

TITLE XV: LAND USAGE

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HOUSING, MAINTENANCE, AND OCCUPANCY

§ 150.001 PURPOSE.

(A) The purpose of this subchapter is to protect the citizen's public health, safety, and general welfare.

(B) These general objectives include, among others, the following:

(1) To protect the character and stability of residential areas within the city;

(2) To correct and prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare, and health, including the physical, mental, and social well-being of persons occupying dwellings within the city;

(3) To provide minimum standards for cooking, heating, and sanitary equipment necessary to the health and safety of building occupants;

(4) To provide minimum standards for light and ventilation, necessary to health and safety;

(5) To prevent overcrowding of dwellings by providing minimum space standards per occupant for each dwelling unit;

(6) To provide minimum standards for maintaining existing residential buildings, and to thus prevent slums and blight; and

(7) To preserve the value of land and buildings throughout the city.

(Ord. 145, passed 6-2-2003)

§ 150.002 CITY NOT AN ARBITER.

With respect to rental disputes, and except as otherwise specifically provided in this subchapter, the City Council does not intend to intrude upon the fair and accepted contractual relationship between tenant and owner. The City Council does not intend to intervene as an advocate of either party, nor to act as an arbiter, nor to be receptive to complaints from tenant or owner which are not specifically and clearly relevant to this subchapter's provisions. In the absence of the relevancy with regard to rental disputes, the city intends that the contracting parties exercise any legal sanctions available to them without the city's intervention. In enacting this subchapter, the City Council does not intend to interfere or permit interference with legal rights to personal privacy.

(Ord. 145, passed 6-2-2003)

§ 150.003 APPLICABILITY.

Every building and its premises used in whole or in part as a home or residence, or as an accessory structure of them, for a single family or person, and every building used in whole or in part as a home or residence of 2 or more persons or families living in separate units shall conform to this subchapter, irrespective of when the

building may have been constructed, altered, or repaired. This subchapter establishes minimum standards for erected dwelling units, accessory structures, and related premises.
(Ord. 145, passed 6-2-2003)

§ 150.004 OWNER AND OCCUPANT RESPONSIBILITIES.

(A) *Sanitation.* No owner or other person shall occupy or let to another person any dwelling, dwelling unit, or rooming unit unless it and the premises are clean, sanitary, fit for human occupancy, and comply with all applicable legal requirements of city and state law, including the following requirements.

(B) *Shared or public areas.* Every owner of a dwelling containing 2 or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises.

(C) *Occupied areas.* Every occupant of a dwelling, dwelling unit, or rooming unit shall maintain in a clean and sanitary condition that part or those parts of the dwelling, dwelling unit, and premises that he or she occupies and controls.

(D) *Garbage storage and disposal.* Every occupant of a dwelling, dwelling unit, or rooming unit shall store and dispose of all his or her garbage and rubbish in a clean, sanitary, and safe manner as prescribed by the City Code. Every owner of a multiple-family dwelling shall supply facilities for the sanitary and safe storage and/or disposal of rubbish and garbage. In the case of single- or 2-family dwellings, it shall be the responsibility of the occupant to furnish the facilities.

(E) *Storm and screen doors and windows.* The owner of a rental dwelling unit shall be responsible for providing and hanging all screens and storm doors and storm windows whenever the same are required under this subchapter, except where there is written agreement otherwise between the owner and occupant.

(F) *Pest extermination.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of vermin infestations and/or rodents on the premises. Every occupant of a dwelling unit in a dwelling containing more than 1 dwelling unit shall be responsible for extermination whenever his or her dwelling unit is the only one infested. Extermination shall be the owner's responsibility, however, if infestation is caused by the owner's failure to maintain a dwelling in a reasonable rodent-proof or reasonable vermin-proof condition. If infestation exists in 2 or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing 2 or more dwelling units, extermination shall be the owner's responsibility.

(G) *Rodent harborages and food.* No owner or occupant of a dwelling or dwelling unit shall accumulate boxes, lumber, scrap metal, or any other similar materials in such a manner that may provide a rodent harborage in or about any dwelling or dwelling unit. Stored materials shall be stacked neatly in piles. No owner or occupant of a dwelling or dwelling unit shall store, place, or allow to accumulate any materials that may serve as food for rodents in a site accessible to rodents.

(H) *Fixtures and facilities.* Every owner and occupant of a dwelling unit shall keep all supplied fixtures and facilities in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of them.

(I) *Minimum heating capability and maintenance.* In every dwelling unit or rooming unit when the control of the supplied heat is the responsibility of a person other than the occupant, a temperature of at least 68°F or a lesser temperature required by government authority shall be maintained at a distance of 3 feet above

the floor and 3 feet from exterior walls in all habitable rooms, bathrooms, and water closet compartments from September through May.

(J) *Snow and ice removal.* The owner of a multiple-family dwelling or dwellings shall be responsible for the removal of snow and ice from parking lots, driveways, steps, and walkways on the premises pursuant to the City Code.

(K) *Minimum exterior lighting.* The owner of a multiple-family dwelling or dwellings shall be responsible for providing and maintaining effective illumination in all exterior parking lots and walkways.

(L) *Driving and parking areas.* The owner of a multiple dwelling or dwellings shall be responsible for providing and maintaining in good condition parking areas and driveways for tenants consistent with the City Code.

(M) *Yards.* The owner of a multiple-family dwelling or dwellings shall be responsible for providing and maintaining premises' yards consistent with the city's zoning ordinance and the City Code. (Ord. 145, passed 6-2-2003) Penalty, see § 10.99

§ 150.005 MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES.

(A) *Generally.* No person shall occupy as owner, occupant, or let to another for occupancy any dwelling or dwelling unit, for the purposes of living, sleeping, cooking, eating therein, which does not comply with the following requirements.

(B) *Requirements.*

(1) *Kitchen facilities.* Every dwelling unit shall have a room or portion of a room in which food may be prepared and/or cooked and which shall have adequate circulation and which shall be equipped with the following:

(a) A kitchen sink in good working condition and properly connected to an approved water supply system and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to an approved sewer system;

(b) Cabinets and/or shelves for the storage of eating, drinking, and cooking equipment and utensils and of food that does not require refrigeration for safekeeping; and a counter or table for food preparation. Cabinets and/or shelves and counter or table shall be adequate for the permissible occupancy of the dwelling unit and shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food; and

(c) A stove or similar device for cooking food, and a refrigerator or similar device for the safe storage of food, which are properly installed with all necessary connections for safe, sanitary, and efficient operation.

(2) *Toilet facilities.* Within every dwelling unit there shall be a nonhabitable room which is equipped with a flush water closet in good working condition. In a rental dwelling unit, the room shall have an entrance door which affords privacy. The flush water closet shall be equipped with easily cleanable surfaces, shall be connected to an approved water system that at all times provides an adequate amount of running water under pressure to cause the water closet to be operated properly, and shall be connected to an approved sewer system.

(3) *Lavatory sink.* Within every dwelling unit there shall be a lavatory sink, which may be in the same room as the flush water closet, or if located in another room, the lavatory sink shall be located in close proximity to the door leading directly into the room in which the water closet is located. The lavatory sink shall be in good working condition and shall be properly connected to an approved water supply system, shall provide at all times an adequate amount of heated and unheated running water under pressure, and shall be connected to an approved sewer.

(4) *Bathtub or shower.* Within every dwelling unit there shall be a nonhabitable room equipped with a bathtub or shower in good working condition with an entrance door that affords privacy. The bathtub or shower may be in the same room as the flush water closet, or in another room and shall be properly connected to an approved water supply system and shall provide at all times an adequate amount of heated and unheated water under pressure, and shall be connected to an approved sewer system.

(5) *Stairways, porches, and balconies.* Every stairway, porch, or balcony shall be kept in safe condition and sound repair free of deterioration. Every stairwell and every flight of stairs which is more than 4 risers high shall have handrails approximately 30 inches high. Every porch which is more than 4 risers high and every balcony shall have handrails approximately 30 inches above the floor of the porch or balcony. Every handrail and balustrade shall be firmly fastened and maintained in good condition. No flight of stairs shall have settled out of its intended position or have pulled away from the supporting or adjacent structures enough to cause a hazard. No flight of stairs shall have rotting, loose, or deteriorating supports. Excepting spiral and winding stairways, the treads and risers of every flight of stairs shall be uniform in width and height. Stairways shall be capable of supporting a live load of 100 pounds per square foot of horizontal projection.

(6) *Access to dwelling unit.* Access to or egress from each dwelling unit shall be provided without passing through any other dwelling unit.

(7) *Door locks.* No owner shall occupy nor let to another for occupancy any dwelling or dwelling unit unless all exterior doors of the dwelling or dwelling unit are equipped with safe, functioning, locking devices.(Ord. 145, passed 6-2-2003) Penalty, see § 10.99

§ 150.006 MINIMUM THERMAL STANDARDS.

No person shall occupy as owner, occupant, or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not have heating facilities properly installed, maintained in safe and good working condition, and capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments in every dwelling unit located in it to a temperature of at least 68°F at a distance of 3 feet above floor level and 3 feet from exterior walls at an outside temperature of -25°F. Gas or electric appliances designed primarily for cooking or water heating purposes shall not be considered as heating facilities. Portable heating equipment employing flame and the use of liquid fuel does not meet the requirements of this section and is prohibited. No owner or occupant shall install, operate or use a space heater employing a flame that is not vented outside the structure in an approved manner.

(Ord. 145, passed 6-2-2003) Penalty, see §10.99

§ 150.007 GENERAL REQUIREMENTS.

(A) *Generally.* No person shall occupy as owner, occupant, or let to another for occupancy a dwelling or dwelling unit, for the purpose of living in it which does not comply with the following requirements.

(B) *Requirements.*

(1) *Foundations, exterior walls, and roofs.* The foundation, exterior walls, and exterior roof shall be substantially water tight and protected against vermin and rodents and shall be kept in sound condition and repair. The foundation element shall adequately support the building at all points. Every exterior wall shall be free of deterioration, holes, breaks, loose or rotting boards or timbers, and any other condition which might admit rain or dampness to the interior portion of the walls or to the exterior spaces of the dwelling. The roof shall be tight and have no defect which admits rains, and roof drainage shall be adequate to prevent rain water from causing dampness in the walls. All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by paint or other protective covering or treatment. If 25% or more of the exterior surface of the wood surface is unpainted or determined by the Compliance Official to be paint blistered, the surface shall be painted. If 25% or more of the exterior of the painting of any brick, block, or stonewall is loose or has fallen out, the surface shall be repaired.

