-unit residential structure, stores, shopping centers, schools, businesses or place of public assembly.

§ 226-4. Establishment.

The Fire Chief shall designate an area consisting of a strip of land at least 12 feet in width running around the perimeter of any building, except one used for single- or two-family residential purposes, as a fire lane. Such lane shall extend from the curbing, if any, or if no curbing exists as otherwise designated by the Fire Chief.

§ 226-5. Signs and pavement markings.

The owner or other person having charge of any building shall provide and install signs and pavement markings, as directed by the Fire Chief, to designate fire lanes, such signs and pavement markings to read: "FIRE LANE - NO PARKING - TOW ZONE."

§ 226-6. Towing of vehicles in violation.

Any vehicle or other object blocking a fire lane established pursuant to this bylaw may, at the direction of a police officer of the Town, be removed or towed by the Town at the expense of the owner and without liability to the Town of Avon.

§ 226-7. Violations and penalties.

- A. If the owner or other person having charge of a building shall fail to conform with the order of the Fire Chief to establish and to mark an area running around the perimeter of a building as a fire lane within 30 days following the date such order is issued, such person shall be subject to a penalty that will be posted with the Town Clerk for each day on which such violation continues.
- B. Any person who parks a vehicle or other object in an area which has been established and designated and which is marked as a fire lane shall be subject to a penalty of \$100 for each such offense.

§ 226-8. Noncriminal disposition.

Any person found in violation of this bylaw by any police officer, or the Chief of the Fire Department, or the officer in charge of any shift in the Fire Department, may be cited by such person for such offense pursuant to the noncriminal disposition provisions of these bylaws. The penalty for each offense, so cited, shall be posted with the Town Clerk. Each day on which a violation exists shall be deemed to be a separate, distinct offense.

ARTICLE IV
Handicapped Parking
[Adopted 5-7-2019 ATM by Art. 8]

§ 226-9. Reserved spaces to be provided.

- A. Any person or body having lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees shall reserve parking spaces in said off-street parking area for vehicles owned and operated by a disabled veteran or handicapped person and vehicles transporting a handicapped person, which vehicles bear the distinguishing license plate authorized by MGL c. 90, § 2, or a license plate similarly authorized by the laws of any other state of the United States or under the laws of any Canadian province, in accordance with 521 CMR § 23.2.1.
- B. The parking spaces required according to this section shall be identified by the use of above-grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May Be Removed at Owner's Expense"; shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be at least eight feet wide, not including the cross-hatch access aisle as defined by the Architectural Access Board established in MGL c. 22, § 13A.

§ 226-10. Enforcement; violations and penalties.

The Chief of Police shall be responsible for the enforcement of § 226-9 of this bylaw. The Chief of Police shall, by written notice to the person or body having control of any off street parking area in which such spaces are not provided, or are not provided according to the formula contained in this bylaw, direct that steps be taken to bring the area into compliance within a period not to exceed 30 days. Whenever such notice has been given, and such spaces have not been provided within the time allowed, the Chief of Police may enforce this bylaw pursuant to the noncriminal provisions of these bylaws or such officer may seek enforcement through the provisions for criminal disposition pursuant to MGL c. 40, § 21. The penalty for failure to comply with the provisions of this bylaw under the noncriminal method of enforcement shall be in accordance with state law for each space not provided for each day each such space is not so provided.

§ 226-11. Unauthorized use of reserved spaces.

- A. No person shall park a vehicle or leave a vehicle unattended in a space designated for use by a disabled veteran or a handicapped person unless such vehicle bears the distinguishing license plate as provided in the § 226-9 of this bylaw. No person shall park a vehicle or leave a vehicle unattended which blocks or obstructs a curb ramp designed for use by handicapped persons as a means of egress to a street or public way. No person shall park in a cross-hatched access aisle associated with a space designated for use by a disabled veteran or a handicapped person.
- B. This section may be enforced by any police officer pursuant to the provisions for the noncriminal enforcement of these bylaws. The penalty for violations in this manner shall be in accordance with state law.

WATER

Chapter 235

WATER

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 255.

Subdivision of land — See Ch. 350.

State Environmental Code — See Ch. 300, Art. VII.

Water Department — See Ch. 375.

§ 235-1. Unauthorized connection or use prohibited.

No person shall connect to, operate, tamper with or otherwise make use of any Town-owned, or privately owned, fire hydrant, standpipe connection, sprinkler riser or any other connection to the municipal water supply system except as may be specifically authorized, in writing, by the Water Superintendent or the Fire Chief.

§ 235-2. Violations and penalties.

Any police officer, the Fire Chief or any other authorized member of the Fire Department or the Water Superintendent may prosecute any person found to be in violation of this bylaw. The penalty for any violation prosecuted pursuant to the provisions of MGL c. 40, § 21 shall be the maximum permitted by law and in the discretion of the court to impose. The penalty for any violation prosecuted pursuant to the provisions of MGL c. 40, § 21D shall be posted with the Town Clerk.

Chapter 239**WETLANDS**

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 255.

Subdivision of land — See Ch. 350.

§ 239-1. Purpose.

The purpose of this bylaw is to protect the wetlands, related water resources, and adjoining land areas in Avon by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, drainage, water pollution, wildlife habitat, agriculture, recreation and aquaculture values (collectively, the "wetland values protected by this bylaw").

§ 239-2. Jurisdiction.

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall remove, fill, dredge, build upon, degrade, or otherwise alter the following resource areas: any freshwater wetland; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds; streams; creeks; lands under water bodies; lands subject to flooding or inundation by groundwater or surface water; and lands within 100 feet of any of the aforesaid resource areas (collectively the "resource areas protected by the bylaw").

§ 239-3. Exceptions.

- A. The permit and application required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunication services, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.
- B. The permit and application required by this bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural use, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.
- C. The permit and application required by this bylaw shall not apply to emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the commonwealth or a political subdivision thereof, provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement, provided that the Commission or its agent certifies the work as an emergency project, provided that the work is performed only for the

time and place certified by the Commission for the limited purposes necessary to abate the emergency, and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

- D. Other than as stated in this section, the exceptions provided in the Wetlands Protection Act shall not apply under this bylaw.

§ 239-4. Applications for permits and requests for determination; consultant fee.

- A. Written application shall be filed with the Commission to perform activities regulated by this bylaw affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.
- B. The Commission in an appropriate case may accept as the permit application and plans under this bylaw the notice of intent and plans filed under the Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00.
- C. Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a request for determination shall include such information and plans as are deemed necessary by the Commission.
- D. At the time of a permit application or request for determination, the applicant shall pay a filing fee specified in regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00.
- E. Upon receipt of a permit application or request for determination, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the consultant fee. The specific consultant services may include but are not limited to wetlands survey and delineation, analysis of wetland values, hydrogeologic and drainage analysis, wildlife habitat evaluations, and environmental land use law.
- (1) The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. The applicant shall pay the fee to the Town to be put into a consultant services account of the Commission, which may be drawn upon by the Commission for specific consultant services approved by the Commission at one of its public meetings.
 - (2) The exercise of discretion by the Commission in making its determination to require the payment of a fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.
 - (3) The Commission shall return any unused portion of the consultant fee to the applicant unless the Commission decides at a public meeting that other action is necessary. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of Massachusetts General Laws.

- (4) The maximum consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be according to the following schedule:

Project Cost	Maximum Fee
Up to \$50,000	No fee
\$50,000 to \$100,000	\$1,000
\$100,001 to \$500,000	\$2,500
\$500,001 to \$1,000,000	\$5,000
\$1,000,001 to \$1,500,000	\$7,500
\$1,500,001 to \$2,000,000	\$10,000
Each additional \$500,000 project cost increment (over \$2,000,000) shall be charged at an additional \$2,500 maximum fee per increment.	

- (5) The project cost means the estimated, entire cost of the project, including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The consultant fee shall be paid pro rata for that portion of the project cost applicable to those activities within resource areas protected by this bylaw. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the Commission's request, but the lack of such estimated project costs shall not allow the applicant to avoid the payment of the consultant's fee.
- F. The Town hereby accepts MGL c. 44, § 53E for purposes of administering jointly the filing fee and professional service conservation account provisions of this bylaw.

§ 239-5. Notice and hearing.

- A. Any person filing a permit application or a request for determination with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing address shown on the most recent applicable tax list of the Assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water.
- (1) The notice to abutters shall enclose a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as the person making the request.
- (2) When a notice of intent proposes activities on land under water bodies and waterways or on a tract of land greater than 50 acres, written notification shall be given to all abutters within 100 feet of the proposed project site. For the purposes of this section, "project site" shall mean lands where the following activities are proposed to take place: dredging, excavating, filling, grading, the erection, reconstruction or expansion of a building or structure, the driving of pilings, the construction or improvement of roads or other ways and the installation of drainage, sewerage and water systems, and "land under water bodies and waterways" shall mean the bottom of, or

land under, the surface of the ocean or an estuary, creek, river, stream, pond or lake. When a notice of intent proposes activity on a linear-shaped project site longer than 1,000 feet in length, notification shall be given to all abutters within 1,000 feet of the proposed project site. If the linear project site takes place wholly within an easement through another person's land, notice shall also be given to the landowner.

- B. The Commission shall conduct a public hearing on any permit application or request for determination, with written notice given at the expense of the applicant, five business days prior to the hearing, in a newspaper of general circulation in the municipality.
- C. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application or request for determination unless an extension is authorized in writing by the application.
- D. The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.
- E. The Commission, in an appropriate case, may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00.
- F. The Commission shall have authority to continue the hearing to a date certain announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant, deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed in § 239-6. In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available.

§ 239-6. Coordination with other boards.

- A. Any person filing a permit application or a request for the determination with the Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the Select Board, Planning Board, Board of Appeals, Board of Health, Town Engineer and Building Inspector. A copy shall be provided in the same manner to the Conservation Commission of the adjoining municipality, if the application or request pertains to property within 300 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until the boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. **[Amended 1-28-2023STM by Art. 9]**
- B. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission prior to final action.

§ 239-7. Permit considerations, determinations and conditions.

- A. If the Commission, after a public hearing, determines that the activities which are subject to the application are likely to have a significant or cumulative effect upon the wetland values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions.

- B. The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the wetland values protected by this bylaw; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.
- C. A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one-year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. **[Amended 5-7-2024 ATM by Art. 10]**
- D. For good cause, the Commission may revoke or modify a permit or determination issued under this bylaw after notice to the holder of the permit; then notice to the public, abutters, and Town boards, pursuant to § 239-5, and a public hearing may be held.
- E. The Commission in an appropriate case may combine the permit or determination issued under this bylaw with the order of conditions and determination of applicability issued under the Wetlands Protection Act.
- F. No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected thereby is registered land, in the Registry Section of the Land Court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that a permit has been so recorded.

§ 239-8. Regulations.

- A. After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.
- B. At a minimum, these regulations shall define key terms in this bylaw not inconsistent with the bylaw and procedures governing the amount and filing of fees.

§ 239-9. Definitions.

- A. The following definitions shall apply in the interpretation and implementation of this bylaw:
 - ALTER — Includes, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:
 - (1) Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
 - (2) Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
 - (3) Drainage, or other disturbance of water level or water table;

- (4) Dumping, discharging or filling with any material which may degrade water quality;
- (5) Placing of fill, or removal of material, which would alter elevation;
- (6) Driving of piles, erection, or repair of buildings, or structures of any kind;
- (7) Placing of obstructions or objects in water, or in seasonal waterways;
- (8) Destruction of plant life, including cutting of trees;
- (9) Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters;
- (10) Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater; and
- (11) Application of pesticides or herbicides.

PERSON — Includes any individual, group of individuals, association, partnership, corporation, company, business, organization, trust, estate, the commonwealth or political subdivision thereof to the extent subject to Town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

- B. Except as otherwise provided in regulations of the Commission, the definitions of terms in this bylaw shall be set forth in the Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00.

§ 239-10. Security.

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

- A. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient, in the opinion of the Commission, to be released in whole or in part upon issuance of a certificate of compliance for work performed pursuant to the permit;
- B. By a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

§ 239-11. Enforcement; violations and penalties.

- A. No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity or fill to be left in place, without the required authorization pursuant to this bylaw.
- B. The Commission, its agents, officers, and employees shall have authority, with or without prior approval from the property owner, to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or samplings as the Commission deems necessary.
- C. The Commission shall have authority to enforce this bylaw, its regulations, and permits issued

thereunder by violation notices, administrative orders, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations.

- D. Upon request of the Commission, the Select Board and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law. **[Amended 1-28-2023STM by Art. 9]**
- E. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.
- F. Any person who violates any provision of this bylaw, regulation thereunder, or permits or administrative orders issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permit, or order violated shall constitute a separate offense. The provisions of this bylaw may be enforced by the Conservation Officer or by any police officer of the Town of Avon in the manner provided by MGL c. 40, § 21D.
- G. As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the noncriminal disposition procedure set forth in MGL c. 40, § 21D, and adopted by the Town as a general bylaw.¹¹

§ 239-12. Burden of proof.

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the wetland values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

§ 239-13. Appeals.

A decision of the Commission shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with MGL c. 249, § 4.

§ 239-14. Relation to Wetlands Protection Act.

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the home rule statutes, independent of the Wetlands Protection Act, MGL c. 131, § 40, and regulations thereunder.

§ 239-15. Severability.

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

11. Editor's Note: See Ch. 1, General Provisions.

Chapter 247**YARD SALES**

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 8. Amendments noted where applicable.]

GENERAL REFERENCES

Junk, scrap metal and secondhand dealers — See Ch. 158.

Peddling, soliciting and canvassing — See Ch. 184.

Pawnbrokers — See Ch. 179.

Zoning — See Ch. 255.

§ 247-1. Purpose.

The purpose of this bylaw is to properly control the use of yard sales for the purpose of selling usable items which may otherwise be discarded and to provide for the general health and safety of the public.

§ 247-2. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

PERSON — Any individual or group of individuals, but not including nonprofit organizations.

PREMISES — The entire area of any parcel of land under single ownership, including contiguous parcels and parcels lying directly across any street or way.

YARD SALE — Includes all sales entitled "yard sale," "garage sale," "lawn sale," "attic sale," "cellar sale," "barn sale," "tag sale," or any similar casual sale of tangible personal property, whether or not said sale is advertised by any means whereby the public at large is or can be made aware of such sale.

§ 247-3. Permit required.

- A. It shall be unlawful for any person to conduct a yard sale within the Town of Avon without obtaining from the Building Inspector a permit which shall be known as a "yard sale permit."
- B. A fee as posted with the Town Clerk shall be charged for each yard sale.

§ 247-4. Issuance and display of permit.

- A. A yard sale permit shall be issued not more than once in any one month or four times in any one year to any one premises.
- B. Each permit issued under this bylaw must be available on the premises throughout this entire period of the sale and must be shown to any police officer or zoning enforcement officer if requested.

§ 247-5. Contents of permit application.

The information to be filed with the Building Inspector upon application for a yard sale permit shall be as follows:

- A. Name and address of person to conduct said sale.

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- B. Name of the owner of the property on which the sale is to be conducted and the written consent of the owner if the applicant is other than the owner.
- C. Location at which the sale is to be conducted.
- D. Hours during which the sale will be held.
- E. Date and nature of any past sale held within one year.

§ 247-6. Operating restrictions.

- A. The yard sale shall be restricted to the sale of personal property belonging to the applicant or applicant's family, which is being sold on their own approved premises.
- B. One temporary sign advertising the yard sale may be erected on the day(s) of the sale on the premises in accordance with Zoning Bylaw requirements,¹² and shall be promptly removed at the conclusion of the sale. Additional signage shall be subject to the Avon Temporary Sign Policy. Signs that create a nuisance or threat to public safety are prohibited and shall be removed at the request of the zoning enforcement official or a police officer.
- C. The yard sale holder shall be responsible for orderly parking and traffic flow. If parking or traffic flow conditions create a threat to the safety of the public, the yard sale event shall be terminated at the request of a police officer.
- D. No yard sale event shall be held at a time or place so that it negatively impacts or interferes with any other public event in the community.

§ 247-7. Violations and penalties.

Any person who shall violate any provision of this bylaw shall be liable to a fine of \$25 for each violation. Each day shall constitute a separate offense.

12. Editor's Note: See Ch. 255, Zoning.

ZONING

Chapter 255

ZONING

[HISTORY: Adopted by the Town Meeting of the Town of Avon 5-7-2019 ATM by Art. 9. Amendments noted where applicable.]

GENERAL REFERENCES

Storage tanks — See Ch. 201.

Wetlands — See Ch. 239.

Swimming pools — See Ch. 209.

Subdivision of land — See Ch. 350.

ARTICLE I
General Provisions

§ 255-1.1. Title.

This bylaw shall be known, and may be cited, as the "Revised Zoning Bylaw of the Town of Avon, Massachusetts."

§ 255-1.2. Scope.

The Revised Zoning Bylaw of the Town of Avon shall consist of the bylaw adopted at the 1977 Annual Town Meeting of the Town of Avon, and all amendments thereto as may from time to time be adopted.

§ 255-1.3. Authority.

The Revised Zoning Bylaw of the Town of Avon has been adopted, and may from time to time be amended, in conformity with independent constitutional powers of cities and towns to protect the health, safety, and general welfare of their present and future inhabitants, as provided by Article 89 of Amendments to the State Constitution and in conformity with laws enacted by the General Court in conformity with powers reserved to it by said article of amendment.

§ 255-1.4. Purposes.

This bylaw is enacted for purposes which include, but are not intended to be limited to, the following: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic, and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space, and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town; to preserve and increase amenities and to do so in a manner consistent with the recommendations of the Master Plan, with any divergence from such recommendations to be explained as per amended §§ 255.3.3, 255.4.1 and 255.6.1 of the Town of Avon zoning bylaws.

ARTICLE II Definitions

§ 255-2.1. Word usage; terms defined.

For the purpose of this bylaw, certain terms and words shall have the following meanings. Words used in the present tense include the future; the singular number includes the plural; the plural the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended," or "offered" to be used or occupied; the words "building," "structure," "lot," "land," or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "shall" is always mandatory and not merely directory. Terms and words not defined herein but defined in the State Building Code as it is applicable in the Town of Avon, or in the Avon Subdivision Regulations,¹³ shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, Latest Edition. Uses listed in the Table of Use Regulations¹⁴ under the classes "Retail" and "Service Trade" and "Wholesale Trade" and "Manufacturing" shall be further defined by the Standard Industrial Classification Manual published by the United States Bureau of the Census.

ABANDONMENT — The visible or otherwise apparent intention of an owner to discontinue a nonconforming use of a building or premises indicated by the removal of the characteristic equipment or furnishings used in the performance of the nonconforming use, without its replacement by similar equipment or furnishings, by the replacement of the nonconforming use or building by a conforming use or building, or by the cessation of the nonconforming use for a period of two years.

ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock-in-trade printed matter, books, magazines, picture periodicals, motion-picture films, videocassettes, or coin-operated motion-picture machines for sale, barter or rental which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "sexual conduct" as that term is defined in MGL c. 272, § 31.

ADULT CABARET OR CLUB — A restaurant, or other establishment licensed under MGL c. 138, § 12, which, as a form of entertainment, features exotic dancers, strippers, male or female impersonators or similar entertainers, or allows a person or persons to work in a state of nudity; or provides films, motion pictures, videocassettes, compact disks, slides, photographic reproductions, or other visual and/or audio media, regardless of form or method of presentation, which are characterized by the depiction or description of sex-related anatomical areas, or relating to any sexual activity, including sexual conduct or sexual excitement, as defined in MGL c. 272, § 31, as amended.

ADULT LIVE ENTERTAINMENT ESTABLISHMENTS — Establishments which feature live entertainment which consists of entertainers engaging in "sexual conduct" or "nudity" as defined in MGL c. 272, § 31.

ADULT MINI-MOTION-PICTURE THEATER — An enclosed building with a capacity for fewer than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "sexual conduct" as defined in MGL c. 272, § 31, for observation by patrons therein.

ADULT MOTEL — A motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which are distinguished or characterized by its emphasis depicting, describing, or relating to sexual

13. Editor's Note: See Ch. 350, Subdivision of Land.

14. Editor's Note: See § 255-5.3, Table of Use Regulations.

conduct or sexual excitement as defined in MGL c. 272, § 31, as amended.

ADULT MOTION-PICTURE THEATER — An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "sexual conduct" as defined in MGL c. 272, § 31, for observation by patrons therein.

ADULT PARAPHERNALIA STORE — An establishment having as a substantial or significant portion of its stock-in-trade devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT USE — A use of a building or business (whether partial or entire) for the purpose of engaging in the sale, display, hire, trade, exhibition or viewing of materials or entertainment depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31, including adult bookstores, adult live entertainment, adult motion-picture theaters, adult paraphernalia stores and adult video stores, massage service establishments, sexual encounter clubs, adult cabarets or clubs, adult motels or similar establishments customarily excluding any minor by reason of age as a prevailing practice, as may be further defined in this bylaw.

ADULT USE OVERLAY ZONE — An overlay zone superimposed on a portion of the Industrial Zone that shall allow, in addition to the uses allowed in the underlying zone, adult uses in accordance with § 255-5.5, Adult entertainment, geographically defined to include that portion of the Industrial Zone located in the northwest quadrant of the Town of Avon, bounded by the Industrial Zone line and including the following existing streets: Bodwell Street, Bodwell Street Extension, Wales Avenue, Old Page Street, Page Street, Parker Drive, Ledin Avenue, Strafello Drive, Robbie Road, Kiddie Drive, Murphy Drive, Doherty Avenue and Tracy Drive and any other ways that might hereinafter be developed within the boundaries of this overlay district as shown on the Official Zoning Map of the Town of Avon.

ADULT VIDEO STORE — An establishment having as a substantial or significant portion of its stock-in-trade videos, movies, computer software, computer discs, laser discs or other film material which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31, as it may be amended.

ALTERATION — Any construction, reconstruction, or other action resulting in a change in the structural parts or height, number of stories or exits, size, use or location of a building or other structure.

AQUIFER — A geologic formation composed of rock, sand or gravel containing significant amounts of potentially recoverable water.

BASEMENT — That portion of a building that is partly or completely below grade plane. (See "story above grade plane" in 780 CMR 202.0.) A basement shall be considered to be a story above grade plane where the finished surface of the floor above the basement is:

- A. More than six feet (1,829 mm) above grade plane;
- B. More than six feet (1,829 mm) above the finished ground level for more than 50% of the total building perimeter; or
- C. More than 12 feet (3,658 mm) above the finished ground level at any point.

BOARDINGHOUSE — A dwelling in which four or more individual rooms without separate cooking and sanitary facilities are rented, as with rooming houses or lodging houses, and meals are provided in a common dining room.

BUILDING — A combination of any materials, whether portable or fixed, having a roof, and enclosed within exterior walls or fire walls, built to form a structure for the shelter of persons, animals or property.

For the purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

BUILDING, ACCESSORY — A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

BUILDING AREA — The aggregate of the maximum horizontal cross-section area (the "footprint") as enclosed by a foundation, pier, piling and/or footings of all buildings on a lot, exclusive of chimneys, expressed as a percentage of the total lot area.

BUILDING, ATTACHED — A building having a portion of one or more walls in common with one or more adjoining buildings.

BUILDING, DETACHED — A building having open spaces on all sides.

BUILDING, PRINCIPAL — A building in which is conducted the principal use of the lot on which it is located.

BUSINESS — A commercial activity engaged in as a means of livelihood or profit; any activity in which goods and/or services are exchanged for one another or money.

BUSINESS OVERLAY DISTRICT — Allows a commercial activity to be established in an existing zone that initially prohibits the commercial use as of right. Commercial activity is defined as a means of livelihood or profit for permitted activity to occur, in which goods and/or services are exchanged for one another or money.

BYLAW — The Revised Zoning Bylaws of the Town of Avon.

CAMPING AND RECREATIONAL EQUIPMENT — Includes the following:

- A. **TRAVEL TRAILER** — A vehicular, portable structure built upon a chassis and designed to be towed by another vehicle and having sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation, and vacation uses.
- B. **PICK-UP COACH** — A structure designed primarily to be mounted upon a pick-up chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation, and vacation use.
- C. **CAMPING TRAILER** — A folding or collapsible structure mounted upon wheels and designed to be towed by another vehicle and having sufficient equipment to render it suitable to be used, when raised, as a temporary dwelling for travel, recreation, and vacation use.
- D. **MOTOR HOME** — A portable, temporary dwelling consisting of a single, integrated, self-propelled vehicle with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation, and vacation use.
- E. **BOAT** — Any vessel or other craft designed to navigate upon water.
- F. **BOAT TRAILER** — A trailer specifically designed to be used to transport a boat.
- G. **UTILITY TRAILER** — A small open device mounted upon wheels and designed to be towed by another vehicle and which is suitable for transporting tents, sleeping bags, blankets, and other camping and recreational equipment.

CELLAR — See "basement."

CLEAR AREAS — The area surrounding a WECF to be kept free of habitable structures or potentially occupied parking areas.

CLUSTER DEVELOPMENT — The number of lots over the entire tract shall not exceed the number permitted under normal application of the area regulations of the zone in which the tract is located, and the remaining land is protected open space.

COMMERCIAL WECF — A freestanding WECF rated at greater than 500 KW and set up to sell power to the grid and ranging from 155 feet to 300 feet high.

COMMUNITY FACILITIES — Premises owned and operated by a government or chartered nonprofit organization and being for broadly inclusive public use.

DISTRICT — A zoning district as established by Article III of this bylaw.

DRIVEWAY — A paved area, on a lot, built for access to a garage, off-street parking area or loading space and running into the lot from the roadway frontage.

DUPLEX DWELLING — A two-family building designed with separate dwelling units side by side separated by a fire wall.

DWELLING — A privately or publicly owned permanent structure containing a dwelling unit or dwelling units. The term "one-family" or "multifamily" dwelling shall not include an hotel, lodging house, hospital, membership club, trailer or dormitory.

DWELLING UNIT — One or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

DWELLING, MULTIFAMILY — A building containing three or more dwelling units.

DWELLING, TWO-FAMILY — A building containing two dwelling units. Only one such building shall be developed on any one lot.

EARTH REMOVAL — The removal of sand, gravel, loam, or similar material, but not solid rock, from a site for use elsewhere, subject to a local earth removal permit, as opposed to grading for use on-site as part of an approved site development plan.

ESSENTIAL SERVICES — Services provided by public utility or governmental agencies through erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission or distribution systems and collection, communications, supply, or disposal systems. Facilities necessary for the provision of essential services include poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. Specifically excluded from the definition are buildings necessary for the furnishing of adequate service by such public utility or governmental agencies for public health, safety, or general welfare.

EXCEPTION/SPECIAL PERMIT — The use of a structure or lot or any action upon the premises which may be permitted under the bylaw only upon approval of the special permit granting authority in accord with the provisions of Article VII of this bylaw.

EXTRACTIVE INDUSTRY — An industry which by means of chemical or mechanical action, as by pressure, distillation, excavation, screening, evaporation, or otherwise obtains from any substance (animal, vegetable or mineral) or from any place some particular substance, product or thing.

FAMILY — One or more persons, including domestic employees, occupying a dwelling unit and living as a single, nonprofit housekeeping unit, provided that a group of five or more persons, who are not within the second degree of kinship, shall not be deemed to constitute a family.

FLOOD LINE — The limits of flooding from a particular body of water caused by a storm whose frequency of occurrence is once in five or more years, as determined and certified by a registered professional engineer, qualified in drainage.

FLOODPLAIN — The area subject to periodic flooding, the limits of which are determined by the flood line.

FLOOR AREA, GROSS — The sum of the areas of the several floors of a building, measured from the exterior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this bylaw, or any such floor space intended and designed for accessory heating and ventilating equipment.

FREIGHT TERMINALS — See "truck terminal."

GENERAL BUSINESS — Any retail, wholesale or office occupancy, whether for profit or not, conducted entirely within a structure on a lot. The occupiable floor space of the business portion of the structure may not exceed 10,000 square feet, excluding basements and attics.

GRADE PLANE — A reference plane representing the average of the finished ground level adjoining the building exterior walls. Where the finished ground level slopes away from the exterior wall, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet (1,829 mm) from the building, between the building and a point six feet (1829 mm) from the building.

HEIGHT —

- A. The vertical distance from the average finished grade of the adjacent ground to the top of the structure of the highest roof beams of a flat roof, or the beam level of the highest gable or the slope of a hip roof.
- B. **HEIGHT** (definition refers to wind energy conversion facility [WECF] only) — The distance from the natural grade at the base of the WECF to the hub or the highest tip of the rotor or another component reaching above the supporting structure.

HOME OCCUPATION — An occupation or profession which:

- A. Is customarily carried on in a dwelling unit, or in a building or structure accessory to a dwelling unit; and
- B. Is carried on by a resident of said dwelling unit; and
- C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and
- D. Conforms to the additional conditions set forth in § 255.7.5 of this bylaw.

HOSPITAL — A building providing twenty-four-hour in-patient services for the diagnosis, treatment, or other care of human ailments, including a sanitarium, clinic, rest home, sanatorium, nursing home, and convalescent home.

HOTEL — A building or any part of a building containing rooming units for transient occupancy and having a common entrance, including an inn, motel, motor inn, guest suites facility and tourist court, but not including a boardinghouse, lodging house, or rooming house.

IMPERVIOUS SURFACE — Materials or structures on, above or below the ground which prevent precipitation or surface water from penetrating the soil.

INTERIM WELL HEAD PROTECTION AREA (IWPA) — An area within a circle of half-mile radius described around a public water supply well and used until a final Zone II for a given well is approved by the Massachusetts Department of Environmental Protection - Division of Water Supply.

KW — Kilowatts or 1,000 watts, equivalent to the current drawn by 10 one-hundred-watt bulbs.

KWH — Kilowatt hours, equivalent to 10 one-hundred-watt bulbs going for 10 hours, or a one-thousand-watt appliance going for an hour.

LOADING SPACE — An off-street space used for loading or unloading, not less than 14 feet in width, 45 feet in length and 14 feet in height, and containing not less than 1,300 square feet, including both access and maneuvering area.

LODGING HOUSE — A dwelling in which four or more individual rooms without separate cooking or sanitary facilities are rented to persons who share the dwelling's kitchen, bathroom and any common spaces. The same as a rooming house.

LODGING UNIT — One or more rooms for the use of one or more individuals not living as a single housekeeping unit and not having cooking facilities. A "lodging unit" shall include rooms in boardinghouses, tourist homes, or rooming houses.

LOT — An area of land in one ownership, with definite boundaries, used or available for use as the site for one or more buildings.

LOT DEPTH — The mean horizontal distance between the front lot line and the rear lot line.

LOT FRONTAGE — A horizontal distance measured along the front lot line between the points of intersection of the lot side lines with the front lot line.

LOT LINE, FRONT — The property line dividing a lot from a street (right-of-way). On a corner lot, the owner shall designate one street line as the front lot line.

LOT LINE, REAR — The lot line opposite from the front lot line.

LOT LINE, SIDE — Any lot line not a front or rear lot line.

LOT WIDTH — The horizontal distance between the side lot lines as measured at the minimum front yard depth (required setback distance) required by this bylaw.

LOT, CORNER — A lot at the point of intersection of or abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines, or in the case of a curved street, extended lot lines, being not more than 135°.

LOT, NONCONFORMING — A lot lawfully existing at the effective date of this bylaw, or any subsequent amendment thereto, which is not in accord with all of the present provisions of this bylaw.

LOT, THROUGH — An interior lot, the front and rear lot lines of which abut streets; or a corner lot, two opposite sides of which abut streets.

MARIJUANA — In addition to the commonwealth's definition under MGL c. 94C, the definition shall include: marijuana, marihuana, cannabis, hashish, cannabis seeds, THC (tetrahydrocannabinol) and its derivatives and extracts as well as any substances containing THC, whether in plant, including its flowers, oil, resin, solid, liquid, or aerosol form.

MARIJUANA CULTIVATION — The process of propagation, including germination, using soil, hydroponics, or other mediums to generate growth and maturity. The intended process of bringing a plant or grown product to maturity for harvesting, sale, refining or use as an ingredient in further manufacturing or processing. This definition encompasses marijuana cultivation related to medical marijuana treatment and dispensing facilities.

MASSAGE SERVICE ESTABLISHMENTS —

- A. **MASSAGE** — Any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external parts of the human body with the hands or with the aid of any mechanical or electric apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniment, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage under such circumstances that it is reasonably expected that the person to whom the service is provided, or some third person on his or her behalf, will pay money or give any other consideration or any gratuity therefor.
- B. The practice of massage shall not include the following individuals while engaged in the personal performance of duties of their respective professions:
- (1) Physicians, surgeons, chiropractors, osteopaths, massage therapists, or physical therapists who are duly licensed to practice their respective professions in the Commonwealth of Massachusetts.
 - (2) Nurses who are registered under the laws of the Commonwealth of Massachusetts.
 - (3) Barbers and beauticians who are duly licensed under the laws of the Commonwealth of Massachusetts, except that this exclusion shall apply solely to the massage of the neck, face and scalp of the customer or client for cosmetic or beautifying purposes.

MEDICAL MARIJUANA TREATMENT AND DISPENSING FACILITIES — A not-for-profit entity, as defined by Massachusetts law as a "medical marijuana treatment center," registered under this bylaw, that acquires, cultivates, possess, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells material to qualifying patients or their personal caregivers. It shall also include any establishment having as any portion of its stock-in-trade marijuana or non-FDA-approved marijuana-based products or its active ingredient, THC (tetrahydrocannabinol); or paraphernalia for the consumption or delivery of marijuana or products containing marijuana as allowed for medical uses under Massachusetts law, including but not limited to retail distribution, wholesale distribution or growth and/or cultivation of marijuana; production or sale of marijuana (cannabis) seeds; or the refinement or manufacturing or sale of infused products.

MEDICAL MARIJUANA TREATMENT CENTER — Any medical marijuana treatment center, as defined under state law as a Massachusetts not-for-profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations

MEDIUM WECF — A freestanding WECF rated at >30-500 KW for a large local residential or business load while set up to sell surplus power to the grid. This could range from 115 feet to 164 feet high plus the rotor's length.

MEMBERSHIP CLUB — A social, sports, or fraternal association or organization used exclusively by members and their guests and which may contain bar facilities, but excluding sexual encounter clubs.

METEOROLOGICAL TOWER — A temporary tower bearing anemometers, wind direction recorders and related equipment to test wind conditions for a potential production tower.

MIXED-USE LOW-DENSITY — Any combination of low-density residential use and general business

use in a single structure.

MOBILE HOME — A large trailer outfitted as a home meant to be parked more or less permanently at a location.

MOBILE HOME PARK — See "trailer park."

NUDITY — Uncovered or less than opaquely covered human genitals, pubic areas, the human female breast below a point immediately above the top of the areola or the covered male genitals in a discernibly turgid state. For the purposes of this definition, a female breast is considered uncovered if the nipple or areola only is covered as defined in MGL c. 272, § 31, as amended.

OPEN SPACE — The space on a lot unoccupied by buildings, unobstructed to the sky, not devoted to streets, driveways, off-street parking or loading spaces, and expressed as a percentage of total lot area.

OWNER — The duly authorized agent, attorney, purchaser, devisee, trustee, lessee, or any person having vested or equitable interest in the use, structure, or lot in question.

PARKING SPACE — An off-street space, whether inside or outside a structure, for exclusive use as a parking stall for one motor vehicle, as required elsewhere in these bylaws.

PERMIT GRANTING AUTHORITY — Planning Board, Board of Appeals.

PLANNED DEVELOPMENT — A development involving the construction of two or more principal buildings on the same lot for any permitted use.

PRODUCTION TOWER — A WECF tower and related equipment designed to produce electricity as opposed to a meteorological tower designed to test wind conditions for a proposed tower.

QUARRYING — The business or occupation of extracting stone from an open excavation by any means or methods. Quarrying does not include the excavation of loam, sand, and gravel.

RECHARGE AREAS — Areas that collect precipitation or surface water and allow it to move into an aquifer. These may include the following areas approved by the Massachusetts Department of Environmental Protection:

- A. **ZONE I** — The protective radius around any public water supply well or well field which the water supplier must own or control through a conservation restriction. This is usually a four-hundred-foot radius except for wells pumping under 100,000 gallons/day.
- B. **II** — The area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield with no recharge) as per 310 CMR 22.00.
- C. **III** — The land area beyond a Zone II from which surface water and groundwater drain into a Zone II, as per 310 CMR 22.00.

RECORDED — Recorded in the Norfolk District Registry of Deeds or registered in the Norfolk District Registry of the Land Court.

RECREATIONAL MARIJUANA ESTABLISHMENTS — All types of marijuana establishments as defined in MGL c. 94G, § 1, to include marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other type of licensed marijuana-related business.

RESIDENTIAL HIGH DENSITY — Residential construction or reconstruction at a density of more than four dwelling units and fewer than 11 dwelling units per 40,000 square feet of land in a single structure. Dwelling units constructed must include at least 20% but not more than 50% affordable housing units as defined by the Commonwealth of Massachusetts Department of Housing and Community Development.

RESIDENTIAL LOW DENSITY — Residential construction or reconstruction at a density of four dwelling units or less per 40,000 square feet of land in a single structure. Dwelling units constructed must include 25% or greater affordable housing units as defined by the Commonwealth of Massachusetts of Housing and Community Development.

RESIDENTIAL WECF — A freestanding WECF rated at less than 30 KW and intended for local residential, neighborhood or business use even though it might sell some surplus power to the grid. This could produce enough power when operating to serve 10 to 15 dwellings at two kilowatts when running and could be from 60 feet to 120 feet high plus the length of the rotor.

RESTRICTED DEVELOPMENT — Any change to the use of a lot of land from the existing use at the time of adoption of this bylaw or any subsequent amendment; must be approved by a two-thirds-majority vote of a Town Meeting.

ROOMING HOUSE — A dwelling in which four or more individual rooms without separate cooking or sanitary facilities are rented to persons who share the dwelling's kitchen, bathroom and any common spaces. The same as a lodging house.

SETBACK — Distance to adjacent property lines, rights-of-way, or habitable space in the clear areas, including parking areas potentially holding occupied vehicles.

SEXUAL CONDUCT — Human masturbation, sexual intercourse, actual or simulated, normal or perverted, any lewd exhibitions of the genitals, flagellation or torture in the context of a sexual relationship, any lewd touching of the genitals, pubic areas, or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals, and any depiction or representation of excretory functions in the context of a sexual relationship. Sexual intercourse is simulated when it depicts explicit sexual intercourse that gives the appearance of the consummation of sexual intercourse, normal or perverted, as defined in MGL c. 272, § 31, as amended.

SEXUAL ENCOUNTER CLUB — A business or commercial enterprise, public or private, that as one of its primary business purposes offers for any form of consideration: (A) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (B) activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; or where the activities in (A) or (B) are distinguished or characterized by their emphasis depicting, or describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31, as amended.

SEXUAL EXCITEMENT — The condition of human male or female genitals or the breasts of the female while in a state of sexual stimulation or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity as defined in MGL c. 272, § 31, as amended.

SIGN — Any permanent or temporary representation used as, or which is in the nature of, an advertisement, announcement, or direction, or is designed to attract the eye by intermittent or repeated motion or illumination.

SIGN, BUSINESS — A sign used to direct attention to a service, product sold, or other activity performed on the same premises upon which the sign is located.

SIGN, IDENTIFICATION — A sign used simply to identify the name, address, and title of an individual family or firm occupying the premises upon which the sign is located.

SIGN, SURFACE AREA OF —

- A. For a sign, either freestanding or attached, the area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing, which are incidental to the display itself.

- B. For a sign consisting of individual letters, designs, and symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest quadrangle which encompasses all of the letters, designs, and symbols.

SPECIAL PERMIT GRANTING AUTHORITY — Either the Planning Board or the Board of Appeals, as determined by reference to Article VII of this bylaw.

SPGA — (Definition refers to wind energy conversion facility [WECF] only.) The special permit granting authority, usually the Zoning Board of Appeals, but in this case the Planning Board.

STORAGE UNIT — Any object designed to be transportable, with wheels or without, used primarily for storage of building materials, personal materials or other materials for use on a limited basis, such as but not limited to trailers, containers, temporary or membrane structures.

STORY — That part of a building comprised between a floor and the floor or roof next above. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story.

STREET — A way which is over 24 feet in right-of-way width, which is dedicated or devoted to public use by legal mapping or by any other lawful procedure. A street includes all public ways, a way which the Town Clerk certifies is maintained and used as a public way, a way shown on a plan approved and endorsed in accordance with the Subdivision Rules, Regulations, and Requirements in Avon, Massachusetts¹⁵ and a way having, in the opinion of the Avon Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed uses of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

STRUCTURE — A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, sign, fence, flagpole, swimming pool, or the like.

STRUCTURE, NONCONFORMING — A structure lawfully existing at the effective date of this bylaw or any subsequent amendment thereto, which does not conform to one or more provisions of this bylaw.

TOXIC OR HAZARDOUS MATERIAL — Any substance or mixture of substances with physical, chemical or infectious characteristics posing a significant actual or potential hazard to human health if discharged to land or water. These include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, all substances defined as toxic or hazardous under MGL c. 21C and c. 21E, and 310 CMR 30.000, along with products such as solvents and thinners in quantities greater than normal household use.

TRAILER — An object on wheels or not having no motive power of its own, and which is designed to be transported by a powered vehicle and used for transportation and/or the storage of goods or materials, as distinguished from "mobile homes" or "travel trailers."

TRAILER PARK — A development accommodating mobile homes and large travel trailers permanently or semi-permanently on leased sites (rather than on separately owned lots) and providing interior roadways, hookups and common facilities; also a mobile home park.

TRUCK TERMINAL — A facility for consolidating loads from local sources, loading and unloading over-the-road trucks, sorting and delivering locally destined cargos, storing trucks, and maintaining/servicing trucks; also freight terminals.

UPLAND, BUILDABLE — A contiguous area of land, exclusive of any land in a Conservancy District

15. Editor's Note: See Ch. 350, Subdivision of Land.

as defined herein, which is not less than four feet above the water table. Groundwater elevations shall be determined by on-site investigations conducted by a licensed engineer or land surveyor and shall be adjusted for seasonal fluctuations using the U.S.G.S. procedure set forth in Estimating Highest Groundwater Levels for Construction and Land Use Planning.¹⁶

USE — The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained; an activity occurring on a lot.