(2) *Windows, doors, and screens.* Every window, exterior door, and hatchway shall be substantially tight and shall be kept in sound condition and repair. Every window, other than a fixed window or storm window, shall be capable of being easily opened. Every window, door and frame shall be constructed and maintained in the relation to the adjacent wall construction as to completely exclude rain, wind, vermin, and rodents from entering the building. Every openable window or other device required by this subchapter shall be supplied with 16 mesh screens during the insect season.

(3) *Floors, interior walls, and ceilings.* Every floor, interior wall, and ceiling shall be adequately protected against the passage and harborage of vermin and rodents, and shall be kept in sound condition and good repair. Every floor shall be free of loose, warped, protruding, or rotted flooring materials. Every interior wall and ceiling shall be free of holes and large cracks and loose plaster and shall be maintained in a tight weatherproof condition. Toxic paint and materials with a lasting toxic effect shall not be used. Every toilet room and bathroom floor surface shall be capable of being easily maintained in a clean and sanitary condition.

(4) *Rodent proof.* Every dwelling and accessory structure and the premises upon which located shall be maintained in a rodent free and rodent proof condition. All openings in the exterior walls, foundations, basements, ground or first floor, and roofs which have a 2-inch diameter or larger opening shall be rodent-proofed in an approved manner. Interior floors or basements, cellars, and other areas in contact with the soil shall be paved with concrete or other rodent impervious material.

(5) *Fence maintenance.* All fences supplied by the owner or agent on the premises and all fences erected or caused to be erected by an occupant on the premises shall consist of metal, wood, masonry, other decay resistant material. Fences shall be maintained in good condition both in appearance and in structure. Wood material, or other than decay resistant varieties, shall be protected against decay by use of paint or other preservatives.

(6) *Accessory structures.* Accessory structures supplied by the owner, agent, or tenant occupant on the premises of a dwelling shall be structurally sound, and be maintained in good repair and appearance. The exterior of the structures shall be made weather resistance through the use of decay-resistant materials such as paint or other preservatives.

(7) *Safe building elements.* Every foundation, roof, floor, exterior and interior walls, ceilings, inside and outside stair, every porch and balcony, and every appurtenance thereto, shall be safe to use and capable of supporting loads that normal use may cause to be placed thereon.

(8) *Facilities to function.* Every supplied facility, piece of equipment, or utility, required under city ordinances and every chimney and flue shall be installed and maintained and shall function effectively in a safe, sound, and working condition.

(9) *Yard cover.* Every yard of a premises on which a dwelling stands shall be provided with lawn or combined ground cover or vegetation, garden, hedges, shrubbery, and related decorative materials and the yard shall be maintained consistent with prevailing community standards.

(10) *Discontinuance of service or facilities.* No owner, operator, or occupant shall cause any service, facility, equipment, or utility which is required under this subchapter, to be removed from or shut off from or discontinued for any occupied dwelling or dwelling unit let or occupied by him, except for the temporary interruptions as may be necessary while actual repairs or alterations are in process, or during temporary emergencies. (Ord. 145, passed 6-2-2003) Penalty, see § 10.99

§ 150.008 MAXIMUM DENSITY; MINIMUM SPACE; USE AND LOCATION REQUIREMENTS.

(A) *Generally.* No person shall occupy nor permit or let to be occupied any dwelling or dwelling unit for the purpose of living therein, which does not comply with the following requirements.

(B) *Requirements.*

(1) *Permissible occupancy of dwelling unit.*

(a) Every dwelling unit shall have at least 1 room which shall have not less than 100 square feet of floor area. Other habitable rooms, except kitchen, shall have an area of not less than 70 square feet. Where more than 2 persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of 80 square feet for each occupant in excess of 2.

(b) Nothing in this section shall prohibit the use of an efficiency living unit within an apartment house meeting the following requirements.

1. The unit shall have a living room of not less than 220 square feet of superficial floor area. An additional 100 square feet of superficial floor area shall be provided for each occupant of the unit in excess of 2.

2. The unit shall be provided with a separate closet.

3. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this code shall be provided.

4. The unit shall be provide with a separate bathroom containing a water closet, lavatory, bathtub, or shower.

(2) *Minimum ceiling height.* In order to qualify as habitable, rooms shall have clear ceiling height of not less than 6 feet 6 inches, except that in attics or top-half stories used for sleeping, study, or similar activities, the ceiling height shall be not less than 6 feet 6 inches over at least 2 of the floor area. In calculating the floor area of the rooms in attics or top-half stories, only those portions of the floor area of the room having a clear ceiling height of 5 feet or more may be included.

(3) *Access through sleeping rooms and bathrooms.* No dwelling unit built after 1940 and containing 2 or more sleeping rooms shall have a room arrangement such that access to a bathroom or water closet compartment intended for use by occupants of more than 1 sleeping room can be gained only by going through another sleeping room. A bathroom or water closet compartment shall not be used as the only passageways to any habitable room, hall, basement, or cellar or the exterior of any dwelling unit. (Ord. 145, passed 6-2-2003) Penalty, see § 10.99

§ 150.009 UNIFORM FIRE CODE.

All buildings shall be subject to the Uniform Fire Code. (Ord. 145, passed 6-2-2003)

§ 150.010 RENTAL UNIT LICENSING.

(A) *Registration.* No person shall operate rental property in the City of Avon without first filing a registration statement with the City Clerk/Administrator and securing a valid rental license from the city. Any person filing a registration statement consents to be bound this subchapter and other city ordinances that may relate to rental property. The registration statement shall be made and filed on forms furnished by the city and shall set forth the following information:

- (1) Owner's name and residence, and if a corporation, the names of its officers and registered office. All owners must be listed;
- (2) Rental property's name and address and the number of units to which the registration applies;
- (3) Name and address of the caretaker or manager responsible for the rental unit's maintenance and care;
- (4) The name and address of the owner's agent for receiving violation notices of this or other city ordinances; and
- (5) Any other information the city may require.

(B) *Registration statement execution.* The registration shall be made by the owner if the owner is a natural person, by an officer if the owner is a corporation, by 1 of the partners if the owner is a partnership, and by the manager or managing officer if the owner is an unincorporated association. Registration renewals required tri-annually by this subchapter may be made by filling out the required renewal form provided by the city to the rental property's owner and mailing the form together with the required registration fee to the City Clerk/Administrator.

(C) *Tri-annual registration.* Commencing in the year 2003, the 3-year registration of all rental dwellings previously registered shall be renewed not later than June 1 every three years. The city may initially require some registrations to be annual or biannual and prorate the fees so that approximately 1/3 of the registrations and inspections occur in any given year.

(D) *Transfers.* Every new rental property owner, (whether as fee owner, contract purchaser, lessee of the entire dwelling, or otherwise) shall register before taking possession.

(E) *Registration license fee.* Beginning in the year 2003, a registration license fee shall be due not later than the first business day of June every other year in the amounts established in § 150.019.

(F) *Delinquency penalty.* The city shall charge a delinquency penalty of 5% of the license fee for each day of operation without a valid license to rental dwelling operators. Once issued, a license is nontransferable and the licensee shall not be entitled to a refund on any license fee upon revocation or suspension. However, the licensee shall be entitled to a license fee refund pro-rated monthly, upon proof of transfer of legal control of ownership. In the case of new unlicensed dwellings, license fees shall be due upon the city's issuance of a certificate of occupancy. In the cases of licensing periods of less than 1 year, the city shall prorate license fees by month.

(G) *Inspection condition.* The city shall not issue or renew an operating license unless the rental unit's owner agrees in the license application to permit inspections pursuant to this subchapter.

(H) *License posting.* Every licensee of a multiple dwelling shall cause to be conspicuously posted in the main entry way or other conspicuous location the current license for the respective multiple dwelling.

(I) *License not transferable.* No operating license shall be transferable to another person or to another rental dwelling. Every person holding an operating license shall give notice in writing to the city within 72 hours after having legally transferred or otherwise disposed of the legal control of any licensed rental dwelling. The notice shall include the name and address of the person succeeding to the ownership or control of the rental dwelling or dwellings.

(J) *Occupancy register required.* Every owner of a licensed rental dwelling containing 3 or more dwelling units shall keep, or cause to be kept, a current register of occupancy for each dwelling unit providing the following information and make the register available for viewing or copying by the city at all reasonable times:

(1) Dwelling unit address;

(2) Number of bedrooms in dwelling unit; and

(3) Names of adult occupants and number of adults and children (under 18 years of age) currently occupying the dwelling units.

(K) *Resident list.* Every owner of a licensed rental dwelling containing 3 or more dwelling units shall maintain a list of current residents, containing each resident's last name, first name initial and apartment or unit number, in a conspicuous place near the building's main entrance. Every owner of a licensed rental dwelling containing less than 3 dwelling units shall maintain each resident's last name and first name initial on the applicable dwelling unit's door.

(Ord. 145, passed 6-2-2003) Penalty, see § 10.99

§ 150.011 BACKGROUND CHECKS.

The city requires background checks to be performed by the Police Department, through the Minnesota CCH of local records and past address locales. Non-crime free housing participants will be referred to the BCA for background checks.

§ 150.012 LICENSE SUSPENSION OR REVOCATION.

(A) *Suspension or revocation.* Every operating license issued under this subchapter is subject to suspension or revocation by the City Council if the licensed owner or his or her duly authorized resident agent fails to operate or maintain the licensed rental dwelling and units in compliance with the city's ordinances and state law. If the City Council suspends or revokes an operating license for just cause, it shall be unlawful for the owner or the duly authorized agent to thereafter permit any new occupancies of vacant or thereafter vacated rental units until the City Council restores the operating license.

(B) *Vacation.* When the City Council revokes or suspends a rental license, the property shall be vacated as of the effective date of the revocation or suspension and remain vacated until restoration of the license.

(C) *Restoration.* In the case of a suspension, restoration shall occur automatically at the end of the suspension period. In the case of revocation, restoration of the license shall occur only after the premises owner has applied for a new license and paid a new application fee. The City Council may then issue a new license upon completion of the revocation period.

(D) *Hearing.* The City Council shall not suspend or revoke a rental license until the licensed owner has been afforded an opportunity for a hearing to be conducted pursuant to M.S. §§ 14.57 through 14.69, as they may be amended from time to time. This hearing shall be evidentiary in nature and conducted before the City Council, which shall determine whether an ordinance or statutory violation did occur warranting the rental license's revocation or suspension. The City Council's determination shall be final and subject only to any rights of review or appeal to the state courts as provided by statute. The licensed owner must affirmatively request an evidentiary hearing in writing to the City Clerk/Administrator no later than 7 days prior to the date on which the Council is to consider the violations. If request is not made, the right to an evidentiary hearing is deemed waived and the City Council may presume the truth and accuracy of the violations alleged and proceed to disposition at the time of the hearing.

(E) *Revocation and suspension period.* Where the City Council determines that an ordinance or statutory violation has occurred warranting suspension or revocation, the City Council shall suspend or revoke the rental license for a period of not less than 2 months nor more than 12 months.

(F) *Stay of execution; early restoration petition.* The Council may stay execution of the suspension or revocation on reasonable conditions established by the Council, including, but not limited to, the payment of a civil penalty not to exceed \$1,000. Upon completion of 2 of the revocation or suspension period imposed by the City Council, the licensed owner may petition the City Council for early restoration of the rental license. Upon receiving the petition, the City Council shall hear the licensed owner's request at its next regular scheduled meeting, (but at least 7 days after receiving the request). At that time, the City Council may order restoration of the rental license if the licensed owner establishes by clear and convincing evidence that 1 of the following 2 circumstances then exist.

(1) The property has been sold since the occurrence of the original violation to a party unrelated to the original owner. The sale must be for a fair consideration, negotiated at arms length, and by deed duly filed for record at the County Recorder's office. A sham or "paper" transfer of title to the property to a related party or another party acting in cooperation with the owner to circumvent the license revocation shall not constitute a transfer under this subchapter.

(2) The licensed owner demonstrates to the City Council that the owner has properly responded to the revocation or suspension, has taken measures to successfully correct the violation which originally resulted in suspension or revocation, and has taken additional steps to assure that similar violations do not occur in the

future. Factors to be considered by the Council, may include: improvements and repairs to the premises, modification of the relevant lease provisions, selection of future tenants, response to citizen's complaints, provision for future supervision of the premises by the licensed owner, the licensed owner's compliance with the revocation/suspension, and any other criteria the Council considers relevant to each individual case.

(3) Where the licensed owner is able to establish by clear and convincing evidence grounds for restoration, the Council may stay the execution of the remainder of the suspension or revocation period for a period of up to 1 year and place reasonable terms and conditions upon the licensed owner relevant to further insure compliance with the city's ordinances and state law.
(Ord. 145, passed 6-2-2003)

§ 150.013 ENFORCEMENT AND INSPECTION AUTHORITY.

The City Clerk/Administrator, the City Building Inspector, the Chief of Police, and their respective agents shall be the Compliance Officer(s) who shall administer and enforce this subchapter and who are authorized to cause inspections on a scheduled basis for rental units, or otherwise when reason exists to believe that a violation of this subchapter has been or is being committed. Inspections shall be conducted during reasonable daylight hours and the Compliance Officer(s) shall present evidence of official capacity to the occupant in charge of a respective dwelling unit. The city shall charge inspection and reinspection fees as established in § 150.019 for all inspections and reinspections occurring when reason exists to believe that a violation of this subchapter has been or is being committed. It shall also be deemed a violation of this subchapter for any person to make any false or unfounded complaints to the Compliance Officer(s). Among other remedies available for violation of this subchapter, in the event the Compliance Officer(s) conducts an inspection based upon a false or unfounded complaint, the cost of the inspection may be charged to the party making the false or unfounded complaint.
(Ord. 145, passed 6-2-2003)

§ 150.014 INSPECTION ACCESS.

Any owner, occupant, or other person in charge of a dwelling or dwelling unit may refuse to permit free access and entry to the structure or premises under his or her control for inspection pursuant to this subchapter, whereupon the Compliance Official(s) may seek a court order authorizing the inspection.
(Ord. 145, passed 6-2-2003)

§ 150.015 UNFIT FOR HUMAN HABITATION.

(A) *Building vacation.* Any dwelling, dwelling unit, or rooming unit which is damaged, decayed, dilapidated, unsanitary, unsafe, vermin or rodent infested, or which lacks provision for basic illumination, ventilation or sanitary facilities to the extent that the defects create a hazard to the health, safety, or welfare of the occupants or of the public maybe declared unfit for human habitation. Whenever any dwelling, dwelling unit, or rooming unit has been declared unfit for human habitation, the Compliance Official(s) shall order the premises vacated within a reasonable time and shall post a placard on the premises indicating that it is unfit for human habitation, and any operating license previously issued for the dwelling shall be revoked.

(B) *Reoccupation.* It shall be unlawful for any dwelling, dwelling unit, or rooming unit to be used for human habitation until the defective conditions have been corrected and the Compliance Official(s) has issued written approval. It shall be unlawful for any person to deface or remove the declaration placard from any dwelling, dwelling unit, or rooming unit.

(C) *Secure units and vacated dwellings.* The owner of any dwelling, dwelling unit, or rooming unit which has been declared unfit for human habitation, or which is otherwise vacant for a period of 60 days or more, shall make the premises safe and secure so that it is not hazardous to the public's health, safety, and welfare and does not constitute a public nuisance. Any vacant dwelling open at doors or windows, if unguarded, shall be deemed to be a hazard to the public's health, safety, and welfare and a public nuisance within this subchapter's meaning.

(D) *Hazardous building declaration.* If a dwelling has been declared unfit for human habitation and the owner has not remedied the defects within a prescribed reasonable time, the dwelling may be declared a hazardous building and treated consistent with state law.

(Ord. 145, passed 6-2-2003) Penalty, see § 10.99

§ 150.016 COMPLIANCE ORDER.

(A) *Issuance.* Whenever the Compliance Official(s) determines that any dwelling, dwelling unit, or rooming unit, or the premises surrounding any of these, fails to meet this subchapter's provisions, he or she may issue a compliance order setting forth the violations of this subchapter and ordering the owner, occupant, operator, or agent to correct the violation(s). This compliance order shall:

- (1) Be in writing;
- (2) Describe the location and nature of this subchapter's violation(s);
- (3) Establish a reasonable time for correction of the violation(s) and notify of appeal recourse; and

(4) Be served upon the owner or his or her agent or the occupant, as the case may require. The notice shall be deemed to be properly served upon the owner or agent, or upon any occupant, if a copy of the order is:

- (a) Served upon him or her personally;
- (b) Sent by registered mail to his or her last known address; or

(c) Upon failure to effect notice as set out in this section, posted at a conspicuous place in or about the dwelling which is affected by the notice.

(B) *Right of appeal.*

(1) When it is alleged by any person to whom a Compliance Order is directed that the Compliance Order is based upon erroneous interpretation of this subchapter, the person may appeal the Compliance Order to the City Council sitting as a Board of Appeals.

(2) Appeals must be in writing, specify the grounds for the appeal, be accompanied by a filing fee established in § 150.019 paid in cash or cashier's check, and be filed with the City Clerk/Administrator within 5 business days after service of the compliance order.

(3) The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless a stay would cause imminent peril to life, health, or property.

(C) *Board of Appeals decision.*

(1) Upon at least 5 business days notice to the appellant of the time and place for hearing the appeal, and within 45 days after the appeal is filed, the Board of Appeals shall hold a hearing, taking into consideration any advice and recommendation from the Compliance Official(s).

(2) The Board of Appeals may reverse, modify, or affirm, in whole or in part, the compliance order and may order return of all or part of the filing fee if the appeal is upheld.

(D) *Restrictions on ownership transfer.*

(1) It shall be unlawful for the owner of any dwelling, dwelling unit, or rooming unit upon whom a pending Compliance Order has been served to sell, transfer, mortgage, lease, or otherwise dispose of the premises to another person until the provisions of the tag or compliance order have been complied with, unless the owner shall furnish to the grantee, lessee, or mortgagee a true copy of any notice of violation or compliance order and shall obtain and possess a receipt of acknowledgment.

(2) Anyone securing an interest in the dwelling, dwelling unit, or rooming unit who has received notice of the existence of a violation tag or compliance order shall be bound by it without further service of notice and shall be liable to all penalties and procedure provided by this subchapter.

(E) *Failure to comply.*

(1) Any person who fails to comply with a compliance order after right of appeal has expired, and any person who fails to comply with a modified compliance order within the time set in it shall be guilty of a misdemeanor.

(2) Each day the person fails to comply shall constitute a separate punishable offense.

(F) *Reinspection.*

(1) The Compliance Officer(s) shall reinspect the property to determine if the owner has complied with the compliance order.

(2) If compliance has not been completed upon reinspection, the owner shall be assessed a reinspection fee established in § 150.019 for that reinspection and each subsequent reinspection for compliance.

(3) Failure to pay the reinspection fee shall constitute a failure to comply with the compliance order.

(G) *Public authority's execution of compliance orders.*

(1) Upon failure to comply with a compliance order within the time set in it and no appeal having been taken, or upon failure to comply with a modified compliance order within the time set in it, the criminal penalty established hereunder notwithstanding, the City Council may be resolution cause the cited deficiency to be remedied as set forth in the compliance order.

(2) The cost of the remedy shall be a lien against the subject real estate and may be provided by M.S. Chapter 429, as it may be amended from time to time, but the assessment shall be payable in a single installment.

(H) *Variance*. The Board of Appeals may grant a variance of any specific requirement in this subchapter if the condition existed before this subchapter's passage and complying with the requirement will pose an undue hardship upon the owner or be unreasonable under the circumstances, unless the condition threatens the safety and health of any citizen. (Ord. 145, passed 6-2-2003)

§ 150.017 ALTERNATIVE SANCTIONS.

Notwithstanding the availability of the compliance procedures and the penalties in this subchapter, whenever the Compliance Official(s) determines that any dwelling, dwelling unit, or rooming unit or the premises surrounding any of these fails to meet this subchapter's requirements, the Compliance Official may issue a violation tag summoning the responsible person into court or request the issuance of a criminal complaint and arrest warrant.