USE, ACCESSORY — A use incidental and subordinate to the principal use of a structure or lot, or a use by area shall be interpreted not to exceed 40% of the area of the total use of the structure or lot on which it is located.

USE, NONCONFORMING — A use lawfully existing at the effective date of this bylaw, or any subsequent amendment thereto, which does not conform to one or more of the present provisions of this bylaw.

USE, PRINCIPAL — The main or primary purpose for which a structure or lot is designed, arranged, or intended, or for which it may be used, occupied or maintained under this bylaw. Any other use within the main structure or the use of any other structure or land on the same lot and incidental or supplementary to the principal use and permitted under this bylaw shall be considered an accessory use.

USE, SUBSTANTIALLY DIFFERENT — A use which by reason of its normal operation would cause readily observable differences in patronage, service, sight, noise, employment, or similar characteristics from the use to which it is being compared.

VARIANCE — Such departure from the terms of this bylaw as the Board of Appeals, upon appeal in specific cases, is empowered to authorize under the terms of § 255-12.9.

VILLAGE OVERLAY DISTRICT — Allows construction of apartments in the existing zone it overlays, which initially prohibits the use as of right.

WIND ENERGY CONVERSION FACILITY (WECF) or WIND ENERGY CONVERSION SYSTEM (WECS) — All equipment and structures used to convert wind to electricity or other forms of energy. This includes towers, rotors, generators, collection systems, and any associated collection, storage and transmission equipment such as transformers, substations and service roads.

WIND MONITORING OR METEOROLOGICAL TEST TOWER — A temporary tower used to support an anemometer, wind vane or other equipment used to assess wind resources at a given height; usually allowed for one year unless the SPGA finds a need for more time.

YARD — A portion of a lot, upon which the principal building is situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein. A court shall not be considered to be a front yard or any part thereof.

YARD, FRONT — A yard extending for the full width of the lot between the front line of the nearest building wall and the front lot line.

YARD, REAR — A yard, unoccupied except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

YARD, SIDE — A yard extending for the full length of a building between the nearest building wall and the side lot line.

ZONING ACT — Chapter 40A of the General Laws of the Commonwealth (as most recently inserted by

16. Editor's Note: Attorney General approval pending.

Chapter 808 of the Acts of 1975).

ARTICLE III
Establishment of Zoning Districts

§ 255-3.1. Division into districts.

The Town of Avon, Massachusetts, is hereby divided into seven zoning districts and four overlay districts to be designated as follows:

Full Name	Short Name
Residence-Suburban A	RES R-25
Residence-Suburban B	RES R-40
General Business	GEN BUS
Industrial	IND
Mixed Use - Low Density	MU Low D
Residential - High Density	R HD
Commercial	COM
Floodplain	FP
Water Supply Protection District	WSPD
Business Overlay District	BOD
Village Overlay District	VOD

§ 255-3.2. Zoning Map.

The location and boundaries of the zoning districts are hereby established as shown on a map titled "Zoning Map of the Town of Avon, Massachusetts," which accompanies and is hereby declared to be a part of this Zoning Bylaw. The authenticity of the Zoning Map shall be identified by the signature of the Town Clerk, and the imprinted seal of the Town under the following words: "This is to certify that this is the Zoning Map of the Town of Avon, Massachusetts, referred to in the Zoning Bylaw of the Town of Avon, Massachusetts, which was approved by the Town Meeting on May 2, 2017." The Zoning Map shall be drawn at a scale of one inch equals 600 feet with ink on stable material, and shall be located in the office of the Building Inspector. Photographic reductions of this large-scale map may serve as copies of the Zoning Map.

§ 255-3.3. Changes to map.

Any change in the location of boundaries of a zoning district hereafter made through amendment of this bylaw shall be indicated by the alteration of such map, and the map thus altered is declared to be part of the bylaw thus amended. Any Town Meeting article proposing changes to the map shall indicate the degree to which such changes are consistent with the present Master Plan adopted by the Planning Board, and explain any major divergences for such recommendations.

§ 255-3.4. Boundaries of districts.

Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules apply:

- A. Where a boundary is indicated as a street, railroad, watercourse, or other body of water, it shall be construed to be the center line or middle thereof, or where such boundary approximates a Town boundary, then to the limits of the Town boundary.
- B. Where a boundary is indicated as following approximately or parallel to a street, railroad, watercourse, or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as dimensioned on the Zoning Map. If no dimension is given, such distance shall be determined by the use of the scale shown on the Zoning Map.
- C. Where a dimensioned boundary coincides within 10 feet or less with a lot line, the boundary shall be construed to be the lot line.
- D. Where a boundary is indicated as intersecting the center line of a street, railroad, watercourse or other water body, it shall be construed to intersect at right angles to said center line, or in the case of a curved center line, at right angle to the tangent to the curve at the point of intersection.
- E. Whenever any dispute arises on district boundaries as to the exact location of a district boundary line, the location of such line shall be determined by the Planning Board.
- F. Where a zoning district follows property lines as a setback from a street, railroad, watercourse, body of water, the zoning district will end at the nearest property line of commonly owned adjacent parcels (lots).

ARTICLE IV
Interpretation and Applicability

§ 255-4.1. Interpretation; conflict of laws.

This bylaw is intended to constitute the minimum requirements which are to be complied with in the preservation and promotion of the peace, health, safety, and general welfare of the inhabitants of the Town of Avon. In any case in which the provisions of this bylaw are, or appear to be, in conflict with any other Town bylaw or rule or regulation adopted by any Town agency, that which establishes a higher standard or more restrictive provision shall apply. Any Town Meeting article proposing changes to Article V, Use Regulations, shall indicate the degree to which such changes are consistent with the present Master Plan adopted by the Planning Board, and explain any major divergences from such recommendations.

§ 255-4.2. Applicability.

Except as herein provided, or as specifically exempted by the Zoning Act, the provisions of this bylaw shall apply to the erection, construction, reconstruction, alteration, or use of buildings and structures or use of land. Except as herein provided, any existing conforming use, structure, or lot shall not by any action become nonconforming and any existing nonconforming use, structure, or lot shall not become further nonconforming.

§ 255-4.3. Interlocal cooperation.

When a lot is situated in part in the Town of Avon and in part in an adjacent municipality, the provisions of this bylaw shall be applied to the portion of such lot which is situated in the Town of Avon in the same manner as if the entire lot were situated in the Town of Avon; provided, however, that no use of any such lot shall be authorized or approved without consultation with the Planning Board of such abutting municipality in which the non-Avon portion of the lot is situated and the use of the lot made harmonious with the zoning regulations of such abutting municipality, insofar as it is practical so to do. The use of the Old Colony Planning Council or the Department of Housing and Community Development of the commonwealth to assist in resolving such situations is hereby recognized as appropriate.

§ 255-4.4. Lots transected by district boundaries.

When a lot is transected by a zoning district boundary, the regulations of the bylaw applicable to the larger part of the area of such lot may also, at the option of the lot owner, be deemed to govern in the smaller part beyond such zoning district boundary but only to the extent not more than 30 linear feet in depth beyond such district boundary.

§ 255-4.5. Restrictions on dwelling construction.

No dwelling shall be erected except on a lot fronting on a street, and there shall be not more than one principal residential building on any lot unless otherwise authorized by special permit; provided, however, that this § 255.4.5 does not apply to development under § 255-5.7, Business Overlay District, and § 255-5.6, Village Overlay District.

§ 255-4.6. Effect of land within street lines.

Land within the lines of a street on which a lot abuts shall not be counted as part of such lot for the purpose of meeting the area requirements of the bylaw even though the fee to such land may be in the owners of abutting lots.

§ 255-4.7. Exemption.

Any increase in area, frontage, width, yard or depth requirements of this bylaw shall not apply to a lot for a single- or two-family residential use which at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with any adjoining land, conformed to the then-existing requirements and had less than the proposed requirement but at least 5,000 square feet of area and 50 feet of frontage. The provisions of this section shall not be construed to prohibit a lot being built upon, if at the time of building, building upon such lot is not prohibited by the zoning bylaw then in effect.

§ 255-4.8. Effect of eminent domain.

Any land taken by eminent domain, or conveyed for a public purpose for which the land could have been taken by eminent domain, shall not be deemed to be transferred in violation of the land area, width, and space provisions of this bylaw.

ARTICLE V
Use Regulations

§ 255-5.1. Effect of article.

Except as provided by this bylaw or in this bylaw, in each district no building, structure, or land shall be used or occupied except for the purposes permitted as set forth in the accompanying Table of Use Regulations, § 255-5.3.

§ 255-5.2. Interpretation of article.

A use listed in § 255-5.3 is permitted as of right in any district under which it is denoted by the letter "Y", subject to such requirements as may be specified elsewhere in this bylaw. If designated in the tables by the letters "SP", the use may be permitted only upon the issuance of a special permit by the special permit granting authority, as determined by reference to Article VII, and subject to such restrictions and conditions as may be attached to any such special permit. The letter "N" shall designate that the use is not permitted.

NOTE: The Watershed Protection District is superimposed over other districts. See § 255-5.4. See § 255-11.3 for permitted uses and special requirements in the Floodplain District. See § 255-5.7 for permitted uses and special requirements for development under the Business Overlay District. The intent of the design is to meet or exceed the requirements of § 255-5.4. See § 255-5.6 for permitted uses and special requirements for development under the Village Overlay District.

§ 255-5.3. Table of Use Regulations.

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
A.	Residential Uses									
1	Detached dwelling on a separate lot occupied by not more than one family.	Y	Y	N	N	N	N	N	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
2	One two-family or one duplex dwelling on a separate lot.	Y	Y	N	N	N	N	N	N	N
3	Attached dwelling occupied by not more than one family in each unit between side walls. See § 255-7.5A or 255-5.6.	SP	SP	SP	N	N	Y	Y	N	Y
4	Apartments. See § 255-7.5A or § 255-5.6.	SP	SP	SP	N	N	Y	Y	N	Y
5	Planned unit development. See § 255-7.5F.	SP	SP	N	N	N	N	SP	N	N
6	Cluster residential development. See § 255-7.5E.	SP	SP	N	N	N	N	SP	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
7	Hotels/ motels. See § 255-7.5B.	N	N	SP	SP	SP	SP	N	SP	SP
8	Renting of rooms in an existing dwelling to not more than six persons.	SP	SP	SP	N	N	SP	N	SP	SP
9	Conversion of an existing dwelling to accommodate not more than two families, provided that each resulting unit has at least 900 square feet of habitable floor space.	SP	SP	SP	N	N	Y	SP	SP	SP
10	Mobile homes.	N	N	N	N	N	N	N	N	N
11	Trailer park or mobile home park.	N	N	N	N	N	N	N	N	N
12	Campgrounds.	N	N	N	N	N	N	N	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
13	Parking of commercial vehicles over five tons.	SP	SP	SP	Y	Y	SP	N	SP	SP
14	Multiple dwelling units on a single lot in a residential or mixed-use zone.	SP	SP	SP	N	N	SP	SP	SP	
B.	Institutional, Recreational, and Educational Uses									
1	Place of worship.	Y	Y	Y	Y	Y	Y	Y	Y	Y
2	Religious, sectarian, and nonsectarian denominational, private, or public school not conducted as a private business for gain.	Y	Y	Y	Y	Y	Y	Y	Y	Y
3	Cemeteries.	SP	SP	N	N	N	N	N	N	N
4	Recreational facility owned or operated by an agency of the Town or other government.	Y	Y	Y	Y	Y	Y	Y	Y	Y

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
5	Public utilities.	SP	SP	SP	SP	SP	SP	SP	SP	SP
6	Private, nonprofit libraries or museums.	SP	SP	SP	N	SP	Y	Y	SP	SP
7	Private, nonprofit community center building, settlement house, adult education center, or other similar facility, provided indoor or outdoor noisy activities shall not be less than 100 feet from any lot line and shall not be detrimental to the neighborhood by reason of noise in any season.	SP	SP	Y	N	Y	Y	Y	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
8	Hospital, infirmary, nursing home, convalescent home.	SP	SP	Y	N	N	SP	SP	N	SP
9	(Reserved)									
10	Overnight camps for children under 18 years of age.	SP	SP	N	N	N	N	N	N	N
11	Trade, professional or other school conducted as a private business for gain.	N	N	SP	SP	SP	Y	N	SP	SP
12	Private, nonprofit membership club or lodge.	SP	SP	Y	Y	N	SP	N	N	SP
13	Country, golf, swimming, tennis, or other recreational facility.	SP	SP	SP	SP	SP	N	SP	N	SP

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
14	Entertainment and recreational facilities operated as a business for gain, including but not limited to bowling alley, theater, or sport arena, provided such use is housed indoors in a sound-insulated structure protecting neighborhood from inappropriate noise in any season.	N	N	Y	SP	SP	Y	N	N	SP
15	All Town and municipal uses.	SP	SP	SP	SP	SP	SP	SP	SP	SP
C.	Agricultural Uses									

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
1	Farms - agricultural, floricultural, orchard, horticultural, or silvicultural (5 acres or more).	Y	Y	Y	Y	Y	N	N	N	N
2	Farms - livestock or poultry, but not swine, provided that any building housing livestock or poultry be not less than 50 feet from the property boundary (5 acres or more).	Y	Y	Y	Y	Y	N	N	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
3	One roadside stand per farm for sale of agricultural products, the major portion of which are grown or produced on the premises.	Y	Y	Y	Y	Y	N	N	N	N
D.	Office and Laboratory									
1	Business, financial, professional, or governmental offices, but no retail business, no manufacturing and no processing	N	N	Y	Y	Y	Y	N	Y	Y

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
2	Offices and clinics for medical, psychiatric, or other health services for the examination or treatment of persons as outpatients, including only laboratories that are part of such office or clinic.	N	N	Y	Y	Y	Y	N	SP	SP
3	Laboratory or research facility.	N	N	Y	Y	SP	SP	N	SP	Y
4	Commercial or educational radio or television studio.	N	N	N	Y	SP	SP	N	SP	SP
E.	Retail Business and Consumer Service Establishments									

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
1	Store serving local retail business needs of residents of vicinity, including but not limited to bakery, grocery, meat market, fruit stores, florist, hardware or paint store, news and/or tobacco store, drugstore, provided the gross floor area of each establishment is equal to or less than 25% of lot area, and further provided that all display, storage and sales	N	N	Y	N	N	Y	SP	SP	SP

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
	of material are conducted within a building and provided there will be no manufacturing on the premises.									
2	Store for retail sale of merchandise, provided all display, storage, and sales of materials are conducted within a building and provided there will be no manufacturing on the premises.	N	N	Y	SP	Y	Y	N	SP	SP

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
3	Eating places serving food and beverages to be consumed within the building; no dancing or live entertainment permitted.	N	N	Y	SP	SP	SP	SP	SP	SP
4	Eating places serving food and beverages to be consumed within the building, with dancing and/or live entertainment permitted.	N	N	Y	SP	SP	SP	N	N	SP

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
5	Drive-in or open-air restaurant or other establishment providing food and beverages with no live or mechanical entertainment.	N	N	SP	SP	SP	Y	N	SP	SP

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
6	Space for manufacturing, assembly, or packaging of consumer goods, provided that at least 50% of such merchandise is sold at retail on the premises and that all display, sales and storage are conducted within the building, and further provided that not more than 25% of floor area is devoted to manufacturing, assembly, or packaging of consumer	N	N	Y	SP	SP	N	N	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
	goods and that not more than five persons are employed at any one time for the manufacturing assembly, or packaging of such goods.									
7	Service businesses serving local needs, such as barbershops, shoe repair, self-service laundry, or dry cleaning or pick-up agency.	N	N	Y	N	SP	Y	SP	SP	SP

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
8	Hand laundry, dry cleaning or tailoring or other similar uses, provided personnel are limited to not more than 10 persons at any one time on the premises.	N	N	Y	N	SP	Y	N	SP	SP
9	Mortuary, undertaking or funeral establishment.	N	N	Y	N	N	Y	N	N	N
10	Veterinary establishment or similar establishment, provided that animals are kept wholly indoors.	N	N	Y	N	N	SP	N	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
11	Store of retail sale of merchandise such as, but not limited to, lumber yards wherein merchandise is stored in the open, provided that all merchandise so stored is screened from ground-level view from any abutting street or abutting property where such material is stored.	N	N	SP	Y	SP	N	N	N	N
12	Planned business development.	N	N	Y	SP	SP	SP	N	N	Y

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
13	Adult entertainment establishments in accordance with § 255-5-5.	N	N	N	SP	N	N	N	N	N
F.	Automotive Service and Open-Air Drive-In Retail Service [Amended 5-2-2023ATM by Art. 15]									
1a	Full-service, attendant-operated motor vehicle service station.	N	N	Y	Y	SP	N	N	N	N
1b	Self-service gasoline sales outlet.	N	N	SP	N	SP	N	N	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
2	Sale or rental of automobiles, boats, and other motor vehicles and accessory storage conducted entirely within an enclosed, sound-insulated structure to protect the neighborhood from inappropriate noise and other disturbing effects such as but not limited to flashing, fumes, gases, smoke, and vapors.	N	N	Y	SP	SP	N	N	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
3	Sale or rental of automobiles, boats, and other motor vehicle and accessory storage conducted partly or wholly on open lots.	N	N	Y	SP	SP	N	N	N	N
4	Automobile repair shops, provided all work is carried out within the building.	N	N	Y	Y	SP	N	N	N	N
5	Car washing establishments.	N	N	Y	Y	SP	N	N	N	N
6	Sales place for flowers, garden supplies, agricultural produce partly or wholly outdoors, including commercial greenhouses.	N	N	Y	Y	SP	Y	N	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
7	Outdoor sports facility conducted for profit, such as golf courses, country clubs, tennis clubs, marina.	SP	SP	SP	SP	N	SP	SP	N	SP
8	Place for exhibition, lettering or sale of gravestones.	N	N	Y	N	N	Y	N	N	N
G.	Industrial, Wholesale and Transportation Uses									
1	Laundries and dry-cleaning plants.	N	N	SP	Y	N	N	N	N	N
2	Printing, binding, publishing, and related arts and trades.	N	N	SP	Y	N	SP	N	SP	SP
4	Plumbing, electrical or carpentry shop or other similar services or repair establishments.	N	N	SP	Y	N	N	N	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
5	Place for manufacturing, assembling or packaging of goods, provided that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke, and vapor are effectively confined to the premises or be disposed of in a manner that does not create a nuisance or hazard to safety or health.	N	N	N	Y	N	N	N	N	N
6	Wholesale business and storage in a roofed structure.	N	N	N	Y	N	N	N	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
7	Trucking terminals.	N	N	N	SP	N	N	N	N	N
8	Freight terminals.	N	N	N	SP	N	N	N	N	N
9	Extractive industries.	N	N	N	N	N	N	N	N	N
10	Planned industrial development.	N	N	N	SP	N	N	N	N	N
11	Facilities for processing materials for recycling.	N	N	SP	SP	N	N	N	N	N
12	Residential wind energy conversion facilities by special permit with the Planning Board as SPGA.	SP	SP	SP	SP	SP	SP	SP	N	N
13	Medium wind energy conversion facilities by special permit with the Planning Board as SPGA.	N	N	SP	SP	SP	SP	SP	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
14	Commercial wind energy conversion Facilities by special permit with the Planning Board as SPGA.	N	N	N	SP	SP	SP	SP	N	N
15	Temporary wind monitoring or meteorological towers.	SP	SP	SP	SP	SP	SP	SP	N	N
H.	Other Principal Uses									

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
1	Any trade, industry, or other use that is noxious or hazardous by reason of vibration or noise or the emission of odors, dust, gas, fumes, smoke, cinders, flashing or excessively bright lights, refuse matter or electromagnetic radiation.	N	N	N	N	N	N	N	N	N
2	Signs or advertising devices except as permitted by this bylaw (See Article X).	N	N	N	N	N	N	N	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
3	Open-lot storage or sale of junk or salvaged materials.	N	N	N	N	N	N	N	N	N
4	Any use hazardous to health because of danger of flooding, inadequacy of drainage, or inaccessibility to fire-fighting apparatus or other protective services.	N	N	N	N	N	N	N	N	N
5	The stripping of loam, peat, sand, or gravel or other materials except for reuse on the same property. (See § 255-7.5C.)	SP	SP	SP	SP	SP	N	SP	SP	SP

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
6	Wireless or broadcasting towers over 100 feet high erected on federal, state, county or Town property only.	SP	SP	SP	SP	SP	SP	SP	SP	SP
7	Establish medical marijuana treatment, dispensing and cultivation facilities.	N	N	N	N	SP	N	N		
7	Artisan shop, photographer, interior decorator, dentist, doctors, engineers, or similar occupations.	N	N	Y	Y	Y	N	N	Y	SP
8	Establish recreational marijuana dispensing and cultivation facilities.	N	N	N	N	N	N	N	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
9	Multiple dwelling units on a single lot in a residential or mixed-use zone	SP	SP	SP	N	N	SP	SP	SP	SP
I.	Accessory Uses									
1	Garage, private greenhouse, stable, tennis court, swimming pool or other similar building or structure for domestic use.	Y	Y	Y	Y	N	Y	Y	N	Y

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
2	The raising or keeping of livestock or poultry as pets or for use by residents of the premises, provided that no building for livestock or poultry may be less than 35 feet from any side or rear lot line nor nearer than 50 feet to any front lot line.	Y	Y	Y	Y	N	N	N	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
3	Any customary home occupation or the office of a resident physician, dentist, attorney at law, architect, engineer or member of other recognized profession, provided that not more than three persons shall practice or be employed on the premises at any one time.	SP	SP	Y	Y	N	Y	N	Y	SP

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
4	The use of a portion of a dwelling or accessory building thereto by a resident builder, rental office, carpenter, painter, plumber, electrician, mason, or other tradesman for incidental work and storage in connection with an off-premises occupation, provided there is no external change which alters the residential appearance of the buildings, and further	SP	SP	Y	Y	N	SP	N	N	N

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
	provided that all storage is kept indoors.									
5	Storage or garaging of camping and recreational equipment, for personal use.	Y	Y	Y	Y	N	Y	Y	N	Y

Table of Use Regulations - Principal Uses										
		Avon Zoning Districts								
		RES R-25	RES R-40	GEN BUS	IND	COM	MU Low D	RES HD	BOD	VOD
6	Store for retail sale of merchandise, provided all display, storage and sale of materials are conducted within the building where they are warehoused, manufactured and/or assembled and that the sales area be no more than 8,000 square feet.	N	N	N	Y	N	N	N	N	N
7	Residential tree surgeon, landscape gardener.	N	N	SP	Y	SP	N	N	N	N
8	Trailer use for temporary storage.	N	N	SP	SP	SP	SP	SP	N	N

§ 255-5.4. Water Supply Protection District.

A. Purpose. The Water Supply Protection District and the regulations herein have been established:

- (1) To promote the health, safety and general welfare of the community by protecting existing and potential community water supplies through preservation and maintenance of the groundwater table and protection of surface waters;
- (2) To protect and preserve inland wetlands and watercourses in order to safeguard the purity of inland waters used, or potentially used, for surface water supplies, and to protect the food chain supportive of marine life;
- (3) To encourage the most appropriate and suitable use of land in areas potentially affecting ground- or surface water sources.

B. Scope of authority.

- (1) As an overlay district, this district applies in addition to the basic underlying zoning. It applies to all new construction, reconstruction or expansion of buildings and to any new or expanded uses. Those uses allowed in the underlying district are allowable through a special permit and subject to the provisions of this district. Uses prohibited in the underlying district remain prohibited.
- (2) Notwithstanding the foregoing, development pursuant to the Village Overlay District (VOD) under § 255-5.6 is allowed by right under the WSPD pursuant to the provisions listed in § 255-5.6. Thus, the requirements of this § 255-5.4 are not applicable.

C. Location. The Water Supply Protection District is established as shown on the map titled "Zoning Map of the Town of Avon, Massachusetts" as amended, on file in the office of the Town Clerk and referred to under § 255.3.2, Zoning Map. It includes aquifers and the aquifer recharge areas in the Zones I and II of the present Town wells in the form of Interim Wellhead Protection Areas, the watershed of the main stem of Trout Brook, and the watershed of Beaver Brook which flows to the Avon Reservoir.

D. Use regulations. In the Water Supply Protection District, no building may be constructed, altered or otherwise placed or moved for any purpose except for those listed under Subsection D(1), below, which are permitted as-of-right, and those uses listed under Subsection D(2), below, which are allowable by special permit subject to the listed standards and findings. Uses listed under Subsection D(3), below, are explicitly prohibited.

(1) Permitted uses.

- (a) Conservation of water, plants and wildlife, including wildlife management shelters.
- (b) Legally permitted outdoor recreation not requiring development or landscape alteration in conflict with the purpose of this district, including nature study, fishing, hunting and foot-bicycle-horse paths.
- (c) Grazing, forestry and other agricultural uses, excluding manure piles, feed lots, or other prohibited components and activities, consistent with the purposes of this district.
- (d) Municipal, water supply facilities, including retention ponds, wells, pumping stations and pipelines (but not underground fuel storage tanks), and the normal operations of existing water bodies and related control, supply and conservation structures.

(2) Uses permitted by special permit subject to the findings required under Subsection E(3)(a) and the standards under Subsection E(4):

- (a) The construction, enlargement, or alteration of any uses allowed in the underlying zoning districts.
 - (b) The digging or drilling of a well, intended as a private source of water.
 - (c) The application of pesticides, including herbicides, insecticides, fungicides and rodenticides for nondomestic or nonagricultural uses in accord with state and federal standards.
 - (d) The application of fertilizers for nondomestic or nonagricultural uses so as to minimize nutrient transport and deposition.
 - (e) Uses which render impervious more than 15% or 2,500 square feet of any lot, whichever is larger.
 - (f) Activities involving the handling of toxic or hazardous materials in quantities beyond normal household use.
- (3) Prohibited uses. In the Water Supply Protection District, the following uses are explicitly prohibited:
- (a) The storage of liquid petroleum products except for the approved above-ground or in-building storage in a freestanding container with secondary containment for the tank's full capacity of fuel for household heating, for legally required waste oil retention facilities, for emergency generators or for water treatment works designed and approved according to 314 CMR 5; however, replacement of existing tanks or systems for keeping, dispensing or storing of gasoline is allowed consistent with state and local requirements.
 - (b) Landfills or open dumps as defined in 310 CMR 19.006.
 - (c) The construction of an on-site sewage disposal system unless limited to disposal of 110 gallons/quarter acre under one ownership/day, or 440 gallons/acre under one ownership/day, whichever is greater, but exempting replacement or repair of an existing system without an increase in design capacity over the original design or over the design capacity of 310 CMR 15.00, whichever is greater, unless demonstrated not to cause an aggregate nitrate loading of five mg/l according to a DEP-approved methodology, or otherwise determined to be consistent with the water supply protective intent of this bylaw and the State Sanitary Code in the judgment of the Avon Board of Health and its agent. Upon making the above findings, the Health Board and its agent may allow increases in the capacity of the individual sewage disposal system in existence on the date of the passage of this bylaw as per 310 CMR 22.21(2)(a)5.
 - (d) Landfilling or storage of sludge or septage as defined in 310 CMR 32.05 unless such storage complies with 310 CMR 32.30-31.
 - (e) The storage of animal manures or deicing chemicals or the stockpiling/disposal of snow and ice containing deicing chemicals unless protected against the generation or escape of contaminated runoff or leachate.
 - (f) The permanent, i.e., greater than forty-five-day, removal of earth to within six feet of the historical high water table, except for construction of foundations, roads or public utilities.
 - (g) Facilities generating, treating, storing or disposing of hazardous waste that are subject to

310 CMR 30, or MGL c. 21C, except for very small quantity generators defined under 310 CMR 30.010, household hazardous waste collection centers or events pursuant to 310 CMR 30.390, waste oil retention facilities required under MGL c. 21, § 52A, and water remediation treatment works approved under 314 CMR 5.00.

- (h) Storage of liquid hazardous materials, as defined in MGL c. 21E, unless either in a freestanding container within a building or in a covered freestanding container above ground level with protection adequate to contain a spill the size of the container's storage capacity.
- (i) Motor vehicle graveyards and junkyards as defined in MGL c. 140B, § 1.
- (j) Treatment or disposal works for nonsanitary wastewaters that are subject to 314 CMR 5.00, except the replacement or repair of an existing system that will not increase its design capacity and DEP-approved treatment works for ground- or surface waters.
- (k) Storage of commercial fertilizers and soil conditioners, as defined by MGL c. 128, § 64, unless in protective structures.
- (l) Use of septic system cleaners toxic or hazardous materials.

E. Administration, procedures and standards.

- (1) General. When an application is made for a building permit which the Building Inspector believes may involve the use of industrial, commercial or business and in the Water Supply Protection District, s/he shall require that the applicant provide, as part of such application, a plan of the lot on which proposed development is intended, showing elevations above mean sea level at two-foot contour levels, indicating the benchmarks used and certified by a registered land surveyor or registered engineer. The Building Inspector shall transmit a copy of the plan to the Planning Board, Department of Public Works, Conservation Commission and the Board of Health. Upon consultation with the Planning Board, the Building Inspector may waive information requirements which are inapplicable in a given case. The Building Inspector may waive this process for building additions or accessory structures of under 300 square feet which do not discharge fluids or increase sewage flows, if so directed by the Planning Board following consultation with the Department of Public Works, the Conservation Commission and the Board of Health.
- (2) Nonconforming uses. This section shall not apply to any building or structure in existence or for which building permits had been issued prior to the adoption of this section, except that the repair, alteration or enlargement of any such structure must comply with all provisions of this bylaw and applicable state and Town laws, and must not adversely affect the ground- or surface water supplies in the district.
- (3) Special permit procedures.
 - (a) After a public hearing and after the application has been referred to other municipal agencies as per Subsection E(1) of this section, if it is established to the satisfaction of the Planning Board that a proposed use will not interfere with the general purposes of the district, and will not be detrimental to the public health, safety or welfare, and will not violate the standards of Subsection E(4) below, the Board may grant a special permit for any use permitted as-of-right in the underlying district and not explicitly prohibited above.
 - (b) The Planning Board, as special permit granting authority, may adopt more detailed

regulations to govern the design of specially permitted projects.

- (c) The applicant for such permit shall provide the Planning Board with an original and five copies of the application for a special permit. The application shall include a plan prepared and certified by a registered professional engineer or a registered land surveyor. This plan will show:
 - [1] The location, boundaries and dimensions of the lot;
 - [2] Existing and proposed facilities, watercourses and drainage systems and protective measures;
 - [3] A grading plan showing existing and proposed ground contours at two-foot intervals;
 - [4] Means of access, parking area and other extensive impervious areas;
 - [5] Any proposed sewage disposal facilities;
 - [6] Test borings of sufficient depth to show location of peat, hardpan, other impervious material and groundwater;
 - [7] A complete list of chemicals, pesticides, fertilizers, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than household use.
 - (d) The Planning Board will forward one copy of each application to the Sewer Commission, Building Inspector, Department of Public Works, Board of Health and Conservation Commission. These agencies shall then file written recommendations with the Planning Board within 14 days of the publication of the first public hearing notice.
 - (e) The burden of showing that the proposed development meets the standards listed below rests upon the applicant, who shall provide any engineering and hydrogeologic data required by the Board to make its determination.
 - (f) The Planning Board shall hold a hearing within 65 days, give notice to affected parties and reach a decision in accord with provisions of MGL c. 40A, § 9.
- (4) Standards.
- (a) To issue a special permit, the Planning Board must make the findings in Subsection E(3) above, and must find that the proposed development will not result in the following:
 - [1] A one-percent or greater reduction in the groundwater yield of the public wells in the district;
 - [2] Pollution from sewage wastes, stormwater runoff or other liquid or water-soluble materials that would reduce the affected aquifers or streams to below drinking water standards or otherwise reduce the quality of water available in the public wells in the district or in downstream surface water supplies;
 - [3] Violation of underground injection control regulations under 310 CMR 27.
 - (b) In addition, the applicant shall demonstrate that creation of any impervious surface greater than 15% of the lot or 2,500 square feet, whichever is larger, includes facilities sufficient to recharge water from a fifty-year storm without endangering the groundwater. The

facilities shall use vegetated infiltration basins where possible rather than dry wells, and shall be protected by oil, grease and sediment traps.

- F. Enforcement. Written notice of any violations of these provisions shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the provision violated and the nature of the violation(s), and may identify actions necessary to remove or remedy the violation(s) and to prevent future violations along with a schedule for compliance. A copy of such notice shall be submitted to the Board of Health, Conservation Commission and Water Superintendent, and for violations in the Beaver Brook watershed, to the City of Brockton's Commissioner of Public Works. The cost of containment, cleanup or other action of compliance shall be borne by the owner and operator of the premises.

§ 255-5.5. Adult entertainment.

A. Authority, purpose and scope.

- (1) This bylaw is enacted pursuant to MGL c. 40A and pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling Town interests of limiting the location of and preventing the clustering and concentration of certain adult entertainment enterprises, as defined and designated herein, in response to studies demonstrating their deleterious effect.
- (2) It is the purpose of this bylaw to address and mitigate the secondary effects of adult entertainment establishments and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime and blight, the flight of existing business, and adverse impacts on public health, property values of residential and commercial properties, the business climate, and the general quality of life in the community. All of said secondary impacts are adverse to the health, safety and general welfare of the Town of Avon and its inhabitants.
- (3) The provisions of this bylaw have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials that are protected by the United States or Massachusetts Constitution, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Similarly, it is not the intent nor effect of this bylaw to condone or legitimize the distribution of obscene or other illegal matter or materials.

- B. Definition. As used herein, and further defined in Subsection H, Definitions, and consistent with the definitions in MGL c. 40A, § 9A, adult uses shall include the following: adult bookstore, adult video store, adult paraphernalia store, adult motion-picture theater, adult mini-motion-picture theater, adult live entertainment establishment, massage service establishment, sexual encounter club, adult cabaret or club, adult motel or any other business or establishment characterized by an emphasis depicting, describing or related to sexual conduct or sexual excitement as defined in MGL c. 272, § 31, as amended. Adult use shall include an establishment with a combination of adult use materials as listed above, including books, magazines, devices, objects, tools, or toys, movies, videos, and any similar audio/visual media for sale or rent, which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31, as amended, which in combination, is either:

- (1) Greater than 15% of the subject establishment's inventory stock subject measured by volume

and not value; or

(2) Greater than 25% of subject premises' gross floor area, or 200 square feet, whichever is greater.

C. Adult Use Overlay Zone. The Adult Use Overlay Zone is hereby established to include that portion of the Industrial Zone located in the northeast quadrant of the Town, as defined in Article II, Definitions. Adult entertainment uses shall be prohibited except in the Adult Use Overlay Zone, where such uses shall be allowed only upon the grant of a special permit by the Zoning Board of Appeals in accordance with the provisions of this section and following site plan review by the Planning Board.

D. Special permit. No adult use shall be established prior to obtaining a special permit from the Zoning Board of Appeals in accordance with this section and pursuant to the application requirements and procedures of Article VII of this Zoning Bylaw.

(1) The application for a special permit for an adult use shall provide name and address of the legal owner of the establishment, legal owner of the property, manager of the proposed establishment, proposed number of employees, proposed security precautions, and description and illustration of the physical layout of the premises.

(2) No adult use special permit shall be issued to any applicant, or the representative of an owner, operator, or manager of an adult entertainment facility who has been convicted of violating the provisions of MGL c. 119, § 63 (inducing or abetting delinquency of a child) or MGL c. 272, § 28 (crimes against chastity, morality, decency and good order), or equivalent statutes in other jurisdictions. The application shall include authorization for the Town to confirm criminal record information through the appropriate authorities.

(3) Any adult entertainment use granted a special permit shall comply with all other Town bylaws and all statutes of the Commonwealth of Massachusetts regarding public nuisances, sexual conduct, lewdness, obscene or harmful matter, or the exhibition or public display thereof.

(4) Siting criteria.

(a) Adult uses in the Adult Use Overlay Zone shall comply with the following siting criteria where the distance from the developed portion of the subject site shall:

[1] Not be located closer than 500 feet to a residential zoning district or residential dwelling;

[2] Not be located within 1,000 feet from a church, school, playground, play field, cemetery, public open space, youth center, day-care center or other location where groups of minors regularly congregate; or

[3] Not be located within 1,000 feet from another adult use as defined herein;

[4] Not be located within 500 feet from an establishment licenses under MGL c. 138, § 12, allowing sale of alcohol for drinking on premises;

[5] Not be located within 500 feet of the right-of-way of Route 24 and Harrison Boulevard, measured horizontally;

[6] Not be located within 500 feet of any residential zone in the abutting Towns of Randolph and Stoughton;

- [7] Not be located within 100 feet of the right-of-way of Page Street, measured horizontally.
- (b) The distance specified in this section shall be measured by a straight line from the nearest developed portion of the premises on which the adult entertainment use is proposed (including structures proposed to contain adult uses and associated accessory structures and parking) to the nearest property line of the uses stated in [1] through [7] above.
- (5) Adult uses shall be in keeping with the general scale and character of the neighborhood in terms of building appearance and use.
- (6) The Avon Zoning Board of Appeals may waive the provisions of Subsection D(4), Siting criteria, above by special permit if in its sole discretion it finds: (a) that the proposed use will not be contrary to the public interest or injurious to the neighborhood and that the spirit and intent of this bylaw will be observed; (b) that the proposed use will not enlarge or encourage the development of a "skid row" area; (c) that the establishment of any additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of urban renewal; provided, however, that the Board of Appeals shall not, under any circumstances, utilize this waiver authority to grant a special permit for an adult entertainment establishment which shall be closer than 200 feet to any of the uses listed in Subsection D(4)(a)[1] through [6] above.

E. Conditions.

- (1) The special permit granting authority may impose reasonable conditions, safeguards and limitations on the adult use as are deemed necessary and appropriate to protect the neighborhood and the Town. In addition, the following performance criteria shall be met:
- (a) An adult use special permit shall be personal to the applicant, and shall not run with the land or with the business.
- (b) No adult use shall be allowed to disseminate or offer to disseminate adult matter or paraphernalia to minors or suffer minors to view displays or linger on the premises. All entrances to an adult entertainment business, or portion of the business displaying materials of adult content, shall be clearly and legibly posted by a notice indicating that minors are prohibited from entering the premises or portion of the business as the case may be.
- (c) If the adult use allows for the showing of films or videos within the premises, any booths in which the films or videos are viewed shall not be closed off by curtains, doors or screens. All booths must be able to be clearly seen from the center of the establishment.
- (d) No adult use shall be allowed within a building containing residential uses.
- (e) No adult use shall be allowed within a shopping center, shopping plaza or mall. For the purposes of this section, "shopping center," "shopping plaza," and "mall" shall be defined as an integrated group of retail establishments and associated parking, whether located on one or more parcels of land.
- (f) No loudspeakers or sound equipment shall be used by an adult entertainment business for the amplification of sound to a level discernible by the public beyond the walls of the building in which the adult entertainment business is conducted.

- (g) An adult entertainment business shall not remain open for business, or permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service between the hours of 1:00 a.m. and 10:00 a.m. of any particular day. In the case of adult bookstores, video stores, and adult paraphernalia stores, business hours shall be limited to hours between 9:00 a.m. and 10:00 p.m. These hours of operation may be further restricted in the conditions approving a special use permit for an adult entertainment business.
 - (h) No certificate of occupancy for an adult use shall be issued until the applicant has first received any required license from the appropriate licensing boards.
 - (i) Bookstores, video stores and other retail establishments providing toys, devices, objects, tools, or other media shall be limited in that no more than 50% of the stock for sale or rent, measured in terms of volume and not value, shall be of adult content as defined herein.
 - (j) If the proposed adult use includes live entertainment, including displays of nudity, or any other activity defined in MGL c. 138, § 12, said premises shall not be permitted to serve alcoholic beverages.
- (2) A violation of any of one of these conditions may result in the revocation of the establishment's special permit.
- (3) The Board may approve an application for an adult use special permit only if it finds that, in its judgment, all of the following conditions are met: the site is an appropriate location for the proposed use; the use involved will not be detrimental to the established or future character of the neighborhood, or the Town as a whole; there will be no nuisance or serious hazard to vehicles or pedestrians; adequate and appropriate facilities will be provided for the proper operation of the proposed use; the public safety, convenience and welfare will be substantially served.
- F. Site plan review. No adult entertainment use shall be established prior to site plan review by the Planning Board. Simultaneously with the submission of the special permit application to the Board of Appeals, the applicant may submit a site plan to the Planning Board in accordance with § 255-12.2D.
- (1) In addition to the requirements of § 255-12.2, the site plan shall depict all existing and proposed buildings, parking spaces, driveways, service areas, open space and other land uses. The site plan shall show the distance between the proposed adult entertainment use and the boundary of the nearest residential zoning district or property and the location of other uses noted in Subsection D(4)(a)[1] through [4] above if located within 1,000 feet.
 - (2) In addition to the dimensional requirements specified in Article VI, a twenty-foot-wide vegetative buffer and/or fence containing adequate screening, given the character of the neighborhood it abuts and the intensity of the use, shall be provided between adult entertainment uses and abutting uses, if any. The applicant shall provide a landscaping plan illustrating proposed landscaping, fences, walls or other design features. Any buffer vegetation shall be evergreen and of a height and breadth to sufficiently shield the adult use from abutting uses year round. Alternatively, a combination of design features may be used to provide the buffer. A maintenance plan shall also be provided to ensure that the applicant will be responsible for the care and maintenance of the buffer.
 - (3) All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment, or any portion thereof in which regulated adult

uses take place, from the exterior.

- (4) All signs must meet the requirements of Article X, Signs, of the zoning bylaws of the Town of Avon. Furthermore, no adult use shall be allowed to display for advertisement or other purpose any signs, placards or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent material any sexually explicit figures or words as defined in MGL c. 272, § 31. No adult use shall exhibit a freestanding or mobile sign.
- (5) The proposed adult entertainment use shall comply with the off-street parking requirements for uses in the Industrial Zone as set forth in Article VIII.
- (6) No adult entertainment use shall have any flashing lights visible from outside the establishment.

G. Special permit expiration or renewal; lapse.

- (1) Notwithstanding the provisions of Article VII, Special Permits, a special permit to conduct an adult entertainment use shall expire after a period of one calendar year from its date of issuance and shall be automatically renewable for successive one-year periods thereafter, provided that a written request for such renewal is made to the special permit granting authority at least 20 days prior to said expiration. Upon written request, the Board of Appeals shall hold a public hearing within 30 days and shall grant the renewal so long as there are no existing zoning violations and that no objection to said renewal is made and sustained by the special permit granting authority based upon the public safety factors applied at the time that the original special permit was granted.
- (2) The special permit shall remain in effect until the conclusion of the public hearing and decision of the Board of Appeals either granting or denying the special permit renewal. If violations are identified during the public hearing process, the applicant shall be given a reasonable opportunity to correct such issues, prior to the Board's final decision. In granting the renewal, the Board may impose additional conditions, including time limits to correct violations, hours of operation, additional screening and so on, upon which a lapse of time without correction or compliance shall result in a revocation of the permit.
- (3) The special permit shall not be renewed if any of the following has taken place on or in proximity to and associated with the premises:
 - (a) Unlawful sexual activity;
 - (b) Gambling;
 - (c) Drug use;
 - (d) Violent crimes;
 - (e) Offenses against children;
 - (f) Repeated public disturbances requiring intervention by the police; and
 - (g) Any other illegal activities.
- (4) Violation any of the conditions of approval of the special permit shall be grounds for nonrenewal of the special permit as provided for in this section.

- (a) A special permit issued under this section shall lapse upon any transfer of ownership or legal interest in the business, or upon any change in contractual or legal interest in the subject premises or property. The special permit may be renewed thereafter only in accordance with this section and the procedures outlined herein and in Article VII.
 - (b) Special permits issued hereunder shall lapse unless substantial use thereof is made within six months of being granted, exclusive of the time, if any, consumed during any appeals pursuant to MGL c. 40A, § 17, except for good cause shown. Any application for an extension of this period shall be filed prior to the lapse of the special permit.
- H. Retroactive application. Each adult use in existence upon the effective date of this section shall apply for an adult use special permit within 90 days of the adoption of this bylaw, consistent with the provisions of MGL c. 40A, § 9A.
- I. Severability. The provisions of this section are severable, and in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

§ 255-5.6. Village Overlay District (VOD).

- A. Purpose. The purpose of the Village Overlay District is to encourage and promote multifamily residential and mixed-use development in appropriate areas of the Town that, due to their location and access to infrastructure such as access to municipal sewer and water connections, transportation alternatives, and walkability, provide significant and appropriate redevelopment opportunities to revitalize the area.
- B. Location. The Village Overlay District is established as shown on the map titled "Zoning Map of the Town of Avon, Massachusetts," as amended, on file in the office of the Town Clerk and referred to under § 255.3.2, Zoning Map.
- C. Scope of authority. The provisions of this § 255-5.6 shall apply to those properties or lots which are located within the VOD. This VOD shall be construed as overlaying other existing zoning districts. The VOD confers alternative developmental opportunities that may be pursued at the discretion of the property owner. If the property owner opts for development under this § 255-5.6, and where conflicts exist between this § 255-5.6 and other provisions of the Town of Avon zoning bylaws, this § 255-5.6 and other provisions of the Town of Avon zoning bylaws, this § 255-5.6 and provisions herein shall apply.
- D. Uses.
- (1) The following uses are permitted in the VOD by right, provided that the provisions of this § 255-5.6 are met.
 - (a) Multifamily dwelling apartments intended to be used for three or more dwelling units at a maximum density of 25 units per acre.
 - (b) A mix of uses consisting of multifamily dwelling apartments as described above in Subsection (1)(a) and those uses permitted as listed in § 255-5.3, Table of Use Regulations, are permitted as long as the total gross square footage of the commercial buildings is no more than 25% of the total gross square footage of the residential multifamily dwelling apartment buildings.
 - (2) By special permit, the Planning Board may allow greater than 25% of the total gross square

footage of the residential multifamily dwelling apartment buildings to be commercial; provided, however, that in no case shall the percentage allowed be greater than 35% of the total gross square footage.

E. Regulations.

(1) Building height.

- (a) Development under the VOD shall be required to comply with the following maximum building height:

	Maximum Building Height (feet)	Maximum Stories (above grade)
Multifamily dwelling apartments (residential uses only)	40	3
Mix of uses (commercial and residential uses)	60	4

- (b) By special permit, the Planning Board may allow an increase in the building height; provided, however, that the maximum building height shall not be greater than 70 feet.
- (2) Development under the VOD shall be required to provide a vegetative buffer maintained with grass, trees, shrubs, flowers and other plantings and other landscaping features along the rear lot line of not less than 10 feet in width.
- (3) Development under the VOD shall be required to be connected to a municipal sewer system.
- (4) As the VOD is located in the Water Supply Protection District, any development that renders the impervious coverage of any lot greater than 15% or 2,500 square feet, whichever is greater, shall require a special permit pursuant to § 255-5.4E(3), unless the development includes facilities sufficient to recharge stormwater runoff on site pursuant to LID strategies listed below; provided, however, that in no case shall the impervious coverage of any lot be greater than 65%. The facilities shall incorporate the LID strategies listed herein under Subsection F below.

F. Low-impact design ("LID") strategies. All development under the VOD shall incorporate low-impact development strategies as listed as follows:

(1) Surfacing, drainage and irrigation.

(a) General.

- [1] Roads, driveways and parking areas shall be graded, surfaced with asphalt, concrete, or other suitable nonerosive material, and drained in a manner to prevent nuisance of standing water, erosion, or excessive water flow across abutting streets or ways, within the proposed parking area, to abutting properties, and to wetland resource areas; natural drainage courses shall be utilized insofar as possible. Pervious pavers or reinforced turf should be used where consistent with sound engineering practices, such as in low traffic volume areas and parking areas located in areas furthest from the buildings being served. To the extent feasible and practical, stormwater

management shall incorporate low-impact development strategies. Low-impact development (LID) is a stormwater management strategy concerned with maintaining or restoring the natural hydrologic functions of a site to achieve natural resource protection objectives and fulfill environmental regulatory requirements.

- [2] LID employs a variety of natural and built features that:
 - [a] Collect and treat stormwater runoff close to its source;
 - [b] Reduce the rate of runoff;
 - [c] Filter out its pollutants, and
 - [d] Facilitate the infiltration of water into the ground.
 - [3] Rather than collecting runoff in piped or channelized networks and controlling the flow downstream in a large stormwater management facility, LID takes a decentralized approach that disperses flows and manages runoff closer to where it originates, and incorporates a set of overall site design strategies as well as highlight localized, small-scale, decentralized source control techniques such as, for example, rain gardens, roof run-off collection or infiltration system, and permeable paving.
- (b) Low-impact development techniques should be used throughout the site.
 - (c) Detention and filtration systems shall be located on site and shall have curvilinear sides, so as to appear a natural part of the landscape.
 - [1] Man-made embankments shall have maximum side slopes of three feet horizontal and one foot vertical, or retaining walls shall be employed.
 - [2] Landscaped erosion control techniques shall be used in place of visible riprap.
 - (d) Natural drainage courses should be utilized insofar as possible.
 - (e) Curbing shall be required only as necessary to limit off pavement vehicle access or for pedestrian safety, unless other suitable materials are used.
 - (f) All stormwater LID features, detention, and filtration systems shall be designed to conform to the most recent edition of the Stormwater Management Policy of the Massachusetts Department of Environmental Protection.
 - (g) Impervious surface should be minimized.
 - (h) Paved roadway, parking, and other impervious areas should be drained toward low-impact development practices such as bioretention areas (rain gardens), roadside swales and infiltration structures.
 - (i) Stormwater from roof areas should be directed to subsurface cisterns properly sized and engineered for reuse as on-site irrigation water. Any excess overflow from such systems should be recharged to the ground.
 - (j) Stormwater from roof areas that cannot be practically collected for on-site irrigation reuse shall be infiltrated or directed to landscaped areas (e.g., rain gardens), and shall not be allowed to flow onto paved surfaces.

- (k) Automatic irrigation systems that incorporate rain shut-off devices shall be used on site to ensure maximum water efficiency. Irrigation systems shall be designed so as not to operate during precipitation events, in windy conditions, or during the hottest part of the day (8:00 a.m. to 6:00 p.m.). The amount of water applied should be sufficient to only fill the effective root zone and minimize evaporative loss. The source of the automatic irrigation system shall be a private well. The water shall be treated so as to not cause any staining on landscape material.
- (2) Erosion and sedimentation control.
 - (a) Limited salt use for parking lots.
 - (b) Project design and development practices shall comply with recommendations in the Massachusetts Department of Environmental Protection's most recent edition of the Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas.

§ 255-5.7. Business Overlay District (BOD).

- A. Purpose. The purpose of the Business Overlay District is to encourage and promote small business and mixed-use development in appropriate areas of the Town that, due to their location and access to infrastructure such as access to municipal sewer and water connections, transportation alternatives, and walkability, provide significant and appropriate redevelopment opportunities to revitalize the area.
- B. Location. The Business Overlay District is established as shown on the map titled "Zoning Map of the Town of Avon, Massachusetts," as amended, on file in the office of the Town Clerk and referred to under § 255-3.2, Zoning Map.
- C. Scope of authority. The provisions of this § 255-5.7 shall apply to those properties or lots which are located within the BOD. This BOD shall be construed as overlaying other existing zoning districts. The BOD confers alternative developmental opportunities that may be pursued at the discretion of the property owner. If the property owner opts for development under this § 255-5.7, and where conflicts exist between this § 255-5.7 and other provisions of the Town of Avon zoning bylaws, this § 255-5.7 and other provisions of the Town of Avon zoning bylaws, this § 255-5.7 and provisions herein shall apply.
- D. Uses. The following uses are permitted in the BOD by right, provided that the provisions of this § 255-5.7 are met:
 - (1) Small business, financial, professional or government uses.
 - (2) Refer to § 255-5.3, Table of Use Regulations, showing special permit uses. A mix of uses consisting of multifamily dwelling apartments and those uses permitted as listed in § 255-5.3, Table of Use Regulations, are permitted as long as the total gross square footage of the commercial buildings is no more than 25% of the total gross square footage of the residential multifamily dwelling apartment buildings.
- E. Regulations.
 - (1) Development under the BOD shall be required to comply with the following maximum building height:
 - (a) Maximum building height: 35 feet.

- (b) Maximum stories (above grade): three.
 - (2) Development under the BOD shall be required to provide a vegetative buffer maintained with grass, trees, shrubs, flowers and other plantings and other landscaping features along the side lot line of not less than 15 feet in width unless abutting residential, in which case the vegetative buffer shall not be less than 20 feet in width.
 - (3) Development under the BOD shall not be required to be connected to a municipal sewer system.
 - (4) As the BOD is located in the Water Supply Protection District, any development that renders the impervious coverage of any lot greater than 15% or 2,500 square feet, whichever is greater, shall require a special permit pursuant to § 255-5.4E(3) unless the development includes facilities sufficient to recharge stormwater runoff on site pursuant to LID strategies listed below; provided, however, that in no case shall the impervious coverage of any lot be greater than 60%. The facilities shall incorporate the LID strategies listed herein under Subsection F below.
- F. Low-impact design ("LID") strategies. All development under the BOD shall incorporate low-impact development strategies as listed as follows:
- (1) Surfacing, drainage and irrigation.
 - (a) General.
 - [1] Roads, driveways and parking areas shall be graded, surfaced with asphalt, concrete, or other suitable nonerosive material, and drained in a manner to prevent nuisance of standing water, erosion, or excessive water flow across abutting streets or ways, within the proposed parking area, to abutting properties, and to wetland resource areas; natural drainage courses shall be utilized insofar as possible. Pervious pavers or reinforced turf should be used where consistent with sound engineering practices, such as in low traffic volume areas and parking areas located in areas furthest from the buildings being served. To the extent feasible and practical, stormwater management shall incorporate low-impact development strategies. Low-impact development (LID) is a stormwater management strategy concerned with maintaining or restoring the natural hydrologic functions of a site to achieve natural resource protection objectives and fulfill environmental regulatory requirements.
 - [2] LID employs a variety of natural and built features that:
 - [a] Collect and treat stormwater runoff close to its source;
 - [b] Reduce the rate of runoff;
 - [c] Filter out its pollutants; and
 - [d] Facilitate the infiltration of water into the ground.
 - [3] Rather than collecting runoff in piped or channelized networks and controlling the flow downstream in a large stormwater management facility, LID takes a decentralized approach that disperses flows and manages runoff closer to where it originates, and incorporates a set of overall site design strategies as well as highlight localized, small-scale, decentralized source control techniques such as, for example, rain gardens, roof run-off collection or infiltration systems, and permeable paving.
 - (b) Low-impact development techniques should be used throughout the site.

- (c) Detention and filtration systems shall be located on site and shall have curvilinear sides, so as to appear a natural part of the landscape.
 - [1] Man-made embankments shall have maximum side slopes of three feet horizontal and one foot vertical, or retaining walls shall be employed.
 - [2] Landscaped erosion control techniques shall be used in place of visible riprap.
 - (d) Natural drainage courses should be utilized insofar as possible.
 - (e) Curbing shall be required only as necessary to limit off-pavement vehicle access or for pedestrian safety, unless other suitable materials are used.
 - (f) All stormwater LID features, detention, and filtration systems shall be designed to conform to the most recent edition of the Stormwater Management Policy of the Massachusetts Department of Environmental Protection.
 - (g) Impervious surface should be minimized.
 - (h) Paved roadway, parking, and other impervious areas should be drained toward low-impact development practices such as bioretention areas (rain gardens), roadside swales and infiltration structures.
 - (i) Stormwater from roof areas should be directed to subsurface cisterns properly sized and engineered for reuse as on-site irrigation water. Any excess overflow from such systems should be recharged to the ground.
 - (j) Stormwater from roof areas that cannot be practically collected for on-site irrigation reuse shall be infiltrated or directed to landscaped areas (e.g., rain gardens), and shall not be allowed to flow onto paved surfaces.
 - (k) Automatic irrigation systems that incorporate rain shut-off devices shall be used on site to ensure maximum water efficiency. Irrigation systems shall be designed so as not to operate during precipitation events, in windy conditions, or during the hottest part of the day (8:00 a.m. to 6:00 p.m.). The amount of water applied should be sufficient to only fill the effective root zone and minimize evaporative loss.
- (2) Erosion and sedimentation control. Project design and development practices shall comply with recommendations in the Massachusetts Department of Environmental Protection's most recent edition of the Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas.

ARTICLE VI
Dimensional and Density Regulations

§ 255-6.1. Effect of article.

No building or structure shall be built nor shall any existing building or structure be enlarged except in conformance with the regulations of the Avon zoning bylaw as to lot coverage, lot area per dwelling unit, lot width, front, side and rear yards, and maximum height of structures in the districts as set forth below except as may otherwise be provided elsewhere in the Avon zoning bylaw. Any Town Meeting article proposing changes to Article VI shall indicate the degree to which such changes are consistent with the present Master Plan adopted by the Planning Board, and explain any major divergences from such recommendations.

§ 255-6.2. Land and yard space restrictions.

The land and yard spaces required for any new building or use shall not include any land or area required by any other building or use to fulfill Avon zoning requirements.

§ 255-6.3. Distance between multiple buildings on one lot.

If more than one building (other than a one-, two-, or three-car garage, a tool shed, a greenhouse or a cabana) may lawfully be placed on any lot in single or common ownership, the distance between the nearest parts of such buildings shall be not less than 20 feet.

§ 255-6.4. Dimensional and Density Regulations Table. [Amended 5-7-2024ATM by Art. 8]

Dimensional and Density Regulations Table								
Zoning District	Minimum Lot Size (square feet)	Minimum Lot Area Per Dwelling Unit (square feet)	Minimum Lot Frontage (a) (feet)	Minimum Yard Depth (b) (feet)			Maximum Building Height (c) (feet)	Maximum Percentage of Lot Coverage by Structure
				Front	Rear	Side		
Residential A (k)	25,000	25,000 (b)	150 (d)	25 (d)	30 (d)	15 (d)	35 (i)	35 (j)
Residential B (k)	40,000	40,000 (d)	200 (d)	35 (d)	40 (d)	20 (d)	35 (i)	35 (j)
General Business	8,000	8,000 (d)	50 (d)	15 (d)	30 (d)	—(d)(f)	35 (i)	
Industrial	40,000	—	200	40 (h)	40 (h)	25 (h)	52 (l)	60
Commercial	40,000		200	40 (h)	40 (h)	25 (h)	40	60
Mixed Use Low Density	25,000	10,000 (d)	100 (d)	6(d)	50 (d)	10 (d)	35	25

Dimensional and Density Regulations Table								
Zoning District	Minimum Lot Size (square feet)	Minimum Lot Area Per Dwelling Unit (square feet)	Minimum Lot Frontage (a) (feet)	Minimum Yard Depth (b) (feet)			Maximum Building Height (c) (feet)	Maximum Percentage of Lot Coverage by Structure
				Front	Rear	Side		
Residential High Density	25,000	4,000	200 (d)	35 (d)	40 (d)	20 (d)	35	35
Business Overlay District	8,000	See § 5.7	50	15 (d), (g)	30 (d)	(d), (f)	Pursuant to § 255-5.7	25%
Village Overlay District	8,000	See § 5.6	50	20 (d1)	10 (d)	0	Pursuant to § 255-5.6	30%

Dimensional and Density Regulations - Footnotes

- (a) Frontage may be measured at the front yard setback line if the street is in an arc of a curve with a radius of 300 feet or less, provided there be in any event not less than 50 feet width of such frontage at the street. Not less than the frontage requirements shall be maintained throughout the front yard.
- (b) On lots abutting streets on more than one side, the front yard requirements shall apply to each of the abutting streets.
- (c) These height restrictions shall not apply to chimneys, water towers, skylights, and other necessary features appurtenant to buildings which are usually carried above roofs and are not used for human occupancy.
- (d) See Article VII, Special Permits.
1. Within the VOD, parking shall be allowed within the front yard setback; provided, however, that parking shall not be closer than 10 feet to the front yard line.
- (e) (Reserved)
- (f) When abutting residential property, the minimum side yard of the business is to be 20 feet.
- (g) No restrictions - determine by required yard depths and parking requirements.
- (g) Where a lot sits at the intersection of two streets, the Planning Board shall designate from which street the frontage will be measured.
- (h) Except 60 feet when abutting or across the street from a residential zone.

Dimensional and Density Regulations - Footnotes

- | | |
|-----|---|
| (i) | Height restrictions for apartment usage may be varied by a special permit. |
| (j) | This restriction does not apply to aboveground swimming pools. |
| (k) | For standards applying to attached dwellings and apartments see § 255-7.5, Specific requirements for particular uses, Subsection A, Apartments, multiple or attached dwellings. |
| (l) | Except 40 feet when abutting or across the street from a residentially zoned district. |

ARTICLE VII
Special Permits

§ 255-7.1. Special permits required for certain uses.

The uses authorized by this article, and as designated by § 255-5.3, Table of Use Regulations, are to be permitted only in those districts as specified and then only upon the prior issuance of a special permit, as provided in this article. A special permit shall only be issued for a use which is in harmony with the general purposes and intent of this bylaw. A special permit issued under this article may impose conditions, safeguards and limitations on time or use in order to further the objectives of this bylaw.

§ 255-7.2. Procedures.

- A. Rules. The special permit granting authority shall adopt, and it may from time to time amend, rules relative to the granting of special permits. An up-to-date copy of such rules shall be kept on file in the office of the Town Clerk. Such rules may prescribe the size, form, contents, style and number of copies of plans and specifications, and the procedure for the submission, processing and approval of all applications for such permits.
- B. Filing of applications. An applicant for a special permit shall begin his application by submitting the materials required by the rules of the special permit granting authority with the special permit granting authority and by filing a copy with the Town Clerk.
- C. Public hearing. Not more than 65 days following the date an application has been filed with it, the special permit granting authority shall hold a public hearing concerning each such application.
- D. Notice of public hearing. Notice of a public hearing under this section shall be by publication or posting as provided in MGL c. 40A, § 11, and by mailing to all parties in interest, as therein defined.
- E. Action on application. The special permit granting authority shall act with respect to each such application within 90 days following the date of the public hearing on such application. Failure of the special permit granting authority to take final action within such period shall be deemed to be approval of such application.
- F. Voting. Special permits shall require a two-thirds vote of a board having five or more members, a vote of at least four members of a five-member board and a unanimous vote of a three-member board.
- G. Withdrawal of application. An application for a special permit which has been transmitted to the special permit granting authority may be withdrawn, without prejudice, by the applicant prior to the publication of the notice of a public hearing thereon; thereafter it may be withdrawn without prejudice only with the approval of the special permit granting authority.
- H. Copy of decision. Upon the granting of a special permit, the special permit granting authority shall issue a certified copy of its decision to the owner, and to the applicant if other than the owner. The decision shall contain the name and address of the owner, identify the land affected, set forth compliance with the statutory requirements for the issuance of the permit and certify that copies of the decision and all plans referred to in the decision have been filed with the Planning Board and with the Town Clerk.
- I. Time of taking effect. No special permit shall become effective until a copy of the decision of the special permit granting authority bearing the certification of the Town Clerk that 20 days have elapsed and no appeal has been filed or that such appeal has been filed, that it has been dismissed or denied,

is recorded in the Norfolk County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

- J. Lapse of permit. A special permit issued under this section shall lapse at the expiration of three years following the date of the decision of the special permit granting authority unless substantial use of the permit has been commenced, except for good cause, or, in the case of a permit for construction, if construction has not begun prior to such date except for good cause.
- K. Conditions. The special permit granting authority may impose conditions, safeguards and limitations on time or use.
- L. Repeat of applications. No application which has been unfavorably and finally acted upon by the special permit granting authority shall be favorably acted upon within two years following the date of final unfavorable action unless such special permit granting authority finds (by the same vote as required above) specific and material changes in the conditions upon which the previous unfavorable action was based, and describes such changes in the record of the special permit granting authority, and unless all but one of the members of the special permit granting authority consents thereto after notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered.

§ 255-7.3. General considerations for approval.

In considering an application under this article, the special permit granting authority shall assure, in addition to any special requirements otherwise established in this bylaw for a specific use, consideration of the following general conditions:

- A. Protection of adjoining premises against detrimental or offensive issues.
- B. Convenience and safety of vehicular and pedestrian traffic and movement within the site, and in relation to the adjacent streets, property or improvements.
- C. Adequacy of methods of disposal for sewage, refuse and other wastes resulting from the uses permitted or permissible, and the methods for drainage of water.
- D. Adequacy of space for off-street parking, movement and loading, unloading, delivery, pick-up or other vehicular requirements.
- E. Adequate access to any structures for fire and service equipment is provided.
- F. Any lighting provided does not have a deleterious effect on neighboring property.
- G. Effective use is made of topography, existing trees, and other vegetation and other natural terrain features with the building design and placement.
- H. Adequacy of the Town water supply system to service the proposed use.

§ 255-7.4. Authority to issue permits.

- A. Planning Board. The Planning Board shall be the special permit granting authority for all requests or applications for the following:
 - (1) Hotels/motels.

- (2) Multiple dwelling units on a single lot in a residential or mixed-use zone.
 - (3) Planned business development.
 - (4) Planned industrial development.
 - (5) Cluster zoning.
 - (6) Planned unit development.
 - (7) Removal of sand, gravel, loam.
 - (8) Business Overlay District.
 - (9) Village Overlay District.
 - (10) In conjunction with the Conservation Commission, filling of water, wet area or depression.
 - (11) Medical marijuana treatment and dispensing facilities and marijuana cultivation activities.
- B. Board of Appeals. The Board of Appeals shall be the special permit granting authority for all requests or applications for special permits for the following: all other instances in which a special permit is required.

§ 255-7.5. Specific requirements for particular uses.

- A. Apartments, multiple or attached dwellings in zoning districts where not permitted by right. The Planning Board, as a special permit granting authority, may issue a special permit for the construction of a building or buildings intended to be used for three or more dwelling units, provided that the following conditions are met with respect to any particular parcel of land:
- (1) The lot shall have not less than 200 feet of frontage and shall contain not less than 40,000 square feet of land.
 - (2) Each dwelling unit will require the following land areas of buildable uplands as defined in Article II, Definitions:¹⁷

	RES R-25 and GEN BUS (25,000-square-foot lots)	RES R-40 (40,000-square-foot lots)
First 8 units	12,500 square feet	15,000 square feet
Added units	8,000 square feet	10,000 square feet
Maximum dwelling unit on a 2-acre site (low density)	6 (3/acre)	5 (2.5/acre)
Maximum dwelling unit on a 10-acre site (high density)	49 (4.9/acre)	39 (3.9/acre)

- (3) A space, not less than 20 feet in width along each sideline, the rear yard lot line and not less than 45 feet from the front lot line, except for entrance and exit driveways, shall be maintained

17. Editor's Note: Attorney General approval pending.

with grass, trees, shrubs, flowers and other plantings and landscape features.

- (4) The manner of sewage disposal shall be approved, in writing, by the Board of Health.
- B. Hotels and motels. The Planning Board, as a special permit granting authority, may issue a special permit for the construction of a building or buildings intended to be used for a hotel and/or motel, provided that the following conditions are met with respect to any particular parcel of land:
- (1) The lot shall have not less than 200 feet of frontage and shall contain not less than 40,000 square feet of land area.
 - (2) The front yard, side yards, and rear yard depths shall not be less than 50 feet.
 - (3) A space not less than 20 feet in width along each side yard, from the rear yard lot line and from the front yard lot line, except for exit and entrance driveways, shall be maintained with grass, trees, shrubs, flowers and other planting and landscape features. Such area shall not be used for parking or otherwise.
 - (4) The manner of sewage disposal shall be approved in writing by the Board of Health.
 - (5) The site shall be provided with not more than two motor vehicle driveways for each abutting street which shall intersect the abutting street or streets at 90°. Coverage of the land shall not exceed 20%.
- C. Removal of loam, sand, gravel, quarry, or other earth materials. The Planning Board, as a special permit granting authority, may issue a special permit for the removal of loam, sand, gravel, quarry or other earth material, provided that the following conditions are met with respect to any particular parcel of land:
- (1) For the removal of loam, sand, gravel, quarry, or other earth materials other than that which is incidental to and in connection with the construction of a building on a lot, and for processing and treating raw materials, the following conditions shall govern:
 - (a) Removal and processing operations shall not be conducted closer than 50 feet to a public street.
 - (b) All equipment for sorting, washing, crushing, grading, drying, processing and treating, or other operation of machinery shall not be closer than 100 feet to any public street or to any adjoining lot line.
 - (c) Off-street parking as required in Article VIII shall be provided.
 - (d) Any access to excavated areas or areas in the process of excavation will be adequately posted with "KEEP-OUT-DANGER" signs.
 - (e) Any work face or bank that slopes more than 30° downward adjacent to a public street will be adequately fenced at the top.
 - (f) Adequate provision is to be made for drainage during and after the completion of operations.
 - (g) Lateral support shall be maintained for all adjacent properties. A maximum rate of slope shall be established by the Planning Board and set out in the special permit.
 - (h) The use of explosives shall be done in accordance with the regulations for storage or

handling of an explosive as published by the Commonwealth of Massachusetts.

- (i) All operations shall be conducted in such a manner so as to comply with the laws of the Commonwealth of Massachusetts regulating water pollution and air pollution.
 - (j) The work hours of operation shall be designated by the Planning Board and set out in the special permit.
 - (k) A plan for regrading of all or parts of the slopes resulting from such excavation or fill shall be submitted.
 - (l) A plan for replacement of at least six inches of topsoil over all excavated, filled, or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization, shall be submitted.
 - (m) A plan for lighting, if night operation is contemplated, shall be submitted.
 - (n) Proper provision shall be made for vehicular traffic, service roads, control of entrances and exits to highways.
 - (o) Provision shall be made for a substantial fence enclosing the excavation or quarry where any excavation or quarry will extend under original ground level or will have a depth of 10 feet or more and create a slope of more than one foot in two feet. Such fence shall be located 10 feet or more from the edge of the excavation or quarry, and shall be at least six feet in height.
 - (p) Provision shall be made for the submission to the Building Inspector of as-built plans of all final grading and site-improvements.
 - (q) The Planning Board may require the posting of a performance bond, in such sum as it may determine to be reasonably necessary, in order to insure compliance with the restrictions herein set forth, and such other restrictions, conditions and safeguards as may be imposed by the Planning Board.
- (2) Proposed reuse of the land after or during the removal of loam, sand, gravel, quarry or other earth materials shall be submitted and the following conditions shall apply:
- (a) The applicant shall submit engineering or architectural site plans drawn at a scale of 40 feet to the inch prepared by a registered professional engineer or architect showing all details as may be deemed necessary by the Planning Board to meet the regulations for the proposed reuse of the land or the type of buildings to be erected.
 - (b) The Planning Board may require that up to three approved alternative future land reuse plans be submitted for such land as is used for the extraction of sand, gravel, rock, and associated earth materials. It is recognized that land reuse of the removal areas is in the public interest.
 - (c) Said land reuse plan and its implementation applies to the conversion of the abandoned site and its planned reuse. It is, therefore, required that any land reuse plan correspond to a situation which could reasonably occur in the immediate future (zero to five years) and revised as required by the Planning Board as the existing physical character of the removal area changes.
 - (d) The land reuse plan or any part thereof which reasonably applies to an area which has been

abandoned from removal use shall be put into effect within one year of the abandonment of said operation.

- (3) No permit of any type shall be issued for a future use of the site until all of the conditions stipulated in the special permit have been satisfied.
- D. Filling of any water, wet area or depression. The Planning Board, as a special permit granting authority, and in conjunction with the Conservation Commission, may issue a special permit for the filling of any body of water, wet area or depression, provided that the following conditions are met with respect to any particular parcel of land:
- (1) For the filling in of any pond, lake, swamp, or other existing body of water or wet area; and the filling in of any swale, valley or other area of depression, where 500 cubic yards or more, or where the area to be filled exceeds 10,000 square feet, the following conditions shall apply (Such conditions shall include, where applicable, prior approval of the Select Board and subsequent endorsement by the Conservation Commission.); see also § 255-11.3 of the bylaw: **[Amended 1-28-2023STM by Art. 9]**
 - (a) Limitation of fill to terrace fills which are not to exceed 10 feet at any one time nor be within 10 feet of an adjacent lot line or any cut.
 - (b) Regrading of all or parts of the slopes resulting from such fill.
 - (c) Replacement of at least six inches of loam or topsoil over all filled or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization.
 - (d) Provision for temporary and permanent drainage of the site.
 - (e) The work hours of operation shall be designated.
 - (f) Where any fill will have a depth of 10 feet or more and create a slope of more than one foot in two feet, there shall be a substantial fence enclosing the fill at least six feet in height with suitable gates. Such fence shall be located 10 feet or more from the edge of the fill.
 - (2) Proposed reuse of the land during and after the filling-in shall be submitted and the following conditions shall apply:
 - (a) The applicant shall submit engineering or architectural site plans drawn at a scale of 40 feet to the inch prepared by a registered professional engineer or architect showing all details as may be deemed necessary by the Planning Board to meet the regulations for the proposed reuse of the land or the type of building to be erected.
 - (b) The Planning Board may require that up to three approved alternative future land reuse plans be submitted for such land as is used for filling in. It is recognized that land reuse of the removal areas is in the public interest.
 - (c) Said land reuse plan and its implementation apply to the conversion of the abandoned site and its planned reuse. It is, therefore, required that any land reuse plan correspond to a situation which could reasonably occur in the immediate future (zero to five years), and be revised as required by the Planning Board as the existing physical character of the removal area changes.
 - (d) The land reuse plan or any part thereof which reasonably applies to an area which has been

abandoned for filling-in use shall be put into effect within one year of the abandonment of said operation.

- (3) No permit of any type shall be issued for a future use of the site until all of the conditions stipulated in the special permit have been satisfied.
- E. Cluster residential development. The Planning Board, as a special permit granting authority, may issue a special permit for the construction of a cluster residential development, provided that the following conditions are met with respect to any particular parcel of land:
- (1) For residential development in a cluster pattern subject to the dimensional regulation less than the minimum required for the development of an individual lot in the same district, the following conditions shall apply:
 - (a) The tract of single or consolidated ownership at the time of application shall be at least 15 acres in size, and shall be subject to the approval of the Planning Board under the Subdivision Control Law.¹⁸
 - (b) Each individual lot shall be subject to all requirements for a one-family detached dwelling in any R-25 District.
 - (c) The total number of proposed lots in the development within any district shall not exceed the number of lots which could be developed under normal application requirements of the R-25 District. For purposes of this section, it shall be assumed that a maximum of 80% of the total tract area could be utilized to meet lot area requirements.
 - (d) The development shall be served by a public water system.
 - (e) The manner of sewage disposal shall be approved in writing by the Board of Health.
 - (f) At least 10% of the total tract area (of which at least 50% shall not be wetland or over 5% slope land) shall be set aside as common land and shall either be deeded to the Town or covenanted with the Town to be maintained as permanent "open space" in private or cooperative nonprofit ownership.
 - (g) Such common land shall be deeded to and accepted by the Town or permanently covenanted simultaneously with the Planning Board's approval of the definitive subdivision plan.
 - (h) Such common land shall be restricted to open space recreational uses such as a tot lot, park, playground, playfield, golf course, or conservation area.
 - (i) Such common land shall have suitable access to a street.
- F. Planned unit development. The Planning Board, as a special permit granting authority, may issue a special permit for the construction of a planned unit development, provided that the following conditions are met with respect to any particular parcel of land:
- (1) For development in a planned unit concept for uses including, among others, residential, recreational, commercial, and institutional, and not subject to the Table of Dimensional and Density Regulations,¹⁹ the following conditions shall apply:

18. Editor's Note: See Ch. 350, Subdivision of Land.

19. Editor's Note: See § 255-6.4.

- (a) The tract shall be at least 50 contiguous acres in single or consolidated ownership at the time of application and shall be subject to approval by the Planning Board under the Subdivision Control Law.²⁰
 - (b) The following uses shall be permitted: residential (one-, two-, and multifamily dwelling); community facilities (religious or educational; membership club for exclusive use of the residents of the planned unit development, public recreation or open space, fire station); and commercial (retail or service establishment).
 - (c) At least 20% of the land area shall be set aside as permanent open space and offered to the Town for acceptance as public open space or covenanted by the owner as public open space.
 - (d) The remaining 80% of the land area may be developed for residential, community facilities and commercial uses. No more than 5% of the total residential gross floor area at any time may be devoted to commercial gross floor area.
 - (e) The residential net density within the developed area (80% portion) shall not exceed 20 dwelling units per acre, not including streets.
 - (f) At any one time not more than 30% of the total dwelling units shall be of one type of bedroom composition.
 - (g) Buildings shall be at least 50 feet from any district boundary and at least 15 feet from any street line or parking area and at least 24 feet apart.
 - (h) Buildings shall not exceed three stories in height.
 - (i) The development shall be served by a public water system.
 - (j) The manner of sewage disposal shall be approved in writing by the Board of Health.
- G. Planned business development. The Planning Board, as a special permit granting authority, may issue a special permit for a planned business development, provided that the following conditions are met with respect to any particular parcel of land:
- (1) For planned business development of land subject to maximum building coverage more than the maximum permitted in the Table of Density and Dimensional Regulations²¹ and less than the parking requirements contained in the Table of Off-Street Parking Regulations,²² the following conditions shall apply:
 - (a) The tract shall be in single or consolidated ownership at the time of application and shall be at least five acres in size.
 - (b) Uses shall be continued in one continuous building, except that groupings of buildings may be allowed by special permit of the Planning Board where such groupings are consistent with the safety of the users of the development and are further consistent with the overall intent of this section.
 - (c) The gross area of the buildings shall not exceed 50% of the total lot area.

20. Editor's Note: See Ch. 350, Subdivision of Land.

21. Editor's Note: See § 255-6.4.

22. Editor's Note: See § 255-8.6.

- (d) The development shall be served by one common parking area and by common exit and entrance areas.
 - (e) Reduction in parking space requirements shall not exceed more than 10% of those required under normal application of requirements for the particular uses proposed.
 - (f) The development shall be served by a public water system.
 - (g) The manner of sewage disposal shall be approved in writing by the Board of Health.
- H. Planned industrial development. The Planning Board, as a special permit granting authority, may issue a special permit for the construction of a planned industrial development, provided that the following conditions are met with respect to any particular parcel of land:
- (1) The tract in single or consolidated ownership at the time of application shall be at least 15 acres in size. Where the site plan constitutes a subdivision, it shall require approval by the Planning Board under the Subdivision Control Law.²³
 - (2) Individual lot sizes shall not be reduced more than 10% below that normally required for manufacturing or service industrial purposes in the district.
 - (3) The total number of establishments in the development shall not exceed the number of establishments which could be developed under normal application requirements of the district.
 - (4) The permitted uses shall be limited to manufacturing or service industrial uses, with the total use completely within the building.
 - (5) The development shall be served by a public water system.
 - (6) At least 10% of the total tract area (of which at least 50% shall not be wetlands or over 5% slope land) shall be set aside as common land and shall be either deeded to the Town or covenanted to be maintained as permanent "open space" in private or cooperative nonprofit ownership, or permanently covenanted simultaneously with the Planning Board's approval of the definitive subdivision plan, if any.
 - (7) Such common land shall be restricted to open space, playfield, golf course, or conservation area and shall have suitable access to a street.
 - (8) The manner of sewage disposal shall be approved in writing by the Board of Health.
- I. Home occupations.
- (1) The Board of Appeals, as a special permit granting authority, may issue a special permit for the use of a portion of a dwelling unit for a home occupation, provided that the following conditions are met:
 - (a) The occupation or profession is carried out wholly within the principal building, or within a building or structure accessory to the principal building.
 - (b) The occupation or profession occupies not more than 40% or 400 square feet, whichever of the two is the less, of the total net floor area of the dwelling unit and any building or other structures accessory thereto.

23. Editor's Note: See Ch. 350, Subdivision of Land.

- (c) Not more than one person not a resident of the dwelling unit shall be employed in the home occupation.
 - (d) There shall be no exterior display or storage of materials and no other exterior indication of the use of the premises for other than residential purposes except for an exterior sign, either stationary or portable, as may be permitted by Article X of this bylaw.
 - (e) No offensive noise, heat, smoke, dust, odor, vapor, vibration or other deleterious side effects of such home occupation shall be produced.
 - (f) Sufficient space shall be provided so that all parking is accommodated off-street.
- (2) In particular, a home occupation shall include, but is not necessarily limited to, the following:
- (a) Art studio.
 - (b) Musician.
 - (c) Professional office of a physician, surgeon, dentist, lawyer, engineer, architect, landscape architect, clergyman.
 - (d) Real estate or insurance or investment counseling office.
 - (e) Hairdresser.
 - (f) Dressmaker, millinery, handicraft.
- (3) A home occupation is specifically intended not to include the following uses:
- (a) Clothing rental.
 - (b) Barber shop.
 - (c) Restaurants and tea rooms.
 - (d) Dance instruction or band instrument instruction.
 - (e) Convalescent or mortuary establishments.
 - (f) Stores, trades or business not herein excepted.
 - (g) Tourist home.
 - (h) Stables or kennels (for hire).
- J. Temporary additional living quarters. The Board of Appeals, as a special permit granting authority, may issue a special permit authorizing the conversion and use of a portion of a single-family dwelling into separate living quarters for a relative of the owner or owners. Said permit shall be valid only for the occupancy of the premises by the person for whom it is issued; upon cessation of occupancy by such person, the permit shall lapse. If occupancy of the additional living quarters is then desired by another relative of the owner or owners a new application for a special permit authorizing such occupancy shall be made. It is the intention of this provision that such additional living quarters shall not be used as an apartment for hire, but only as a convenience for a member of the owner's family, under special circumstances, and it shall not exceed 770 square feet in gross floor area. Special permits for temporary additional living quarters expire at the departure of the person for whom the permit is issued or after five years, whichever comes first.

- K. Scientific research, development, production. The Board of Appeals, as a special permit granting authority, may issue a special permit for uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right related to production, provided there is a finding that the proposed accessory use does not substantially derogate from the public good.
- L. Trailers used for storage.
- (1) Residential. The Building Inspector may issue a temporary zoning permit authorizing temporary storage units. Such permit shall specify the number of units authorized and the period of time of such authorization.
 - (2) Commercial/Industrial/Business. The Planning Board, as special permit granting authority, may issue a special permit authorizing the temporary storage of one or more unregistered trailers, shipping containers, mobile storage units or temporary structures. The permit application shall include a site plan drawing showing the proposed location and specify the number of storage units. The issued special permit shall state the period of time of such authorization.
- M. Extension or alteration of existing structures or uses. The Board of Appeals, as the special permit granting authority, may issue a special permit for the extension or alteration of an existing building, structure or use upon a specific finding by the Board that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming structure or use to the neighborhood.
- N. Adult entertainment. See § 255-5.5D of this bylaw.
- O. Wind energy conversion facilities.
- (1) General requirements.
 - (a) Documentation. The applicant shall submit evidence of control of the site and the clear areas and of the right to install and use the facility when applying for the special permit.
 - (b) General regulatory compliance. The applicant shall also demonstrate that the tower meets all applicable local, state, and federal electrical, construction, noise, safety, environmental and communication requirements.
 - (c) Monitoring. After the WECF is operational, the applicant shall submit annual reports to the Town covering data such as days of operation, periods of feathered inoperation, amount of energy produced and its distribution to local users or to the grid, and any signs of bird kill.
 - (d) Maintenance. The owner shall maintain the WECF in good condition, including painting, structural integrity of the foundation and tower, security barriers, and any landscaping of the clear area.
 - (e) Ownership. The owner shall notify the Town of any proposed change in ownership.
 - (f) Closure.
 - [1] If a WECF is scheduled to be discontinued, the owner shall notify the Town of the proposed date by certified mail. Without such notification or explanation of a period of inactivity, the WECF shall be considered to be discontinued if it does not operate for 180 days. If the operator does not report plans to restore the operation or to sell

the facility, it shall physically remove the WECF and leave the site in a natural condition within 180 days. The SPGA may extend these periods at the request of the owner.