(Ord. 145, passed 6-2-2003)

§ 150.018 VIOLATIONS.

(A) Any person violating any of this subchapter's provisions by doing any act or omitting to do any act which constitutes a breach of any section of this subchapter shall upon conviction by a lawful authority be guilty of a misdemeanor.

(B) Each day that a violation continues shall be deemed a separate punishable offense.

(C) No provision of this subchapter designating the duties of any official or employee of the city shall be so construed as to make the official or employee liable for the penalty provided in this section because of failure to perform a duty, unless the City Council's intention to impose the penalty on the official or employee is specifically and clearly expressed in the section creating the duty.

(Ord. 145, passed 6-2-2003) Penalty, see §10.99

§ 150.019 FEES FOR LICENSING AND INSPECTION OF RENTAL PROPERTIES.

(A) License fee (if certified in crime free multi-housing) - \$30 per building + \$10 per individual unit; tri-annually;

(B) License fee (if not certified in crime free multi-housing) – to be heard by the City Council.

(C) Inspection fee - \$30 per building + \$10 per unit being inspected; this applies when reason exists to believe that a violation of this subchapter has been or is being committed; each day that a violation continues shall be deemed a separate punishable offense;

(D) Background check fee - \$5;

(E) Reinspection fee - \$25; if compliance has not been completed upon reinspection, the owner shall be assessed a reinspection fee established in herein for that reinspection and each subsequent reinspection for compliance; failure to pay the reinspection fee shall constitute a failure to comply with the compliance order;

(F) Filing fee for appeal - \$25; appeals must be in writing, specify the grounds for the appeal, be accompanied by a filing fee established herein, paid in cash or cashier's check, and be filed with the City

Clerk/Administrator within 5 business days after service of the compliance order; the filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless a stay would cause imminent peril to life, health, or property; and

(G) Penalty - 5% of the license fee per day; the city shall charge a delinquency penalty of 5% of the license fee for each day of operation without a valid license to rental dwelling operators.

(Ord. 145, passed 6-2-2003)

(Ord. Amendment, 5-5-08 Amending Section 150.019 of the City of Avon Code of Ordinances related to Crime Free Housing)

ADOPTED CODES

§ 150.030 MINNESOTA STATE BUILDING CODE.

(A) Application, administration, and enforcement.

(1) The application, administration, and enforcement of the code shall be in accordance with Minn. Rules, part 1300.2100, and as modified by chapter 1305, as they may be amended from time to time. The code shall be enforced within the extraterritorial limits permitted by M.S. § 16B.62, Subdivision 1, as it may be amended from time to time, when so established by this section.

(2) The code enforcement agency of this municipality is AllSpec Services (a Minnesota certified Building Official pursuant to M.S. § 16B.65, as it may be amended from time to time).

(B) Permits and fees.

(1) The issuance of permits and the collection of fees shall be as authorized in M.S. § 16B.62, Subdivision 1, and as provided for in Chapter 1 of the 1997 Uniform Building Code and Minn. Rules, parts 1305.0106 and 1305.0107, as they may be amended from time to time.

(2) Permit fees shall be assessed for work governed by this code in accordance with the tables of this section and Ordinance No. 139. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S. § 16B.70, as it may be amended from time to time.

(C) *Violations.* A violation of the code is a misdemeanor (M.S. § 16B.69, as it may be amended from time to time).

(D) Building Code.

(1) The Minnesota State Building Code, established pursuant to M.S. §§ 16B.59 through 166.75, as they may be amended from time to time, or as currently adopted by the State of Minnesota is hereby adopted as the building code for this jurisdiction. The code is hereby incorporated in this section as if fully set out herein.

(2) The Minnesota State Building Code (1998 version with several individually updated chapters) includes the following chapters of Minnesota Rules:

- (a) 1300 Code Administration;

- (b) 1301 Building Official Certification;
- (c) 1302 State Building Construction Approvals;
- (d) 1305 Adoption of the 1997 Uniform Building Code including Appendix Chapters:
 - 1. 3, Division I, Detention and Correctional Facilities;
 - 2. 12, Division II, Sound Transmission Control;
 - 3. 15, Reroofing;
 - 4. 16, Division I, Snowload Design;
 - 5. 29, Minimum Plumbing Fixtures; and
 - 6. 31, Division II, Membrane Structures.
- (e) 1307 Elevators and Related Devices;
- (f) 1315 Adoption of the 1999 National Electrical Code;
- (g) 1325 Solar Energy Systems;
- (h) 1330 Fallout Shelters;
- (i) 1335 Floodproofing Regulations;
- (j) 1341 Minnesota Accessibility Code;
- (k) 1346 Adoption of the 1991 Uniform Mechanical Code;
- (l) 1350 Manufactured Homes;
- (m) 1360 Prefabricated Buildings;
- (n) 1361 Industrialized/Modular Buildings;
- (o) 1370 Storm Shelters (Manufactured Home Parks);
- (p) 4715 Minnesota Plumbing Code; and
- (q) Minnesota Energy Code 7672 (with option of chapter 7670), 7674, 7676, and 7678.

(E) *Effective date.* This section, passed by the Avon City Council on 8-5-2002, shall become effective upon publication and notice on 10-1-2002.
 (Ord. 138, passed 8-5-2002) Penalty, see § 10.99

§ 150.031 UNIFORM HOUSING CODE.

(A) The provisions of the Uniform Housing Code are hereby adopted and made a part of this section as if set out here in full.

(B) Any violation of the Uniform Housing Code adopted by reference in division (A) above is a violation of this section when it occurs in the City of Avon. Any person violating any of the provisions of this section shall be in violation of the same offense as provided for in the Uniform Housing Code and shall be subject to the same penalty or penalties as provided for in the Uniform Housing Code.

(C) The City Clerk/Administrator is authorized to mark and designate a copy of the Uniform Housing Code as an official copy.

(D) This section shall be in effect from and after its publication.
(Ord. 114, passed 5-4-1992) Penalty, see § 10.99

§ 150.032 BUILDING PERMIT FEES.

Applicants requiring a building permit shall pay a fee pursuant to the most current building permit fee schedule on file.

EXHIBIT 1

BUILDING PERMIT FEES

<u>TOTAL VALUATION</u>	<u>FEE</u>
\$1.00 TO \$500.00	\$21
\$501.00 TO \$2,000.00	\$21 for the first \$500.00 plus \$2.75 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 TO \$25,000.00	\$62.25 for the first \$2,000.00 plus \$12.50 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 TO \$50,000.00	\$349.75 for the first \$25,000.00 plus \$9.00 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 TO \$100,000.00	\$574.75 for the first \$50,000.00 plus \$6.25 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 TO \$500,000.00	\$887.25 for the first \$100,000.00 plus \$5.00 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00

\$500,001.00 TO \$1,000,000.00

\$2,887.25 for the first \$500,000.00 plus \$4.25 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00

\$1,000,001.00 AND UP

\$5,012.25 for the first \$1,000,000.00 plus \$2.75 for each additional \$1,000.00, or fraction thereof.

RESIDENTIAL ONLY

Reside, reshingle, remodel (kitchens
Bathrooms, etc), windows, decks

\$1.00 to \$5,000.00

\$5,001.00 to \$10,000.00

\$10,001.00 to \$20,000.00

\$20,001 to \$30,000.00

FEE

\$35.00

\$60.00

\$85.00

\$110.00

Zoning Permit Fee

\$15.00 (1/2 City-1/2 Building Official) includes signs less than 30' in height

Sign Permit Fee

\$100.00 (1/2 City-1/2 Building Official) signs 30' plus

PLAN CHECK FEE

Residential Single Family Dwelling
(New Construction and Additions)

\$100.00 minimum

\$60.00 per hour exceeding 1 hour

30% of total plan check to be retained by City

Commercial

60% of building permit fee

10% to be retained by City

STATE FEE (SURCHARGE)

Plumbing Permit (Fixture or item)

\$.50 per thousand (.0005 x total value)

Mechanical Fee

\$8.00 per roughed in fixture or item

Valuation X .01% plus surcharge of .0005 X Valuation

OTHER INSPECTIONS AND FEES:

1. Inspections outside of normal business hours.....\$42.00 per hour*
2. Reinspection fees assessed under provisions of Section 305.8.....\$42.00 per hour*
3. Inspections for which no fee is specifically indicated (minimum charge—one-half hour)..... \$42.00 per hour*
4. Additional plan review required by changes, additions or revisions to plans.....\$42.00 per hour*
5. For use of outside consultants for plan checking and inspections, or both..... \$42.00 per hour*

*Or the total hourly cost to the jurisdiction, whichever is greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

**Actual costs include administrative and overhead costs.

JANUARY 2009

UNDERGROUND FUEL TANKS

§ 150.045 REMOVAL OF UNDERGROUND FUEL TANKS.

Except as herein provided, all underground fuel storage tanks which have been out of service for 1 year or more shall be removed under the direction of the Avon Fire Department or City Maintenance Supervisor.
(Ord. 109, passed 1-9-1989) Penalty, see § 10.99

§ 150.046 FILLING OF UNDERGROUND FUEL TANKS.

Any fuel tank that has been out of service for more than 1 year but which is now lying entirely underneath a building shall, in lieu of being removed, be filled with a material approved by the Avon Fire Department or City Maintenance Supervisor.
(Ord. 109, passed 1-9-1989) Penalty, see § 10.99

§ 150.047 FAILURE TO REMOVE OR FILL UPON NOTICE OF FIRE CHIEF.

When any person fails to comply with §§ 150.045 or 150.046 the same shall constitute a public nuisance and be abated in the manner prescribed under the laws of the City of Avon and/or State of Minnesota governing the abatement of nuisances.
(Ord. 109, passed 1-9-1989) Penalty, see § 10.99

§ 150.048 PERMIT TO REMOVE OR FILL TANK.

No person shall remove or fill an underground fuel tank without first receiving a written permit from the City of Avon and after receiving the permit, shall undertake the filling or removal subject to inspection by the City Maintenance Supervisor.
(Ord. 109, passed 1-9-1989) Penalty, see § 10.99

§ 150.049 PREVIOUSLY FILLED TANKS.