- [2] To ensure removal of a permanently closed facility and restoration of the site, the developer may be required to post a bond or other surety sufficient to remove the facility and restore the site in a condition satisfactory to the SPGA.
- (g) Filing requirements. These shall be as described below, with special permits normally limited to 25 years, subject to renewal by the SPGA.
- (2) Design standards for meteorological towers.
- (a) General. The applicant shall demonstrate that the siting and design of the facility and any proposed mitigations minimize any negative visual or aural impacts on nearby neighborhoods.
- (b) Allowed height: as required for effective research, subject to engineering data and approval by the SPGA and to any applicable Federal Aviation Administration (FAA) or Massachusetts Aeronautical Commission (MAC) requirements, and to documented clear area guy wire requirements.
- (c) Required setback or clear area: sufficient to accommodate the guy wires of the meteorological tower and to prevent a collapsed tower and equipment from crossing adjacent property lines, rights-of-way, or habitable space, including parking areas potentially holding occupied vehicles. This is equivalent to at least the height of the tower and any extended boom holding the instruments, and shall be to the satisfaction of the SPGA. Owner-occupied properties accommodating WECFs may remain in occupied uses at the option of the owner. However, the clear area setback requirements continue to apply within the rest of the defined clear area.
- [The guy wires typically require a greater area than a monopole production tower, e.g., a one-hundred-thirty-one-foot tower would require a one-hundred-thirty-five-foot radius clear area, and a one-hundred-sixty-foot radius "guy diameter" according to the UMass Renewable Energy Research Laboratory.]
- (d) Lights. Warning lights must be installed according to documented FAA standards. Any other lighting shall shine down and be shielded to avoid lighting the sky or shining on abutting properties.
- (e) Co-location. Meteorological towers may be used to accommodate temporary telecommunications antennas when so doing would meet a public purpose, and subject to all applicable regulations. The requirements of such uses (e.g., to be below the instruments if needed to avoid interference) may be considered by the SPGA when considering the allowable height of a meteorological tower.
- (3) Design standards for production towers.
- (a) General. The applicant shall demonstrate that the siting and design of the facility and any proposed mitigations minimize any negative visual or aural impacts on nearby neighborhoods, or avian impacts.
- (b) Allowed height: as required for effective operations subject to engineering data and

approval by the SPGA and subject to any applicable Federal Aviation Administration (FAA) or Massachusetts Aeronautical Commission (MAC) requirements and consistent with meeting clear area requirements.

- (c) Required setback or clear area: equivalent to the height of the tower and an extended rotor or other equipment, and sufficient to prevent a collapsed tower and extended rotor or other equipment from crossing adjacent property lines, rights-of-way, or habitable space, including parking areas potentially holding occupied vehicles, and to prevent damage from thrown ice as defined by an engineering study to the satisfaction of the SPGA. Owner-occupied properties accommodating WECFs may remain in occupied uses at the option of the owner. However, the clear area setback requirements continue to apply within the rest of the defined clear area.
 - (d) Lighting. Warning lights must be installed according to documented FAA standards for lighting and marking. Other facility lighting shall shine down to avoid lighting the sky and shall be shielded so as to not spill over to abutting properties.
 - (e) Colors. The tower and rotor shall be painted with a nonreflective paint that blends with the sky and clouds unless the SPGA finds that some other rotor color or pattern would better lessen any potential bird injuries.
 - (f) Co-location. WECFs may be used to accommodate telecommunications antennas when so doing would reduce the need for multiple towers in the vicinity, and subject to all applicable regulations. The requirements of such uses (e.g., to be below the arc of the rotors if needed to avoid interference) may be considered by the SPGA when considering the allowable height of a WECF.
 - (g) Antennas. Antennas shall be flush mounted where possible to be in keeping with the approved design of the tower.
 - (h) Ancillary equipment. All equipment needed to operate and monitor the WECF or any telecommunications facility should be sited to avoid visual clutter within the tower if possible, in a underground vault, or in an adjacent separate structure.
 - (i) Signs. Signs shall be those needed to identify the facility, and its owner, to warn of any dangers, and to describe the facility and its effects, consistent with sign regulations in Article X.
- (4) Environmental standards.
- (a) Land clearing. WECFs and meteorological towers shall use previously developed sites when possible and shall restrict land clearing to that required for the facility and access drives.
 - (b) Noise. The WECF and related equipment shall conform to the Massachusetts Noise Regulations at 310 CMR 7.10 as applied by a qualified sound engineer. [The UMass Renewable Energy Research Laboratory estimates that the policy typically keeps turbines three times hub height from residences or about twice the clear area required based on rotor tip height.]
 - (c) Shadowing/flicker. WECFs and meteorological towers shall be sited to avoid significant shadow or flicker impacts on nearby residences or such impacts shall be mitigated where unavoidable.

- (d) Sites in wetlands or floodplains shall follow the prescribed procedures in this bylaw and the Wetlands Protection Act and related regulations.
- (e) Avian impacts. Applications shall indicate the chance of significant bird or bat impact according to a qualified wildlife biologist or comparable authority regarding migration patterns, location of important nesting or foraging areas for threatened or endangered species, or the availability of prey attracting many raptors.
- (5) Application filing requirements. These shall be as described below, with special permits normally limited to one year: The application for a WECF shall follow the procedures in Article VII, Special Permits, but with the inclusion of the following information:
 - (a) Documentation of control over the site and the clear area, and of the right to install and use the facility when applying for the special permit.
 - (b) A one inch equals 40 feet vicinity plan showing the following for the 300 feet around the (minimal 40,000 square feet, thirty-six-foot-diameter circle) proposed site, or the height of the proposed WECF plus 36 feet, whichever is greater:
 - [1] All property lines.
 - [2] All buildings, roads and ways.
 - [3] Elevations and two-foot contours.
 - [4] Proposed changes, including existing and proposed contours, land clearing and road construction.
 - [5] Detailed representation of the proposed WECF showing all equipment, structures and other alterations and improvements.
 - [6] Existing tree cover, including average heights, and proposed tree cover showing heights when planted.
 - [7] Proposed security barriers, indicating their heights.
 - (c) Two sightline representations showing the visibility of the structure from the closest habitable structures, public roads, or public spaces by superimposing the proposed facility on photographs from the same viewing points and noting the elevation of the viewing point.
 - (d) A description of the materials to be used for all elements of the facility and the proposed colors shown on a color board.
 - (e) A proposed landscape plan showing present trees and shrubs, and those proposed to be removed or added, identified by size/height at installation.
 - (f) A statement of existing and projected maximum noise levels at the property line of the nearest habitable structures certified by a qualified engineer and stating that the projections are accurate and meet applicable local and state standards.
 - (g) Indication of filed applications or pending applications to the FAA and New England Power Grid as applicable.
 - (h) A summary of the findings of any required studies such as bird/bat impacts and noise

impacts required above.

- (i) Evidence of bonding or other forms of surety sufficient for facility removal and site restoration in the case of permanent closure as defined in § 255-7.5.

Note: The SPGA (special permit granting authority) may waive part or all of the above requirements which it finds to be unnecessary to understand and evaluate the proposed facility and its setting.

ARTICLE VIII
Off-Street Parking and Loading Regulations

§ 255-8.1. Off-street parking and loading requirements.

In any district, if any structure is constructed, enlarged, or extended, and any use of land established, or any existing use is changed, after the effective date of this bylaw, parking and loading spaces shall be provided in accordance with the Table of Off-Street Parking Regulations and the Table of Off-Street Loading Regulations. An existing structure which is enlarged or an existing use which is extended after the effective date of the bylaw shall be required to provide parking and loading spaces in accordance with the following tables for the entire structure or use, unless the increase in units or measurements amounts to less than 25%, whether such increase occurs at one time or in successive stages.

§ 255-8.2. Existing spaces.

Parking or loading spaces being maintained in any district in connection with any existing use on the effective date of this bylaw shall not be decreased so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere such that the total number of spaces conforms to the requirements of the tables of this article; provided this regulation shall not require the maintenance of more parking or loading spaces than are required according to the tables.

§ 255-8.3. Computation of spaces.

When the computation of required parking or loading spaces results in the requirement of a fractional space, any fraction over 1/2 shall require one space.

§ 255-8.4. Combined facilities.

Parking required for two or more buildings or uses may be provided in combined facilities on the same or adjacent lots, subject to approval by the Zoning Officer, where it is evident that such facilities will continue to be available for the several buildings or uses.

§ 255-8.5. Location of parking spaces.

Required off-street parking spaces shall be provided on the same lot as the principal use they are required to serve; or when practical difficulties, as determined by the Board (of Appeals), prevent their establishment upon the same lot, they shall be established no further than 200 feet from the premises to which they are appurtenant.

§ 255-8.6. Table of Off-Street Parking Regulations.

Use		Number of Parking Spaces per Unit
1.	One single- or two-family dwelling	2 for each dwelling unit
2.	Multifamily dwelling apartments	2 for each dwelling unit
3.	Lodging unit	1 for each bedroom in a lodging unit

Use		Number of Parking Spaces per Unit
4.	Theater, restaurant, auditorium, church, or similar place of public assembly with seating facilities	1 for each 4 seats of total seating capacity
5.	New and used car sales and automotive service establishments utilizing extensive display areas, either indoor or outdoor, which are unusually extensive in relation to customer traffic	1 per 1,000 square feet of gross floor space; in the case of outdoor display areas, 1 for each 1,000 square feet of lot area in such use
6.	Other retail, service, finance, insurance or real estate establishment	1 per each 300 square feet of gross floor space
7.	Hotel, motel, tourist court	1 for each sleeping room, plus 1 for each 400 square feet of public meeting room and restaurant space
8.	Wholesale establishment, warehouse or storage establishment	1 per 1,000 square feet of gross floor space
9.	Manufacturing or industrial establishment	1 per each 600 square feet of gross floor space or 0.75 per each employee of the combined employment of the 2 largest successive shifts, whichever is larger
10.	Hospital	2 per bed at design capacity
11.	Nursing Home	1 per bed at design capacity
12.	Business, trade or industrial school or college	1 for each 200 square feet of gross floor area in classrooms
13.	Other school	2 per classroom in an elementary and junior high school; 4 per classroom in a senior high school, plus 1 space for every 10 seats of total seating capacity in auditorium or gymnasium, whichever has the larger capacity

Use			Number of Parking Spaces per Unit
14.	Community facility (Town building, recreation, etc.)		1 per each 400 square feet of gross floor space
15.	Dormitory, fraternity, sorority, YMCA or similar use		1 for each sleeping room
16.	Public utility		1 for each 400 square feet of gross floor area devoted to official use
17.	Transportation terminal establishment		1 for each 600 square feet of gross floor area
18.	Mixed use		Minimum of 2 spaces per dwelling unit and 1 space per 300 square feet of gross business space
19.	Any use permitted by this bylaw not interpreted to be covered by this schedule		Closest similar use as shall be determined by the Zoning Officer
20.	Development under the Village Overlay District (VOD):		10% guest parking
		Multifamily dwelling apartments	1.5 for each dwelling unit
		Retail, service, or office use	1 per 500 square feet of gross floor space
		Restaurant establishment	1 for each 4 seats of total seating capacity

§ 255-8.7. Table of Off-Street Loading Regulations.

Table of Off-Street Loading Regulations		
1.	Retail trade, manufacturing and hospital establishment with over 5,000 square feet of gross floor area	1 per 20,000 square feet or fraction thereof of gross floor area up to 2 spaces; 1 additional space for each 60,000 square feet or fraction thereof of gross floor area over 40,000 square feet. Space used for ambulance receiving at a hospital is not to be used to meet these loading requirements.
2.	Business services, other services, community facility (school, church, Town building, recreation, etc.) or public utility establishment with over 5,000 square feet of gross floor area	1 per 75,000 square feet or fraction thereof of gross floor area up to 2 spaces; 1 additional space for each 200,000 square feet or fraction thereof of gross floor area over 150,000 square feet

§ 255-8.8. Location of loading spaces.

The loading spaces required for the uses listed in the Table of Off-Street Loading Requirements shall in all cases be on the same lot as the use they are intended to serve; in no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this bylaw.

§ 255-8.9. Parking and loading space standards.

All parking and loading areas containing over five spaces, including automotive and drive-in establishments of all types, shall be either contained within structures or subject to the following:

- A. The area shall be effectively screened on each side which adjoins or faces the front, side or rear lot line of a lot situated in any "R" District.
 - (1) Where the line of General Business or Mixed Use Zone abuts a residential zone, the parking, loading or delivery area must be screened from the abutting residential zone by an opaque fence or barrier of a minimum height of 10 feet above the average grade at the demarcation line of the zoning districts.
- B. The area and access driveways thereto shall be surfaced with bituminous or Portland cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation.
- C. A substantial bumper of masonry, steel or heavy timber, or a concrete curb or berm curb which is backed, shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks.
- D. Any fixture used to illuminate any area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes.

- E. There shall not be any vehicle repair for profit or gasoline or oil service facilities or any repair made to any motor vehicle, except on a lot occupied by a permitted automotive use. Any gasoline or oil facilities shall be at least 25 feet from any lot line.
- F. There shall not be any storage of materials or equipment or display of merchandise within required parking area except as part of the approved building operations.
- G. Parking spaces shall not be located within the required front yard area except in residential districts.
- H. Parking and loading spaces shall be so arranged as not to permit backing of vehicles onto any street, except in residential districts.
- I. Any portion of any entrance or exit driveway shall not be closer than 50 feet to the curbline of an intersecting street.
- J. Any two driveways leading to or from a street, to or from a single lot shall not be within 30 feet of each other at their intersections with the front lot line for an interior lot and 40 feet for a corner lot.
- K. Any entrance or exit driveway shall not exceed 24 feet in width at its intersection with the front lot line. Curb cuts shall not exceed 25 feet in width.
- L. Any open-air parking space in districts GEN BUS and IND shall be at least five feet from any sidewalk or street line.
- M. In districts GEN BUS and IND, all off-street parking and loading spaces, access ways and maneuvering area shall be laid out so as to provide for adequate drainage, snow removal, maneuverability, and curb cuts.
- N. Entrance to parking or loading area must be within the same zoning district.

ARTICLE IX
Nonconforming Uses, Structures and Lots

§ 255-9.1. Applicability.

The provisions of this article apply to nonconforming uses, structure and lots as created by the initial enactment of this bylaw or by any subsequent amendment.

§ 255-9.2. Extension and alteration.

Any lawful use of any structure or land or both may be continued although not conforming with the provisions of this bylaw, but no such lawfully nonconforming use shall be changed, intensified, extended or enlarged in any manner except with the approval of the Board of Appeals. Preexisting nonconforming structures or uses may be extended or altered, provided that no such extension or alteration shall be permitted unless there is a finding by the Board of Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming structure or use to the neighborhood. This section shall not apply to billboards, signs or other advertising devices, subject to the provisions of MGL c. 93, §§ 29 through 33.

§ 255-9.3. Abandonment.

A preexisting nonconforming structure or use which is abandoned or not used for a period of two years or more shall be deemed to have been abandoned, and thereafter such nonconforming structure or lot may only be developed or used in accordance with the applicable provisions of this bylaw.

§ 255-9.4. Repair or restoration.

No building or other structure which has been damaged or destroyed by fire, or by other natural or accidental cause, to the extent of 75% or more of its replacement cost shall be repaired or rebuilt except in conformity with the applicable provisions of the bylaw.

§ 255-9.5. Reduction or increase.

- A. Any nonconforming lot or open space on the lot (yards, setbacks, courts, or building area), if already smaller or greater, as the case may be, than that required, shall not be further reduced or increased so as to be in greater nonconformity.
- B. Any off-street parking or loading spaces, if already equal to or less than the number required to serve their intended use, shall not be further reduced in number.

§ 255-9.6. Change.

- A. Preexisting nonconforming structures or uses may be extended or altered, provided that no such extension or alteration shall be permitted unless there is a finding by the Board of Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming structure or use to the neighborhood.
- B. Any change, extension, alteration, or reconstruction to a preexisting, nonconforming single- or two-family residential structure shall not be considered an increase in the nonconforming nature of the structure and shall be permitted by right under the following circumstances:
 - (1) For the normal repair or replacement of parts of said structure;

- (2) When the change, extension, alteration, or reconstruction will comply with all applicable sections of the zoning bylaws, in effect, at the time of this application for a building permit and the structure is located on a lot which is nonconforming as a result of a previous zoning change.
 - (3) When the change, extension, alteration, or reconstruction will comply with all applicable sections of the zoning bylaws, in effect, at the time of this application for a building permit, including, but not limited to, setbacks, yard and building coverage, and height requirements.
- C. If any encroachment on any setbacks, yard and building coverage, or height requirements occurs, then there shall be no change, extension, alteration, or reconstruction as of right under this section, and § 255-9.2 shall apply.

§ 255-9.7. Moving of structures.

Any nonconforming structure shall not be removed to any other location on the lot or any other lot unless every portion of such structure, the use thereof, and the lot shall be conforming.

§ 255-9.8. Unsafe structures.

Any structure determined to be unsafe may be restored to a safe condition. Such work on any nonconforming structure shall not place it in greater nonconformity.

ARTICLE X

Signs**§ 255-10.1. In general.**

No signs or advertising devices of any kind or nature shall be erected on any premises or affixed to the outside of any structure or be visible from the outside of any structure except as specifically permitted in this article.

§ 255-10.2. Residence districts.

In residence districts, signs or advertising devices are permitted only as follows:

- A. One nonelectric sign displaying the street number, or name of the occupant of the premises, or both, not exceeding three square feet in area. Such sign may be attached to a building or may be on a rod or post not more than six feet high and not less than three feet from the street line. Such sign may include identification of any accessory studio or professional office in the dwelling or on the premises, or may identify other permitted accessory uses, including customary home occupations.
- B. One bulletin or announcement board or identification sign for a permitted nonresidential building or use, not more than six square feet of signboard area. For churches and institutions, two bulletin or announcement boards or identification signs are permitted on each building. Each such church or institution sign shall not be more than 10 square feet of signboard area. No such sign shall be located nearer a street than one-half the required front yard depth.
- C. On the premises with a lawfully nonconforming use, one sign not more than six square feet.
- D. One "For Sale" or "For Rent" sign, not more than six square feet and advertising only the premises on which the sign is located. It shall be set back at least 10 feet from the street lot line.
- E. One building contractor's sign on a building while actually under construction, not exceeding six square feet.
- F. In residence districts, all signs or advertising devices shall be stationary and shall not contain any visible moving or moveable parts. No sign or advertising device in such districts shall be of neon or illuminated tube type. Lighting of any sign or advertising device shall be continuous (not intermittent nor flashing nor changing) and shall be so placed or hooded as to prevent direct light from shining onto any street or adjacent property. No sign or advertising device shall be illuminated after 11:00 p.m.

§ 255-10.3. General business, commercial, and industrial districts.

In Business, Commercial and Industrial Districts, signs or advertising devices are permitted only as follows:

- A. Signs shall relate to the premises on which they are located and shall only identify the occupant of such premises or advertise the articles or services available within said premises.
- B. On each lot, there are permitted two signs affixed to the exterior of a building and not to the roof for each occupant. The top edge of each such sign shall not be higher than 10 feet above the roof ridge of the building, provided that this permissible 10 feet does not exceed the permitted forty-foot building height noted in § 255-6.4 of this bylaw.

- C. The total sign area affixed to the wall of any building shall not exceed 5% of that wall area.
- D. In Mixed Use Districts where businesses are set back greater than 15 feet from the street, one double-sided "monument type" sign of overall size 16 square feet or less and a maximum height above street level of 42 inches and one single-faced sign of 12 square feet at a minimum height of eight feet mounted to the building structure in a plane parallel to the adjacent street. Where businesses are set back 15 feet or less from the street, one "knife" sign up to 12 square feet per face at a minimum height of 10 feet and subject to approval of the Planning Board.
- (1) In General Business Districts, freestanding signs are limited to 20 square feet of total area per side and total signage per occupant may not exceed 40 square feet and subject to approval of the Planning Board.
- E. In Industrial and Commercial Districts where buildings are set back 40 feet or more, one freestanding sign per lot is permitted. The top edge of any such freestanding sign shall be not higher than 25 feet vertical measure above the average level of the ground between the supports of each sign for traffic safety, the whole of the signboard or display elements of any freestanding sign shall be either below three feet or 10 feet above average ground level. Any such freestanding sign may be located within the front yard space of any such lot, but not nearer than 12 feet to any lot line.
- F. No freestanding sign (or display area, if no signboard) shall exceed 150 square feet, measured from the tops of the topmost display elements to the bottom of the lowest display elements, and from exterior side to exterior side of display elements, and including in such measurements any blank space between display elements. No display or signboard dimension shall exceed 16 feet for a freestanding sign.
- G. Illuminated signs are permitted, subject to the following conditions:
- (1) No sign shall be intermittently illuminated, nor of a traveling light, animated or flashing light type.
- (2) Each illuminated sign shall not exceed 100 square feet gross display areas as measured in Subsection F above.
- (3) Sign illumination is permitted only between the hours of 7:00 in the morning and 11:00 in the evening, except that signs of retail establishments may be illuminated during any hours these establishments are open to the public.
- (4) Sign illumination for 24 hours daily is permitted only where such illumination does not infringe upon residential property and shall only be permitted with the approval of the Select Board.
[Amended 1-28-2023STM by Art. 9]
- (5) Signs with changeable message areas may not change messages at a frequency greater than once in 60 minutes.
- (6) Changeable message signs in the General Business and Mixed Use Districts may be mounted to the building structure only.

§ 255-10.4. Additional sign regulations.

- A. Specifically excluded from these regulations are temporary interior window displays or temporary banners for drive-in establishments or automotive establishments.

- B. In all zoning districts, any traffic or directional signs owned and installed by a government agency shall be permitted.
- C. Specifically excluded from these regulations are the displaying of national and state flags.
- D. In all zoning districts, for safety reasons, any private outdoor lighting fixture, whether temporary or permanent, other than gaseous tube letters in signs, shall be so placed or hooded that the light source itself shall not be directly visible at any point beyond the lot lines of the premises illuminated. A sign (including temporary interior window displays or banners) or its illuminator shall not by reason of its location, shape, size or color interfere with traffic or be confused with or obstruct the view or effectiveness of any official traffic sign, traffic signal or traffic marking. Therefore, flashing or animated signs of red, yellow or green colored lights are not permitted.
- E. The Select Board may issue a temporary permit authorizing the temporary erection of special promotional signs, banners, streamers or placards in connection with a political campaign, for the advertisement and promotion of yard sales, flea markets, bazaars, and similar special events or for special sales by regular business firms located in the Town. **[Amended 1-28-2023STM by Art. 9]**

§ 255-10.5. Building numbering.

- A. Effective September 1, 1987, there shall be a uniform building numbering system in effect at all time for each tenant and/or occupant of every building in the Avon industrial zones. Each such tenant and/or occupant shall purchase, erect and maintain at its own expense a sign that is three feet in length and 12 inches high on its face side. The face side of the sign shall have a white background and be black lettered in the letter style known as Helvetica Medium font. The lettering shall be 10 inches in height. Each such sign shall conform to the street numbering system assigned by the Avon Town Clerk in that the lettering on each such sign shall set forth the first initial of the street name, then followed by the number of that street at which the tenant and/or occupant is located in the park. Multiple tenants and/or occupants at the identical address in the park shall be further distinguished by the addition of a sequential letter (i.e., A, B, C, etc.) appearing at the end of the street number. The sign(s) shall at all times be displayed prominently in the upper corner of each building that is most readily and easily visible from the nearest major road in the park. The Town shall not issue an occupancy and/or building permit to any tenant and/or occupant of the park who is not in compliance with this bylaw.
- B. Failure to comply with the terms of the bylaw shall be punishable by a fine in the amount of \$25 per day for each day or portion of a day on which a violation occurs and/or continues to occur until such time as compliance is had.

ARTICLE XI
Environmental Standards

§ 255-11.1. Environmental performance standards.

Any use permitted by right or special permit in any district shall not be conducted in a manner so as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactive or other hazard; noise or vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare; liquid or solid refuse or wastes; conditions conducive to the breeding of insects, rodents, or other substance, conditions or element in an amount so as to affect adversely the surrounding environment. The following standards shall apply:

- A. Emissions shall be completely and effectively confined within the building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located.
- B. All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment.
- C. No activities that emit dangerous radioactivity, at any point, and no electrical disturbance adversely affecting the operation at any point, of any equipment, other than that of the creator of such disturbance, shall be permitted.
- D. No emission of visible smoke of a shade darker than No. 1 on the Ringlemann Smoke Chart as published by the United States Bureau of Mines shall be permitted.
- E. No emission which can cause any damage to health of animals or vegetation or which can cause excessive soiling, at any point, and in no event any emission of any solid or liquid particles in concentrations exceeding 0.3 grain per cubic foot of conveying gas or air shall be permitted.
- F. No discharge, at any point, into a private sewage system, stream, the ground, or a municipal sewage disposal system of any material in such a way or of such a nature or temperature as can contaminate any running stream, water supply or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects shall be permitted.
- G. No vibration which is discernible to the human sense of feeling for three minutes or more in any hour between 7:00 a.m. and 7:00 p.m., or for 30 seconds or more in any one hour between 7:00 p.m. and 7:00 a.m., shall be permitted. No vibration at any time shall produce an acceleration of more than 0.1 gram or shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7, United States Bureau of Mines Bulletin No. 442.
- H. Maximum permissible sound pressure levels measured at the property line for noise radiated continuously from a facility between 10:00 p.m. and 7:00 a.m. shall be as follows:

Frequency Band (cycles per second)	Sound Pressure Level (decibel ret 0.002 dyne/cm ²)
20 to 75	69
75 to 100	54

Frequency Band (cycles per second)	Sound Pressure Level (decibel ret 0.002 dyne/cm ²)
150 to 300	47
300 to 600	41
600 to 1,200	37
1,200 to 2,400	34
2,400 to 4,800	31
4,800 to 10,000	28

(1) If this sound is not smooth and continuous, the following corrections should be added to each of the actual decibel levels given:

(a) Daytime operations only: +5.

(b) Noise source operates less than 20% of any hour period: +5.

(2) Only one of the above corrections may be applied.

- I. No emission of odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process which may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system. No objectionable odor greater than that caused by 0.001202 per thousand cubic feet of hydrogen sulfide or any "odor threshold" as defined in Table III in Chapter 5 of Air Pollution Abatement Manual, copyrighted 1951, by Manufacturing Chemists Association, Inc., of Washington, D.C., shall be permitted.
- J. No direct sky-reflected glare, whether from floodlights or from high-temperature processes such as welding, shall be permitted.

§ 255-11.2. Greenbelt in industrial districts.

- A. In an Industrial District, where a lot used for a purpose not permitted in any Residential District abuts or extends into a Residential District, or abuts another lot which has frontage only in such district or which extends from such district into an Industrial District by less than 50 feet, there shall be provided a permanently maintained "greenbelt" along the particular portions of the lot which are next to such district or abutting lot. Such "greenbelt" shall consist of an area of not less than 100 feet in width containing a dense planting of evergreens, as described below, to provide within such area a natural barrier which is sight impervious between the lot and the adjacent premises having an effective height of not less than seven feet, and such plantings shall commence 10 feet from the property line of the adjacent premises. Evergreens shall be planted in a staggered pattern with a minimum of two rows of plantings.
- B. Evergreens are:
 - White Spruce
 - White Pine
 - Canadian Hemlock
 - Douglas Fir

Australian Pine
Japanese Black Pine
Norway Spruce
Colorado Blue Spruce
Carolina Hemlock
Winter Green Pyramidal
Eastern Red Cedar

§ 255-11.3. Floodplain District.

A. Statement of purpose. The purposes of the Floodplain District are to:

- (1) Ensure public safety through reducing the threats to life and personal injury;
- (2) Eliminate new hazards to emergency response officials;
- (3) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
- (4) Avoid the loss of utility services which, if damaged by flooding, would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
- (5) Eliminate costs associated with the response and cleanup of flooding conditions;
- (6) Reduce damage to public and private property resulting from flooding waters.

B. Boundaries.

- (1) Floodplain District boundaries and base flood elevation and floodway data. The Floodplain District is herein established as an overlay district. The district includes all special flood hazard areas within the Town of Avon designated as Zone A, AE, A99, V, or VE on the Norfolk County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Norfolk County FIRM that are wholly or partially within the Town of Avon are Panel Numbers 25021C 214E, 218E, 219E, 377E, 381E, 382E, dated July 17, 2012. The exact boundaries of the district may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and Board of Health.
- (2) Base flood elevation and floodway data.
 - (a) Floodway data. In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - (b) Base flood elevation data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within

unnumbered A Zones.

- C. Notification of watercourse alteration. In a riverine situation, the Select Board shall notify the following of any alteration or relocation of a watercourse: **[Amended 1-28-2023STM by Art. 9]**

- (1) Adjacent communities.
- (2) NFIP State Coordinator.

Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104

- (3) NFIP Program Specialist.

Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

- D. Use regulations.

- (1) Reference to existing regulations.

- (a) The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131, § 40 and with the following:

- [1] Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high-hazard areas;
- [2] Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- [3] Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- [4] Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).

- (b) Any variances from the provisions and requirements of the above-referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

- (2) Other use regulations.

- (a) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Norfolk County FIRM or Flood Boundary and Floodway Map, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

- (b) All subdivision proposals must be designed to assure that:

- [1] Such proposals minimize flood damage;

- [2] All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - [3] Adequate drainage is provided to reduce exposure to flood hazards.
 - (c) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
 - (d) There shall be established a "routing procedure" which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Town Engineer, Building Commissioner and Board of Health for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.
- E. Permitted uses. The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged, provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:
 - (1) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
 - (2) Forestry and nursery uses.
 - (3) Outdoor recreational uses, including fishing, boating, play areas, etc.
 - (4) Conservation of water, plants, wildlife.
 - (5) Wildlife management areas, foot, bicycle, and/or horse paths.
 - (6) Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
 - (7) Buildings lawfully existing prior to the adoption of these provisions.
- F. Definitions. As used in this section, the following terms shall have the meanings indicated:
 - AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99, V1-30, VE, or V.
 - BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.
 - COASTAL HIGH-HAZARD AREA — An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high-velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V, V1-30, or VE.
 - DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
 - DISTRICT — The Floodplain District.
 - FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.
 - FLOOD BOUNDARY AND FLOODWAY MAP — An official map of a community issued by

FEMA that depicts, based on detailed analyses, the boundaries of the one-hundred-year and five-hundred-year floods and the one-hundred-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk-premium zones applicable to the community.

FLOOD INSURANCE STUDY — An examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOODWAY — 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.

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood-resistant enclosure, 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 that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of NFIP Regulations 60.3.

MANUFACTURED HOME — 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 connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION — For floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, "new construction" means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

ONE-HUNDRED-YEAR FLOOD — See "base flood."

REGULATORY FLOODWAY — See "floodway."

SPECIAL FLOOD HAZARD AREA — An area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, or VE.

STRUCTURE — For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. "Structure," for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within

an enclosed building on the premises.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

ZONE A — The one-hundred-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

ZONE A1-30 AND ZONE AE (FOR NEW AND REVISED MAPS) — The one-hundred-year floodplain where the base flood elevation has been determined.

ZONE A99 — Areas to be protected from the one-hundred-year flood by federal flood protection system under construction. Base flood elevations have not been determined.

ZONE AH AND ZONE AO — The one-hundred-year floodplain with flood depths of one foot to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

ZONE V — A special flood hazard area along a coast subject to inundation by the one-hundred-year flood with the additional hazards associated with storm waves. Base flood elevations have not been determined.

ZONE V1-30 AND ZONE VE (FOR NEW AND REVISED MAPS) — A special flood hazard area along a coast subject to inundation by the one-hundred-year flood with additional hazards due to velocity (wave action). Base flood elevations have been determined.

ZONES B, C, AND X — Areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

ARTICLE XII
Administration and Enforcement

§ 255-12.1. Enforcement authority; impact fees.

- A. The provisions of this bylaw shall be enforced by the Building Inspector of the Town of Avon.
- B. It shall be the prerogative of the Avon Planning Board to determine and assess "impact fees" for any development within the Town in collaboration with any and all boards, commissions, departments or other Town entities.

§ 255-12.2. Permits; site plans.

- A. It shall be unlawful for any person to erect, construct, reconstruct, or alter a structure without applying for and receiving from the Building Inspector a building permit. It shall be unlawful for any person to change the use or lot coverage, or extend or displace the use of any building, structure, or lot without applying for and receiving from the Building Inspector a use permit.
- B. Permits shall be applied for by filing an application in writing with the Building Inspector. The Building Inspector shall not issue any permit unless the plans for the building, and the intended use thereof, in all respects fulfill the provisions of this bylaw, except as may have been specifically permitted otherwise by the Board of Appeals, or the Planning Board, under powers available to them, and provided a copy of such authorization is attached to the application and to the resulting permit which may be issued. In order to assure that a sufficient supply of water is available for the intended use for which the permit is requested, the Building Inspector shall secure the endorsement of the Department of Public Works to that effect. In order to assure that the sewage disposal system is sufficient to service the requirements of the use for which the building permit is requested, and to assure the public health needs of the Town of Avon and its inhabitants are safeguarded, prior to the issuance of a building permit shall secure the endorsement of the Avon Board of Health to that effect.
- C. Each application for a permit to build, alter, or move a building shall be accompanied by a plot plan in such number of copies and drawn to such a scale as is required by the Building Inspector. Each such plot plan shall show dimensions and areas of lots and of structures and sewage disposal systems, to be erected, altered, or moved, and adjacent streets or ways. Such plot plans shall accurately indicate dimensions and angles of all lot lines shown thereon; also any streets or ways. Such plot plans shall indicate approved street grades and proposed elevations of the tops of foundations. Also, such plot plans shall show the locations of existing sanitary sewers, storm drains, and water pipes in any street shown and the locations of all existing buildings and structures within the application area.
- D. Site plan requirement.
 - (1) No building or structure, except one- or two-family dwellings and their accessory buildings, shall be erected, enlarged or changed in use, except in conformity with a site plan bearing an endorsement of approval by the Planning Board. Said site plan shall show the owner of record, location, zone boundary lines, easements, or other legal restrictions, exact location of building(s) on the lot with side, front and rear dimensions, lot dimensions, topography, adjacent public ways, location of off-street parking, lighting, utility systems, surface drainage, traffic flow, location and nature of open spaces with specific notations as to landscaping, locus plan, and other details deemed necessary by the Planning Board. Upon written request of the applicant, the Planning Board may waive or substantially reduce the site plan submission requirements for projects having limited or minor impacts consistent with the purposes of this

bylaw.

(2) Site plan review requirements.

- (a) Applicants shall submit an original and seven copies of their site plan to the Town Clerk, who shall give the applicant a dated receipt. Within four days, the Town Clerk shall transmit one copy each to Planning Board, the Board of Health, the Building Inspector, the Highway Superintendent, the Department of Public Works, the Board of Appeals and the Conservation Commission and shall transmit written notice of the availability of the plans to the Fire and Police Departments. Within 90 days of filing such application, the review boards and officers shall evaluate the application and the site plan with regard to the conditions and standards set forth in this bylaw and related agency regulations and policies and shall submit comments to the Planning Board. Within 90 days of the receipt by the Town Clerk of the site plan, the Planning Board shall conduct a site plan review at a properly posted open meeting and shall notify the applicant of the date, time and place of the meeting.
- (b) The Planning Board shall not act without considering the reports of the review boards and officers unless 90 days from the date of filing have passed without receipt of such reports.
- (c) The Planning Board shall note major recommendations of the review boards and officers in its decision and shall explain any major divergence from such recommendations.
- (d) Failure of the Planning Board to act within 90 days of the filing of the application shall be deemed approval of the application and site plan. Where a proposed development also falls under subdivision control, the applicant shall include information required for a definitive plan according to the current rules and regulations for the subdivision of land.²⁴ However, Planning Board endorsement under this bylaw shall not constitute approval under the Subdivision Control Law.
- (e) The board with ultimate jurisdiction in a given case (i.e., the Planning Board or the Zoning Board of Appeals which is the designated special permit granting authority for specific specially permitted uses) shall consider any advisory site plan review report in its decision and shall explain any major divergence from that report's recommendations.

(3) Site plan specifications:

- (a) The plan shall be submitted at the scale of at least one inch equals 20 feet or, in large plots, one inch equals 40 feet.
- (b) There shall be submitted, at the same scale as the site plan, a surveyed plan of existing site features, including the size of the property, the topography at two-foot contour intervals and any bedrock outcroppings; general soil types as indicated on soil maps from the United States Natural Resources Conservation Service; vegetation, including accurate locations of wooded areas and major trees; and any existing roadways, structures or other significant man-made and natural features.
- (c) In order to allow adequate consideration of the surroundings, a plan of adjacent properties shall be presented at a scale of one inch equals 100 feet or at the same scale as and combined with the site plan or surveyed plan, if practical. This plan will show the general

24. Editor's Note: See Ch. 350, Subdivision of Land.

characteristics of all lands within at least 300 feet of the proposed site, including structures and their use, parking areas, driveways, pedestrian ways and other significant features, the zoning districts for the area and the location of the property within the Town.

(d) Required information; waivers.

[1] The site plan and any other drawings necessary shall precisely indicate the following:

- [a] Area of the site, boundary lines, dimensions of the lot(s), plot and lot numbers from Assessors' records, zoning districts, the names of the owner(s) of record and of all abutting owners of record and the North point; two perspective renderings and plan(s) of all buildings and structures.
- [b] Existing and proposed topography, using two-foot contours, and bedrock outcroppings, if any.
- [c] Location of any existing structures, access roads, driveways, driveway openings, parking spaces, hydrants and service and loading areas located on or within 100 feet of the development site.
- [d] Proposed vehicular circulation system, including pavement widths, location and dimensions of driveway entrances and exits, fire lanes, pedestrian ways, bicycle ways and other transportation routes, parking areas and signs.
- [e] All proposed structures, including their area, dimensions, exact location, if known, relation to topography and proposed use.
- [f] Number and type of dwelling units and unit mix, if known.
- [g] Service access and facilities for all structures or uses, including garbage and trash disposal facilities.
- [h] Location of water supply and wastewater disposal facilities.
- [i] Existing and proposed site drainage, including the general location of any drainage swales, wetlands, streams, ponds, Housing and Urban Development/Federal Emergency Management Agency or other designated floodplain areas, kettleholes, wells and any mapped water supply protection, conservancy or floodplain protection zoning districts within 200 feet of the site, along with a note summarizing the drainage calculations and explaining any design not providing a zero increase in runoff for a twenty-five-year storm.
- [j] The location of all open space, including its intended use, existing trees and other vegetation to be retained, specific new plantings by size and location and the entity intended to own and maintain them.
- [k] Final contours and measures and structures to minimize erosion and siltation during construction.
- [l] Significant site appurtenances such as walls, light poles showing the direction of outside lighting, recreation areas and any fencing, screening or signs.
- [m] All rights-of-way and easements, existing and proposed.

- [n] Names and stamps of the responsible registered land surveyor, landscape architect or civil engineer.
 - [o] Indication of the meeting of any specific requirements established in the zoning bylaw not already provided for.
 - [2] The Planning Board may waive specific requirements when they are inappropriate to a given proposal.
- (4) Site plan review. In considering a site plan, the Planning Board shall seek to assure reasonable use of the site according to the following criteria:
- (a) Protection of adjoining premises against detrimental uses of the site during and after construction.
 - (b) The convenience and safety of vehicular and pedestrian traffic movement within the site and movement to and from the site, considering adjacent streets, property and improvements and alternate routes between the site and nearby destinations.
 - (c) Adequacy of the methods for controlling surface water during and after construction, particularly the potential for minimal or zero increase in storm runoff for storms of up to the twenty-five-year interval.
 - (d) Provision for the off-street loading and operation of vehicles incidental to the normal operation of the establishment.
 - (e) Functional and aesthetic compatibility of the development with uses existing or allowed on adjacent properties.
 - (f) Residential privacy provided by site and unit layout.
 - (g) Adequacy of the site for any expansion allowed by applicable density standards.
 - (h) Landscaping. An area designed and developed using a combination of trees, shrubs, ground covers, grass and other elements such as natural features of the site, walks and terraces for the purpose of enhancing the natural, scenic and aesthetic qualities of a site.
- (5) Site plan review fee. Applicants requiring site plan review shall make available to the Planning Board funds sufficient to cover any expenses connected with the review of plans, including but not limited to the costs of any engineering or planning consulting services necessary for technical review purposes.

§ 255-12.3. Previously approved permits.

Construction or operations under a building or special permit issued prior to the adoption of this bylaw, or any subsequent amendment of it, shall conform to any subsequent amendments unless the use or construction is commenced within a period of not less than six months after the issuance of the permit and in cases involving construction is continued through to completion as continuously and expeditiously as is reasonable.

§ 255-12.4. Certificates of occupancy.

- A. It shall be unlawful to occupy any structure or lot for which a building or use permit is required herein without the owner applying for and receiving from the Building Inspector a certificate of occupancy.

- B. The certificate of occupancy shall state that the building and use comply with the provisions of the bylaw and of the State Building Code, as it is applicable in Avon, in effect at the time of issuance. No such certificate shall be issued unless the building and its use and its accessory uses and the uses of all premises are in conformance with the provisions of this bylaw and the Building Code at the time of issuance. A certificate of occupancy shall be conditional on prior approval of the Board of Health where applicable, on the adequacy of parking space and other facilities as required by this bylaw, and shall lapse if such areas and facilities are used for other purposes.
- C. A certificate of occupancy shall be required for any of the following in conformity with the Building Code and this bylaw:
 - (1) Occupancy and use of a building hereafter erected or structurally altered.
 - (2) Change in use of an existing building or the use of land to a use of a different classification.
 - (3) Any change in use of a nonconforming structure or use.
- D. The certificate of occupancy shall be applied for coincidentally with the application for a building permit and shall be issued within 10 days of written notice that the lawful erection or alteration of the building is complete. Such notice shall be accompanied by an "as built" plan (the erection or alteration as it was actually constructed). Failure of the Building Inspector to act within 10 days shall be considered approval. Such certificates of occupancy shall be posted by the owner of the property in a conspicuous place for a period of not less than 10 days after issuance. A temporary certificate of occupancy may be issued where a bond or similar means is used to secure the construction for a designated period of time.

§ 255-12.5. Permit and certificate fees.

Fees shall be established by the Building Inspector unless the Town, by a Town Meeting vote, has established another schedule.

§ 255-12.6. Enforcement procedures.

The Building Inspector shall enforce the provisions of this bylaw, as provided in this section.

- A. If written complaint is made to the Building Inspector, or if he has reason to believe that any provision of this bylaw is being or is about to be violated, he shall make or cause an investigation to be made of the facts. Where complaint is made to the Building Inspector, he shall take action upon such complaint within 14 days of receipt thereof and shall report such action in writing to the complainant.
- B. If the Building Inspector finds no violation or prospective violation, any person aggrieved by his decision, or any officer or board of the Town, may, within 30 days appeal, to the Board of Appeals.
- C. If the Building Inspector finds a violation or prospective violation, he shall give immediate notice in writing to the owner and to the occupant of the premises and shall order him to cease and desist and refrain from such violation. Any person aggrieved by his decision, or any officer or board of the Town, may, within 30 days, appeal to the Board of Appeals.
- D. If, after such order, such violation continues and no appeal to the Board of Appeals is taken within 30 days, the Building Inspector shall forthwith make application to the Superior Court for an injunction or order restraining the violation and shall take such other action as is necessary to enforce the provisions of the bylaw.