Any underground fuel tanks that have been filled with sand prior to the effective date of this subchapter shall not be required to be removed under the terms of this subchapter.
(Ord. 109, passed 1-9-1989)

§ 150.050 EFFECTIVE DATE.

This subchapter shall become effective upon its passage and its publication.
(Ord. 109, passed 1-9-1989)

CHAPTER 151: SUBDIVISION REGULATIONS

SECTION 1

INTRODUCTION

SECTION 1. SECTION: 1

- 1.1: Title**
- 1.2: Purpose**
- 1.3: Compliance**
- 1.4: Interpretation of Standards**
- 1.5: Severability**
- 1.6: Amendments**
- 1.7: Violations and Penalties**
- 1.8: Minor Subdivisions/Waiver of Subdivision Platting Requirements**
- 1.9: Premature Subdivisions**

1.1: Title:

- A. This ordinance has been adopted as Ordinance No. 160 of the City Code of the City of Avon, and shall be known and may be cited as the Avon Subdivision Ordinance.

1.2: Purpose:

These regulations are adopted for the following purposes:

- A. To assist and assure the orderly, efficient and integrated development of the City in compliance with the Avon Comprehensive Land Use Plan.
- B. To promote the health, safety, and general welfare of the residents of the city.
- C. To secure and ensure fair and equitable handling of all subdivision plans by providing uniform minimum standards and procedures.
- D. To protect the character, social stability, and economic stability of all areas of the City and to encourage the orderly and beneficial development of the City.

1.3: Compliance:

- A. Hereafter, no lot in a subdivision may be sold, no grading shall commence, no permit to erect or alter any building upon land in a subdivision may be issued, and no building may be erected in a subdivision, unless and until a subdivision plat has been approved and, where required, recorded, and until the improvements required by the Council in connection therewith have either been constructed and accepted, as herein provided.

1.4: Interpretation of Standards:

- A. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules, regulations or ordinances, the provisions of this Ordinance shall control.

1.5: Severability:

- A. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect the remainder of this Ordinance.

1.6: Amendments:

- A. The City Council may introduce and consider amendments to the Ordinance as proposed by a Council member, by the Planning Commission or by a petition of a person residing or owning property within the City.

1.7: Violations and Penalties:

A. Sale of Lots from Unrecorded Plats.

It is unlawful for any person to sell, trade or otherwise convey or offer to sell, trade or otherwise convey any lot or parcel of land as a part of, or in conformity with, any plan, plat or replat of any subdivision or area located within the jurisdiction of this Chapter unless said plan, plat or replat shall have first been recorded in the Office of the County Recorder or waived as provided for in this Ordinance.

B. Receiving or Recording Unapproved Plats.

It is unlawful for any person to receive or record in any public office any plans, plats or replats of land laid out in building lots and street rights-of-way, alleys or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the City, unless the same shall bear thereon, by endorsement or otherwise, the review of the Planning and Zoning Commission and the approval of the City Council.

C. Misrepresentation as to Construction, Supervision or Inspection of Improvements.

It is unlawful for any person, owning an addition or subdivision of land within the City, to represent that any improvements upon any of the street rights-of-way, alley or avenues of said addition or subdivision, or any utility in said addition or subdivision have been constructed according to the plans and specifications approved by the City Council, or have been supervised or inspected by the City, when such improvements have not been so constructed, supervised, or inspected.

D. Violation A Misdemeanor.

Every person who violates a section, subdivision, paragraph or provision of this ordinance when he/she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

1.8 Administrative Subdivision Requirements:

A. Application: The following applications shall be Administrative Subdivisions:

1. Divisions of land where the division is to permit the adding of a parcel of land to an abutting lot or to create no more than two (2) lots and the newly created property line will not cause the land or any structure to be in violation of this Chapter, the Comprehensive Land Use Plan or the Zoning Ordinance.
2. The subdivision of base lots containing two-family, townhouse, or quadraminimum dwellings which are part of a recorded plat where the division is to permit individual private ownership of a single dwelling unit within such a structure and the newly created property lines will not cause any of the unit lots or the structures to be in violation of this Chapter, the Comprehensive Plan or the Zoning Ordinance.

B. Data Required.

1. Certificate of Survey: Administrative subdivisions shall be prepared and signed by a Minnesota licensed land surveyor in the form of a Certificate of Survey. Said survey shall contain a legal description for the parcels to be created. Fifteen (15) copies of the survey shall be submitted to the City Clerk not less than two weeks prior to the next Planning Commission meeting. Said survey shall also indicate location of existing structures, wells, easements and/or other encumbrances located on the property.
2. Completed application form and fee.
3. Proof of ownership or title to the property.
4. Any additional information determined appropriate by the Zoning Administrator to ensure compliance with City requirements.

C. Requirements. The following requirements must be met prior to approval:

1. A drainage and utility easement at least ten (10) feet wide must be provided along all front and rear property lines and over wetlands, ponds, lakes, drainage channels and tributaries. A drainage and utility easement at least five (5) feet wide must be provided along all side property lines. Corner lots shall be defined as having two front yards for this provision. Dedication of roadway easements consistent with the City's Comprehensive Plan or Transportation Plan may also be required.
2. The subdivision must comply with the design and dedication requirements of this ordinance and/or the Avon Zoning Ordinance.
3. All public improvements required by this ordinance or the Avon Zoning Ordinance must be installed in accordance with this Chapter.
4. All lots must have direct access onto an improved public street.

5. The lot shall not have been part of an Administrative Subdivision within the last five (5) years.

D. Processing

1. Following review and approval by the Planning Commission, the City Clerk shall, within ten (10) days, certify to the applicant that the platting requirements of this ordinance do not apply to the requested land division.
2. The Zoning Administrator may request input from the City engineering or legal staff, as appropriate.
3. The Zoning Administrator shall reach a decision on the requested Administrative Subdivisions within ninety (90) days of the complete application. Approval may be given with conditions that the applicant must meet.
4. If the Administrative Subdivision is approved by the Zoning Administrator, the City Clerk and/or applicant shall record the deed and new legal descriptions. All other accompanying or other applicable documents shall be recorded in the Office of the Stearns County Recorder within sixty (60) days after the date of approval, otherwise the approval of the Administrative Subdivision shall be considered void.
5. The applicant may appeal an Administrative Subdivision denial following the procedures outlined in the Avon Zoning Ordinance.

1.9: Premature Subdivisions:

- A. Any Administrative Subdivision or preliminary plat of a proposed subdivision deemed premature for development shall be denied by the City Council.

B. Conditions Establishing Premature Subdivisions.

A Subdivision may be deemed premature should any of the conditions set forth in the provisions which follow exist.

1. Lack of Adequate Drainage.

A condition of inadequate drainage shall be deemed to exist if

- (a) Surface or subsurface water retention and runoff is such that it constitutes a danger to the structural security of the proposed structures.
- (b) The proposed subdivision will cause pollution of water sources or damage from erosion and siltation on downhill or downstream land.

(c) The proposed site grading and development will cause harmful and irreparable damage from erosion and siltation on downhill or downstream land.

(d) Factors to be considered in making these determinations may include, but not limited to:

- a. Average rainfall for the area.
- b. The relation of the land to floodplains.
- c. The nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems.
- d. The slope of the land and its effect on effluents.
- e. The presence of streams as related to effluent disposal.

2. Lack of Adequate Water Supply.

A proposed subdivision shall be deemed to lack an adequate water supply if the proposed subdivision, if developed to its maximum permissible density, does not have adequate sources of water to serve the proposed subdivision without causing an unreasonable depreciation of existing water supplies for surrounding areas.

3. Lack of Adequate Streets or Highways to Serve the Subdivision.

A proposed subdivision shall be deemed to lack adequate streets or highways to serve the subdivision when:

- a. Streets which currently serve the proposed subdivision and/or that are proposed to serve the subdivision are of such a width, grade, stability, site distance and surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare and, when with due regard to the advice of the county or state and their respective design standards, said roads are inadequate for the intended use.
- b. The traffic volume generated by the proposed subdivision as calculated by the City Engineer and subject to generally accepted generation computation formulas and design standards would create unreasonable highway congestion at the time of the application or proposed for completion within the next two (2) years.

4. Lack of Adequate Waste Disposal Systems.

A proposed subdivision shall be deemed to lack adequate waste disposal systems if there is inadequate sewer capacity in the present system to support the subdivision if developed to its maximum permissible density after reasonable sewer capacity is reserved for schools, planned public facilities, and commercial and industrial development projected for the next five (5) years. Expected wastewater generation rates applicable to a proposed subdivision shall be based on generally accepted generation computation formulas as assigned by the City Engineer.

5. Lack of Adequate City Support Facilities.

A proposed subdivision shall be deemed to lack adequate public support facilities such as parks and recreational facilities, schools, and police, fire and ambulance protection and services when said

support facilities are reasonably expected to be necessitated by the subdivision and can not be reasonably provided for within the next five (5) fiscal years.

6. Inconsistency with Comprehensive Land Use Plan.

A subdivision shall be deemed premature if it is found to be inconsistent with the purposes, objectives and recommendations of the duly adopted Comprehensive Land Use Plan of the City of Avon, as may be amended from time to time.

7. Inconsistency with Environmental Protection Policies.

A proposed subdivision shall be deemed premature if it is found to be inconsistent with environmental protection policies set forth within city, county, state, and federal rules and regulations, as may be amended.

C. Burden of Establishing.

The burden shall be upon the applicant to show that the proposed subdivision is not premature.

CHAPTER _____

SECTION 2

CONCEPTUAL PLANNING

SECTION:

2.1: Pre-Application Conference

2.2: Concept Plan

2.3: Effect on Future Approvals

2.1: Pre-Application Conference:

A. A person or corporation desiring approval of a plat of a subdivision shall appear before the Avon Planning Commission and/or the Avon City and Avon Township Joint Planning Board, if applicable, to discuss a proposed subdivision before filing an application for preliminary plat approval.