- E. If, after action by the Building Inspector, appeal is taken to the Board of Appeals, and after a public hearing the Board of Appeals finds that there has been a violation or prospective violation, the Building Inspector shall issue an order to cease and desist and refrain from such violation unless such order has previously been issued under Subsection C.
- F. If such violation then continues, the Building Inspector shall forthwith make application to Superior Court for an injunction or order restraining the violation and shall take such other action as may be necessary to enforce this bylaw.

§ 255-12.7. Violations and penalties.²⁵

Penalties for violations of any provision of this bylaw may, upon conviction, be affixed in an amount not to exceed \$300 for each offense. Each day or portion of a day that any violation is continued shall constitute a separate offense.

§ 255-12.8. Board of Appeals.

- A. Composition; term of office. The Board of Appeals shall consist of five members. The term of office of each member shall be for five years, so arranged that the term of office of one member shall expire each year.
- B. Associate members. In addition to the regular members, there shall be two associate members of the Board of Appeals. The term of office of an associate member shall be for two years, so arranged that the term of office of one associate shall expire each year.
- C. Appointment. Members, and associate members, of the Board of Appeals shall be appointed by the Select Board. The five regular members shall include a member from the Planning Board, a member from the Board of Health, and a member of the Fire Department. Any vacancy in the office of a member or associate member shall be filled by the Select Board for the balance of the unexpired term, if any. **[Amended 1-28-2023STM by Art. 9]**
- D. Removal. Any member or associate member of the Board of Appeals may be removed by the Select Board, upon written charges and after a public hearing. **[Amended 1-28-2023STM by Art. 9]**
- E. Organization. The Board of Appeals shall annually elect a Chair from its own number and a Clerk. Subject to appropriation, the Board of Appeals may employ experts, clerical, and other assistants. **[Amended 1-28-2023STM by Art. 9]**
- F. Power and duties.
 - (1) The Board of Appeals shall have the following powers and duties:
 - (a) To hear and decide appeals taken by any person aggrieved by a decision or order of the Building Inspector, or other administrative official, as provided in MGL c. 40A, § 8.
 - (b) To hear and decide applications for special permits upon which the Board is empowered to act under this bylaw.
 - (c) To hear and decide petitions for variances, as set forth in § 255-12.9.
 - (d) To hear and decide appeals taken from the decisions of the Zoning Administrator, as

25. Editor's Note: Attorney General approval pending.

provided in § 255-12.10.

- (2) In exercising the powers granted to it by this bylaw, and under the provisions of MGL c. 40A, the Board of Appeals may make orders or decisions, reverse or affirm, in whole or in part, or modify any order or decision, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.
- G. Rules. The Board of Appeals shall adopt rules, not inconsistent with the provisions of this bylaw, for the conduct of its business and for the purposes of MGL c. 40A. An up-to-date copy of such rules shall be kept on file in the office of the Town Clerk.
- H. Voting. The concurring votes of four members of the Board of Appeals shall be necessary to reverse any order or decision of any administrative official or to effect any variance in the application of this bylaw.
- I. Substitution of associate members. In case of the absence, inability to act, or conflict of interest on the part of any regular member of the Board of Appeals, the Chair or, if such absence, inability or conflict is in the Chair, then the Clerk of the Board of Appeals, may designate an associate member to sit on the Board of Appeals until such absence, inability, or conflict is removed, or the vacancy filled. **[Amended 1-28-2023STM by Art. 9]**

§ 255-12.9. Variances.

The Board of Appeals may grant a variance from the terms of the applicable provisions of this bylaw, but only in conformity with the provisions of this section.

- A. Notice. Notice of the filing of a petition for a variance from the applicable provisions of this bylaw shall be given by publication and posting as required by MGL c. 40A, § 11, and by mailing to all parties in interest, as therein defined.
- B. Public hearing. The Board of Appeals shall hold a public hearing concerning each such petition for a variance from the applicable provisions of this bylaw as is received by it. The petitioner and any interested party may present evidence or testimony designed to assist the Board of Appeals in reaching a decision.
- C. Findings. Based upon evidence produced at the public hearing, the Board of Appeals must make the following specific findings in order to grant a variance:
 - (1) That there exist special circumstances relating to soil conditions, shape, or topography of the specific land or structures;
 - (2) That said circumstances do not generally affect the zoning district in which the land or structure is situated;
 - (3) That a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial, or otherwise, to the petitioner (or appellant);
 - (4) That desirable relief might be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purposes generally of this bylaw.
- D. Use variance. The Board of Appeals may not grant a variance to authorize a use or an activity not otherwise permitted in the district in which the land or the structure is located.

- E. Conditions. In granting a variance under this section, the Board of Appeals may impose conditions and safeguards, both of time and use, including the continued existence of any particular structures.
- F. Lapse. If the rights granted by a variance under this section are not exercised within one year of the date of grant of such variance, they shall lapse. A variance which has lapsed may be reestablished only after notice and a new hearing, as provided above.

§ 255-12.10. Zoning Administrator.

- A. Appointment. The Board of Appeals may appoint a Zoning Administrator, to serve at its pleasure. The appointment shall be subject to confirmation by the Select Board. **[Amended 1-28-2023STM by Art. 9]**
- B. Qualifications. The Select Board may establish qualifications for the office of Zoning Administrator by the concurring vote of at least four of its members. **[Amended 1-28-2023STM by Art. 9]**
- C. Powers and duties. The Board of Appeals may delegate some of its powers and duties to the Zoning Administrator by the concurring vote of at least four of its members.
- D. Time limitation. Any appeal, application, or petition filed with the Zoning Administrator shall be deemed denied if no decision has been issued within 35 days from the date the appeal, application, or petition was filed. A denial based on such inaction shall be subject to an appeal to the Board of Appeals, in accordance with the provisions of MGL c. 40A, § 8 and § 15.
- E. Appeal of decisions. Any person aggrieved by a decision or order of the Zoning Administrator may, within 30 days following the date the decision is filed in the office of the Town Clerk, appeal the decision or order to the Board of Appeals in accordance with the provisions of MGL c. 40A, § 13 and § 14.

§ 255-12.11. Appeal to Superior or Land Court.

Any person aggrieved by a decision of the Board of Appeals, or any special permit granting authority, whether or not previously a party to the proceeding, or any municipal officer or board may appeal to the Superior Court, or to the Land Court under MGL c. 240, § 14A, for Norfolk County, by bringing an action within 20 days after the decision has been filed in the office of the Town Clerk. The procedures for such appeal are to be found in MGL c. 40A, § 17.

ARTICLE XIII
Amendments, Noninterference and Severability

§ 255-13.1. Amendments.

This bylaw may be amended from time to time in accordance with the provisions of MGL c. 40A, § 5 of the General Laws.

- A. A proposal to amend this bylaw may be submitted, in writing, to the Planning Board by the Select Board, the Board of Appeals, by an individual owning land to be affected by the proposed change or addition, by request of registered voters, by the Planning Board, or by the Old Colony Planning Council. All proposals shall include a brief written description of the intent and the purpose of the proposed amendment. **[Amended 1-28-2023STM by Art. 9]**
- B. A proposal to amend this bylaw which affects the Zoning Map shall include words of boundary description together with three black-line prints of the area to be affected showing existing lines and proposed lines, stating all pertinent dimensions in feet. All such proposals shall also include a brief written description of the purpose and intent of the proposed amendment.
- C. Within 14 days following the receipt of any proposal to amend the zoning bylaw, the Select Board shall submit the same to the Planning Board for its review. **[Amended 1-28-2023STM by Art. 9]**
- D. Within 65 days following receipt by the Planning Board of a proposed amendment to this bylaw, it shall hold a public hearing concerning the same. Notice of the public hearing, including the time and place of the public hearing, the subject matter, sufficient for identification and of the place where texts and maps thereof may be examined, shall be published in a newspaper of general circulation in the Town once in each of two successive weeks; the first publication to be not less than 14 days before the day of the hearing. The same notice shall be posted not less than 14 days prior to the public hearing in a conspicuous place in the Town Hall.
- E. Notice of any such hearings shall also be sent, postage prepaid, to the Department of Housing and Community Development, the Old Colony Planning Council and to the Planning Boards of Randolph, Holbrook, Brockton, and Stoughton.
- F. No vote to adopt any proposed amendment to the zoning bylaw shall be taken until a report, with recommendations, has been submitted to the Town Meeting, or 21 days have elapsed following the public hearing by the Planning Board, without the submission of such report.
- G. Upon the submission of a report by the Planning Board, or at the expiration of 21 days following the public hearing by the Planning Board without the submission of a report, the Town Meeting may adopt, amend, or reject any such proposed amendment to the zoning bylaw.
- H. If the Town Meeting fails to act with respect to any such proposed amendment to the zoning bylaw within six months following the date of the public hearing by the Planning Board, no action shall be then taken unless another public hearing is held with notice and report as provided herein.
- I. A two-thirds vote of those present and voting shall be necessary to adopt any proposed amendment to the zoning bylaw.
- J. No proposed amendment which has been unfavorably acted upon by a Town Meeting shall be considered again by the Town within two years following the date of such unfavorable action unless adoption of the proposed amendment is recommended in the final report of the Planning Board.

- K. Following adoption by the Town Meeting, proposed amendments to the zoning bylaw shall be forwarded to the Department of the Attorney General for approval, as required by MGL c. 40, § 32. A statement prepared by the Planning Board, which explains the proposed amendment, shall accompany such submissions.

§ 255-13.2. Noninterference.

This bylaw shall not interfere with or annul any other Town bylaw, rule, regulation, or permit, provided that, unless specifically excepted, where this bylaw is more stringent, it shall control.

§ 255-13.3. Severability.

The provisions of this bylaw are severable. If any provision of this bylaw is held to be invalid, the other provisions of the bylaw shall not be affected thereby.

ARTICLE XIV

Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation

The zoning of medical marijuana treatment and dispensing facilities and marijuana cultivation uses in the Town of Avon shall be governed in accordance with this Article XIV.

§ 255-14.1. Purpose.

The intent of this bylaw is to address possible adverse public health and safety consequences related to passage of Question 3 on the November 6, 2012 State Referendum. It is the purpose of this article, titled "Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation," to minimize any potential adverse impacts on the quality of life in the Town. It is the intent of this bylaw to establish specific zoning standards and regulations for medical marijuana centers (treatment and dispensing facilities), medical marijuana growing and cultivation operations either related to medical marijuana treatment facilities and dispensaries or the personal cultivation by qualified patients or cultivation by personal caregivers on the behalf of qualified patients or other users:

- A. To provide for the limited establishment of medical marijuana treatment and dispensing facilities in appropriate places and under strict conditions in acknowledgment of passage of Initiative Petition 11-11 (Question #2 on the November 2012 state ballot).
- B. To minimize the adverse impacts of medical marijuana treatment and dispensing facilities and marijuana cultivation on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said facilities;
- C. To regulate the siting, design, placement, safety, security, monitoring, modification, and removal of medical marijuana treatment and dispensing facilities; and marijuana cultivation; and
- D. To limit the overall number of medical marijuana treatment and dispensing facilities and marijuana cultivation in the Town to what is essential to serve the public necessity.

§ 255-14.2. Restrictions on uses; compliance with other laws; severability.

- A. The cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use is prohibited unless permitted as a medical marijuana treatment and dispensing facility under this article.
- B. No medical marijuana treatment and dispensing facility or any marijuana cultivation use shall be established except in compliance with the provisions of this article.
- C. Nothing in the bylaw shall be construed to supersede federal and state laws governing the sale of narcotic drugs.
- D. If any provisions of this article or the application of any such provisions to any person or circumstance shall be held invalid, the remainder of this article, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this article are severable.

§ 255-14.3. Special permit required.

Medical marijuana treatment and dispensing facilities and marijuana cultivation shall be authorized by special permit only in district(s) provided, as set forth in § 255-5.3, Table of Use Regulations, of the zoning bylaws. Any such special permit issued by the special permit granting authority shall comply with all relevant local, state, and federal laws.

§ 255-14.4. Ineligibility for permit; background checks.

No medical marijuana treatment and dispensing facilities or marijuana cultivation special permit shall be issued to any person convicted of violating the provisions of MGL c. 119, § 63, or MGL c. 94C, or similar laws in other jurisdictions. Any applicant for special permit under this bylaw must allow for a criminal background check which includes jurisdictions beyond Massachusetts.

§ 255-14.5. Location, operation and sale restrictions; signage.

- A. Any medical marijuana treatment and dispensing facility and marijuana cultivation activities permitted under this article shall be located only in a zoning district that is designated for its use within this zoning bylaw and shall be subject to a special permit by the Avon Planning Board and site plan review under Article XII of this zoning bylaw. No medical marijuana treatment and dispensing facilities use or marijuana cultivation activities shall be located within 500 linear feet of a property line where the following districts or activities or uses occur:
 - (1) Any residential district as defined in these zoning bylaws;
 - (2) Any school or child-care establishment; or place where minors frequent (e.g., a library, ball field, sports or family recreation facility, religious facility or the like);
 - (3) Any other medical marijuana treatment and dispensing facility or marijuana cultivation site;
 - (4) Any drug or alcohol rehabilitation facility;
 - (5) Any correctional facility, half-way house or similar facility; or
 - (6) Any establishment licensed under the provision of MGL c. 138, § 12.
- B. No marijuana or marijuana-based product shall be sold or grown or cultivated in the interior or exterior of a residential dwelling unit or residential district. Growing and related cultivation activities shall occur only in districts as permitted in this bylaw.
- C. Separation. Distances shall be calculated by direct measurement from the nearest property line of the land used for school or child-care purposes or places where minors frequent or any other use listed above in Subsection A to the nearest portion of the building in which the medical marijuana dispensary is located.
- D. No entitlement or vested rights to permitting. No person shall be deemed to have any entitlement or vested rights to permitting under this bylaw by virtue of having received any prior permit from the Town, including, by way of example only, any zoning permit or any wholesale food manufacturer's license. In order to lawfully engage in the business of selling, cultivating marijuana, or manufacturing medical marijuana, or products containing marijuana, cannabis, or THC, in the Town of Avon on and after the date of passage of this bylaw, any person must qualify for and obtain a special permit in accordance with the requirements of this bylaw.

- E. All sales of medical marijuana by a licensed medical marijuana treatment and dispensing facility shall occur only upon the permitted premises.
- F. Signage. Any permitted medical marijuana treatment and dispensing facilities site shall comply with the requirements of the Town sign bylaws at all times.²⁶ In addition, upon penalty of special permit revocation, no permitted medical marijuana treatment and dispensing facility or marijuana cultivation facility shall use any advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors. Off-site signage or advertising in any form, including billboards, shall not be allowed.
- G. Visibility. There shall be no visibility of activities, products or treatment occurring within or on the premises of a medical marijuana treatment or dispensing facility or marijuana cultivation facility from the exterior of such premises.
- H. Manufacturing. A local special permit for medical marijuana infused product manufacturing may be issued only in locations where medical marijuana treatment and dispensing facilities and marijuana cultivation activities are permitted.
- I. Cultivation activities. Cultivation, as defined in this bylaw, by a medical marijuana treatment and dispensing facility in any location other than where specifically permitted shall be disallowed. This disallowance shall include cultivation, even where proposed as an accessory use, by any medical marijuana treatment and dispensing facility.

§ 255-14.6. Term of special permit; notification of new applications.

- A. Any local special permit issued pursuant to this article shall be valid for two years from the date of issuance. Any renewal of the special permit shall be governed by the standards and procedures set forth in this article and any regulations adopted pursuant thereto by the Planning Board/Zoning Enforcement Officer and/or Licensing Board.
- B. Notification. Any new applications sought under this article must be publicly advertised for a period of no less than 14 days, not including the date of the required special permit public hearing. Abutters within 300 feet shall be notified in writing of said application, which notice shall include any and all dates and locations of public hearings on said application.

§ 255-14.7. Conflict of laws.

In the event of any conflict between the provisions of this bylaw and any other applicable state or local law, the stricter provision, as deemed by the Zoning Enforcement Officer, shall control.

26. Editor's Note: See Art. X, Signs.

ARTICLE XV

Recreational Marijuana Establishments

§ 255-15.1. Prohibited use.

Consistent with MGL c. 94G, § 3(a)(2), all types of marijuana establishments as defined in MGL c. 94G, § 1(j), to include marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Avon.

Regulations

Chapter 300

BOARD OF HEALTH

[HISTORY: Adopted by the Board of Health of the Town of Avon 6-10-1976. Amendments noted where applicable.]

GENERAL REFERENCES

Solid waste — See Ch. 196.

Water — See Ch. 235.

Storage tanks — See Ch. 201.

Zoning — See Ch. 255.

Swimming pools — See Ch. 209.

Subdivision of land — See Ch. 350.

ARTICLE I

Purpose; Duties of Board**§ 300-1.1. Purpose and authority.**

The purpose of these rules, regulations and procedures is to provide the Avon Board of Health with the means to systematically protect the Town of Avon from health hazards. To accomplish this end, this document reflects organization, individual duties, qualifications for the Board of Health assigned agents, matters of procedure, and upgrading of certain minimum state health standards to best fit the conditions and requirements of Avon. (MGL c. 111, § 31, "Boards of Health may make reasonable health regulations.")

§ 300-1.2. Duties of Chair. [Amended 1-28-2023STM by Art. 9]

The Chair of the Avon Board of Health shall be responsible for:

- A. Presiding over and calling the regular scheduled meetings, special meetings and hearings of the Avon Board of Health and the agenda thereof.
- B. Official response of the Avon Board of Health at the meetings of other governmental bodies, the Avon Town Meeting, the State Department of Public Health, the State Department of Environmental Protection and to the press. Where at all possible, the Chair shall obtain a majority vote of the members prior to issuing an official response. Where this is impractical, the Chair shall present the question to the Board at the next regularly scheduled meeting for a vote of ratification. If this vote should prove negative, the Chair shall announce the new official response of the Avon Board of Health.
- C. The Chair shall assume the position of executive officer for the Board to whom all appointed and employed persons working for the Board shall report.
- D. The Chair shall designate other members of the Board as monitors for certain areas of activities to assist in the coordination of the overall effort.

§ 300-1.3. Duties of Clerk. [Amended 1-28-2023STM by Art. 9]

The Clerk of the Avon Board of Health shall be responsible for:

- A. Assuming the duties of the Chair in his absence.
- B. Signing and coordinating the minutes of the regular scheduled meetings, special meetings and hearings and filing same with the Town Clerk.
- C. Correspondence, both incoming and outgoing.
- D. Those areas where the Chair has designated the Clerk as a monitor.

§ 300-1.4. Duties of associate member.

The associate member of the Avon Board of Health shall be responsible for:

- A. Keeping an orderly file system.
- B. Those areas over which the Chair has designated the associate as monitor. **[Amended 1-28-2023STM by Art. 9]**

ARTICLE II
Staff

MGL c. 111, § 27

§ 300-2.1. Town Physician.

- A. The Avon Board of Health shall appoint a Town Physician, who shall hold the office at the pleasure of the Board. The Town Physician shall be appointed on a yearly basis to coincide with the Town's fiscal year. The Board may fix the salary or other compensation for the Town Physician. The Town Physician shall be a general practitioner qualified and registered with the Commonwealth of Massachusetts.
- B. The duties of the Town Physician shall include, but not be limited to, the following:
- (1) Advisory and consulting to the Board of Health matters.
 - (2) Performs the duties of a quarantine physician.
 - (3) Assists Health Agents in communicable disease follow-up.
 - (4) Performs medical examinations as provided by law and ordered by the Avon Board of Health on indigent Avon citizens and crime victims.

§ 300-2.2. Health Agents.

MGL c. 111, § 30

- A. The Avon Board of Health shall appoint one or more Health Agents for the Town to serve and hold office at the pleasure of the Board. The Agents shall be appointed on a yearly basis to coincide with the Town's fiscal year by the Commonwealth of Massachusetts (MGL c. 112, §§ 87LL through 87OO). The Health Agents' pay shall be set by the Board.
- B. The duties of the Town Health Agent shall include, but not be limited to, the following:
- (1) Advisory to the Avon Board of Health on State Sanitary and Health Codes.
 - (2) Perform on-site inspection of sewerage systems during their construction, review construction plans for on-site sewerage, issue certifications of compliance for completed systems. All set forth in Article IV of this chapter.
 - (3) Inspect failing septic systems, cause and approve plans for correction.
 - (4) Inspect establishments which serve, sell (retail or wholesale) or dispense food and/or beverage for eventual human consumption.
 - (5) Inspect and act on establishments and housing suspected as unfit for human habitation.
 - (6) Inspect areas for vector control, trace source of rodents and cause their elimination and destruction of their habitat.
 - (7) Act on the behalf of the Avon Board of Health in cases where an emergency health hazard exists and the Board cannot conveniently assemble to embrace the problem.

- (8) Submit an activity report to the Avon Board of Health for approval on a periodic basis (period to be set by the Board).

§ 300-2.3. Appointed Sanitarian.

The Avon Board of Health may employ an appointed Sanitarian who is trained and equipped and in the opinion of the Board can handle the duties outlined in § 300-2.2 of this article, and only if no registered sanitarian is available for this position.

§ 300-2.4. Communicable Disease Agent.

MGL c. 111, §§ 111 to 113

The Avon Board of Health shall appoint a Communicable Disease Agent and one alternate for the Town. These agents shall serve at the pleasure of the Board and compensation, if any, shall be fixed by the Board. The duties of these agents shall include, but not be limited to, the following:

- A. Keep a log of all people reported as having a communicable disease as defined by the State Department of Public Health.
- B. Report all diseases defined as communicable to the Avon School Nurse or Doctor which occur to persons located within the school district.
- C. Report all diseases defined as communicable to the state on double entry cards as provided by law.
- D. Report all communicable diseases and other health information to a visiting nurses association or other agent acting in this capacity for the Avon Board of Health.

§ 300-2.5. Sanitary Engineer.

The Avon Board of Health shall engage the services of a professional engineer registered with the Commonwealth of Massachusetts to perform the duties of a Sanitary Engineer. The Avon Sanitary Engineer shall serve the Town in an engineering capacity at the pleasure of the Board. Service of the Sanitary Engineer shall be paid for out of the Avon Board of Health's expense account and shall be for specific jobs and areas of activities. Assignment of each work task for the engineer or engineering firm shall require a motion by the Board with a majority vote in favor. The activity areas for the Sanitary Engineer may include, but not be limited to, the following:

- A. Review and report to the Board on proposed subdivisions to become a basis for the Board's report to the Planning Board as required by MGL c. 41, § 81-U.²⁷
- B. Witness and report on percolation tests and suitability of land for individual sewerage systems in subdivisions and industrial parks.
- C. Advisor to the Board on sewer and drainage problems within the Town.

§ 300-2.6. Slaughter Inspector.

MGL c. 94, §§ 118 to 131

- A. The Avon Board of Health shall appoint a Slaughter Inspector for the Town to serve and hold office

27. Editor's Note: See Ch. 350, Subdivision of Land.

at the pleasure of the Board. The salary or fee, if any, shall be fixed by the Board. The appointment shall be on a yearly basis to coincide with the Town's fiscal year.

- B. The duties of the Slaughter Inspector shall include, but not be limited to, the following:
- (1) Inspection of all establishments which perform slaughter of livestock, poultry, or process meat or meat food products or poultry or poultry products within the Town of Avon.
 - (2) Report to the Board all violations of state law or the Board of Health's rules and regulations governing slaughter.
 - (3) Make a periodic activity report to the Board (period to be set by the Board).

§ 300-2.7. Animal Inspector.

MGL c. 129, §§ 15 to 17

The Avon Board of Health shall appoint an Animal Inspector (Disposer of Carcasses) for the Town to serve and hold office at the pleasure of the Board. The salary or fee, if any, shall be fixed by the Board. The appointment shall be on a yearly basis to coincide with the Town's fiscal year. The duties of the Animal Inspector shall include, but not be limited to, the following:

- A. Remove and dispose of all carcasses in a sanitary manner which are found or reported to be on Town or public ways and/or property.
- B. Make routine periodic activity reports to the Board (period to be set by the Board).
- C. Make a routine patrol of the Town for the purposes of spotting and removing carcasses.
- D. Respond to all animal bites on humans that occur within the geographical limits of the Town. He shall also place the offending animal in quarantine under the custodianship of the owner, or, if the owner cannot be found, under the Animal Control Officer, for the period prescribed by law.
- E. Support an annual rabies clinic and other animal clinics as may be prescribed by the Board.
- F. Inspect places which harbor livestock within the geographical limits of the Town of Avon.

ARTICLE III
Conduct of Business

§ 300-3.1. Rules of order; quorum; official action.

The Avon Board of Health adopts Roberts Rules of Order for small boards (Section 48, 1970 edition). A quorum to conduct business shall be two elected and sworn members. Official acts of the Board shall be by a formal motion.

§ 300-3.2. Regularly scheduled meetings.

MGL c. 30A, §§ 18 to 25

- A. A notice shall be posted with the Town Clerk which delineates the time, place and day that the Board holds its regularly scheduled meetings. Minutes of the meeting shall be kept on file and made available to the public in accordance with MGL c. 30A, §§ 18 to 25, and copies of the minutes shall be filed with the Town Clerk.
- B. All regular meetings shall be open to the public except those portions which require an executive session.

§ 300-3.3. Special meetings. [Amended 1-28-2023STM by Art. 9]

MGL c. 30A, §§ 18 to 25

A special meeting of the Avon Board of Health can be called by the Chair. A notice shall be posted with the Town Clerk at least 48 hours, not including Sundays and legal holidays, prior to such meeting. The notice shall include the time, place, day and general subject(s) to be covered. These meetings shall be generally open to the public, except where an executive session has been called.

§ 300-3.4. Executive sessions.

MGL c. 30A, §§ 18 to 25

- A. An executive session can be called by the Chair if a majority of the members in a quorum vote in favor. Each member's vote shall be recorded in the minutes of an open meeting prior to the executive session. The following procedure applies: **[Amended 1-28-2023STM by Art. 9]**
 - (1) The Board must convene in an open session prior to going into executive session.
 - (2) A majority of the members present in a quorum must vote by name to go into executive session.
 - (3) The Chair shall indicate if the Board will reconvene in an open session.
 - (4) The Chair shall indicate in general terms the purpose of the executive session.
 - (5) The Chair shall cause all persons not in attendance for the executive session to leave the meeting room.
- B. The first order of business once in executive session is to ascertain if the session meets one of the following tests:
 - (1) A person's regulation, character, mental health or physical condition is to be discussed. The particular individual, if present, can request an open session.

- (2) To hear charges, complaints, administer discipline or to dismiss an individual.
- (3) To consider allegations of criminal misconduct.
- (4) To comply with the provisions of the law.

C. Persons before the Board on business matters can and may request an executive session. The Chair shall rule on the applicability of the request. **[Amended 1-28-2023STM by Art. 9]**

§ 300-3.5. Minutes.

MGL c. 30A, §§ 18 to 25

Minutes of all meetings, regular, special or executive session, shall be recorded and accepted at the next regular scheduled meeting. Acceptance shall be by the majority of a quorum. Minutes shall describe the motions and events which occurred during the course of the meeting. They shall consist of, but not be limited to, the following:

- A. Type of meeting, time, date and place of meeting.
- B. List of Board of Health members and their staff present.
- C. All motions and dispositions of motions shall be included, along with the names of the members who took part in the motion and the vote as recorded by the Chair. **[Amended 1-28-2023STM by Art. 9]**
- D. Authorizations for expenditures to be made by a Board member which would exceed \$35.
- E. List of all vouchers signed by the Board.
- F. Noting receipt and content of business correspondence.
- G. Time of motion to adjourn.

§ 300-3.6. Financial matters.

- A. A record shall be kept of all expenditures by the Avon Board of Health and balanced so as to show the amount expended against each appropriate account. These records shall be maintained by the Clerk and shall become part of a particular fiscal year. The current or previous fiscal year's financial record as maintained by the Avon Board of Health shall not be generally open for the public inspection except by a majority vote of the Board of Health present at a regularly scheduled meeting, or on demand by the Avon Finance Committee under Chapter 30, Finances, of the Town Code of Bylaws, MGL c. 41, § 23B, or on direct subpoena from a source having proper jurisdiction.
- B. Authorization for expenditure from any account appropriated for the Avon Board of Health shall be through a minimum of two signatures on a properly filled out voucher form (A.D., Form 19 of the Commonwealth of Massachusetts Department of Revenue or equivalent) and recording of amounts in the minutes of a regularly scheduled meeting. No voucher shall be authorized for amounts which would exceed the balance left in a particular account.
- C. Special purchases or expenditures from the expense account shall require a majority vote at a regularly scheduled meeting for amounts over \$35 without prior approval of the Board, under the proviso that approval will be sought at the next regularly scheduled meeting.
- D. The Avon Board of Health shall report fiscal year expenditures and estimates for amounts necessary

for proper maintenance of the Board for the ensuing year as required in Chapter 7, Article II, Finance Committee, § 7-6 and § 7-7, of the Town Code of Bylaws, to the Avon Finance Committee.

§ 300-3.7. Minority reports.

- A. When an elected member of the Avon Board of Health wishes to express a position in matters pertaining to the Board of Health, the member may file a position paper at a regular scheduled meeting to become a part of that meeting. The Avon Board of Health must accept a position paper submitted in writing by one of its members if it meets the following tests:
 - (1) The opening statement contains a disclaimer stating that the paper does not imply the position of the Board nor any further action it may take.
 - (2) The content of the position paper is limited to matters pertaining to the Board of Health.
 - (3) The position paper shall not contain libelous material nor shall it be directed at personalities.
- B. When a position paper, in the opinion of the other Board members, meets the above criteria, it shall be accepted as submitted without comment or rebuttal.

§ 300-3.8. Position paper by full Board.

The Avon Board of Health may adopt a position on health or governmental matters pertaining to the Town of Avon and express this position in a paper. The paper shall become part of the minutes of a regular scheduled meeting under the following conditions:

- A. It is accepted by a motion and a majority vote of a full Board in attendance at a regularly scheduled meeting.
- B. The position paper does not contain libelous material nor is it directed toward personalities.

§ 300-3.9. Procedures for filing grievances.

When a citizen or taxpayer of Avon, or governmental body, or any member of the Avon Board of Health staff wishes to file a grievance against the Avon Board of Health, a hearing can be requested. The following procedure applies:

- A. File a letter with the Avon Board of Health requesting a hearing under the authority of this section. The petitioner shall indicate the situation and persons involved and the general nature of the grievance. The petitioner may request an executive session as outlined in § 300-3.4 of this article.
- B. Upon receipt of this letter, the Chair shall set a time and place for the hearing, posting the hearing notice with the Avon Town Clerk if the time is set other than a regularly scheduled meeting. The time shall be within 20 days of the receipt of letter of request unless otherwise mutually agreed by both the petitioner and the Board for another date. **[Amended 1-28-2023STM by Art. 9]**
- C. If, after a hearing, the petitioner is still aggrieved, the petitioner shall be advised that further pursuit of the grievance can be made with the Avon Select Board under MGL c. 41, § 23B if the matter is procedural, or to the State Department of Environmental Protection if the matter is technical. Upon notice, the Avon Board of Health shall transmit minutes (executive or otherwise) and other pertinent data to the appropriate department, forthwith. **[Amended 1-28-2023STM by Art. 9]**

ARTICLE IV
Permit Procedures

§ 300-4.1. Application for building permits.

(Regulation 2.5, Title V, Environmental Protection Code; Town Code of Bylaws Chapter 255, Zoning, § 255-12.2B)

- A. Applications for building permits shall not be endorsed by the Avon Board of Health until the following criteria have been met:
 - (1) A rough plumbing plan shall be submitted to the Board in all group-use categories, A through U, as listed in the State Building Code, with the exception of one- and two-family dwellings.
- B. The application shall be reviewed by the Avon Health Agent to ensure that the proposed structure meets the minimum health standards set forth in Article II of the State Sanitary Code. As a minimum, the Health Agent shall find:
 - (1) A disposal works construction permit has been issued for new dwellings in unsewered areas, or a sewer entrance permit has been issued where municipal sewers are available.
 - (2) Ascertain the effects on the existing disposal systems and disposition of natural and casual water flow on adjacent properties as well as the lot in question due to the expansion or alteration of a building.
 - (3) Obtain from the applicant a plot plan which shows the proposed structure in relation to septic systems, surface and subsurface drains. This plan can be an updated version of the plan required with a disposal works construction permit.
- C. Once the Avon Plumbing Inspector and the Avon Health Agent have reported their findings and recommendations to the Board, it must respond and record its acts in one of the following:
 - (1) By motion, endorse the application and so indicate with at least the signatures of two members on the application.
 - (2) By motion, table the endorsement for further investigation, not to exceed seven days or a time mutually agreeable to the applicant and the Board. The Building Inspector shall be notified in writing of the decision of the Board, forthwith.
 - (3) By motion, reject endorsement of the application. The Building Inspector shall be notified in writing of the decision, indicating the reasons for rejection.

§ 300-4.2. Application for swimming pools permits, public and semi-public.

(Article VI, State Sanitary Code; Section 422.o of the Uniform State Building Code, Edition 16; Avon Town Code of Bylaws, Chapter 209, Swimming Pools)

- A. Permit.
 - (1) Applications for swimming pool permits shall not be endorsed by the Avon Health Agent or Building Inspector until the following criteria have been met:
 - (a) The application for the permit shall be accompanied by the copies of the specifications and plans drawn to scale. A copy shall remain with the Avon Board of Health. The plan shall

show all the details necessary for conformance with the provisions of Chapter 209, Swimming Pools, of the Avon Town Code of Bylaws.

- (b) The plans must show the exact locations of all subsurface wastewater treatment facilities. The outer edge of all facilities must be 20 feet from the outer edge of an in-ground pool and must be at least 10 feet from the edge of an aboveground pool.
 - (c) Plans must show the swimming pool enclosed by an impassible four-foot-high fence with a self-latching gate or an equivalent enclosure or means of protection from access to the pool.
 - (d) The applicant shall sign the Avon Board of Health swimming pool inspection list.
- (2) The Building Inspector shall sign the inspection checklist after a review of the plans.
- (3) The Health Agent shall sign the inspection checklist after verification of the location of the subsurface facilities.
- B. If the Building Inspector or Avon Town Health Agent finds cause for not endorsing an application for a swimming pool, said inspector shall inform the Board of Health, who, in turn, shall follow one of these courses of action:
 - (1) Request the applicant to rectify the cause for denial.
 - (2) Forward the application to the Building Inspector with a recommendation that the permit not be granted and indicate the reason(s).
 - (3) Forward the application to the Building Inspector with no recommendation, but indicating that one of the Board's inspectors has refused to endorse the application, stating the reasons.
- C. After the swimming pool has been installed, both the Swimming Pool Inspector and the Health Agent shall make an on-site inspection to sign the building permit and finish the checklist.

§ 300-4.3. Application for individual disposal works permits and certificate of compliance.

(Title 5, State Sanitary Environmental Code)

Within the framework of the State Sanitary Code and the Avon Board of Health Rules and Regulations, the following procedures for obtaining a disposal works construction permit and subsequent certificate of compliance shall apply:

- A. New systems.
 - (1) Applications.
 - (a) Apply for a disposal works construction permit at the office of the Avon Board of Health. Each application shall be reviewed by the Town Health Agent. It must be accompanied by a plot plan drawn to scale by a registered professional engineer, registered sanitarian or other person determined competent by the Avon Board of Health. The plot plan shall show the dimensions of the property, the datum used for references (Assessors or Registry of Deeds), angles of lot lines, the location of a proposed dwelling or structure, proposed well locations, existing or proposed sanitary sewers and/or the location of proposed subsurface sewage disposal system (area). Further, the location of any streams, drains, or known sources of water supply within 200 feet of the proposed street grades, location of water

distribution lines, proposed elevation of the top of foundations, building drains, sanitary sewer and/or the components of the sewage disposal works as they may be required by the Avon Board of Health.

- (b) Make an appointment with either the Town Health Agent or a Board member for witnessing a percolation and soil test, to be conducted by the applicant's engineer. A field survey, conducted prior to the soil examination, shall be made for the purpose of staking boundaries and the location of the proposed dwelling or structure. (Note: Systems where the estimated sewage flow is greater than 2,000 gallons per day must be approved by the Department of Public Health.)
 - (c) If the percolation test complies with 310 CMR 15.000, the State Environmental Code, Title 5, and the Avon Board of Health regulations, the results shall be valid for two years from the date of the test. Otherwise, the test shall be considered null and void. This does not preclude the right of the Board to declare the test null and void any time during this two-year period as outlined in the regulation portion of this document. The disposal plans shall include the percolation test locations and soil information (even for test pits which were not successful).
- (2) The Avon Board of Health shall issue a disposal works construction permit if all is in order. The applicant shall be informed as to the degree of inspection required at various stages of construction of the system. As a minimum, an inspection shall be made prior to backfilling the completed system. It shall be up to the applicant to make an appointment with the Health Agent or Town Sanitary Engineer for these on-site inspections.
 - (3) Once all completion criteria have been met, the Town Health Agent shall issue a Certificate of compliance and forward such to the Building Inspector to become an item of requirement leading to an occupancy permit.

B. Altered or repaired systems.

- (1) Apply for a disposal works construction permit at a regularly scheduled meeting of the Avon Board of Health.
- (2) The application shall be reviewed by the Town Health Agent. Each application shall be accompanied by a rough plot plan (may be original of existing system) which shows existing system and distance to the dwellings or structures, swimming pools, water pressure lines, street subsurface drains, drainage ditches or streams as well as distances to lot boundaries. The proposed modification shall also be shown in plan and profile.
- (3) The Town Health Agent shall make a determination as to whether additional information is needed and/or whether a percolation/soil log is required. Whenever possible, a perc test will be conducted to conform to Title 5 regulations.
- (4) Once the foregoing is met, the Board of Health shall issue a disposal works construction permit. The applicant shall be informed as to the degree of inspection required at the various stages of construction. As a minimum, an inspection shall be made prior to backfilling the completed system. It shall be up to the applicant to arrange an appointment with the Town Health Office.
- (5) Once all completed criteria have been met, a certificate of compliance shall be issued by the Town Health Agent to the applicant or owner.

§ 300-4.4. Application for disposal works installer permits.

- A. Excepting pumping, treating and replacement of access covers, those persons who engage in work on individual septic disposal systems in the Town of Avon shall possess a valid disposal works installer's permit as issued by the Avon Board of Health. To obtain said permit, the applicant must:
- (1) Apply at a regularly scheduled meeting of the Avon Board of Health.
 - (2) Show that he is presently engaged in the installer's business and that the party has in his possession Title 5 of the State Environmental Code and the Avon Board of Health Rules and Regulations.
- B. For those persons who seldom work on disposal systems or who would like to engage in the business, a statement indicating access to proper equipment shall be made in addition to the above requirements.
- C. Upon recommendation of the Town Health Agent, the Board shall issue an installer's permit, with a copy being sent to the State Department of Environmental Protection. This subsection does not preclude the right of the Board to refuse or revoke an installer's permit as outlined in the regulation portion of this chapter.

§ 300-4.5. Application for food, food dispensing and milk permits.

(Reg. 32, Article X)

- A. The Avon Board of Health Agent shall annually issue food, food dispensing and/or milk permits to companies and establishments which sell, store or offer for sale food and/or milk within the geographical limits of the Town of Avon. An application for any said permit may be made at any regular scheduled meeting of the Avon Board of Health or by request through mail to same.
- B. The following criteria shall apply prior to issuance of a permit:
- (1) The Avon Town Health Agent shall inspect the food establishment or company. Where food and/or milk is delivered to locations within the Town from outside-based places of business, the Town Health Agent may, at his discretion, waive inspection of the place of business, but may require inspection of the vehicles.
 - (2) A food permit shall not be issued to a place where food is sold and one where a common victualler license is required, until that license has been first obtained.
 - (3) Vending machines which dispense food or milk shall require additional permits in their particular category covered by the FDA.
- C. The Avon Board of Health shall fix the permit fees to offset the costs of inspection and printed permits.

ARTICLE V
Contract Procedures

§ 300-5.1. Rubbish pick-up.

(MGL c. 40, §§ 4, 4A; Town of Avon Code of Bylaws Chapter 126, Dogs, §§ 126-1, 126-2, 126-3)

- A. The Avon Board of Health shall call for bids and let a contract for rubbish pick-up for a period not to exceed five years to coincide with the Town's fiscal year. Adjustments and escape clauses shall be specified at each year end within a particular contract period.
- B. The call for bid shall be through proper publication as defined by law, with complete specifications.
- C. The call for bid shall stipulate that the Avon Board of Health has the right to reject any and all bids without recourse on the part of the bidder.
- D. The call for bid shall stipulate that a performance bond in the amount of the annual contract price be posted each year of the contract.
- E. No contract shall be executed without the necessary funds for that fiscal year.

§ 300-5.2. Rubbish removal.

The Avon Board of Health shall contract for disposal of rubbish in a landfill, incinerator, recycling plant or other acceptable means of disposal. The periods of these contracts shall not exceed a period of five years except where the provisions of MGL c. 40, § 4 apply. A call for bid shall be performed by the Avon Board of Health for contract for these services except where the uniqueness of the means of disposal requires a sole-source contract.

§ 300-5.3. Visiting nurse association.

The Avon Board of Health shall provide nursing services for the Town on a yearly basis, as specified, which level of effort can be modified from time to time by the Board to meet current health needs. The Avon Board of Health may contract with the Brockton Visiting Nurse Association or any other like organization to provide specified services. The contract shall be based on a pay-for-work-performed basis.

§ 300-5.4. Food and restaurant inspections.

The Avon Board of Health may contract with a properly certified agency to provide inspections of local restaurants and food establishments. This may be on a sole-source basis and shall be a pay-for-work-performed contract.

ARTICLE VI
Miscellaneous Procedures

§ 300-6.1. Rabies clinic.

(MGL c. 140, § 145B; Acts of 1969, Chapter 207)

The Avon Board of Health shall hold a rabies clinic once every year for the purpose of vaccinating dogs against rabies. The following procedures shall apply:

- A. Dogs shall be vaccinated with either a killed or modified live virus vaccine. Vaccine of Caprine (goat) origin shall not be acceptable. The dosage shall be for a period of three years.
- B. A rabies tag of a size, shape, and color approved by the Department of Public Health shall be provided by the vaccinating veterinarian for each dog vaccinated. Each tag shall be inscribed with the words "Rabies Vaccinated" as well as the year, name and address of the veterinarian or Board of Health, and the tag must be attached to the collar or harness of the dog and worn at all times in the same manner as the license tag.
- C. A certificate of vaccination approved by the Department of Public Health must be completed in triplicate by the vaccinating veterinarian. The original shall be filed with the Town Clerk in the Town where the dog is licensed; one copy is provided to the owner, one copy is retained by the Board of Health.
- D. Vaccinated dogs must be revaccinated at intervals not exceeding 36 months.
- E. Person necessary for conduction of clinics:
 - (1) Board of Health: three persons and one member.
 - (2) Veterinarian: one person.
 - (3) Dog handler: one person.
 - (4) Animal Control Officer: one person.
- F. An area shall be secured by the Avon Board of Health to provide room and control of the clinic. The area shall have two egresses and sanitary facilities. The floor should be high glossy finish tile for ease of clean-up.
- G. A table shall be available for the Board of Health staff to fill out forms and collect fees.
- H. The day before the clinic, the rabies book (three copies) forms shall be filled out with the date and signature (stamp) of the veterinarian and rabies tag number. Each book has 25 three-copy forms for rabies shots. Number the books and take the appropriate rabies tag and put them into groups. Rabies tags and rabies books must correspond.
- I. Two of the Board's staff shall be at the table to fill out the books while the third person collects the fee. Give each owner the white and yellow copies from the book. The owner then gives the cashier the yellow copy and the fee. At the end of the clinic period, the remaining blue copies shall be counted against the yellow slips for a final tally. As the end of the clinic period approaches and the activity reduces, the operation shall revert to use of a single book at a time.
- J. Prior to the clinic, advertise in the paper and make signs for posting around the Town.

- K. The Animal Control Officer shall be responsible for maintaining control of traffic through the clinic. If the doors are front to back, a straight line shall be formed. Where there are two doors on the same side of the building, a semi-circle shall be formed. In all cases, the Animal Control Officer shall space the owners/dogs to ensure minimum interaction.
- L. One large table for the veterinarian to place the dogs on shall be provided. A smaller table shall be placed adjacent for holding supplies. A trash container shall be provided and trash shall be disposed of immediately after the clinic in a manner prescribed by law (disposal of hypodermic needles, etc.).

§ 300-6.2. Animal bites.

- A. Upon notification, the Animal Control Officer shall respond to the animal bite site promptly to assist the parent or observer in gathering relevant information.
- B. Do not permit anyone to kill the animal. If it is killed at once, it may be impossible to determine if it was rabid.
- C. The Animal Inspector shall place the animal under quarantine for a period of two weeks. It shall be the responsibility of the owner to restrain the animal for this period under penalty of law. Where an animal is wild, the type and species should be ascertained. Where the animal was domestic, but stray, its color, size and breed should be recorded.
- D. If the quarantined animal becomes sick, have it examined by a veterinarian.
- E. If the quarantined animal dies, send the head to Wasserman Laboratory, 281 South Street, Jamaica Plain, MA 02130. It should be sent by special courier and timing should be coordinated with the laboratory by phoning 617-522-3700.
- F. Record the bite information with the laboratory by phoning 617-522-3700.

§ 300-6.3. Bats.

- A. Dead bats will be given to the Animal Inspector for processing.
- B. The Town of Avon shall only become involved in solving bat problems after a positive finding is apparent.
- C. The homeowner shall be responsible for all expenses accrued for services rendered, unless a positive finding has been made.

ARTICLE VII
State Environmental Code

(310 CMR 15.000, the Title V: Minimum Requirements for the Subsurface Disposal of Sanitary Sewage)

§ 300-7.1. Disposal works construction permit required.

Title 5 of the State Environmental Code, titled "Minimum Requirements for the Disposal of Sanitary Sewage in Unsewered Areas," shall serve as a specification for design, installation and use of individual septic systems for the Town of Avon. These minimum requirements are as amended as follows:

- A. A disposal works construction permit for any system of individual sewage disposal shall not be issued unless plans of said system have been approved by the Town Health Agent and accepted in the Avon Board of Health minutes.
- B. An applicant for a disposal works construction permit shall show, to the Avon Board of Health's satisfaction, competence in the field of endeavor and possession of Title 5 of the State Environmental Code and the Avon Board of Health's Rules and Regulations.

§ 300-7.2. Determination of adequacy of system.

- A. No building or plumbing permit for an addition to a dwelling or structure, which in the opinion of the Board of Health may increase the quantity of sewage generated, shall be issued until the Board of Health has approved the adequacy of the existing sewage disposal and water supply systems for the proposed use.
- B. The sewage estimates shall be amended for factory or industrial plants as follows:

Type of Establishment	Gallons/Person/Day
Factory or industrial plant without cafeteria, per person*	15
Factory or industrial plant with cafeteria, per person*	20

* The sewage flow calculation shall be based on the expected number of building occupants, but no less than 66.

§ 300-7.3. Land subject to flooding.

- A. The filling of land which is ordinarily submerged during any portion of the year, in order to provide sufficient area to make it suitable for building purposes, is not considered an acceptable practice and is unsuitable for construction of individual disposal works.
- B. This section also applies to filled-in or drained swamp areas. Filling is permitted in lots where individual disposal works are constructed in only three instances:
 - (1) One instance is where an overburden of impervious material exists between the base of the leaching facilities and a pervious layer. Such impervious material shall be removed for 25 feet

in every direction from the leaching facility boundaries and from the base of such facilities.

- (2) The second instance is where a high water table exists in an area for a proposed facility. Fill may be used to raise the base of the leaching facility only if natural, dry, permeable soil with a minimum of one-foot thickness occurs above and adjacent to the estimated maximum water table. In addition, at least four feet of permeable material shall extend below the estimated water table less the amount of natural dry soil above the table.
- (3) The third instance is where soil logs show uneven distribution of material with a wide deviation in permeability in the area for a proposed disposal system. The Avon Board of Health may at its discretion impose an excavation to an elevation matching the base of the leaching field and a width of not less than 10 feet nor greater than 25 feet from all boundaries of the field. The excavation shall be filled with a homogeneous permeable material acceptable to the Board of Health.

§ 300-7.4. Systems constructed in fill.

Where an individual sewage system is to be constructed in fill, the fill shall be either mechanically or hydraulically compacted, or it shall be allowed to settle for a minimum of six months. The fill material shall be clean granular and shall be free from clay, fines, dust, organic matter, large stones, masonry, stumps, frozen clumps of earth, wood, tree branches, and waste construction materials. Fine sand may not be used. All fill material shall be inspected and approved by the Board of Health. Tests shall be performed on the fill material at the discretion of the Board and at the expense of the owner or builder. No sewage disposal system shall be constructed in fill placed on impervious material. Filled land shall be inspected by the Avon Board of Health, prior to filling and after completion.

§ 300-7.5. Groundwater.

- A. The elevation of the base of all leaching facilities must be at least four feet above maximum groundwater elevation. The maximum groundwater table shall be estimated in March or April or by historical record. As an alternative to this determination, an additional two feet must be added as a safety factor to the allowable distance between the base of the leaching facility and the maximum groundwater table, provided this final distance is above the observed water level, as recorded in the soil log at the time the test was taken. A second alternative to determination of the maximum groundwater level is to take it as the minimum level of a pond, swamp or stream adjoining the property. If this level is higher than the measured elevation taken in the soil log, it should be used as the estimated high groundwater table.
- B. In addition, there shall be a minimum of four feet of undisturbed soil, with a percolation rate of not greater than one inch in 20 minutes, between the base of any disposal facility and any impervious formation.
- C. The minimum leaching area for a subsurface sewage disposal field which is to be constructed on any individual lot shall not be less than 1,000 square feet.
- D. The minimum leaching area for a subsurface sewage seepage pit, trench or trenches constructed on any individual lot shall not be less than 250 square feet.

§ 300-7.6. Disposal of sanitary sewage in unsewered areas.

- A. All percolation and soil log tests shall be conducted in the presence of the Avon Health Agent. Where circumstances warrant, a member of the Avon Board of Health may witness such test in lieu of the

above agents, but only if prior consent by the other members is obtained and recorded as such in the minutes of a regularly scheduled meeting.

- B. If, in the opinion of the Avon Health Agent, the water table level is still questionable after exercising the criteria of the upgraded Regulation of Title 5, he may require that percolation tests be made during the wet season (March 1 through April 30). No percolation tests or soil examination shall be accepted which were taken during the period of June 15 through September 15.
- C. At least one percolation test shall be performed in the primary leaching area and reserve area.
- D. The property owner, subject to the above regulations, has the right to appeal before the Board of Health for a review of the requirements. This request shall be in writing and received by the Board of Health within 10 days after the Health Agent's decision.

§ 300-7.7. Amendment to Title 5 - Distances.

Tributaries to aquifers for public wells including open and subsurface drains shall be 100 feet from leaching fields, seepage pits and cesspools.

§ 300-7.8. Well tests.

The Avon Board of Health will endorse no application for a building permit for any new dwelling supplied by well water unless the producing rate is tested during the months of July, August, October and November. The duration of said test shall be no less than 48 hours, producing five gallons per minute.

ARTICLE VIII
Food Establishment Regulations
[Adopted 6-10-1988, effective 7-1-1988]

(Article X, State Sanitary Code)

§ 300-8.1. Amendments to state code.

The Avon Board of Health shall enforce its specifications as outlined in Article X, State Sanitary Code, and titled "Minimum Sanitation Standards for Food Service Establishments," within the Town of Avon.²⁸ Under the authority of MGL c. 111, § 31, the Avon Board of Health shall from time to time amend or add to the provisions of Article X, in a stricter sense, to meet the health requirements of the Town of Avon. The amendments shall be listed in this section:

- A. The floor surface in all food preparation areas, utensil washing rooms, and toilet rooms shall be constructed of clay tile, or the equivalent, so as to be easily cleanable.
- B. If an examination as provided for in Regulation 3, Article 1 of the State Sanitary Code reveals that a food establishment or a retail food establishment has violated any provision of Article X of the State Sanitary Code or rules and regulation relative to food establishments, as promulgated, under the authority of MGL c. 94, § 305A, as amended, or the Avon Board of Health rules, procedures and regulations, the Avon Board of Health will take such action as authorized under Article X of the State Sanitary Code.

§ 300-8.2. Food establishment policy.

- A. It is the policy of the Board that all food establishments be inspected at least twice yearly in order to be in compliance with Article X of the State Sanitary Code.
- B. It is the policy of this Board that every food establishment that has a violation of a critical item (as defined in Article X, Section 590.002, of the State Sanitary Code) be reinspected within 10 days in accordance with the State Sanitary Code.
- C. If a food establishment has more than three critical violations, it shall be inspected monthly until three monthly inspections show no repetition of the critical violation.
- D. If, after the discovery of a critical or repeat violation, the food establishment fails to correct said violation within 10 days, the owner of record of said food establishment will report for a hearing before the Board of Health.
- E. If, after the hearing, the food establishment fails to implement the recommendations of the Health Agent in order to correct the violation(s) within one month, the owner of said food establishment will be required to show cause why said food establishment should not be suspended or revoked in accordance with Article X, Section 590.014, of the State Sanitary Code.
- F. Any person aggrieved by the final decision of the Board of Health may seek relief in a court of competent jurisdiction in the commonwealth.
- G. Notwithstanding the foregoing, the Board of Health or the Health Agent may take such action to

28. Editor's Note: See 105 CMR 590, Chapter X.

protect the public health consistent with its powers under Article X of the State Sanitary Code or the Massachusetts General Laws.

ARTICLE IX
Human Habitation Regulations
[Adopted 6-10-1988, effective 7-1-1988]

(MGL c. 111, § 127B; Article II, State Sanitary Code; MGL c. 79A, § 13)

§ 300-9.1. Enforcement of and amendment to state law.

The Avon Board of Health shall enforce the specifications as outlined in Title II, State Sanitary Code, titled "Minimum Standards of Fitness for Human Habitation," for the Town of Avon.²⁹ Under the authority of MGL c. 111, § 31, and Regulation 2, Title I of the State Sanitary Code,³⁰ the Avon Board of Health shall from time to time amend, or add to, the provisions of Title II (Article II) in a stricter sense to meet the health requirements of the Town of Avon and list such amendments in this section.

§ 300-9.2. Amendments to Title II (Article II), health occupancy certificates.

- A. Whenever a rented dwelling unit, apartment or tenement other than a motel, hotel, or rooming house is vacated by an occupant or occupants thereof, or within 10 days before the expiration date of the anticipated vacancy, it must be certified by the Board of Health or its agents, prior to being reoccupied by a new occupant, as meeting standards set forth in the Sanitary Code, Title II, Minimum Standards of Fitness for Human Habitation, as promulgated and from time to time amended by the Department of Public Health of the Commonwealth of Massachusetts under the authority of MGL c. 111, § 127A, and as upgraded by local health regulations. However, regardless of the number of occupancy changes during any twelve-month period, one certification shall be sufficient for such twelve-month period.
- B. No public utilities shall be restored nor billing transferred, except where deemed necessary by the Board of Health or its agents to prevent damage to the dwelling unit, apartment or tenement, until such time that the public utilities company is notified by the Board of Health or its agents, and, after inspection, said unit is certified as being fit for human habitation. If within 96 hours, excluding Sundays and holidays, after receipt of written notice of a vacancy from the owner, managing agent or person in possession, the Board of Health or its agents fail to make an inspection, then said unit may be reoccupied with such certificate.
- C. This regulation shall not apply to a new construction which is in compliance with the General Laws of the Commonwealth of Massachusetts and local bylaws pertaining thereto; nor shall it apply to new construction which is less than five years old prior to the date on which the rented dwellings, apartment or tenement becomes vacant.
- D. Any owner of such property used for dwelling purposes failing to comply with this regulation shall pay a fine of \$20 each and every day he allows any person or persons to live, occupy or inhabit the premises without having received an occupancy permit from the Board of Health.

29. Editor's Note: See 105 CMR 410, Chapter II.

30. Editor's Note: See 105 CMR 400, Chapter I.

ARTICLE X
Swimming Pool Regulations
[Adopted 6-10-1988, effective 7-1988]

(MGL c. 111, § 31; Avon Town Code of Bylaws, Chapter 209, Swimming Pools)

§ 300-10.1. Adoption of bylaws.

The Avon Board of Health adopts the provisions of Chapter 209, Swimming Pools, of the Avon Town Code of Bylaws in respect to the regulation of swimming pools. In addition, the Avon Board of Health shall, from time to time, add to or amend the adopted provisions of Chapter 209 of the Town Code of Bylaws to become a Board of Health regulation as provided in MGL c. 111, § 31, and list these regulations in this section.

§ 300-10.2. Additional regulations.

- A. Location of any portion of a subsurface wastewater treatment facility or sewer line shall be as follows:
- (1) In-ground swimming pools: 20 feet minimum.
 - (2) Above-ground swimming pool: 10 feet minimum.
- B. Each swimming pool which is 18 inches in depth or more at its deepest point shall be enclosed by an impassable four-foot-high fence with a self-latching gate or an equivalent enclosure. Equivalency shall be ruled by the Avon Board of Health.

ARTICLE XI

Massage Business Establishment Regulations

These regulations were superseded by Chapter 135 of the Acts of 2006 of the Massachusetts General Laws.³¹ Municipalities no longer have direct oversight of massage therapists, massage facilities, or massage schools.

31. Editor's Note: See MGL c. 112, §§ 228 through 235.

ARTICLE XII

Body Art Establishment and Practitioner Regulations**[Adopted 12-16-2010, effective 1-1-2011]****§ 300-12.1. Intent and scope.**

- A. The Town of Avon promulgates these rules and regulations of body art, which provide minimum requirements to be met by any person performing body art activities within the Town for hire upon another individual and for any establishment within the Town wherein body art activities are to be performed. These requirements include, but are not limited to, requirements concerning the general sanitation of the establishments wherein body art activities are to be performed, requirements concerning the general sanitation of the establishments and sterilization of the instruments to be used in the conduct of the body art. By enacting these rules and regulations, the Avon Board of Health has determined that these rules and regulations are necessary to protect the public's health by preventing diseases, including, but not limited to, the transmission of hepatitis B and/or human immunodeficiency virus (HIV/AIDS). In addition, this regulation establishes a requirement for registration and a procedure for registration with the Board of Health of all persons performing Body Art activities, a requirement for minimal training standards for all practitioners, including requirements for the prevention of disease transmission and for knowledge of anatomy and physiology. Provisions are included for the regular inspection of establishments wherein body art activities are to be performed and for the revocation of the registration of any person or establishment deemed in violation of the rules and regulations promulgated under this regulation, or for other means of enforcement of the provisions of the regulation.
- B. These regulations provide for an annual fee to be paid by a person and establishment registered under these regulations. This fee is intended to help defray the cost to the Town of Avon of the administration of the requirements of the regulation.

§ 300-12.2. Authority.

These rules and regulations are adopted under the authority of MGL c. 111, § 31.

§ 300-12.3. Purpose.

The purpose of these regulations is to protect public health by establishing minimum conditions governing the practice of body art in the Town of Avon.

§ 300-12.4. Definitions.

As used in these regulations, the following terms shall have the meanings indicated:

AFTERCARE — Written instructions given to the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area. These instructions will include information about when to seek medical treatment, if necessary.

BLOODBORNE PATHOGENS STANDARD — OSHA Regulations, 29 CFR 1910.1030.

BOARD OF HEALTH or BOARD — The Avon Board of Health and its agents.

BODY ART — The practice of physical body adornment by permitted establishments and practitioners using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification. This definition does not include practices that are considered medical procedures by the

Board of Registration in Medicine in the commonwealth, such as implants under the skin, which shall not be performed in a body art establishment.

BODY ART ESTABLISHMENT or ESTABLISHMENT — A specified place or premises that have been granted a permit by the Board, whether public or private, where the practices of body art are performed, whether or not for profit.

BODY ART PRACTITIONER or PRACTITIONER — A specified person who has been granted a permit by the Board to perform body art in a body art establishment that has been granted a valid permit by the Board.

BODY PIERCING — Puncturing or penetration of the skin of a person with presterilized single-use needles and the insertion of presterilized jewelry or other adornment thereto in the opening. This definition includes piercing of the outer perimeter of the ear, but does not include piecing of the earlobe with presterilized single-use stud-and-clasp ear-piercing systems.

BRAIDING — Cutting of strips of skin of a person, which strips are then to be intertwined with one another and placed onto a person so as to cause of allow the incised and interwoven strips of skin to heal in such an intertwined condition.

BRANDING — Inducing a pattern of scar tissue by use of a heated material (usually metal) to the skin, making a serious burn, which eventually becomes a scar.

CLIENT — Any person who has requested a body art procedure at a body art establishment.

CONTAMINATED WASTE — Any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 CFR Part 1910.1030 (latest edition), known as "Occupational Exposure to Bloodborne Pathogens" or as defined as "infectious or physically dangerous medical or biological waste" in accordance with 105 CMR 480.000, Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII and the Town of Avon's local regulations concerning infectious and hazardous waste.

COSMETIC TATTOOING — See "tattooing."

DEPARTMENT — The Massachusetts Department of Public Health.

DISINFECTANT — A product registered as a disinfectant by the United States Environmental Protection Agency.

DISINFECTION — The destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

EAR PIERCING — The puncturing of the lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system following manufacturer's instructions.

EQUIPMENT — All machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a body art establishment.

HAND SINK — A lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms or other portions of the body.

HOT WATER — Water that attains and maintains a temperature 110° F. to 130° F.

INSTRUMENTS USED FOR BODY ART — Hand pieces, needles, needle bars, and other instruments

that may come in contact with a client's body or may be exposed to bodily fluids during body art procedures.

INVASIVE — Entry into the client's body either by incision or insertion of any instruments into or through the skin or mucosa, or by any other means intended to puncture, break, or otherwise compromise the skin or mucosa.

JEWELRY — Any personal ornament inserted into a newly pierced area, which must be made of surgical-implant-grade stainless steel; solid 14k or 18k white or yellow gold, niobium, titanium, or platinum; or a dense, low-porosity plastic, which is free of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.

MINOR — Any person under the age of 18 years.

OPERATOR — Any person who alone, jointly or severally with others owns, has care, charge, or control of any body art establishment as agent or lessee of the owner or as an independent contractor, but is not a body art practitioner.

PERMIT — Approval in writing by the Board to either (1) operate a body art establishment or (2) operate as a body art practitioner within a body art establishment. Board approval shall be granted solely for the practice of body art pursuant to these regulations. Said permit is exclusive of the establishment's compliance with other licensing or permitting requirements that may exist the Board's jurisdiction.

PERSON — An individual, any form of business or social organization or any other nongovernmental legal entity, including but not limited to corporations, partnerships, limited-liability companies, associations, trusts or unincorporated organizations.

PHYSICIAN — An individual registered by the Board of Registration in Medicine pursuant to MGL c. 112, § 2.

PRACTITIONER — See "body art practitioner."

PROCEDURE SURFACE — Any surface of an inanimate object that contacts the client's unclothed body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure, or any associated work area which may require sanitizing.

SANITARY — Clean and free of agents of infection or disease.

SANITIZED — Effective disinfectant treatment by a process using intermediate disinfectants for enough time to reduce the bacteria count, including pathogens, to a safe level on semi-critical or noncritical equipment.

SANITIZING PROCEDURE — A process of reducing the numbers of microorganisms on cleaned surfaces and equipment to a safe level as judged by public health standards and which has been approved by the Department.

SCARIFICATION — Altering skin texture by cutting the skin and controlling the body's healing process in order to produce wounds, which result in permanently raised wheals or bumps known as "keloids."

SHARPS — Any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa, including, but not limited to, needle devices, lancets, scalpel blades, razor blades, and broken glass.

SHARPS CONTAINER — A puncture-resistant, leakproof container that can be closed for handling, storage, transportation, and disposal and that is labeled with the International Biohazard Symbol.

SINGLE-USE — Products or items that are intended for one-time, one-person use and are disposed of after use on each client, including, but not limited to, cotton swabs or balls, tissues or paper products, paper or

plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups, and protective gloves.

STERILIZE — The use of a physical or chemical procedure to destroy all microbial life, including highly resistant bacterial endospores.

TATTOO — The indelible mark, figure or decorative design introduced by insertion of dyes or pigments into or under the subcutaneous portion of the skin.

TATTOOING — Any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or other instruments used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.

UNIVERSAL PRECAUTIONS — A set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers" in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6, and as "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures" in MMWR, July 12, 1991, Vol. 40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand washing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood and body fluid-contaminated products.

§ 300-12.5. Operation of body art establishments.

Unless otherwise ordered or approved by the Board, each body art establishment shall be constructed, operated and maintained to meet the following minimum requirements:

A. Physical plant.

- (1) All walls, floors, ceilings, and procedure surfaces within the body art establishment shall be smooth, free of open holes or cracks, light-colored, washable, and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition. All procedure surfaces, including client chairs/benches, shall be of such construction as to be easily cleaned and sanitized after each client.
- (2) All body art establishments shall be completely separated by solid partitions or by walls extending from floor to ceiling, from any room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales, or any other such activity that may cause potential contamination of work surfaces.
- (3) Effective measures shall be taken by the body art operator to protect against entrance into the establishment and against the breeding or presence on the premises of insects, vermin, and rodents. Insects, vermin, and rodents shall not be present in any part of the establishment or adjacent structure.
- (4) There shall be a minimum of 80 square feet of floor space for each practitioner in the establishment. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Multiple body art stations shall be separated by dividers, curtains, or partitions, at a minimum.
- (5) The establishment shall be well-ventilated and provided with an artificial light source equivalent to at least 20 footcandles three feet off the floor, except that at least 100 footcandles shall be

provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.

- (6) A separate, readily accessible hand sink with hot and cold running water, equipped with wrist- or foot-operated controls and supplied with liquid soap, and disposable paper towels shall be readily accessible within the body art establishment. One hand sink shall serve no more than one practitioner. Hand sinks must be installed according to the local plumbing code. A separate mop sink must be provided for clean up of the establishment.
 - (7) In addition to any service sinks, there should be a minimum of one lavatory sink and one working toilet in a body art establishment.
 - (8) At least one covered waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily, and solid waste shall be removed from the premises at least weekly. All refuse containers shall be lidded, cleanable, and kept clean.
 - (9) All instruments and supplies shall be stored in clean, dry, and covered containers.
 - (10) Practitioners who use ear-piercing systems must conform to the manufacturers' directions for use and applicable United States Food and Drug Administration requirements.
 - (11) Reusable cloth items shall be mechanically washed with detergent and sterilized after each use. The cloth items shall be stored in a dry, clean environment until used.
 - (12) No animals of any kind shall be allowed in a body art establishment, except service animals used by persons with disabilities (e.g., Seeing Eye dogs). Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.
- B. Information to be kept on file. The following information shall be kept on file on the premises of a body art establishment and available for inspection by the Board:
- (1) Employee information:
 - (a) Full names and exact duties.
 - (b) Date of birth.
 - (c) Home address.
 - (d) Home/work phone numbers.
 - (e) Identification photos of all body art practitioners.
 - (2) Establishment information.
 - (a) Establishment name.
 - (b) Hours of operation.
 - (c) Owner's name and address.
 - (3) A complete description of all body art procedures performed.
 - (4) An inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable.

Invoices or orders shall satisfy this requirement.

- (5) Current contract of contaminated waste hauler.
- (6) A copy of these regulations.
- C. It shall be unlawful for any person to perform body art procedures unless such procedures are performed in a body art establishment with a current permit.
- D. Each body art practitioner must be a minimum of 18 years of age.
- E. Each practitioner shall perform all body art procedures in accordance with Universal Precautions set forth by the United States Centers for Disease Control and Prevention.
- F. Jewelry is any personal ornament inserted into a newly pierced area, which must be made of surgical-implant-grade stainless steel; solid 14k or 18k white or yellow gold, niobium, titanium, or platinum; or a dense, low-porosity plastic, which is free of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.
- G. Smoking, eating, or drinking is prohibited in the area where body art is performed.
- H. Operators/practitioners shall refuse service to any person who, in the opinion of the operator/practitioner, is under the influence of alcohol or drugs.
- I. The practitioner shall maintain a high degree of personal cleanliness, conform to hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, the practitioner must thoroughly wash his/her hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towel. This shall be done as often as necessary to remove contaminants.
- J. In performing body art procedures, the practitioner shall wear disposable single-use nonlatex gloves. Gloves must be changed if they become contaminated by contact with any unclean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed before the next set of gloves is donned. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable single-use gloves does not preclude or substitute for hand-washing procedures as part of a good personnel hygiene program.
- K. If, while performing a body art procedure, the practitioner's glove is pierced, torn, or otherwise contaminated, the procedure delineated in Subsection I shall be repeated immediately. The contaminated gloves shall be immediately discarded, and the hands washed thoroughly (see Subsection I above) before a fresh pair of gloves is applied. Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- L. Contaminated waste, as defined in this code, that may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled must be placed in an approved "red" bag marked with the International Biohazard Symbol. It must then be disposed in accordance with 105 CMR 480.00, Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII, or, at a minimum, in compliance with 29 CFR Part 1910.1030, Occupational Exposure to Bloodborne Pathogens. Used sharps ready for disposal shall be disposed of in approved sharps containers. Contaminated waste that does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled

may be placed in a covered receptacle and disposed of through normal, approved disposal methods. Storage of contaminated waste on site shall not exceed 30 days, as specified in 29 CFR Part 1910.1030.

- M. No practitioner shall perform any body art procedure upon a client under the age of 18 years without the presence, written consent, and proper identification of a parent, legal custodial parent, or legal guardian. Nothing in this section shall require a practitioner to perform any body art procedure on a person under 18 years of age regardless of parental or guardian consent.
- N. Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
- O. The skin of the practitioner shall be free of rash or infection. No person or operator affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that the person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.
- P. Proof shall be provided, upon request of the Board, that all practitioners have either completed or were offered and declined, in writing, the hepatitis B vaccination series. This offering shall be included as a pre-employment requirement.

§ 300-12.6. Exemptions.

- A. Physicians licensed in accordance with MGL c. 112, § 2 who perform body art procedures as part of patient treatment are exempt from these regulations.
- B. Individuals who pierce only the lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system are exempt from these regulations.

§ 300-12.7. Public notification requirements.

- A. All establishments shall prominently display, and give to each client, a disclosure statement, approved by the Board of Health, which advises the public of the risks and possible consequences of body art procedures.
- B. Verbal and written instructions, approved by the Board of Health, for the aftercare of the body art procedure site shall be provided to each client by the operator/practitioner upon completion of the procedure.
 - (1) The written instructions shall advise the client:
 - (a) On the proper cleansing of the area which received the body art.
 - (b) To consult a health care provider for:
 - [1] Unexpected redness, tenderness or swelling at the site of the body art procedure.
 - [2] Rash.
 - [3] Drainage at or from the site of the body art procedure.
 - [4] Fever within 24 hours of the body art procedure.

- (c) Address, phone number and business hours of the establishment.
- (2) These documents shall be signed and dated by both parties, with a copy given to the client and the operator retaining the original with all other required records.
- C. The facility permit holder shall also post in public view the name, address and phone number of the Board of Health and the procedure for filing a complaint.

§ 300-12.8. Client records.

- A. Prior to performing any body art procedure, the body art practitioner shall request from the client, verbally and in writing, the following health history information:
 - (1) History of diabetes;
 - (2) History of hemophilia (bleeding);
 - (3) History of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants, etc.;
 - (4) History of allergies or adverse reactions to pigments, dyes, or other sensitivities;
 - (5) History of epilepsy, seizures, fainting, or narcolepsy;
 - (6) Use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting;
 - (7) Hepatitis and/or any other chronic conditions (cellulitis);
 - (8) History of suspicion of adverse reaction to latex or products containing latex.
- B. The practitioner shall have the client sign a release form confirming that the above information was obtained or that the practitioner attempted to obtain it. The client should be asked to disclose any other information that would aid the practitioner in evaluating the client's suitability for body art procedures.
- C. Each operator shall keep records of all body art procedures administered, including date, time, identification and location of the body art procedure(s) performed, and practitioner's name. All client records shall be confidential and be retained for a minimum of three years and made available to the Board upon notification.
- D. Nothing in this section shall be construed to require the practitioner to perform a body art procedure upon a client.

§ 300-12.9. Injury reports.

A written report of any injury, infection complication or disease to a client as a result of a body art procedure, or complaint of injury, infection complication or disease, shall be forwarded by the operator or practitioner to the Board of Health which issued the permit and to the Massachusetts Department of Public Health, with a copy to the complainant or injured client within five working days of its occurrence or knowledge thereof. The report shall include:

- A. The name of the affected client;
- B. The name and location of the body art establishment involved;

- C. The nature of the injury, infection complication or disease;
- D. The name and address of the affected client's health care provider, if any;
- E. Any other information considered relevant to the situation.

§ 300-12.10. Records retention.

The body art establishment shall keep a record of all persons who have had body art procedures performed. The record shall include the name, date of birth, and address of the client, the date of the procedure, the name of the practitioner who performed the procedure(s), type and location of procedure performed, and signature of client, and, if the client is a minor, proof of parental or guardian presence and consent. Such records shall be retained for a minimum of three years and shall be available to the Board upon request. The Board and the body art establishment shall keep such records confidential.

§ 300-12.11. Preparation and care of body art area.

- A. Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where the body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation. If shaving is necessary, single-use disposable razors shall be used. Blades shall be discarded after each use, and reusable holders shall be autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.
- B. In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single-use, discarded immediately after use in appropriate covered containers, and disposed of in accordance with 105 CMR 480.000.

§ 300-12.12. Sanitation and sterilization procedures.

- A. All non-single-use, nondisposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, a solution of household chlorine bleach as recommended by the Centers for Disease Control (CDC) or by following the manufacturer's instructions to remove blood and tissue residue, and shall be placed in an ultrasonic unit operated in accordance with manufacturer's instructions.
- B. After being cleaned, all nondisposable instruments used for body art shall be packed individually in peel-packs and subsequently sterilized. All peel-packs shall contain either a sterilizer indicator or internal temperature indicator. Peel packs must be dated with an expiration date not to exceed six months.
- C. All cleaned, nondisposable instruments used for body art shall be sterilized in a steam autoclave. The sterilizer shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the sterilization unit must be available for inspection by the Board.
- D. Sterile equipment may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing. Sterilizers shall be located away from workstations or areas frequented by the public. If the body art establishment uses only single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.
- E. Each holder of a permit to operate a body art establishment shall demonstrate that the sterilizer used

is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the sterilizer's ability to destroy spores is received by the Board. These test records shall be retained by the operator for a period of three years and made available to the Department upon request.

- F. All reusable needles used in body art procedures shall be cleaned and sterilized prior to use and stored in peel-packs. After sterilization, the instruments used in body art procedures shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.
- G. All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of a body art procedure. When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized techniques to ensure that the instruments and gloves are not contaminated.
- H. All inks, dyes, pigments, needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions.
- I. The mixing of approved inks, dyes, or pigments or their dilution with sterile water is acceptable. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use paper cups or plastic cups. Upon completion of the tattoo, these single cups or caps and their contents shall be discarded.

§ 300-12.13. Requirements for single-use items.

- A. Single-use items shall not be used on more than one client for any reason. After use, all single-use sharps shall be immediately disposed of in approved sharps containers and in accordance with 105 CMR 480.000.
- B. All products applied to the skin, including body art stencils, shall be single-use and disposable. Acetate stencils may be reused if approved by the Board. Sanitization procedures in accordance with 105 CMR 124.011 shall be performed between uses.
- C. Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to be tattooed with sterile gauze or other sterile applicator to prevent contamination of the original container and its contents. The applicator or gauze shall be used only once and then discarded.

§ 300-12.14. Permit requirements.

Body art establishments shall submit a scale drawing and floor plan of the proposed establishment for a plan review by the Board, as part of the permit application process.

- A. Establishment permit.
 - (1) No person, firm, partnership, joint venture, association, business, trust, corporation or organized group of persons may operate a body art establishment except with a body art establishment permit from the Board. No license or permit shall be issued until after a public hearing has been held by the Board, which shall be based on the satisfaction that said use is appropriate, and that it will not create a nuisance, or is not dangerous to the public health.
 - (2) Any person operating a body art establishment shall obtain an annual permit from the Board. The Board shall set a reasonable fee for such permit.

- (3) A permit for a body art establishment shall not be transferable from one place or person to another.
- (4) A valid body art establishment permit shall be posted in a prominent and conspicuous area where clients may readily observe it.
- (5) The holder of a body art establishment permit must hire only practitioners who have complied with the practitioner permit requirements of this code.
- (6) All permits expire on December 31 of the year issued, unless revoked sooner by the Board of Health.

B. Body art practitioner permit.

- (1) No person shall practice body art procedures without first obtaining a practitioner permit from the Board. The Board shall set a reasonable fee for such permits.
- (2) The practitioner permit expires on December 31 of the year issued unless revoked sooner by the Board of Health.
- (3) Application for a practitioner permit shall include:
 - (a) Name;
 - (b) Date of birth;
 - (c) Residence address;
 - (d) Mailing address;
 - (e) Phone number;
 - (f) Place(s) of employment as a practitioner;
 - (g) Training and/or experience:
 - [1] Evidence satisfactory to the Board of at least two years' actual experience in the practice of performing body art activities of the kind for which the applicant seeks a body art practitioner permit to perform, whether such experience was obtained within or outside of the commonwealth;
 - [2] Evidence of a minimum twelve-month completed apprenticeship program as approved by the Board, with instruction in the kind of body art for which the applicant seeks a body art permit to perform;
 - (h) Proof of attendance and a passing grade (C or better) at a bloodborne pathogen training program (or equivalent) given or approved by the Board of Health.
 - [1] The applicant shall provide documentation of attendance and passing (C or better) of courses approved by the Board, on the following subjects:
 - [a] Anatomy I and II and Physiology I and II.
 - [b] Skin diseases, disorders and conditions (including diabetes).
 - [c] Infectious disease control, including waste disposal, hand-washing techniques,

sterilization equipment operation and methods, and sanitation/disinfection/sterilization methods and techniques.

[2] Examples of courses approved by the Board include courses such as: "Preventing Disease Transmission" (American Red Cross) and "Bloodborne Pathogen Training" (U.S. OSHA). Training/courses provided by professional body art organizations or associations or by equipment manufacturers may also be submitted to the Board for approval.

[3] First Aid/CPR.

- C. No permit shall be issued unless, following reasonable investigation by the Board, the body art establishment or practitioner has demonstrated compliance with the provisions of this section and all other provisions of these regulations.
- D. All permits shall be conditional upon continued compliance with the provisions of this section as well as all applicable provisions of these regulations.
- E. All permits shall be posted in a prominent and conspicuous area where clients may readily observe them.

§ 300-12.15. Complaints.

- A. The Board shall investigate complaints received about an establishment or practitioner's practices or acts which may violate any provision of the Board's regulation.
- B. If the Board finds that an investigation is not required because the alleged act or practice is not in violation of the Board's regulations, then the Board shall notify the complainant of this finding and the reasons on which it is based.
- C. If the Board finds that an investigation is required, because the alleged act or practice may be in violation of the Board's regulations, the Board shall investigate, and if a finding is made that the act or practice is in violation of the Board's regulations, then the Board shall apply whatever enforcement action is appropriate to remedy the situation and shall notify the complainant of its action in this matter.
- D. Investigation of complaints may lead to enforcement actions, including revocation, suspension, or refusal to renew a permit, by the Board.

§ 300-12.16. Grounds for denial of permit.

- A. The Board may deny a permit on any of the following grounds:
 - (1) Failure to conform to the requirements of the Board's regulations;
 - (2) Any actions or omissions which would indicate that the health or safety of the public would be at risk should a permit be approved;
 - (3) Any previous violation of the Board's regulations;
 - (4) Any attempt to practice or obtain a permit through fraud, deceit, or misrepresentation;
 - (5) Criminal conduct which the Board determines to be of such a nature as to render the establishment or practitioner unfit to practice body art, as evidenced by criminal proceedings

resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;

- (6) Other just and sufficient cause which the Board may determine would render the establishment or practitioner unfit to practice body art;
- (7) Practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
- (8) Being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
- (9) Knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit; and
- (10) Having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in the Board's regulations.

B. Applicants denied a permit may reapply at any time after denial.

§ 300-12.17. Grounds for suspension of permit.

The Board may summarily suspend a permit pending a final hearing on the merits on the question of revocation if, based on the evidence before it, the Board determines that an establishment and/or a practitioner is an immediate and serious threat to the public health, safety or welfare. The suspension of a permit shall take effect immediately upon written notice of such suspension by the Board.

§ 300-12.18. Grounds for revocation of permit or refusal to renew permit.

A. The Board may revoke a permit or refuse to renew a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for revocation or refusal to renew:

- (1) Fraud or misrepresentation in obtaining a permit, or its renewal;
- (2) Criminal conduct which the Board determines to be of such a nature as to render the establishment or practitioner unfit to practice body art, as evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;
- (3) Violation of any rule or regulation of the Board governing the practice of body art;
- (4) Other just and sufficient cause which the Board may determine would render the establishment or practitioner unfit to practice body art;
- (5) Practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
- (6) Being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
- (7) Knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit;
- (8) Continuing to practice while his/her permit is lapsed, suspended, or revoked;

- (9) Having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in the Board's regulations; and
 - (10) Refusing to practice body art on a person because of such person's race, creed, color, gender, age, disability, national origin, or sexual orientation.
- B. The Board shall notify an applicant, establishment or practitioner in writing of any violation of the Board's regulations for which the Board intends to deny, revoke, or refuse to renew a permit. The applicant, establishment or practitioner shall have seven days after receipt of said written notice in which to comply with the Board's regulations. The Board may deny, revoke or refuse to renew a permit if the applicant, establishment or practitioner fails to comply after said seven days.

§ 300-12.19. Hearing procedures.

- A. Initial application for a permit shall require notice in the form of a public hearing. All costs shall be the responsibility of the applicant.
- B. Suspension of a permit.
- (1) Upon written request to the Board of Health, the establishment or practitioner shall be afforded an opportunity to be heard concerning the suspension of the permit by the Board.
 - (2) Such a hearing shall be initiated pursuant to 801 CMR 1.00 et seq. (Standard Adjudicatory Rules of Practice and Procedure) no later than 21 calendar days after the effective date of the suspension.
 - (3) In cases of suspension of a permit, the Board shall determine by a preponderance of the evidence that there existed immediately prior to or at the time of the suspension an immediate and serious threat to the public health, safety or welfare. The Board shall issue a written decision which contains a summary of the testimony, evidence considered and the reasons for the decision.
- C. Denial, revocation, or refusal to renew a permit.
- (1) A permit may be denied, revoked or refused renewal only after a hearing conducted by the Board.
 - (2) If the Board determines that a permit shall be denied, revoked, or not renewed pursuant to the Board's regulations, the Board shall initiate a hearing in accordance with 801 CMR 1.00 et seq.
 - (3) Following the hearing, the hearing officer shall issue a written decision that contains a summary of the testimony, evidence considered and the reasons for the decision.

§ 300-12.20. Unauthorized practice of body art.

The Board shall refer to the appropriate District Attorney, the Attorney General, or other appropriate law enforcement agency any incidents of unauthorized practice of body art that come to its attention.

§ 300-12.21. Severability.

If any rule or provision contained herein is found to be unconstitutional or invalid by a court of competent jurisdiction, the validity of the remaining rules and provisions will not be so affected.

§ 300-12.22. Adoption.

These regulations are adopted by a vote of the Avon Board of Health at the meeting on December 16, 2010.
The effective date is January 1, 2011.

Town of Avon, MA

§ 300-12.22

AVON CODE

SUBDIVISION OF LAND

Chapter 350

SUBDIVISION OF LAND

[HISTORY: Adopted by the Planning Board of the Town of Avon 2-6-1964; amended in its entirety 5-1-1974. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Wetlands — See Ch. 239.

Board of Health regulations — See Ch. 300.

Zoning — See Ch. 255.