The subdivider shall be prepared to discuss the details of his proposed subdivision, including (but not limited to) such items as:

1. The proposed use
2. Existing features of the area
3. Existing covenants
4. Land characteristics
5. Availability of community facilities and utilities
6. Proposed development boundary
7. Play areas or public areas
8. Proposed protective covenants
9. Proposed project phasing

B. The subdivider shall submit a concept plan as outlined in Section 2.2.

C. The Planning Commission and Board will respond to questions from the subdivider, will review procedures and requirements for platting and may suggest changes to the plan. The City Engineer and City Attorney may be included as part of this review process.

D. The subdivider shall pay the fee established by the City Council (per the current fee schedule).

2.2: Concept Plan:

A. The subdivider shall prepare a concept plan to present to the Planning Commission at the Pre-Application Conference. The plan should include and/or address the following:

1. A statement that the proposed subdivision is not premature pursuant to Section 1.9 of this Ordinance.

2. How the project will be phased.
3. Any additional information as requested by the City Clerk that is pertinent to the review of the proposed subdivision.
4. A minimum of fifteen (15) copies of the concept plan are required for the Pre-Application Conference on an 11" x 17" (minimum) sheet size. The concept plan shall be drawn at an engineering scale, include the proposed development boundary, proposed lot lines and right-of-ways, existing features in the form of topographic survey data, and include a border identifying the company who prepared the plan. This concept plan will be used to show the Planning Commission the location, proposed street and lot layout and any other significant features of the proposed subdivision.

2.3: Effect on Future Approvals:

- A. Concept plan review does not convey any legal development rights to the subdivider and/or property owner.

CHAPTER _____

SECTION 3

PRELIMINARY PLAT

SECTION:

3-1: Procedure

3-2: Preliminary Plat

3-3: Duration of Approval

3.1: Procedure:

After the Pre-Application Conference, the subdivider shall submit an application for approval of a preliminary plat to the Clerk.

A. The application shall be accompanied by the following:

1. Fifteen (15) 11 x 17 copies of all maps and data set forth in Section 3.2 of this Ordinance, and 3 copies at a scale of no smaller than 1 inch equals 100 feet (or as practical). Any scale smaller than this would need approval by the City. If the plat abuts a county highway the developer shall deliver one (1) copy of the preliminary plat (including the grading and drainage plan) to the Stearns County Highway Engineer. If the plat abuts a state highway the developer shall deliver one (1) copy of the preliminary plat (including the grading and drainage plan) to the MnDOT district engineer. The City may request design documents in a digital format for review by the City Engineer.
2. An application fee and escrow deposit as established by the City Council.

B. The applicant shall supply documents directly to other units of government as applicable to the proposed plat and as required by applicable State Statutes or Rules.. Said documents shall include a cover letter indicating that a preliminary plat is being considered by the City of Avon and that said units of government should provide their respective comments regarding the plat to the City Clerk prior to the public hearing and/or within the applicable time frames. The Clerk shall send one (1) copy each of the maps and data sheets submitted with the application to the Engineer, Attorney, the City Council members and members of the Planning Commission. The Engineer shall report any findings to the Planning Commission within 15 days.

C. Once the City Clerk determines the preliminary plat application to be complete, the Clerk shall set a public hearing on the preliminary plat, the time and place to be published once in the official newspaper at least ten (10) days before the day of its hearing.

D. The Planning Commission shall conduct the hearing, review the application and any reports presented by City Staff and shall, within 45 days of submittal of the complete application, make a recommendation to the City Council regarding the approval, approval with conditions, or denial of the plat proposed in the application. At all times the City shall comply with the provisions of Minnesota Statutes Chapter 15.99.

E. The preliminary plat shall be reviewed and acted upon by the City Council after being received from the Planning Commission. Approval of the preliminary plat by the City Council is required before the final plat will be considered by either the Planning Commission or the City Council.

3.2: Preliminary Plat:

The following maps and data shall be submitted with the application for preliminary plat approval. The City Clerk or the Planning Commission may request additional information pertinent to review of the preliminary plat. These maps and data shall be on separate sheets.

- A. A location map of the proposed subdivision showing:
 - 1. Location within the City (Vicinity Map);
 - 2. Zoning of the tract and adjacent properties;
 - 3. Existing related streets including the distance therefrom.

- B. A preliminary plat of the proposed subdivision showing all lands owned by the subdivider and all lands within three hundred feet (300) of its boundaries drawn at a scale no smaller than one hundred feet (100) to each inch (1") showing:
 - 1. Subdivision name;
 - 2. Names and addresses of owner and subdivider and the names of the city planner, land planning consultant, engineer or surveyor who prepared the plan;
 - 3. Existing contours of the site at minimum vertical intervals of one foot (1');
 - 4. Character and location of natural or artificial features existing on the land which would affect the design of the subdivision, such as wooded areas, streams, direction and gradient of ground slope, embankments, retaining walls, buildings, or non-residential usage of land;
 - 5. Existing structures in and adjacent to the area to be subdivided;
 - 6. Street pattern, including the names (which shall not duplicate existing streets in the City unless, it is an extension of an existing street), widths of rights-of-way of streets, widths of easements for alleys;
 - 7. Existing and proposed streets and rights-of-way, including dedicated widths, roadway widths, appropriate gradients; types and widths of pavements, curbs and sidewalks;
 - 8. Layouts of lots, including dimensions, numbers, building set back lines or front yard lines;
 - 9. Existing City owned utilities such as but not limited to gravity sanitary sewer main, forcemain, water main, storm sewer main, and each system's associated laterals;
 - 10. Proposed City owned utilities such as but not limited to gravity sanitary sewer main, forcemain, water main, storm sewer main, and each system's associated laterals;
 - 11. Existing private small utilities such as but not limited to gas, telephone, electric, cable-TV, fiber optic cables;
 - 12. Existing and proposed easements, including widths and purposes;
 - 13. Certificate of survey of entire subdivision;
 - 14. Parcels of land to be dedicated or served for schools, parks, playgrounds or other public or community use;
 - 15. Areas subject to periodic overflow of flood or storm water such as wetlands;
 - 16. Flood Zone designation, if available, overlaid on the Preliminary Plat;
 - 17. Areas subject to shoreland regulations;
 - 18. Title, key plan, legend, notes graphic scale, north point and date;

19. A wetland delineation should be completed and approved prior to submitting a Preliminary Plat;
20. Landscaping Plan.

C. Engineering plans for the proposed subdivision showing:

1. Preliminary Grading and Drainage Plan which indicates the proposed storm sewer system with hydrology calculations, shows the existing topography (minimum 1' vertical contours) as well as the proposed topography (including streets at a minimum 1' vertical contours), and also includes proposed pad elevations with the proposed structure type. All storm utility structures shall be labeled and indicate a rim and invert elevation. All storm utilities shall be labeled for size and material.
2. Preliminary Utility Plan which indicates the sanitary sewer and water main routing, proposed manhole, lift station, and hydrant locations. This plan shall account for recommended trunk main sizing identified in the City of Avon's comprehensive plans (if applicable). All structures shall be labeled and indicate a rim and invert elevation. All utilities shall be labeled for size and material type. This plan shall also include street lighting.

D. Restrictions

The preliminary plat submittal shall include a draft of the protective covenants or private restrictions to be incorporated in the final subdivision plat.

E. Phasing Plan.

All preliminary plats shall include a phasing plan that includes the sequence of development an approximate areas, number of lots in each phase, and total area and buildable area per phase serially numbered with a description of each phase. Information shall be provided regarding the number of dwelling units, proposed improvements and common facilities for each; a site grading plan that is coordinated with the phasing plan to avoid premature disruption of land or long-term storage of excess materials.

3.3: Duration of Approval:

- A. Preliminary plat approval shall exist for a period of one (1) year from the date of approval by the Council. If final plat requirements are not met within that time and approval granted by the Council, the preliminary plat approval shall be vacated and the Developer must recommence the preliminary plat process and obtain all necessary approvals before any final plat will be considered.
- B. A recommendation of approval of a preliminary plat shall not constitute approval of the final plat nor does it grant permission for the owner/subdivider/developer to begin alterations to or construction on the proposed subdivision property.

SECTION 4

FINAL PLAT

SECTION:

- 4.1: Procedure**
- 4.2: Final Plat**
- 4.3: Recording**
- 4.4 Supplementary Documents**
- 4.5 Development Agreement**
- 4.6 Payment of Area Fees**
- 4.7 City Financing and Cost Participation**

4.1 Procedure:

After preliminary plat approval is obtained the subdivider shall submit a final plat application to the City Clerk.

- A. The final plat application shall be accompanied by:
 - 1. Fifteen (15) 11 x 17 prints and one (1) full size print of the plat for City review and approval. After the plat has been recorded, a fully executed mylar shall be provided to the City.
 - 2. Demonstrated compliance and substantial conformance with any and all conditions that were established or directed by the City Council at the time of Preliminary Plat approval.
 - 3. An application and filing fee as established by the City Council.
- B. The Clerk shall send copies of the application and plat to the City Planning Commission for review. If the Planning Commission finds that the final plat is in substantial conformance with the approved Preliminary Plat approval, the Chairman or other authorized member shall endorse the plat and submit it to the City Council for consideration at its next meeting.
- C. If the Council approves the plat, the Mayor or other authorized member shall endorse the plat and return it to the subdivider. If not approved, the Council shall send a written statement of the findings of facts for such action and return it to the subdivider. Failure of the Council to act on the Final Plat within sixty (60) days of its acceptance by the Clerk will be recorded as approved (unless a signed extension has been executed).
- D. Developer shall enter into a Development Agreement with the City prior to or coinciding with the City Council's consideration of the Final Plat approval. The City Council may approve the Final Plat with conditions, but the City will not endorse or record the plat or sign or record the

final Development Agreement until all conditions are met to the satisfaction of the City Clerk, City Engineer, and City Attorney.

4.2: Final Plat:

- A. The final plat shall be drawn at a scale no smaller than one hundred feet (100') to one inch (1"). The overall size of the sheets shall be as required by the County Recorder. An eleven inch by seventeen inch (11" x 17") reduced print of each plat sheet shall also be submitted.
- B. The final plat shall show:
 - 1. All necessary data required by Minnesota State Statute 505.
 - 2. Square footage of each lot shall be shown on the left binding of the plat.
 - 3. The name of the subdivision shall be simple in nature, easy to pronounce, shall not duplicate an exact name of any plat of record in Stearns County.
 - 4. The final plat submitted to the City shall be accompanied by a certified check or money order in an amount as established by the City Council.
 - 5. Form of approval by the City Council as follows:

Approved by the City Council of Avon, MN, this _____ day of _____, 20____.

Signed _____ Attest _____
Mayor City Clerk

4.3: Recording:

- A. The subdivider and/or City Clerk shall present a cop(ies) of the approved final plat to the County Recorder pursuant to that Office's requirements. Unless the plat is duly recorded and a certified copy of the recorded plat is presented to the Clerk within six (6) months from the date of final plat approval, City approval of the plat is void.

4.4 Supplementary Documents:

The following shall also be provided to the City:

- A. A recorded mylar copy of the subdivision as approved by the City.
- B. A complete set of subdivision development plans containing plans and specifications to construct the required public improvements and to make the subdivision suitable for development, which conform to the City requirements.
- C. A certified copy of the plat evidencing filing of the plat with the County within six (6) months after approval by the City. Infrastructure construction will not be allowed to begin and ~~Ne~~

building permits will not be approved for construction of any structure on any lot in said plat until the City has received evidence of the plat being recorded by Stearns County.

- D. A complete set of record drawings for any public improvements constructed in the subdivision shall be furnished to the City as soon as the construction is complete and approved by the City.
- E. Copies of any protective or restrictive covenants affecting the subdivision or any part thereof.
- F. Upon adoption and filing of a final plat, the City shall prepare a street address map and distribute it to the applicant, utility companies, police department and County.

4.5 Development Agreement:

Before the Council approves a final plat the subdivider/owner/developer shall enter into a development agreement for the new subdivision. A development agreement is necessary whether the subdivider/owner/developer chooses to construct an improvement with public or private financing.

4.6 Payment of Area Fees:

The subdivider/owner/developer shall pay to the City of Avon all trunk area fees at the time of final platting. The trunk area fees shall be calculated based on developable acres, which is defined as the gross plat area less the area of delineated wetlands. The trunk area fee schedule is on file at Avon City Hall. Payment must be received in full within 10 days of final plat approval.

4.7 City Financing and Cost Participation:

City Financing and Cost Participation in any component of a subdivision shall be guided by the current adopted City of Avon Assessment Policy. Said Assessment Policy is on file at Avon City Hall.

CHAPTER _____

SECTION 5

SUBDIVISION DESIGN STANDARDS

SECTION:

- 5.1: **Planned Developments**
- 5.2: **Parks, Open Space and Public Use**
- 5.3: **Natural Features**
- 5.4: **Streets, Sidewalks, and/or Trails**
- 5.5: **Blocks**
- 5.6: **Lots**
- 5.7: **Easements**
- 5.8: **Water and Sewer Systems**
- 5.9: **Water and Sewer Services**
- 5.10: **Storm Water Management Systems**

5.1: Planned Developments:

- A. The design standards of this ordinance may be modified by the Council in the case of a plan utilizing a concept of clustered or non-standard development which meets the requirements of this section. The planned development provision is intended to encourage original and imaginative subdivision design which preserves the natural amenities of the site and provides for the general welfare of the City.
 - 1. The plan shall be consistent with the spirit and intent of this ordinance.
 - 2. The plan shall conform to the Planned Unit Development District requirements of the Avon Zoning Ordinance.
 - 3. Properties adjacent to the plan shall not be adversely affected.

5.2: Parks, Open Space and Public Use:

- A. Where a proposed park, playground, school site or other public site shown on an adopted Comprehensive Plan or official map is encompassed in part or in whole by a boundary of a proposed subdivision, such public ground shall be shown as reserved land on the preliminary plat to allow the Council, Board of Education or County or State agency the opportunity to consider and take action toward acquisition of such public ground or park or school site by dedications, purchase or other means prior to approval of the final plat.
- B. It is declared general policy that in all new subdivisions, five (5) percent of the gross area of all property subdivided, or ten (10) percent of the net developed area (net of delineated wetlands only), whichever is greater, shall be dedicated for parks, playgrounds or other public use. Such

dedicated area shall be in addition to the property dedicated for streets, alleys, waterways, pedestrian ways or other public ways.

No areas may be dedicated as parks, playgrounds or public lands until such areas have been approved for the purpose to which they are to be dedicated. The park land shall be graded to the contours set forth in the preliminary plat.

The developer shall provide a minimum of five (5) inches of topsoil over the entire park area and the area shall be seeded with a type of seed approved by the City. The financial guarantees by the developer to the city shall be in effect at least until such time that the park land is graded and seeded.

- C. Those areas to be used for organized playground activities shall have a slope of less than two (2) percent grade and be largely clear of forest vegetation. Other areas to be dedicated may be forested and may have steeper slopes.
- D. When the subdivision is small or does not include a park or public area shown on the Comprehensive Plan, or if in the judgment of the Council the area proposed to be dedicated is not suitable or desirable for park/playground purposes because of location, size or other reason, the Council may require, in lieu of land dedication, a payment to the municipality of a sum as established in the current City of Avon fee schedule. Payment is to be made within 10 days of final plat approval.
- E. Such dedication of land for public use shall be without restrictions or reservations and shall be transferred to the City by deed or by plat. Money given to the City in lieu of land shall be used by the City only for park purposes.

5.3: Natural Features:

Existing, natural features which would add value to the subdivision and the City such as trees, steep slopes, watercourses, historic spots and similar irreplaceable assets shall be preserved, insofar as possible, through harmonious design of the subdivision.

5.4: Streets, Sidewalks and/or Trails:

- A. The City Council shall not approve any plat unless all streets shown thereon shall be of sufficient width and shall be so located as to accommodate the probable volume of traffic thereon, afford adequate light and air, facilitate fire protection, provide access of fire fighting equipment to buildings, provide ease of maintenance, and provide a coordinated system of streets conforming to the City street plan.
 - 1. In the case of subdivision for commercial, industrial and public purposes, no street giving access upon a state or federal highway shall be located closer than five hundred (500) feet along the same side of such highway, to any other driveway, public or private street in the same or another subdivision.
 - 2. Unless otherwise specified by the City, surmountable curb shall be installed as part of any new street construction.

3. Local streets shall be so planned as to discourage through traffic.
4. Wherever there exists a dedicated or platted portion of a street or alley along a boundary of the tract being subdivided, the remainder of said street or alley, to the prescribed width, shall be platted within the proposed subdivision,
5. Half streets shall not be provided, except where it is essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, or where it becomes necessary to acquire the remaining half by condemnation so it may be approved in the public interest.
6. Dead end streets shall be prohibited unless provided with a turnaround or cul-de-sac arrangement.
7. Cul-de-sacs shall normally not be longer than six hundred (600) feet including a turnaround which shall be provided at the closed end with a face of curb radius of not less than forty-five (45) feet. The minimum Right-of-Way for a cul-de-sac shall be sixty (60) feet. The maximum grade of the turnaround portion of the cul-de-sac shall be five (5) percent.
8. Alleys shall not be provided in residential districts but shall be included in commercial and industrial areas where needed for loading and unloading or access purposes.
9. Street jogs with center line offsets of less than one hundred twenty-five (125) feet shall be avoided.
10. Intersections of more than two streets at one point shall be avoided.
11. Right-of-way requirements may be increased for specific thoroughfares if existing or anticipated traffic flow warrants it, or if drainage easements parallel such thoroughfares. Such increased width will be set by the City Council under the advisement of the Planning Commission and the City Engineer.
12. The City reserves the right to request specific street widths (increased from the minimum) within a plat. Such increased width will be set by the City Council under the advisement of the Planning Commission and the City Engineer.
13. Minimum right-of-way widths, street widths⁽¹⁾, angle of intersections, curb radius, distances along sides of sight triangles, horizontal alignments, vertical alignments as well as maximum grades shall be in accordance with the following, table:

	Arterial Streets	Collector Streets	Local Streets	Cul-de Sacs	Alleys
Right-of Way Width	100	70	60	60	33
⁽¹⁾ Street Width	52	44	⁽³⁾ 32	45R	20
Maximum Grade	8%	12%	12%	12%	12%
Minimum Angle for Intersection	90 deg.	90 deg.	80 deg.	80 deg.	80 deg.
Minimum Curb Radius	35'	30'	25'	⁽²⁾ 35'	5'
Grades for 25' Before Intersection	3%	3%	3%	3%	3%
Horizontal Alignment (minimum radii of center line)	600	220	150	100	100
Vertical Curves (minimum sight distance)	500	350	200	100	100

(1) Street measurements are in reference to the Face-of-Curb.

(2) The 35' radius is the return curve.

(3) A standard City street width is 36' FC-FC.

14. Sidewalk/Trail minimum standards:

<u>Class of Street</u>	<u>Sidewalk Width (Ft)</u>	<u>Trail Width ROW/Paved</u>
Arterial	6	20/8
Collector	6	15/8
Local/Minor	6	15/8

5.5: Blocks:

- A. Blocks shall ordinarily not exceed one thousand (1,000) feet in length. Where it is necessary for blocks to exceed the length, pedestrian ways and/or easements, at least eight (8) feet in width may be required near the center of the block.

5.6: Lots:

- A. Lot sizes shall conform with the requirements of the City Zoning Ordinance and the lots shall be designed in accordance with the following design standards:
1. Every lot shall be provided with access adequate for the use of public safety vehicles and other public and private purposes and shall be served by a public or private street system, improved in accordance with this ordinance and connected to the general street system.
 2. Side lines of lots shall be approximately right angles to straight streets and on radial lines on curved streets. Some variation from this rule is permissible, but pointed or very irregular lots shall be avoided unless they enhance overall neighborhood design.
 3. Double frontage lots shall be avoided.
 4. When a non-residential zoned tract is subdivided into larger than required building lots and there is no covenant preventing resubdivision of the lots, such lots or parcels shall be so arranged as to permit a logical location of an opening for future streets upon resubdividing, with provisions for adequate utility connections for each subdivision.
 5. All new residential lots within the City of Avon limits will not be allowed the opportunity to subdivide.

5.7: Easements:

- A. Drainage: Where a subdivision is traversed by a watercourse, there shall be provided a drainage way, channel or drainage right-of-way conforming substantially with the lines of such watercourse, together with such further width of construction of both, as will be adequate for storm water run off. All drainage easements shall be so identified on the plat and shall be graded and sodded in accordance with City standards.