ARTICLE I

Purpose and Authority**§ 350-1.1. Purpose.**

(MGL c. 41, § 81-M)

"The subdivision control law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the cities and towns in which it is, or may hereafter be, put in effect by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but, which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of a Planning Board and of a board of appeal under the subdivision control law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable zoning ordinances or bylaws; for securing adequate provision for water, sewerage, drainage, underground utility services, fire, police, and other similar municipal equipment, and street lighting and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the city or town in which it is located and with the ways in neighboring subdivisions Such powers may also be exercised with due regard for the policy of the commonwealth to encourage the use of solar energy and protect the access to direct sunlight of solar energy systems. It is the intent of the subdivision control law that any subdivision plan filed with the planning board shall receive the approval of such board if said plan conforms to the recommendation of the board of health and to the reasonable rules and regulations of the planning board pertaining to subdivisions of land; provided, however, that such board may, when appropriate, waive, as provided for in § 81-R, such portions of the rules and regulations as is deemed advisable."

§ 350-1.2. Authority; Planning Board procedures.

- A. Under the authority vested in the Planning Board of the Town of Avon by MGL c. 41, § 81-Q, said Board hereby adopts these amended rules and regulations governing the subdivision of land in the Town of Avon.
- B. Planning Board procedures.
 - (1) Regular meetings of the Planning Board are held on the dates and times as posted with the Town Clerk. Except for executive sessions as provided for in MGL c. 30A, §§ 18 through 25, as amended, meetings of the Planning Board shall be open to the public to attend. Anyone desiring to meet with the Board shall do so by appointment. To secure an appointment, all applicants shall notify the Town Clerk at least four days prior to a regularly scheduled meeting. In such notice, the applicant shall state his name, address and a brief outline of the nature of the business to be discussed with the Planning Board. No appointment with the Planning Board shall be required of applicants desiring to submit a plan in accordance with the provisions of § 350-2.2 of these rules and regulations. Any person attending an advertised public hearing may address the Board at the pleasure of the Chair without prior notice and in so doing shall state his name, address and person represented, if any. **[Amended 1-28-2023STM by Art. 9]**
 - (2) All meetings of the Board shall be conducted formally under the direction of the Chair of the Board. In the absence of the Chair, the Vice-Chair shall act as Chair. In the absence of both the Chair and Vice-Chair, the Clerk shall act as Chair. A majority of the members of the Board shall

constitute a quorum but less than a majority may vote to adjourn, subject to the meeting being rescheduled as hereinafter provided; all other action of the Board shall require a majority vote of all the members. In the event of there being less than a quorum present at any scheduled meeting, the Chair shall reschedule a meeting as soon as practicable thereafter. **[Amended 1-28-2023STM by Art. 9]**

- (3) The records of the Planning Board shall be maintained in the manner set forth in MGL c. 30A, §§ 18 through 25, as amended, and may contain such other matters as the Board at its discretion may deem appropriate.
- (4) The Planning Board may require any applicant to produce evidence of ownership, or authority of an agent, representative or assign.

ARTICLE II
General

§ 350-2.1. Definitions.

As used in these regulations, the following terms shall have the meanings indicated:

APPLICANT — Includes an owner, or his agent or representative or his assigns.

BLOCK — An area of land enclosed on two or more sides by street rights-of-way.

PLANNING BOARD AGENT — A duly authorized engineering consultant retained by the Planning Board.

STREETS — See Exhibit D.³²

- A. ARTERIAL STREETS — Existing and proposed streets which are primarily used, or will be used, by fast, heavy, and through traffic, as defined in the Town's Master Plan or as determined by the Planning Board.
- B. COLLECTOR STREETS — Existing and proposed streets which carry or will carry traffic from residential or minor streets to the system of arterial streets, as existing and proposed and as defined in the Town's Master Plan or as determined by the Planning Board.
- C. RESIDENTIAL OR MINOR STREETS — Existing or proposed streets which are used primarily for access to abutting properties.

SUBDIVISION —

- A. "Subdivision" shall mean the division or resubdivision of a tract of land into two or more lots, or to the process of subdivision, or to the land or territory subdivided.
- B. The division of a tract of land into two or more lots shall not constitute a subdivision if, at the time it was made, every lot within said tract has frontage, in compliance with the Zoning Bylaw,³³ on:
 - (1) A public way as laid out by the Select Board or a way which the Town Clerk certifies is maintained and used as a public way; **[Amended 1-28-2023STM by Art. 9]**
 - (2) A way shown on a plan previously approved under subdivision control; or
 - (3) A way in existence on October 2, 1953, having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular and pedestrian traffic and municipal services in relation to the proposed use of the land abutting thereon or served.
- C. Conveyances or other instruments, by adding to, taking away from, or changing the size and shape of lots, or the division of a tract of land, on which two or more buildings were standing on October 2, 1953, into separate lots, on each of which one such building remains standing shall not constitute a subdivision.

U.S.G.S. DATUM — United States Coast and Geodetic Survey Datum.

§ 350-2.2. Plan believed not to require approval.

32. Editor's Note: Exhibit D is included as an attachment to this chapter.

33. Editor's Note: See Ch. 255, Zoning.

- A. Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that his plan does not require approval under the Subdivision Control Law may submit his plan and application (Form A³⁴) to the Planning Board, accompanied by the necessary evidence to show that the plan does not require approval. Said person shall file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission for such determination and accompanied by a copy of said application.
- B. If the Board determines that the plan does not require approval, it shall, without a public hearing and within 21 days of submission, endorse on the plan the words "Planning Board approval under Subdivision Control Law not required." Said plan shall be returned to the applicant and the Board shall notify the Town Clerk of its action.
- C. If the Board determines that the plan does require approval under the Subdivision Control Law, it shall, within 21 days of submission of said plan, so inform the applicant and return the plan. The Board shall also notify the Town Clerk of its determination.
- D. If the Board fails to act upon a plan submitted under this section or fails to notify the Town Clerk and the person submitting the plan of its action within 21 days after its submission, it shall be deemed to have determined that approval under the Subdivision Control Law is not required, and it shall forthwith make such endorsement on said plan, and on its failure to do so forthwith the Town Clerk shall issue a certificate to the same effect.

§ 350-2.3. Definitive plan required.

No person shall make a subdivision, within the meaning of the Subdivision Control Law, of any land within the Town, or proceed with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of municipal service therein, unless and until a definitive plan of such subdivision has been submitted to and approved by the Planning Board as hereinafter provided.

§ 350-2.4. Professional services.

The definitive plan shall be prepared, stamped and signed by a registered civil engineer or a registered land surveyor.

34. Editor's Note: Form A is included as an attachment to this chapter.

ARTICLE III
Submission and Approval of Plans

§ 350-3.1. Preliminary subdivision plans.

- A. General. A preliminary plan of a subdivision shall be submitted by the subdivider for discussion and approval by the Board. The submission of such a preliminary plan will enable the subdivider, the Board, other municipal agencies, and owners of property abutting the subdivision to discuss and clarify the problems of such subdivision before a definitive plan is prepared. Therefore, a preliminary plan must be filed in every case and such plan shall be filed to allow the Board 45 days in which to study and make recommendations toward the preparation of the definitive plan. (See Subsection D.)
- B. Filing procedure.
- (1) Any person submitting a preliminary plan shall give written notice to the Town Clerk, by delivery or registered mail of a Form B;³⁵ such notices shall identify the tract, the date of submission, and the name and address of the owner.
 - (2) The applicant shall file one Form B, a reproducible copy of the original drawing(s) and five prints with the Planning Board and three prints with the Board of Health. Both the Board of Health and the Planning Board shall comply with the requirements of MGL c. 41, § 81-S, as amended, in notifying the applicant and the Town Clerk of their decisions.
- C. Contents (See Exhibit A³⁶). A preliminary plan, which may be drawn in pencil, shall be at one inch equals 100 feet or a larger scale, and shall include the following data:
- (1) The subdivision name, boundaries, North point, date, scale, legend, and the title "Preliminary Plan";
 - (2) The name(s) of the owner of record, the applicant, and the designer, engineer or surveyor;
 - (3) The names of all abutters, as determined from the most recent tax list;
 - (4) The existing and proposed lines of streets, ways, easements, and any public areas within the subdivision in a general manner;
 - (5) The proposed system of drainage and utilities, including adjacent existing natural waterways, showing the approximate locations of all inlets, outlets, pipes and drains and other appurtenances to the proposed drainage system;
 - (6) The approximate boundary lines of all existing and proposed lots within and abutting the tract, with approximate areas and dimensions;
 - (7) The names, approximate location, area, and dimensions of existing nearby streets, ways, easements and public areas;
 - (8) The proposed locations and depths of other municipal services and utility installations where possible;
 - (9) The topography of the land in its present state and as proposed by contour lines drawn at a five-foot contour interval or better, based on U.S.G.S. datum, to indicate clearly the natural and

35. Editor's Note: Form B is included as an attachment to this chapter.

36. Editor's Note: Exhibit A is included as an attachment to this chapter.

proposed drainage areas;

- (10) Any zone or district boundary established by the Town of Avon Zoning Bylaw³⁷ which divides or bounds the area to be subdivided;
- (11) Existing dwellings, buildings and sanitary systems;
- (12) Existing outstanding features, swamps, ledge outcrops, ponds, watercourses, tree lines, existing easements, walls, fences, etc.;
- (13) Location of benchmark based on U.S.G.S. datum.

D. Planning Board action on preliminary subdivision plans. The Planning Board may invite the applicant to discuss proposed modifications or corrections of the preliminary plan and may then approve, disapprove or approve with modifications such preliminary plan within 45 days after submission. In case of disapproval, the Planning Board shall advise the applicant of the specific reasons for which the plan is disapproved, thus enabling the applicant to resubmit the plan, provided the plan is corrected to comply with the requirements of the Planning Board and with the Zoning Bylaws in effect at the time of the resubmission.³⁸ If the preliminary plan is approved, the rules and regulations of the Planning Board in effect at the time of submission of such preliminary plan shall govern the definitive subdivision plan evolved from such preliminary plan, provided such definitive plan is submitted within seven months of the submission of the preliminary plan. Further, approval of a preliminary plan does not constitute approval of a subdivision, but it shall be deemed an expression of approval to the layout submitted on the preliminary plan as a guide to the applicant's preparation of a definitive plan which must be submitted for approval of the Planning Board in accordance with these regulations.

§ 350-3.2. Definitive plan and definitive submission.

(See Exhibits B, C and D.³⁹)

- A. General. The definitive plan shall conform substantially to the preliminary plan as approved but may constitute only that portion which is proposed to be recorded and developed at the time. (See Exhibit B.⁴⁰) The subdivision rules and regulations and zoning in effect at the time of the submission of the preliminary plan shall govern the definitive plan if it is duly submitted within seven months.
- B. Filing procedure.
 - (1) Applicants filing a definitive submission of a subdivision for approval, or for approval of a street profile, or for a revision of a subdivision previously approved, where such revision requires a public hearing, shall submit to the Planning Board the following:
 - (a) A properly executed application (Form C⁴¹) provided by the Town Clerk;
 - (b) A filing fee deposited with the Town Treasurer-Collector in an amount set from time to time by the Planning Board. All expenses incurred by the Planning Board shall be deducted from the filing fee, the remainder of which shall be reimbursed to the applicant;

37. Editor's Note: See Ch. 255, Zoning.

38. Editor's Note: See Ch. 255, Zoning.

39. Editor's Note: Exhibits B, C and D are included as an attachment to this chapter.

40. Editor's Note: Exhibit B is included as an attachment to this chapter.

41. Editor's Note: Form C is included as an attachment to this chapter.

- (c) The original drawings and six prints of each drawing.
- (2) A definitive submission shall not be deemed to have been submitted unless it has been delivered to the Planning Board at a scheduled meeting or has been sent to the Planning Board care of the Town Clerk. If so mailed, the date of mailing shall be the date of submission of the plan. Simultaneously, a complete set of prints of such definitive submission must be submitted to the Board of Health. The applicant shall give written notice to the Town Clerk by delivery or by registered mail, postage prepaid, that such a plan has been submitted and as further provided in MGL c. 41, § 81-T, as amended.
- C. Contents (See Exhibits B, C, and D.⁴²). The definitive submission shall be clearly and legibly drawn. The definitive plan (See Exhibit B.) shall be drawn in ink on blue linen suitable for filing. The construction plans (See Exhibits C and D.) shall be at a scale of one inch equals 40 feet and shall show details clearly and adequately. Sheet sizes shall be 24 inches by 36 inches. The construction drawings may be prepared in pencil. Plans shall be numbered consecutively and shall be accompanied by an index sheet showing the entire subdivision. The definitive submission shall contain the following information:
- (1) Subdivision name, boundaries, North point, date, scale, benchmark and datum. All elevations to refer to U.S.G.S. datum.
 - (2) Name and address of record owner, subdivider and engineer or surveyor.
 - (3) Names and addresses of all abutters as they appear in the most recent tax list.
 - (4) Existing and proposed lines of streets, ways, lots, easements, waterways and public or common areas within the subdivision. (The proposed street names shall be shown in pencil until they have been submitted by the applicant and approved by the Select Board.) **[Amended 1-28-2023STM by Art. 9]**
 - (5) Location of all permanent monuments properly identified as to whether existing or proposed. The distance and bearing to the nearest Town, county or state monument on an accepted way or within a reasonable distance. Monuments at all points of curvature and changes in direction of street side lines, or where designated by the Planning Board agent.
 - (6) Location, names and present width of streets bounding, approaching or within reasonable proximity of the subdivision.
 - (7) Suitable space to record the action of the Board and the signatures of the members of the Board.
 - (8) Existing and proposed topography at a one-foot contour interval is required by the Board.
 - (9) Lengths, radii and central angles of all curves in lot lines and street lines.
 - (10) Zoning classification of the area.
 - (11) The names of all abutters, as determined by the most recent local tax list.
 - (12) Size and location of existing and proposed storm drainage and water supply.
 - (13) All information required on the preliminary plan shall be shown on the definitive plan as may be required by the Board.

42. Editor's Note: Exhibits B, C and D are included as an attachment to this chapter.

- (14) A storm drainage system will be shown on a separate sheet. The plan shall include invert and rim elevations of all catch basins and manholes, together with surface elevations of all waterways within the subdivision at one-hundred-foot intervals and approximate depth of water at these points. Surface elevation and approximate depth of water shall be shown at each point where drainage pipe ends at a waterway.
 - (15) Sufficient data to determine readily the location, bearing and length of every street and way line, lot line and boundary line and to reproduce same on ground; all bearings to be referred to true meridian.
 - (16) Subsurface conditions on the tract, location and results of tests made to ascertain subsurface soil, rock and groundwater conditions; depth to groundwater shall be indicated.
 - (17) Watercourses, marshes, floodplains, ledge outcrops, walls, fences, trees of over ten-inch caliper, and other significant natural features.
 - (18) Locus plan, showing location of the subdivision.
 - (19) Location of all the following improvements unless specifically waived in writing by the Board: street paving, sidewalks, street signs, streetlighting fixtures, all utilities above and below ground, curbs, gutters, street trees, storm drainage, all easements, and fire alarm boxes. This work shall be shown on a separate sheet.
- D. Profiles of proposed streets (may be made on a separate sheet; see Exhibit C⁴³). Profiles shall be drawn with:
- (1) A horizontal scale of one inch to 40 feet;
 - (2) A vertical scale of one inch to four feet;
 - (3) Existing center line in fine dashed line with elevations shown every 50 feet;
 - (4) Proposed center-line grades and elevations, with elevations shown every fifty-foot station; except that in vertical curves, elevations shall be shown at twenty-five-foot stations and at the PVC and PVT;
 - (5) All existing intersecting walks and driveways shown on both sides;
 - (6) All elevations and benchmarks will refer to the U.S.G.S. datum;
 - (7) Rates of gradient shall be shown;
 - (8) Size and location of existing and proposed water mains and their appurtenances and surface drains and their appurtenances;
 - (9) Profiles shall show vertical location of water lines, drainage lines and other utilities as well as required new waterways. Sizes of all pipes shall be shown as well as inverts of all pipes at each manhole or catch basin, together with invert elevation and rim elevation of each manhole or catch basin. Profiles shall be included for each proposed main water line and all proposed sewerage system lines as well as all proposed drainage lines, whether or not within the subdivision or in the roadways.

43. Editor's Note: Exhibit C is included as an attachment to this chapter.

- E. Performance guarantee. Before approval of a definitive plan of a subdivision, the subdivider shall either, (1) file a performance bond or deposit money or negotiable securities in an amount determined by the Board to be sufficient to cover, (a) the cost of all or any part of the improvements specified in Article V, (b) the maintenance of such improvements for two years, and, (c) a ten-percent contingency factor; or (2) follow the procedure outlined in Subsection E(2) below.
- (1) Final approval with bonds or surety.
- (a) Such bond or security, if filed or deposited, shall be approved as to form and manner of execution by the Town Counsel and as to sureties by the Town Treasurer-Collector and shall be contingent upon the completion of such improvements within two years of the date of the bond.
- (b) If the Board shall decide at any time during the term of the performance bond that: (a) improvements have been installed in a satisfactory manner in sufficient amount to warrant reduction in the face amount of such bond, or (b) the character and extent of the subdivision requires additional improvements, previously waived, then the Board may modify its requirements for any or all such improvements and the face value of such performance bond shall thereupon be reduced or increased by an appropriate amount.
- (2) Final approval with a covenant.
- (a) Instead of filing a bond or depositing surety, the subdivider may request approval of his definitive plan on condition that a covenant running with the land has been duly executed and recorded and inscribed on the plan, or a separate document referred to, on the plan, in accordance with MGL c. 41, § 81-U. Such covenant shall provide in part that no lot may be built upon or sold until all of the improvements as required in these regulations have been completed and approved as provided hereafter.
- (b) Upon completion of such required improvements, the subdivider shall so notify the Planning Board and the Town Clerk, by delivery or registered mail, requesting release from such covenant, but will post a maintenance bond. The Board shall act on such request within 45 days.
- F. Review by the Board of Health as to suitability of the land. The Board of Health shall report to the Planning Board, in writing, its approval or disapproval of said plan, in accordance with MGL c. 41, § 81-U, as amended.
- G. Public hearing. Before approval, modification and approval, or disapproval of the definitive plan is given, a public hearing shall be held by the Planning Board. Notice of such hearing shall be given by the Board at the expense of the applicant in each of two successive weeks by advertisement in a newspaper of general circulation in the Town of Avon, the first notice being not less than 14 days before such hearing or in accordance with MGL c. 41, § 81-T.
- H. Certificate of approval.
- (1) The action of the Board in respect to such plan shall be by vote, copies of which shall be certified and filed with the Town Clerk (Form D⁴⁴) and sent by delivery or registered mail to the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for its actions. Final approval, if granted, shall be endorsed on the original drawing of the definitive

44. Editor's Note: Form D is included as an attachment to this chapter.

plan by the signature of a majority of the Board but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the action of the Board with the Town Clerk and said Clerk has notified the Board that no appeal has been filed. Final approval of the definitive plan does not constitute the laying out or acceptance by the Town of streets within a subdivision.

- (2) Before approval of a plan, the Board may require the developer to show parks, playgrounds, recreation areas, or other open spaces to serve the future residents of the subdivision and adjacent areas, if they are without such facilities, and by appropriate endorsement require that no building may be erected on such site for three years without its approval.

ARTICLE IV

General Requirements and Design Standards**§ 350-4.1. Basic requirements.**

- A. Basic requirements. The subdivider shall observe all design standards for land subdivision as hereinafter provided. These standards shall be considered minimum standards and shall be varied from or waived only as provided in § 350-6.2.
- B. Conformance with Master Plan. Any proposed subdivision shall conform, as far as practicable, to the proposals and intentions of the Avon Master Plan as adopted in whole or in part by the Planning Board, unless substitute proposals may be shown to the satisfaction of the Board to serve better the general area of the subdivision and the Town.
- C. Minimum lot. No lot area or width, in a subdivision, shall be less than the minimum required by the Zoning Bylaw for the district in which it is located.⁴⁵
- D. One dwelling per lot. Not more than one building designed or available for use as a dwelling shall be erected or placed or converted to such use on any lot in a subdivision, or elsewhere in the Town, without the consent of the Planning Board, which may attach appropriate conditions.
- E. Protection of natural features. Due regard shall be shown for all natural features, such as large trees, watercourses, scenic points, historic spots, and similar community assets, which, if preserved, will add attractiveness and value to the subdivision.
- F. Access through another municipality. In case access to a subdivision crosses land in another municipality, the Board may require certification, from appropriate authorities, that such access is in accordance with the Master Plan and subdivision requirements of such municipality and that a legally adequate performance bond has been duly posted or that such access is adequately improved to handle prospective traffic.
- G. Reserve strips. Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Board, such strips shall be in the public interest.
- H. Further subdivision. In the event a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the logical and economic extension of streets, utility easements, drainageways, and public areas into such parcels.
- I. Resubdivision. The resubdivision of all or part of land covered by an existing plan shall be governed by these regulations. Such resubdivision shall show clearly that area or areas which are being replatted and shall show the file number of all previous plans of these same areas with dates of filing. All areas last subdivided more than seven years previous to the date of application shall be resubdivided in accordance with the zoning bylaws in effect.⁴⁶

§ 350-4.2. Streets.

- A. Arrangement. The proposed streets shall be considered in their relation to existing and planned streets, to topographic and geologic conditions and to public convenience and safety. They shall provide for:

⁴⁵. Editor's Note: See Ch. 255, Zoning.

⁴⁶. Editor's Note: See Ch. 255, Zoning.

- (1) Appropriate continuation of existing arterial and collector streets;
 - (2) The extension of arterial and collector streets into adjoining land;
 - (3) The discouragement of through traffic on residential streets;
 - (4) The maximum attractiveness, livability and amenity of the subdivision.
- B. Access to arterial street. Intersections of collector and residential streets with arterial streets will not normally be allowed at intervals of less than 400 feet. Subdivisions of 50 or more lots will be required to have more than one access to an existing arterial street or to a proposed arterial street which is to be built in conjunction with the proposed subdivision.
- C. Street jogs. Street jogs in arterial and collector streets with center-line offsets of less than 250 feet shall not be allowed. Street jogs in residential streets with center-line offsets of less than 125 feet should be avoided.
- D. Right-of-way widths and alignments. On all classifications of streets, the following characteristics shall be the minimum acceptable:

Street Classification	Right-of-Way (feet)	Minimum Radius	Sight Distance (feet)	Maximum Gradient	Minimum Gradient
		of Curve (feet)			
Arterial	80	1,000	500	6%	1%
Collector	60	1,000	500	6%	1%
Residential or minor	50	800	200	8%	1%

- E. Intersection. Rights-of-way shall be laid out so as to intersect as nearly as possible at right angles. No R.O.W. shall intersect any other R.O.W. at less than 60°. Property lines at R.O.W. intersections shall be cut back to provide for a curb radius on the roadway of not less than 20 feet; except where the angle of intersection varies more than 10° from a right angle, in which case the radius of the curve connecting the acute angle may be less and the opposite radius must be correspondingly greater.
- F. Dead-end streets.
- (1) Dead-end streets:
 - (a) Shall not exceed 600 feet in length; and
 - (b) Shall be provided with a turnaround having a property line diameter of at least 100 feet, and shall not provide frontage to more than two lots;
 - (c) Shall not provide access to more than 12 lots.
 - (2) Any easement obtained for turnaround purposes at the end of a temporary dead-end street shall terminate upon construction of an extension.
 - (3) A twenty-foot-minimum easement shall be required at the end of culs-de-sac to provide for continuation of pedestrian traffic and/or utilities to the next street, unless waived by the Board in writing.
- G. Half streets. Half streets shall be prohibited.

§ 350-4.3. Blocks.

In general, block lengths shall not be less than 500 feet nor more than 2,000 feet. Each normal block shall be planned to provide two rows of lots, but large, irregularly shaped blocks with interiors served by culs-de-sac and/or interior parks will be considered.

§ 350-4.4. Easements.

- A. Layout. Wherever possible, easements shall be continuous from block to block and their layout shall create as few irregularities as possible.
- B. Watercourses. Streams or watercourses shall be provided with a right-of-way conforming substantially with the line of its course, but not less than 20 feet in width. Parallel streets or pedestrian ways and/or appropriate access may be required in connection therewith. The relocation of streams or watercourses into open channels or covered culverts shall be kept to a minimum.
- C. Utilities. Utility easements shall generally follow lot lines and shall be not less than 20 feet in width.

§ 350-4.5. Pedestrian ways.

Pedestrian ways or foot paths will normally be required to provide convenient circulation or access to schools, playgrounds, shopping, churches, transportation, parks, conservation areas and/or other facilities. Such ways shall consist of a R.O.W. of at least 15 feet.

§ 350-4.6. Open space, parks and playgrounds.

- A. Areas for open space, parks and/or playgrounds may be required to be set aside in accordance with the proposals and intent of the Master Plan and MGL c. 41, § 81-U, as amended. Such areas shall be of reasonable size but generally not less than 5% of total lot area, depending upon the location and quality of the land being set aside. The minimum area acceptable for later public acquisition shall be one acre. No building may be erected or placed on such an area for a period of three years without the approval of the Board.
- B. Any open space, park or playground shall provide at least 50 feet of continuous frontage on a street, and pedestrian ways will normally be required to provide access from each of the surrounding streets, if any, to which the open space, park or playground has no frontage.
- C. Further, such parks and/or playgrounds may be required to have maintenance provided for by covenants and agreements acceptable to the Board, until public acquisition by the community.

ARTICLE V
Required Improvements

§ 350-5.1. Basic requirements.

- A. The subdivider shall install all of the improvements itemized herein unless waived in writing by the Board.
- B. All work done under this article shall be done under the direction of the Planning Board.
- C. Notice by registered or certified mail shall be given to the Planning Board at least six days before the subdivider commences construction of any street, sidewalk, drain, catch basin, culvert or related facility.
- D. No aforementioned bond or covenant shall be released until full approval in writing of all work done under this article is received by the Planning Board from the inspecting agent. Such approval shall include a completed checklist as appended.

§ 350-5.2. Improvement specifications.

- A. Typical cross section. Street construction shall conform to the typical cross section of streets included as Exhibit D⁴⁷ with these rules and regulations. Grass strips and driveway entrances shall be so graded as to prevent surface water on the street from running onto private land.
- B. Minimum width requirements.

Street Class	Pavement (feet)	Planting Strips	Sidewalks
Arterial (with 10-foot center strips)	44	2 @ 7 feet	2 @ 6 feet
Arterial (without center strip)	50	2 @ 9 feet	2 @ 6 feet
Collector	36	2 @ 6 feet	2 @ 6 feet
Residential and minor	30	2 @ 5 feet	2 @ 5 feet

- C. Minimum depth requirements (in inches).

	Roadway				Sidewalks			
	Gravel Base	Binder Course	Finish Course	Planting Strip Loam	Gravel Base	Binder Course	Finish Course	Curbs Granite
Arterial	12	1 1/2	1 1/2	6	8	1 1/2	1	18
Collector	12	1 1/2	1 1/2	6	8	1 1/2	1	18
Residential	12	1 1/2	1 1/2	6	8	1 1/2	1	18

47. Editor's Note: Exhibit D is included as an attachment to this chapter.

D. Street grading.

- (1) The entire area of each street or way shall be cleared of all stumps, brush, roots, boulders, like material and all trees not designated for preservation.
- (2) The full length and width of the proposed paved surface area shall be excavated or filled, as necessary, to a depth of at least 15 inches below the finished surface as shown on the profile. However, if the soil is soft and spongy, or contains undesirable material, such as clay, sand pockets, peat, stones over six inches in diameter, or any other material detrimental to the subgrade, such material shall be removed and replaced with suitable well-compacted material. In no case shall wood of any form be used as fill material within the street right-of-way.
- (3) The subbase shall be inspected by the Planning Board agent prior to the placement of any gravel base course upon proper notice. Sufficient grade stakes shall be available to the agent so that the profile can be checked.

E. Finished base course.

- (1) Roadway base course shall be provided of at least 12 inches of compacted thickness. No base course material shall be placed on frozen material. Base course material shall be placed in layers not exceeding eight inches in thickness, and compacted to 98% maximum density at optimum moisture content. Base course material shall consist of hard, durable stone and course sand, having the following gradation:

Sieve	Percent Passing
1/2	50% to 85%
No. 4	40% to 75%
No. 40	10% to 35%
No. 200	0 to 10%

- (2) The maximum size of stone in gravel shall be three inches.
- (3) Base course material shall be compacted with no less than a ten-ton roller. The base course shall be placed to the lines and grades indicated on the approved drawing. Any depressions that occur shall be filled with additional gravel and rerolled until the surface is true and even. The base course shall be inspected by the Planning Board agent during its placement and just prior to placing the bituminous binder course.

F. Paved surface.

- (1) Paved surfaces shall be constructed for the full length of all streets within the subdivision shown on the plan. The center line of such paved surfaces shall coincide with the center line of street rights-of-way unless a minor variance is specifically approved by the Board.
- (2) The minimum width of the paved surface shall coincide with the requirements of § 350-5.2B of these rules and regulations as determined by the Board.

G. Pavement.

- (1) Upon receipt of the Planning Board agent's approval for the base course, a binder course of bituminous concrete Type I-1 as specified by the Massachusetts Department of Transportation

shall be placed, compacted and rolled to a thickness of 1 1/2 inches, conforming to the lines and grades indicated on the approved plans. The Planning Board's agent shall be notified in sufficient time to allow the agent to inspect the placing of the binder course (twenty-four hours' written notice prior to beginning construction).

- (2) A second course consisting of bituminous concrete top, Type I-1 according to the above specification, shall be placed and rolled to a thickness of 1 1/2 inches true to the lines and grades indicated on the approved plans. The Planning Board's agent shall be notified in sufficient time to allow the agent to inspect the placing of the surface course (twenty-four hours' written notice prior to beginning construction).
- H. Curbing. Each and every street proposed to be built shall be required to have granite curbing (See Exhibit D.⁴⁸) on both sides of the street for its entire length, including all radii regardless of grades.
- I. Sidewalk construction. All materials shall be removed for the full width of the sidewalk to a subgrade 10 1/2 inches below the finished grade as shown on cross-section; and all soft spots and other undesirable material below such subgrade shall be replaced with good binding material and rolled. This excavated area then shall be filled with eight inches of good quality gravel as specified for finished base course (Subsection E above), and rolled with a pitch toward the curb of not less than 3/8 inch nor greater than 1/2 inch to the foot. Wood forms shall be set to grade, filled with 2 1/2 inches of compacted bituminous concrete to be applied in two courses (1 1/2-inch base course compacted and one-inch finish course compacted), except three inches shall be placed at driveway entrances; provided, however, that if a granolithic surface is desired and/or specified by the Board, specifications of the Massachusetts Department of Transportation shall be complied with.
- J. Storm drains and appurtenances.
- (1) Storm drains, culverts and related installations, including catch basins, gutters and manholes, shall be installed within the subdivision as necessary to permit unimpeded flow of all natural watercourses, to ensure adequate drainage of all low points along streets, to control erosion, and to intercept stormwater runoff along streets at intervals reasonably related to the extent and grade of the area drained. Catch basins shall be required on both sides of the roadway on continuous grade at intervals of not more than 400 feet. Storm drains and culverts shall be no less than 12 inches' inside diameter and shall be of greater size when required by the Board. The type of pipe used shall be reinforced, concrete pipe conforming to AASHTO-M170 Standard for Class III pipe Wall B. All pipe 24 inches in diameter or smaller shall be bell-and-spigot type. Pipe larger than 24 inches in diameter shall be tongue-and-groove or bell-and-spigot. Pipe joints shall be thoroughly wet before filling them with cement mortar. The mortar shall be placed around the entire circumference of the pipe. Catch basins shall be constructed in accordance with the applicable portions of the Massachusetts Department of Transportation Standard Specifications for Highways and Bridges.
 - (2) Storm drains shall be designed to have two feet six inches minimum cover over the pipe. All backfill material shall contain no stone larger than three inches, and backfill material shall be placed in twelve-inch lifts and compacted.
 - (3) Any drain pipe connected to the proposed drainage system whose purpose is to drain wet lots must be shown on the definitive subdivision plans, and manholes shall be provided at all such connections.

48. Editor's Note: Exhibit D is included as an attachment to this chapter.

- (4) Proper connections shall be made with existing drains. Where, in the opinion of the Board, after consultation with the appropriate Town department, the capacity of an existing drain is inadequate to accommodate the entire subdivision, only that portion thereof which, in its opinion, can be adequately accommodated shall be so connected.
- (5) Where adjacent property is not subdivided, provisions shall be made for extension of the utility systems by continuing appropriately sized drains to the exterior boundaries of the subdivision, at such size and grade as will allow for their proper projection.
- (6) Design analysis. A design analysis shall be submitted with each definitive plan submitted for approval. The design analysis shall include the following information:
 - (a) The data shall include consideration of the entire watershed and the calculations used in designing the drainage system, including area calculations, intensity of rainfall, coefficient of runoff, time of concentration, discharge, pipe coefficients of roughness, and quantity and velocity of flow under design conditions.
 - (b) Storm drains shall be designed on a basis of ten-year storm and shall be such as to ensure a rate of flow of not less than 2 1/2 feet per second nor more than 10 feet per second under design conditions.
- (7) No drains shall be backfilled until they have been inspected by the Planning Board's agent.

K. Manholes and catch basins.

- (1) Manholes and catch basins shall be constructed in accordance with the requirements detailed on Exhibit D.⁴⁹
- (2) Manholes or headwalls for drain lines over 30 inches in diameter shall be constructed in accordance with the Commonwealth of Massachusetts Department of Transportation book of construction standards.
- (3) Frames and covers: to conform to the shape and size of castings as shown in E.L. LeBaron catalog item LA-246; cut with three-inch letters (Drain), or approved equal.
- (4) Frames and grates: to conform to the shape and size of castings as shown in E.L. LeBaron catalog item LD-268-1, or approved equal.
- (5) No drainage structures shall be backfilled until they have been inspected by the Planning Board's agent.

L. Subdrains. Where side slopes are steep and where soils are poorly drained (especially in clay or semi-impervious soils), the Board, after consulting with its agent, may require a subdrain with a bed of 12 inches of crushed stone.

M. Water. Water pipes and related equipment such as hydrants, main shut-off valves and laterals shall be installed to serve all lots on each street in the subdivision in conformity with the standards set by the Avon Department of Public Works. Connection to existing Town water facilities to assure adequate supply shall be the responsibility of the developer.

N. Sewers.

49. Editor's Note: Exhibit D is included as an attachment to this chapter.

- (1) Sewer pipes and related equipment, such as manholes and connecting Ys, shall be installed in conformity with the standards set by the Master Sewer Plan, or, in the absence of such plan, standards set by the Sewer Commissioners.
 - (2) Connection to existing or provision for connection to proposed Town sewer facilities at proper grade and elevation shall be the responsibility of the developer.
- O. Utilities. All utilities shall be placed underground (sewer, water, drain, gas, electric, telephone).
- P. Retaining walls. Retaining walls shall be installed where deemed necessary by the Board and shall comply with specifications set forth in the Standard Specifications for Highways and Bridges, as amended.
- Q. Fire alarm system. There shall be installed within a subdivision development a sufficient number of fire alarm telegraph boxes, the type, number and location to be established by the Chief of the Avon Fire Department.
- R. Shade trees. Such trees as are suitable, in the opinion of the Board, shall be preserved. Where, in the opinion of the Board, existing trees are inadequate, shade trees having a diameter of at least two inches and of a variety suitable, in the opinion of the Board, shall be planted not more than 50 feet apart, in 1/2 cubic yard of topsoil satisfactory to the Board.
- S. Planting strip. There shall be a planting strip between the outside edge of the sidewalk and the curbline of the roadway (see Subsection B above for width requirements). Said area shall be surfaced with not less than six inches of quality loam, which shall be seeded, fertilized, limed and rolled until there is a stand of grass satisfactory to the Board.
- T. Street signs. Street name signs shall be furnished and erected at all street intersections prior to the occupancy of any building on the street. All streets not accepted by the Town shall be so indicated by a sign stating "Private Way". Signs shall be approved by the Highway Superintendent.
- U. Streetlights. Streetlights shall be installed as required by the Planning Board.
- V. Guard rails. Guard rails shall be installed as required by the Planning Board. The type, size and location of guard rails shall be determined by the Planning Board.
- W. Monuments.
- (1) Granite bounds shall be placed at the beginning and end of all curves, at all intersections of streets and at such other places as may be required by the Board. On any curve with a tangent distance of over 500 feet, intermediate bounds shall be set at intervals of 500 feet measured from one end of the curve.
 - (a) Bounds shall be of sound granite, not less than 42 inches long and not less than five inches square. A 1/2 inch drill hole shall be placed at the top of each bound.
 - (b) The setting of the bounds shall be supervised by a registered land surveyor and/or registered engineer.
 - (c) No permanent bounds shall be installed until all construction which would disturb or destroy the bounds is completed.
 - (d) Upon completion of setting the required number of bounds, a written certification shall be mailed to the Board from a registered land surveyor or engineer stating that he/she they

been placed with drill holes in accordance with the locations shown on the approved plans.

- (2) Lot markers. Lot markers in the form of 1 1/2 inch O.D. steel pipe shall be installed at all front lot lines within a subdivision. Said markers shall be driven to a point three feet minimum below grade and six inches minimum above grade. The Board may require that all lot corners be staked.
- X. Construction details. In the event of any question as to construction details, specifications for the composition of material, workmanship, and the method of applying materials, the standards of the Massachusetts Department of Transportation shall apply in each instance.
- Y. Cleaning up. Before sale of a lot, the subdivider shall clean up any debris thereon caused by street construction and installation of utilities. All areas within a street destroyed or altered in construction operations shall be restored to vegetation or other finish satisfactory to the Board.
- Z. Safety.
- (1) All precautions should be taken by the developer and his subcontractors to observe common sense safety requirements. The Board designates the Building Inspector and/or the Planning Board's agent to report all unsafe activities in preparation of the subdivision to the Board.
 - (2) Trenches greater than five feet in depth and soil piles higher than 10 feet, or materials stacked in an unsafe manner shall not be allowed unless the area is adequately protected.
 - (3) Variation. Strict compliance with the requirements of these rules and regulations may be waived when, in the judgement of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Law. No variation from the approved definitive subdivision plans will be allowed without the written consent of the Planning Board.
- AA. Maintenance of roadways including utilities. The subdivider shall be responsible for maintaining all roads in a subdivision for a period of two years after partial release of performance bond or covenant as required in Article III herein, or until the roads are accepted by the Town Meeting, whichever time is shorter. To assure such responsibility, the subdivider shall guarantee the maintenance of the roads in a subdivision in a condition which meets all the requirements of these rules and regulations to the satisfaction of the Planning Board, by posting with the Town a maintenance bond consisting of either a bond with two or more sureties approved by the Board or by a surety company bond issued by a company authorized to do business in the commonwealth, either or both to be in a penal sum as required by the Board to secure the maintenance as herein provided, or by a deposit of money or negotiable securities sufficient in amount, in the opinion of the Board, to secure the aforesaid maintenance.

ARTICLE VI
Administration

§ 350-6.1. Authority.

- A. The Planning Board shall be the administrative agency of these regulations and shall have all the powers assigned it by MGL c. 41, §§ 81-A to 81-GG. The Zoning Board of Appeals, as established under MGL c. 40A, shall function as the Subdivision Board of Appeals.
- B. The Planning Board may assign as its agents appropriate Town agencies or officials and may from time to time hire professional assistance to review plans and inspect improvements, at the cost of the subdivider.
- C. The Board, on its own motion or on the petition of any interested person, shall have the power to modify, amend or rescind its approval of a plan of a subdivision, or to require a change in a plan as a condition of its retaining the status of an approved plan.

§ 350-6.2. Variations.

- A. Waiver of compliance. Strict compliance with the requirements of these rules and regulations may be waived only when, in the judgment of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Law. In waiving strict compliance, the Board may require such alternative conditions as will serve substantially the same objective as the standards or regulations waived.
- B. Planned unit development. The Planning Board will give consideration to suggestions offered by the subdivider that will tend to provide for the most efficient use of land in harmony with its natural features. The developer is referred to Chapter 255, Zoning, § 255-7.5F, of the Town Code of Bylaws for the conditions that shall apply.

§ 350-6.3. References.

For matters that may arise during subdivision procedures that are not covered by these regulations the following were accepted as standards in their applicable portions: MGL c. 41, §§ 81-K to 81-GG; Suggested Land Subdivision Regulations, H.H.F.A.; Standard Specifications for Highways and Bridges, Massachusetts Department of Transportation, each as amended or updated from time to time.

§ 350-6.4. Inspections.

- A. Inspections shall be carried out at appropriate times during the improvement of the subdivision as spelled out in Article IV of these regulations and in the attached Inspection Checklist.⁵⁰ The subdivider shall notify the responsible agencies and the Planning Board 24 hours before carrying out each operation to be inspected.
- B. The responsible agency shall appoint a competent person or shall make arrangements with a professional person or firm to carry out such inspection.
- C. The costs of such inspections shall be borne by the subdivider, with all responsible agencies billing the Town Treasurer-Collector and the Treasurer-Collector sending a monthly bill or statement to the subdivider with a duplicate going to the Planning Board. The inspection fee shall include "portal to

50. Editor's Note: See Form I, included as an attachment to this chapter.

portal" and "off-site" (analysis of plans) costs.

§ 350-6.5. Severability.

If any section, paragraph, sentence, clause, or provision of these regulations shall be adjudged not valid, the adjudication shall apply only to the material so adjudged and the remainder of these regulations shall be deemed valid and effective.

§ 350-6.6. Amendments.

These regulations or any portion thereof may be amended, supplemented or repealed from time to time by the Board on its own motion or by petition after a public hearing.

AVON CODE

Chapter 375

WATER DEPARTMENT

[HISTORY: Adopted by the Water Commissioners (Board of Selectmen) of the Town of Avon as last revised 8-16-2011. Amendments noted where applicable.]

GENERAL REFERENCES

Streets, sidewalks and public property — See Ch. 205.

Board of Health regulations — See Ch. 300.

Water — See Ch. 235.

Subdivision of land — See Ch. 350.

Zoning — See Ch. 255.

The following regulations are a part of the contract with every person who takes water and govern the relations between the Water Department and its consumers and the contractors/developers who install water systems.

ARTICLE I
Definitions

§ 375-1.1. Terms defined.

As used in these regulations, the following terms shall have the meanings indicated:

CONSUMER — The individual, firm, or corporation listed as the owner of the property.

CONTRACTORS AND DEVELOPERS — An individual, firm or corporation who or which installs water mains, water services and their appurtenances.

DEPARTMENT or WATER DEPARTMENT — The Town of Avon Department of Public Works.

MAIN — The supply pipe laid in the street from which house connections are made.

SERVICE — The pipe running from the water main in the street including a curb stop and curb box to the property line, a water meter and meter connections, any and other appurtenances required by local or state regulations.

SUPERINTENDENT — The Superintendent of the Water Department or the Superintendent's designee.

ARTICLE II
General Provisions

§ 375-2.1. Application for water service.

All applications for introduction of Town water onto private premises shall be made to the Department by the owner of the property, by the person to be charged therefor or by their authorized agent. The fee for connection charges must be made prior to issuance of a building permit. See § 375-9.5.

§ 375-2.2. Responsibility for charges.

Consumers of water shall be charged with and held responsible for all water passing through their service pipes until such time as the Department is notified in writing that they no longer desire the use of water. In case of the sale of property, such notice shall give the name of the new owner.

§ 375-2.3. Private wells.

All private wells shall be registered with the Department and shall display in a conspicuous location a well registration sign in accordance with Department regulations.

§ 375-2.4. Unusual construction.

Owners of property desiring any unusual constructions, alterations or attachments connected with the water supply shall submit plans and specifications for the proposed work to the Superintendent for inspection and approval or disapproval and for a determination as to whether the same is permissible. The Superintendent shall determine the terms, charges and conditions under which the proposed use shall be permitted.

§ 375-2.5. Right of entry.

Owners or occupants of any commercial, industrial or residential premises served by Avon's water system shall, upon presentation by Department personnel of their credentials, authorize entry to their premises without a warrant for the purpose of inspecting and surveying their water system for new installations, cross-connections or to remove, repair, or replace any water meter at any time the Department deems necessary. When such access is refused, the water shall be shut off and shall not be turned on until such access has been allowed and fees have been paid for shutting off and turning on the water.

§ 375-2.6. Fires.

Whenever a fire occurs in the Town, it is the duty of consumers to discontinue, as far as practicable, the use of water.

§ 375-2.7. Conditions under which service is furnished.

The Town does not guarantee constant pressure nor uninterrupted service, nor does it assure the consumer either a full volume of water or the required pressure necessary to effectively operate hydraulic elevators, sprinkler systems or other appliances, the same being subject to all the variable conditions that occur in the supply of water from the Town's water system.

§ 375-2.8. No liability for interruption of service.

No consumer shall be entitled to damages or to have payment refunded for any interruption of supply

occasioned by accident to any portion of the works, by shutting off for the purpose of additions or repairs to the works or by the stoppage or shortage of supply due to causes beyond the control of the Department, such as excessive drought, water main repair, excessive use of and waste of water by other consumers or by leaks or defects in the pipes or appliances owned by him or other consumers.

§ 375-2.9. No liability for dirty water.

The Town shall not be responsible for damages caused by dirty water resulting from the opening or closing of any gate for repairs, use of any hydrant or the breaking of any pipe.

§ 375-2.10. No liability for collapsed boilers.

The Department reserves the right at any time and without notice to shut off the water mains for purposes of making repairs, extensions or for other necessary purposes. Consumers having boilers or other appliances on their premises depending on the pressure in the pipes to keep them supplied with water are hereby cautioned against danger from these sources and are required to provide, at their own expense, suitable safety appliances to protect themselves against such danger. In any event, it is expressly stipulated that the Department will not be liable for any damage resulting from water having been shut off, either through accident or necessity.

§ 375-2.11. No liability for shutting off water without notice.

When it becomes necessary to shut off the water from any section of the Town because of an accident or for the purpose of making changes or repairs, The Department shall endeavor to give timely notice to as many of the consumers affected thereby, as time and the character of the repairs or the accident will permit, and shall, so far as practical, use its best efforts to prevent inconvenience and damage arising from any such cause. However, failure to give such notice shall not render the Department responsible or liable for any damages that may result from the shutting off of the water on any coincident conditions.

ARTICLE III
Charges

§ 375-3.1. Start of consumer's liability to pay.

A minimum charge shall be assessed for water service from the date the water is turned on, whether the water is used or not.

§ 375-3.2. Charge for turning on or off water.

A charge shall be made for turning on or shutting off water except in emergency situations. See Section 9.2 for a summary of these charges.

§ 375-3.3. Collection of miscellaneous water charges.

All bills for labor or material on consumer's property and charges for shutting off or turning on water shall be subject to the same conditions as bills for water.

§ 375-3.4. Delinquent accounts.

No person who owes an overdue bill for water charges shall be entitled to the further use of water at the same or any other premises until such water charges are paid in full, together with costs. Such costs shall include incurred interest. The Town of Avon will not issue any permits or licenses for accounts that are delinquent.

§ 375-3.5. Claims for adjustment of bills.

All claims for adjustments of water bills shall be made within 30 days.

§ 375-3.6. All water to be metered and billed.

All water must be metered and paid for, whether used or discharged. A minimum charge shall be assessed for water service from the date the water is turned on.

§ 375-3.7. Determination of charge in case of defective meter.

If a meter fails to register, the consumer shall be charged at the average daily consumption as shown by the meter when in order, for the corresponding period of two years preceding.

§ 375-3.8. Furnishing of water to other premises.

A consumer shall not be permitted to supply the premises of another person with water, except in special emergencies and then only with the approval of the Superintendent.

ARTICLE IV

Meters**§ 375-4.1. Installation.**

A shut-off valve at the meter inlet shall be the first fitting inside a serviced building and shall be approved by the Department. A stop valve shall be installed near the outlet of the meter by the consumer, at his/her expense, to permit removal of the meter without backflow from the internal water systems.

§ 375-4.2. Liability for repairs.

All repairs or injuries to meters from freezing, hot water, or external causes shall be charged to the consumer. No sale or transfer of title property in the Town shall operate to bar the Department in the collection of any balance due for meter repairs.

§ 375-4.3. Size and type.

The proper size, type and kind of meter required for any given service shall be approved by the Superintendent.

§ 375-4.4. Setting, removal, sealing and testing.

All meters up to and including one-inch size shall be set by an employee of the Department and shall not be moved or disturbed except by the same. Larger meters shall be installed and maintained by the consumer under the Department's supervision. All meters shall be sealed. All meters shall be tested per section.

§ 375-4.5. Installation of meter pits.

Installation of meter pits shall be at the consumer's expense.

§ 375-4.6. Town's right to change meters.

If, in the opinion of the Superintendent, a meter does not fit the conditions of the service installation, the Department has the right to change such meter. Such change shall be made in accordance with current regulations and paid by the consumer.

§ 375-4.7. Removal and repair.

The Department shall have the right to remove, repair or replace any meter at any time it so determines. All meter installations on services which cannot be shut off for meter repairs shall be equipped with a metered bypass at the expense of the consumer. All bypasses shall be approved by the Water Superintendent.

§ 375-4.8. Access.

It shall be the duty of all consumers to ensure that meters on service connections shall be readily accessible at all times to Department personnel. Failure to remove any obstruction which prevents access to the meter within three days after being notified by the Department shall cause the water to be shut off to the premises and it shall not be turned on until all obstructions are removed, all regulations are complied with and all expenses for shutting off and turning on the water are paid.

§ 375-4.9. Testing by request.

The accuracy of the meter on any premises shall be tested by the Department upon written request of the consumer, who shall pay in advance a fee of \$60 to cover the cost of the test. If, on such a test, the meter is found to register over 2% more water than actually passes through it, the meter shall be repaired, the fee shall be refunded and the water bill for the current period shall be adjusted in accordance with the result of this test. However, if it appears that the consumer was charged or has paid for less water than he/she should have been charged or should have paid, the consumer shall, forthwith, be charged with the proper additional amount and shall pay the same, together with the expense of the examination and test, to the Town.

ARTICLE V
Service, Pipes and Fixtures

§ 375-5.1. Consumer responsible for maintenance.

Consumers must keep their water pipes and fixtures in good repair and protected from frost at their own expense. They shall be held responsible for any damage resulting from their failure to do so. They shall prevent any waste of water.

§ 375-5.2. Inspections; pipes and trenches.

All new service pipes must be inspected by the Department before covering the trench. All pipes and trenches shall meet the approval of the Department.

§ 375-5.3. Construction of new connections.

On all roads, new service connections shall be made by the owner for the entire length of the service line. The consumer shall be charged the current rate for tapping and connection fees per § 375-9.4.

§ 375-5.4. Right to repair service pipes.

All service pipes between the street line and the cellar wall may be repaired or relaid by the Department when it deems it necessary for the protection of the supply or the giving of satisfactory water service. The cost shall be charged to the consumer.

§ 375-5.5. Extra large or special service pipe.

Any consumer requiring a service pipe between the main and the street line which is of a different type or larger size than 3/4 inch shall be at the expense of the consumer.

§ 375-5.6. Charges for repairs.

The portion of the service line from beyond the curb stop into the building is the property of the consumer, and all the repairs to the same shall be made at his/her expense.

§ 375-5.7. Emergency fittings.

All emergency fitting supplied by the Department to the consumer shall be billed to the consumer.

§ 375-5.8. Irregular service.

Services for other than permanent structures, or which are used only a part of the year, shall be installed at the expense of the consumer.

§ 375-5.9. One service to each premises.

Only one service connection shall be made to each dwelling unit located in a building or to each commercial or industrial building.

§ 375-5.10. Requests for turning on or shutting off water.

Requests for turning on or shutting off a water service shall be made in writing 24 hours in advance, except

in case of an emergency. Consumers shall be charged for service. Only Department personnel shall open or close curb cocks. Requests for turning on or shutting off water, other than at normal working hours, shall be billed at the overtime rate.

§ 375-5.11. Winter installation prohibited.

No new services shall be installed from November 15 to April 15 except in such cases deemed emergencies. Applications must be received by November 1.

§ 375-5.12. Dead ends and loops.

Installation of services beyond the end of an existing water main shall not be allowed. The main must be extended (including necessary hydrants and appurtenances) to the furthest limit of the consumer's property at his/her expense. Water mains shall be looped when required by the Superintendent.

§ 375-5.13. Service pipe trenches.

Service pipes shall not be placed within 10 feet of any other utilities, except under special conditions and with the design and approval of the Superintendent. The Department shall not be responsible for damage to other utilities laid within 10 feet of a water service or water main.

§ 375-5.14. Standby fire protection.

The Department shall furnish water for standby fire protection service in accordance with the rates for sprinkler systems. All equipment for this purpose shall be installed entirely at the expense of the consumer and with the approval of the Superintendent. Such pipes shall not be used for supplying water for any other purposes and must be so arranged that easy inspection can be made by Department personnel. Whenever it is considered necessary for the protection of the water supply and in the interest of the Town, the Superintendent shall have the right to require the installation of meters, alarms or other accessories. The installation and upkeep of such equipment shall be at the consumer's expense.

§ 375-5.15. Testing fire systems.

No water shall be taken or used through private fire systems for the purpose of testing unless the Superintendent issues written permission. Such test must be conducted under the supervision of the Department. See Article IX for fire test fees.

§ 375-5.16. Private hydrant service.

Fire hydrants on private property shall be inspected and serviced once every two years by the Department for a fee. Any repairs necessary for proper operation of hydrants shall be the responsibility of the property owner and shall be completed within 30 days after due notice in writing has been given to the owner by the Department. Private hydrants shall be painted all red.

§ 375-5.17. Use of fire hydrants.

The use of fire hydrants, Town and private, is restricted to members of the Fire Department and to employees of the Water Department. Other persons may use the fire hydrants only by permit issued by the Superintendent.

§ 375-5.18. Cross-connection control.

If, in the opinion of the Superintendent, the installation of an approved backflow preventer(s) on the property side of a meter is considered necessary for the safety of the water system, such approved device(s) shall be immediately installed at the expense of the consumer after due notice in writing has been given to the consumer by the Superintendent. Said device(s) shall be installed and tested in accordance with the drinking water regulations of Massachusetts, 310 CMR 22.22. All tests performed by the Department shall be charged as set forth in § 375-9.3.

ARTICLE VI

Requirements and Specifications for Laying Water Mains**§ 375-6.1. Cover over pipe.**

- A. Pipe shall have five feet of cover measured to finish grade of the street. Pipe shall be hand covered one foot with sand or stone-free gravel and compacted and tamped around pipe to give good support and protection.
- B. In case of any excavations when unsuitable material is encountered, the contractor shall replace same with a good material to provide proper support and alignment of the pipe line. In some cases, the contractor shall use crushed stone for a good bedding. Trench backfill shall be suitable material taken from the excavation, or approved materials, such as gravel, hauled in. No mud, frozen earth, stones larger than eight inches or other objectionable material is to be used for refilling.
- C. Controlled density fill shall be required at the discretion of the Superintendent or Board.

§ 375-6.2. Ledge.

All ledge shall be removed to a width two feet greater than the diameter of the pipe and one foot below the underside of the pipe. A bed of sand shall be placed in the trench prior to laying pipe.

§ 375-6.3. Blasting.

All blasting shall be completed within a distance of 50 feet from any water service or water main.

§ 375-6.4. Excavation within limits of public ways.

- A. A street opening permit shall be obtained from the Select Board before any excavation can begin within any Town-accepted street. The work shall be performed in accordance with the permit. **[Amended 1-28-2023STM by Art. 9]**
- B. A street opening permit shall be obtained from the Massachusetts Department of Transportation before any excavation can begin on any state-owned or -controlled street or sidewalk.
- C. Dig Safe notification is required.

§ 375-6.5. Service pipes.

- A. Each unit shall have its own separate service, consisting of a corporation stop, curb stop, curb box, meter and remote register. The service pipe shall be at least 3/4-inch 200 psi test polyethylene in accordance with Underground Service Lines, Valves and Fittings, AWWA C800, latest edition.
- B. Use of any other material is subject to approval by the Superintendent. No sweat fittings shall be allowed between the street main and the meter regardless of the meter location. Where the service length is 100 feet or greater, the size of the service pipe shall be subject to approval by the Superintendent. A meter pit at the street line may be required where the length of the service pipe is 150 feet or greater. Plastic service pipes will be allowed after the meter at meter pit locations and shall be copper tubing size with a minimum of 200 psi bursting pressure.
- C. Electrical grounding and inspection shall be done by the Electrical Inspector.

§ 375-6.6. Testing.

- A. Before acceptance by the Department, the pipe shall be pressure tested and chlorinated in accordance with Installation of Ductile-Iron Water Mains Appurtenances, AWWA Designation C600, latest edition.
- B. No one shall pressure test or chlorinate an installation without notifying the Department at least 48 hours prior. An employee of the Department must be present for the duration of the pressure test and chlorination to witness and sign the results. All pressure test reports shall consist of the actual distance of pipe by size, number of valves, and hydrants. The water for disinfection and flushing shall be furnished by the Town.
- C. Samples of water taken after the disinfection of the water pipes shall be delivered to a testing laboratory approved by the Commonwealth of Massachusetts. Copies of the test results shall be delivered to the Superintendent, who shall then determine whether the pipes may be connected to the Town's water system.

ARTICLE VII
Enforcement and Penalties

§ 375-7.1. Violations of regulations.

Any violations of these regulations may result in the Superintendent ordering the shutting off of the water to the violator's premises. When the water has been shut off for violations of rules, or their offense, it shall not be turned on again until the Department is satisfied that there shall not be further cause of complaint and charges have been paid to cover the cost of shutting off and turning on the water.

§ 375-7.2. Cross-connections.

Any consumer found to be in noncompliance with the drinking water regulations of Massachusetts, 310 CMR 22.22, shall be punished by the Commonwealth of Massachusetts, Department of Environmental Protection by a fine of not more than \$25,000 for each day a violation occurs or continues.

§ 375-7.3. Treatment.

No chemicals shall be added to water supplied by the Town, subject to a fine established by the Water Commissioners for individual offenses.

§ 375-7.4. Mandatory water use restrictions.

The Department of Environmental Protection has the authority to declare a state of water emergency per (MGL c. 21G, § 15) by implementing a mandatory water ban during any emergency condition. See Article VIII. Any consumer found in violation of a water ban shall be fined as follows:

- A. First offense: written warning.
- B. Second offense: \$50.
- C. Third and any subsequent offense: \$100.

§ 375-7.5. Unauthorized water use.

Whoever unlawfully and intentionally injures a water meter or prevents such meter from registering the quantity of water supplied through it or uses or causes to be used water without consent of the Department shall be fined \$200 for each offense.

§ 375-7.6. Defacing and littering upon Town-owned property.

Any person or persons willfully defacing and/or littering upon Town-owned property located within its watershed shall be fined no less than \$300.

§ 375-7.7. Corrupting or diverting water.

Whoever willfully or wantonly corrupts, pollutes or diverts any of the waters of the Watershed Protection District of the Town of Avon, or injures any structure, work or other property owned, held or used by the Town of Avon under the authority and for the purposes of these regulations, shall forfeit and pay to the Town of Avon three times the amount of damages assessed therefor, to be recovered in an action of tort; and upon conviction of either of the above, willful or wanton acts shall be punished by a fine not exceeding \$300.

ARTICLE VIII
Water Use Restrictions

§ 375-8.1. Authority.

This regulation is adopted by the Town under its police powers to protect public health and welfare and its powers under MGL c. 40, § 21 et seq. and implements the Town's authority to regulate water use pursuant to MGL c. 41, § 69B. This regulation also implements the Town's authority under MGL c. 40, § 41A, conditioned upon declaration of a water supply emergency issued by the Department of Environmental Protection.

§ 375-8.2. Purpose.

The purpose of this regulation is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

§ 375-8.3. Definitions.

As used in this regulation, the following terms shall have the meanings indicated:

PERSON — Any individual, corporation, trust, partnership or association, or other entity.

STATE OF WATER SUPPLY EMERGENCY — A State of Water Supply Emergency declared by the Department of Environmental Protection under MGL c. 21G, §§ 15 through 17.

STATE OF WATER SUPPLY RESTRICTION — A State of Water Supply Restriction declared by the Town pursuant to § 375-8.4 of this regulation.

WATER USERS or WATER CONSUMERS — All public and private users of the Town's public water system, regardless of any person's responsibility for billing purposes for water used at any particular facility.

§ 375-8.4. Declaration of State of Water Supply Restriction.

The Department is required to implement water restrictions from May through September if and when stream flow as measured at USGS Taunton River Gauge 0108000 falls below 130.5 cubic feet per second for three consecutive days. Public notice of a State of Water Supply Conservation shall be given under § 375-8.6 of this regulation before it may be enforced. (NOTE: will likely change with new Water Management Act permit. Should reference permit instead.)

§ 375-8.5. Restricted water uses.

A declaration of a State of Water Supply Restriction shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under § 375-8.6.

- A. Phase I: Handheld Hose Only. No outside watering is allowed between 9:00 a.m. and 5:00 p.m.
- B. Phase II: Outdoor Watering Ban. All outdoor watering is prohibited.
- C. Filling swimming pools. Filling of swimming pools is prohibited.

- D. Automatic sprinkler use. The use of automatic sprinkler systems, both aboveground and underground, is prohibited.

§ 375-8.6. Public notification of State of Water Supply Restriction; notification of DEP.

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Restriction. Any restriction imposed under § 375-8.5 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

§ 375-8.7. Termination of State of Water Supply Restriction; notice.

A State of Water Supply Restriction may be terminated when stream flow as measured at USGS Taunton River Gage 0108000 is greater than 130.5 cubic feet per second for seven consecutive days. Public notification of the termination of a State of Water Supply Restriction shall be given in the same manner required by § 375-8.6.

§ 375-8.8. State of Water Supply Emergency; compliance with DEP orders.

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the state of emergency.

§ 375-8.9. Violations and penalties.

Any person violating this regulation shall be liable to the Town in the amount of \$50 for the first violation and \$100 for each subsequent violation, which shall inure to the Town for such uses as the Board of Water Commissioners may direct. Fines shall be recovered by indictment, or on complaint before the District Court, or by noncriminal disposition in accordance with MGL c. 40, § 21D. Each day of violation shall constitute a separate offense.

§ 375-8.10. Severability.

The invalidity of any portion or provision of this regulation shall not invalidate any other portion or provision thereof.

ARTICLE IX
Rates and Charges

§ 375-9.1. Water rates.

- A. The semi-annual water rates are in cubic feet, and are based upon six-month total consumption.

Category (cubic feet)	Usage (cubic feet)	Rate
0 to 1,400	First 1,400	\$50 minimum
1,401 to 8,000	Next 6,600	\$2.75 per 100 cu/ft
Over 8,001	All other usage	\$3.75 per 100 cu/ft

- B. A meter maintenance fee of \$7.50 will be assessed each billing period.
- C. All unmetered accounts shall be assessed a semi-annual flat rate bill of \$80.

§ 375-9.2. Nonpayment of bills and charges.

- A. If any water bill or any other charge due has not been paid in full within 30 days after its due date, an arrearage charge will be added thereto and shall become part of the total water bill. The arrears charge shall be \$25.
- B. If any rate, arrearage, or any other charge(s) assessed to a property has not been paid in full within 60 days of its due date, the Water Department can shut off the water service or services until all rates, arrearages, water turn-on fees, and other charges have been paid in full.
- C. When water is shut off for nonpayment or for violations of Water Department rules and regulations, a water turn-on fee of \$75 will be made prior to water service being restored. Checks returned by the bank unpaid will be assessed a returned check fee of \$25. Additionally, the Department has the right to refuse future payments by check.

§ 375-9.3. Backflow prevention test fees.

A fee of \$65 will be charged for the initial test and each retest. A fee of \$50 per hour will be charged for a cross-connection survey.

§ 375-9.4. Other water fees.

All semi-annual out-of-Town water billing will have a charge of \$12 per bill. Other charges are as follows:

Final read charge	\$30
Damaged facilities	Cost of repair
Turn-on/off	\$75
Hydrant rental	\$100
Fire flow test fee	\$100 per test
Meter testing fee:	

	Meters over 1"	\$60 per hour
	Meters 5/8" to 1"	\$60 flat fee
Connection fee		\$400
Tapping fee		\$100
Final read fee		\$30 per read

§ 375-9.5. Table of fees.

Service Connection Fees:	
3/4" service	\$1,000
1" service	\$1,250
1 1/2" service	\$1,500
2" service	\$2,000
System Development Fees:	
4" water main	\$4,500
6" water main	\$10,000
8" water main	\$15,000
10" water main	\$16,000
12" water main	\$18,000

All connection and system development fees are to be paid in full prior to excavation of the water service or the water main.

Appendix

Chapter A400**GENERAL LAW ACCEPTANCES**

[This chapter lists Massachusetts General Laws accepted at Town Meeting.]

§ A400-1. Acceptance of statutes.

Date	Article	Citation	Subject
3-6-1888	Art. 4	c. 47:1888	An Act to Incorporate the Town of Avon
7-31-1889	Art. 2	c. 236:1889	An Act to Supply the Town of Avon With Water
3-26-1890	Art. 2	c. 15:1890	An Act to Authorize the Town of Avon to Make an Additional Water Loan
1-31-1891	Art. 2	c. 386:1890	An Act to Authorize the Printing and Distribution of Ballots for Town Elections at Public Expense
3-6-1994	Art. 20	c. 431:1888	An Act to Aid Small Towns to Provide Themselves With School Superintendents
3-5-1895	Art. 24	c. 344:1894	An Act to Authorize the Town of Avon to Make an Additional Water Loan
2-13-1896	Art. 2	c. 465:1893	An Act to Authorize Towns to Use the McTammany Automatic Ballot Machines at Elections of Town Officers
3-7-1899	Art. 15	c. 466:1898	An Act Relative to the Employment of Superintendents of Schools by Small Towns
3-5-1901	Art. 18	c. 366:1869	An Act Concerning the Impounding of Cattle

Date	Article	Citation	Subject
3-3-1903	Art. 18	c. 361:1902	An Act to Authorize Cities and Towns to Purchase Water for Temporary Purposes
11-6-1906		c. 532:1906	An Act to Incorporate the New York, Brockton and Boston Canal and Transportation Company
3-2-1909	Art. 8	c. 209:1908	An Act to Protect Forest and Sprout Lands From Fire
11-7-1911		c. 634:1911	An Act to Authorize the Counties of the Commonwealth to Establish Retirement System for Their Employees
10-18-1912	Art. 2	c. 598:1910	An Act Relative to the Auditing by the Director of the Bureau of Statistics of Municipal Accounts
11-5-1912		c. 503:1912	An Act Relative to Pensioning Laborers in the Employ of Cities and Towns
11-4-1913		c. 807:1913	Certain Public Employees for Injuries Sustained in the Course of Their Employment
3-3-1914		487:1913	An Act Relative to the Promotion of Call Men in the Fire Departments of Cities and Towns
3-3-1914		s. 42, c. 514:1909	8-hour day for Town laborers
3-3-1914		c. 807:1913	An Act to Provide for Compensating Certain Public Employees for Injuries Sustained in the Course of Their Employment

Date	Article	Citation	Subject
11-3-1914		c. 217:1914	An Act Relative to Vacations of Laborers Employed by Cities and Towns
11-3-1914		c. 688:1914	An Act to Make Saturday a Half-Day Holiday for Laborers, Workmen and Mechanics Employed By or On Behalf of the Commonwealth and Otherwise to Regulate Their Employment
2-9-1915		R.L. c. 11, § 336	Elect Highway Surveyor by ballot (see also vote at 3-1-1921 TM)
12-22-1919	Art. 3	c. 293:1916	An Act to Authorize the Licensing by Cities and Towns of Motor Vehicles Carrying Passengers for Hire
3-1-1921	Art. 19		Rescinded acceptance of MGL c. 11, § 336
3-1-1921	Art. 24	c. 153:1916	An Act Relative to the License Fee For Slaughter Houses in Towns Having Less Than 10,000 Inhabitants
11-25-1921		c. 14:1921	An Act to Authorize Assessors in Towns to Appoint Assistant Assessors
3-24-1924		c. 391:1923	An Act Relative to the Collection of Water Rates
3-3-1925	Art. 23	MGL c. 136, § 7	Permitted sale of frozen desserts on the Lord's Day
7-14-1925	Art. 3	MGL c. 41, § 97	Police Department organization
5-2-1928	Art. 2	MGL c. 136, §§ 21-28	Licensing of Boxing Matches

Date	Article	Citation	Subject
3-5-1929	Art. 16	MGL c. 406:1928	Permitted certain sports, games to be conducted on the Lord's Day
3-4-1930	Art. 18	MGL c. 402:1928	An Act Providing for the Payment of Compensation to Widows and Children of Policemen and Firemen Who Are Killed in the Performance of Duty
3-1-1932	Art. 18	MGL c. 31, § 48	Civil service for police force
3-1-1932	Art. 19	MGL c. 31, § 49	Civil service for Police Chief
11-5-1945	Art. 3	723:1945	Established Veteran's Service Department
11-5-1946		MGL c. 32, §§ 1-21	Contributory retirement system for Town employees
3-10-1947		MGL c. 71, § 40	Equal pay for male and female teachers
3-4-1952	Art. 21	MGL c. 41, § 81A	"Improved" method of municipal planning
3-2-1954	Art. 16	MGL c. 386:1953	An Act Further regulating the Making of Repairs on Private Ways by Cities and Towns
3-12-1956	Art. 24	MGL c. 114, § 18	Care of neglected burial places within the Town
3-12-1956	Art. 25	MGL c. 40, § 8A	Establishing Development and Industrial Commission
3-1-1960	Art. 37	MGL c. 40, § 8C	Establish a Conservation Commission
3-7-1961	Art. 17	MGL c. 166, § 32	Establish position of Inspector of Wires
3-7-1961	Art. 25	MGL c. 647:1960	Providing for increases in certain retirement allowances

Date	Article	Citation	Subject
10-10-1961	Art. 8	MGL c. 737:1960	Establish position of Inspector of Gas Piping and Gas Appliances
10-10-1961	Art. 10	MGL c. 136, § 4B	Licensing of bowling alleys on the Lord's Day
3-6-1962	Art. 34	MGL c. 58, §§ 7A to 7D	State assessment system
3-6-1962	Art. 35	c. 322:1961 (see MGL c. 40, § 22D)	Towing of certain motor vehicles
3-5-1963	Art. 29	MGL c. 48, §§ 42 to 44	Establishing a Fire Department
3-30-1964	Art. 4	MGL c. 121, § 26XX	Establishment of Redevelopment Authority
3-30-1964	Art. 6	MGL c. 478:1963	Increase in certain retirement allowances
11-9-1964	Art. 7	MGL c. 53, § 9A	Establishes a final date for taking out nomination papers for Town office
3-7-1967	Art. 28	MGL c. 152, § 69	Authorize Board of Selectmen to compile listing of offices and positions covered by Workmen's Compensation
3-13-1967		MGL c. 32B	Group insurance for municipal officers and employees
3-5-1968	Art. 19	c. 319:1961	An Act Providing that Cities and Towns Make Repairs on Private Ways Without Liability for Damages
6-22-1970	Art. 3	MGL c. 121B, § 3	Establishing local housing authority
3-2-1971	Art. 18	MGL c. 41, § 55	Established position of Town Accountant
3-2-1971	Art. 22	MGL c. 722:1967	Establishing Industrial Development Financing Authority

Date	Article	Citation	Subject
3-2-1971	Art. 24	MGL c. 40, § 42G	Special assessments to meet cost of laying water pipes
3-7-1972	Art. 24	MGL c. 41, § 100G	Payment of funeral and burial expenses of police officer or firefighter who dies from injuries received in the performance of duties
3-12-1973		MGL c. 32B, § 9A	Town to pay 1/2 of the cost of group insurance premiums for retirees
3-12-1973		MGL c. 32B, § 11A	Purchase of additional insurance for employees at no cost to Town
5-10-1975		MGL c. 41, §§ 126-132	Tenure to incumbent Highway Surveyor
5-5-1976	Art. 25	MGL c. 40, § 8D	Establishing Historical Commission
5-3-1977	Art. 24	MGL c. 90, § 20C,	Multiple parking violations
3-10-1980			Town to distribute dividends from group insurance to Town employees in proportionate amounts.
3-10-1980		MGL c. 258, § 13,	Indemnification of municipal officers and employees
6-2-1981	Art. 21	MGL c. 71, § 71E,	"Revolving fund for certain school accounts
6-1-1982	Art. 18	MGL c. 90, § 20 1/2,	Establish local parking clerk
6-6-1983	Art. 5	MGL c. 597:1982	Providing an exemption from motor vehicle excise tax for former POWs
5-1-1984	Art. 11	MGL c. 59, § 5, cl. 41B,	Abatement of property tax
5-1-1984	Art. 16	MGL c. 44, § 53 E,	Enterprise Fund for water

Date	Article	Citation	Subject
2-10-1986	Art. 7	s.1, c. 188:1985	Equal education opportunity
5-4-1987	Art. 37	MGL c. 59, § 5, cl. 17	Providing exemption for certain taxpayers
5-1-2001	Art. 10	MGL c. 138, § 12B	Operation of premises licensed to sell alcoholic beverages; nudity.
10-22-2002	Art. 4	MGL c. 40, § 8g	Police mutual aid agreements with other communities and agencies (accepted a second time in 2007)
5-4-2004	Art. 5	MGL c. 41, § 100G 1/4f	\$5,000 toward funeral expenses of any firefighter or police officer killed in the line of duty
5-4-2004	Art. 18	MGL c. 32, § 89B	Town to pay a survivor pension to spouse and minor of a call firefighter killed in the line of duty
5-4-2004	Art. 19	MGL c. 46, § 12	Allows call firefighters to participate in the municipal health plan and pay 100% of the premium
6-4-2005	Art. 14	MGL c. 40, § 22F	Authorizing Tax Collector to increase fees
10-9-2007	Art. 2	MGL c. 40, § 57	Local licenses and permits - denial, revocation or suspension for failure to pay municipal taxes or charges
5-6-2008	Art. 18	MGL c. 41, §§ 48, 49A, 55	Additional compensation for certified accountant
5-6-2008	Art. 19	MGL c. 41, § 108P	Additional compensation for certified treasurers or collectors

Date	Article	Citation	Subject
5-6-2008	Art. 20	MGL c. 41, § 19K	Additional compensation for certified clerks
5-4-2010	Art. 6	MGL c. 32B, § 20	Establish an OPEB Trust Fund to fund future retiree health benefits
5-4-2010	Art. 21	MGL c. 41, § 81U, para. 16	Allow proceeds of bonds or deposits to be used for costs and expenses of the Town in completing work specified in approved plan
11-8-2010	Art. 17	MGL c. 39, § 23d	Allows a member of a board or commission or committee to review evidence if a hearing is missed and not be disqualified from voting solely due to that member's absence
11-8-2010	Art. 18	MGL c. 200A, § 9A	Alternative procedure of abandoned funds by Town (tailings)
5-1-2012	Art. 19	Chapter 653 of the Acts of 1989, § 40	Assess new buildings, structures or other physical improvements added to real property between January 2 and June 30 for the FY beginning on 7-1-2012 and all following years
2013		MGL c. 44, § 53E	Reauthorize an Offset Receipts Account known as the "Cross-connection Control Offset Receipts Account"

Date	Article	Citation	Subject
2013		MGL c. 44, § 53E 1/2	The receipt of the PEG Access funding payments paid to the Town by any cable franchisee and payment of expenses associated with the production and cablecasting of PEG Access programming in Avon
5-6-2014	Art. 5	MGL c. 40, § 13D	Establish a reserve fund for the future payment of accrued liabilities for compensated absences due any employee or full-time officer of the Town upon the termination of the employee or full-time officer
5-5-2015	Art. 12	MGL c. 59, § 5K	Reducing property tax liability for persons over age 60 in exchange for volunteer services
5-5-2015	Art. 25	MGL c. 59, § 5n	Reducing property tax liability for veterans in exchange for volunteer services
5-5-2015	Art. 36	MGL c. 64L, § 2(a)	Local meals tax
12-1-2015	Art. 5	MGL c. 40, §§ 42A-42I	Collection of water rates
12-1-2015	Art. 10	MGL c. 60, § 15B	Tax Title Revolving Fund
5-1-2018	Art. 11	MGL c. 44, § 53D	Park and Recreation Department revolving fund (rescinded 5-3-2022 by Art. 16; see now Chapter 15 of the Code)
1-10-2019	Art. 2	MGL c. 32B, § 20 (as amended Acts of 2016, Ch. 218, § 15)	Other Post-Employment Benefits Liability Trust Fund

Date	Article	Citation	Subject
1-10-2019	Art. 3	MGL c. 71, § 37M	Consolidation of administrative functions (IT) between Avon Public Schools and Town of Avon
5-4-2021	Art. 20	MGL c. 138, § 33B	Permitting the Board of Selectmen, as the local licensing authority, to authorize licensees under MGL c. 138, § 12, to sell alcoholic beverages at 10:00 a.m. on Sundays
5-4-2021	Art. 22	MGL c. 40, § 13E	Establish and appropriate or transfer money to a reserve fund to be utilized in the upcoming fiscal years, to pay, without further appropriation, for unanticipated or unbudgeted costs of special education. out-of-district tuition or transportation; the balance in such reserve fund shall not exceed 2% of the annual net school spending of the school district
5-3-2022	Art. 12	MGL c. 140, § 139(c)	Waiving of licensing fees for service animals or for a dog owned by a person aged 70 years or over
11-18-2023	Art. 2	MGL c. 44, § 54(b)	Prudent Investor Rule, as defined by MGL c 203C

Date	Article	Citation	Subject
10-8-2024	Art. 6	MGL c. 90, § 17C	Select Board to set speed limits of 25 mph on a street-by-street basis in areas defined by state law as “thickly settled or business districts” which are not on a state highway

Derivation Table

Chapter DT**DERIVATION TABLE**

In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where chapters and articles of the Bylaws have been included in the 2019 Code, or the reason for exclusion.

§ DT-1. Derivation Table of Bylaws to 2019 Code.

REP

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Repealed effective with adoption of Code.

Article/Section from Bylaws		Location in 2019 Code	Prior Amendments
Art. II			
	Sec. 1 - 5	Ch. 84	9-16-2015 STM, Art. 11
	Sec. 6, Finance Committee	Ch. 7, Art. II	
Art. III, Town Elections		Ch. 19	
Art. IV, Town Reports			
	Sec. 1 - 4	Ch. 72, §§ 72-1 - 72-4	2-10-1986 STM, Art. 1
	Sec. 4-33, Residency Requirements - Boards, Commissions and Committees	Ch. 7, Art. I	
Art. V, Financial Regulations			
	Sec. 1 - 6	Ch. 30	5-5-2015 ATM, Art. 34 and Art. 35
	Sec. 7, Capital Planning and Outlay Committee	Ch. 7, Art. III	
	Sec. 8	Ch. 72, § 72-5	
Art. VI, Town Officers: Duties and Authority			
	Sec. 1, Board of Selectmen	Ch. 55, § 55-1	1980 ATM, Art. 30

Article/Section from Bylaws		Location in 2019 Code	Prior Amendments
	Sec. 2, Town Counsel; Special Counsel	Ch. 55, § 55-2	
	Sec. 3, Gas Inspector	Ch. 55, § 55-3	
	Sec. 4, Wiring Inspector	Ch. 55, § 55-4	
	Sec. 5, Council on Aging	Ch. 7, Art. IV	
	Sec. 6, Personnel Board	REP	
	Sec. 7, Police Department	Ch. 23, § 23-1	
	Sec. 8, Fire Department	Ch. 23, § 23-2	
	Sec. 9, Collector of Taxes	Ch. 55, § 55-5	
	Sec. 10, General Bylaw Committee	Ch. 7, Art. V	
	Sec. 11, Building Inspector	Ch. 55, § 55-6	
	Sec. 12, Committee Reports	Ch. 72, § 72-6	
Art. VII, Police Regulation			
	Sec. 1, Discharge of firearms, fireworks	Ch. 140	
	Sec. 2, Fundraising	Ch. 184, Art. I	5-6-2014 ATM, Art. 9
	Sec. 3, Sales	Ch. 184, Art. II	
	Sec. 4, Parades, music	Ch. 134	
	Sec. 5, Loitering	Ch. 165	
	Sec. 6, Public drinking	Ch. 107	
	Sec. 8, Refuse and litter	Ch. 196, § 196-1	
	Sec. 9, Private drains	Ch. 205, § 205-1	

Article/Section from Bylaws		Location in 2019 Code	Prior Amendments
	Sec. 10, Winter parking ban	Ch. 226, Art. I	
	Sec. 11, Markings	Ch. 205, § 205-2	
	Sec. 12, Coasting	Ch. 205, § 205-3	
	Sec. 13, Transportation of buildings	Ch. 205, § 205-4	
	Sec. 14, Parking of commercial vehicles restricted	Ch. 226, Art. II	
	Sec. 15, Swimming pool regulations	Ch. 209	
	Sec. 16, Abandoned or junk vehicles	Ch. 222, § 222-1	
	Sec. 16A, Unregistered motor vehicles	Ch. 230, § 222-2	
	Sec. 16B, Violations	Ch. 230, § 222-3	
	Sec. 17, Burglar alarm systems, registration and regulations	Ch. 103	
	Sec. 18, Fire lanes	Ch. 226, Art. III	
	Sec. 19, Secured key access for Fire Department	Ch. 115, Art. I	
	Sec. 20, Handicapped parking regulations	Ch. 226, Art. IV	
	Sec. 21, Unauthorized use of water supply	Ch. 235	
	Sec. 22, Rubbish collections	Ch. 196, § 196-2	
	Sec. 23, Public consumption of marijuana or tetrahydrocannabinol	Ch. 171	
	Sec. 23, Scrap metals recycler/junk dealer license	Ch. 158	5-6-2014 ATM, Art. 18
	Sec. 25, Pawnbrokers	Ch. 179	5-6-2014 ATM, Art. 26
Art. VIII, Regulation of Dogs		Ch. 126	
Art. IX, Environmental Regulations			

Article/Section from Bylaws		Location in 2019 Code	Prior Amendments
	Sec. 1, Underground storage tanks	Ch. 201	
Art. X, Regulating the Security and Maintenance of Abandoned and Dilapidated Buildings Within the Town of Avon		Ch. 115, Art. II	11-8-2010 STM, Art. 19
Art. X, Wetlands Protection		Ch. 239	
Art. XI, Yard Sales Regulations		Ch. 247	
Art. XI, General Provisions		Ch. 1	5-3-2016 ATM, Art. 11
Personnel Bylaw		Ch. 61	5-1-2012 ATM
Zoning Bylaw		Ch. 255	5-12-1987 ATM; 5-5-1992 ATM; 10-11-1995 STM; 2009 ATM; 2010 ATM; 1-26-2017 STM, Art. 3; 5-2-2017 ATM, Art. 7; 5-1-2018 ATM, Art. 6

Disposition List

Chapter DL**DISPOSITION LIST**

The following is a chronological listing of legislation of the Town of Avon adopted and codified since the 2019 publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the 2019 publication of the Code was the adoption of the General Bylaws and the Zoning Bylaw 5-7-2019 ATM by Arts. 8 and 9.

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition	Supp. No.
ATM, Art. 9	6-29-2020	Illicit Discharge Control	Ch. 151	1
ATM, Art. 10	6-29-2020	Construction and Post-Construction Stormwater Management	Ch. 120	1
ATM, Art. 17	5-4-2021	Charter Amendment	§ 3-14, Editor's Note only	2
ATM, Art. 19	5-4-2021	Finances Amendment	Ch. 30	1
ATM, Art. 20	5-4-2021	General Law Acceptance	Ch. A400	1
ATM, Art. 22	5-4-2021	General Law Acceptance	Ch. A400	1
ATM, Art. 9	1-28-2023	Board of Selectmen Amendment (Nomenclature Change)	Throughout Code	3
ATM, Art. 12	5-3-2022	General Law Acceptance	Ch. A400	2
ATM, Art. 13	5-3-2022	Finances Amendment	Ch. 30	2
ATM, Art. 14	5-3-2022	Departmental Revolving Funds	Ch. 15	2
ATM, Art. 16	5-3-2022	General Law Acceptance	Ch. A400	2
ATM, Art. 15	5-2-2023	Zoning Amendment	Ch. 255	2
STM, Art. 2	11-18-2023	General Law Acceptance	Ch. A400	4

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ATM, Art. 8	5-7-2024	Zoning Amendment	Ch. 255	4
ATM, Art. 10	5-7-2024	Wetlands Amendment	Ch. 239	4
STM, Art. 5	10-8-2024	General Law Acceptance	Ch. A400	4