- B. Public Trails/Walkways: In addition to other open space, dedication of easement to provide connections to public trails will be required where shown on a Comprehensive Plan. Where deemed essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation and other community facilities, pedestrian easements with rights-of-way widths of not less than fifteen (15) feet shall be required.
- C. Utilities: Drainage and Utility Easements being twelve (12) feet in width and adjoining street Right-of-Ways and six (6) feet in width and adjoining lot lines shall be provided for all utilities. Wider Drainage and Utility Easements may be necessary to accommodate City utilities. The wider easements will be defined by the utility size and depth and approved by the City Engineer. They shall have continuity of alignment from block to block. Additional easements for pole-line anchors shall be provided where necessary.
- D. Wetlands and Ponds: Wetlands and sediment ponds located within a subdivision plat shall be included in a drainage and utility easement unless otherwise permitted by the City.

5.8: Water and Sewer Systems:

- A. The water supply and sewage disposal systems for the subdivision shall meet the design standards and requirements of the Minnesota Department of Health and the City of Avon.
 - 1. Subdivisions within the City of Avon requiring private wells for water service will not be permitted.
 - 2. Subdivisions within the City of Avon requiring a private sewage system for sanitary sewer service will not be permitted.

5.9: Water and Sewer Services:

- A. Only one set of sanitary sewer and water services will be allowed to a newly developed residential unit.

5.10: Storm Water Management Systems:

- A. Each new development is required to manage its storm water runoff prior to discharging off the site and shall meet the design standards and requirements of the Minnesota Pollution Control Agency and the City of Avon. A storm water pond, if necessary, shall be constructed such that the designed high water level plus one foot of elevation be entirely contained within a Drainage and Utility Easement.

CHAPTER _____

SECTION 6

IMPROVEMENTS

SECTION:

- 6.1: General Improvements**
- 6.2: Monuments and Markers**
- 6.3: Streets**
- 6.4: Storm Drainage**
- 6.5: Water Supply**
- 6.6: Sewers**
- 6.7: Utilities**
- 6.8: Grading**
- 6.9: Trees**
- 6.10: Street and Traffic Control Signs**
- 6.11: Street Lighting**
- 6.12: Construction Observation**
- 6.13: Maintenance**
- 6.14: Acceptance**

6.1: General Improvements:

- A. All of the required improvements specified in this Article shall be constructed in accordance with the City Standards for Construction and all other applicable City, County and State regulations.
- B. A subdivision project will not be allowed to be publicly bid without a signed development agreement (by the subdivider/owner/developer and the City of Avon) and all securities (financial guarantees) received by the City of Avon as defined within the development agreement.
- C. A privately financed subdivision project will not receive a Notice to Proceed without a signed development agreement (by the subdivider/owner/developer and the City of Avon) and all securities (financial guarantees) received by the City of Avon as defined within the development agreement.
- D. A Notice to Proceed will be issued by the City of Avon (for both a publicly or privately financed subdivision project) prior to construction being allowed to begin.

6.2: Monuments and Markers:

- A. Iron or steel markers shall be set at the intersection of all lines forming angles in the boundary of the subdivision; beginning and ending of all curves along street property lines; at all points where lot lines intersect curves, either front or rear; at all angles in property lines of lots and at all other lot corners.

6.3: Streets:

- A. The streets shall be graded to the grades and dimensions shown on plans and profiles and approved by the Council and shall include the following improvements:
 - 1. Suitable drainage structures, culverts, storm sewer piping, ditches and related installations shall be provided to ensure adequate drainage of all points along the streets.
 - 2. Concrete curbs and gutters shall be required on all newly constructed streets unless otherwise allowed by the City.
 - 3. The aggregate base course shall consist of latest Minnesota Department of Transportation approved material, having a thickness of not less than eight (8) inches. The Council shall have the right to determine whether this thickness is adequate for the type of street that has been proposed. The need for a sub-base material and the required thickness shall be determined by the City Engineer.
 - 4. Pavement shall be required on all streets and comply with the latest Minnesota Department of Transportation specifications and in accordance with the requirements of the City Engineer. The minimum total pavement thickness shall be 3 ½ inches.
 - 5. Street shoulders shall be constructed to a minimum width of two (2) feet with an aggregate base material (Class 2 or 5).

6.4: Storm Drainage:

- A. The construction of a storm drainage system shall conform to the following requirements:
 - 1. Ordinance No. 133 – An Ordinance Establishing Storm Water Pollution Controls for Land Disturbance Activities in Avon, Minnesota.
 - 2. Drainage ditches or channels shall have a minimum gradient of one (1) percent where terrain permits.
 - 3. Open watercourses shall have adequate capacity and erosion control to ensure safe and healthful disposal of storm water.
 - 4. Every improvement shall have a Storm Water Pollution Prevention Plan (SWPPP) which identifies temporary and permanent erosion control measures. These measures

include but are not limited to temporary seeding, permanent seeding, sodding, silt fence, inlet protection, mulching, erosion blanket, rock entrances, and a concrete washout area. The SWPPP shall also identify a stabilization schedule meeting the requirements set forth by the Minnesota Pollution Control Agency (MPCA) in the NPDES permit. Damage to adjacent property by a failure to comply with this section will be the responsibility of the subdivider.

5. The subdivider will be required to conform to the Urban Storm Water Pollution Control Ordinance and the MPCA NPDES permit requirements.

6.5: Water Supply:

- A. The subdivider shall connect to the municipal water supply system and construct a system of water mains with a service connection for each unit.
 1. Water distribution facilities shall including pipe fittings, hydrants, valves, etc., and shall be installed to serve all properties within the subdivision. Hydrants shall be located according to a minimum coverage radius of 250' and at major intersections and are subject to the approval of the City and City Engineer. Valves locations are subject to the approval of the City and City Engineer.
 2. The City of Avon water main material standard is AWWA, C-900 or C-905 (PVC).
 3. Water mains shall be a minimum of eight (8) inches in diameter and where larger mains are required to serve future growth, the City will participate in the cost to oversize these water mains (see City of Avon Assessment Policy).
 4. Looping of all water mains shall be required and shall conform to the City's Water Plan.

6.6: Sewers:

- A. The subdivider shall connect to the municipal sanitary sewer system and construct a system of sanitary sewer mains with a service connection for each lot.
 1. Sanitary sewer mains shall be a minimum of eight (8) inches in diameter and where larger mains are required to serve future growth, the City will participate in the cost to oversize these sanitary sewer mains (see City of Avon Assessment Policy).
 2. The sanitary sewer system design shall conform to the Recommended Standards for Wastewater Facilities (Ten State Standards).
 3. The sanitary sewer system shall comply with Ordinance 149 (Sewer Use Ordinance).

6.7: Utilities:

- A. Where sewer and water systems are installed, the mains shall be of adequate size and depth to accommodate future growth and utilization. All subdivisions are subject to the City of Avon's

comprehensive plans. Services shall be provided to each lot from the utility main to the lot or easement line for future connection. Wherever practical, services shall be installed as a pair (water and sewer) and extend from the main perpendicular into the lot.

- B. Every lot in a subdivision shall be capable of being served by small (private) utilities, and easements acceptable to the small (private) utility companies shall be provided. Electric, gas and other utility distribution lines shall be installed within public rights-of-way or within properly designated easements. To the fullest extent possible, underground small (private) utilities lines located in street rights-of-way shall not be installed beneath existing or proposed paved areas and in any case shall be installed prior to the placement of any paving.

6.8: Grading:

- A. Site grading shall be performed privately unless otherwise allowed by the City of Avon.
- B. The subdivider/owner/developer shall submit a final grading plan to the City Engineer for approval twenty-one (21) days prior to beginning the grading operation.
- C. The subdivider/owner/developer shall provide to the City of Avon a topographic survey submitted by a licensed engineer or land surveyor that the site grading has been performed per the grading plan within fourteen (14) days of completion (this applies if site grading is completed prior to utility and street improvements as part of a City of Avon Chapter 429 Improvement). Any variations from the grading plan must be corrected prior to construction of utilities and streets unless otherwise allowed by the City of Avon and the City Engineer.

6.9: Trees:

- A. Trees shall be planted along the streets (not within an area designated for sidewalk or drainage and utility easements) at a maximum spacing of one per residential lot or every forty (40) feet for a commercial or industrial lot. The location and types of trees must meet the approval of the Council. All such trees shall have a trunk diameter, measured at a point three (3) feet above ground level, of two and one-half (2-1/2) inches. The following tree varieties are acceptable to be planted in street rights-of-way:
- B. Norway Maple, Cleveland Norway Maple, Emerald Queen Norway Maple, Summer Shade Norway Maple, Red Maple, Sugar Maple, Ohio Buckeye, Hackberry, White Ash, Purple White Ash, Green Ash, Marshall Seedless, Summit Green Ash, Ginkgo, Imperial Honeylocust, Skyline, Kentucky Coffeetree, Ironwood, Amur Corktree, American Linden , Littleleaf Linden, Greenspire Linden, Redmond Linden

6.10: Street and Traffic Control Signs:

- A. Street name signs and traffic control signs of a type adopted or approved by the Council shall be installed at each street intersection by the subdivider on a location specified by the Engineer.

6.11: Street Lighting:

- A. A standard street light is considered to be 14-feet in height, fiberglass in composition, with a 150 Watt acorn style lamp. Maximum spacing is 400' with a street light being required at every intersection.

6.12: Driveways:

- A. Driveway width can be no more than 20' wide.

6.13: Construction Observation:

- A. Construction observation for all improvements performed within the City of Avon will be performed by the City Engineer. The City Engineer will have the authority to act within the City of Avon's interest.
- B. Construction will not be allowed to begin until the final plat has been recorded, plans and specifications have been approved by the City Council, a Notice of Award has been issued (waived if privately financed), a pre-construction conference has been held, and a Notice to Proceed has been issued. All financial guarantees must be received and approved by the City before a Notice to Proceed will be issued.
- C. When the improvement is ready for construction, the City shall inspect the site prior to commencement of work.

6.14: Maintenance:

- A. Maintenance will be addressed in the development agreement.

6.15: Acceptance:

- A. Final acceptance will occur as set forth in the development agreement.

This Ordinance was adopted the ____ day of ____ 20__, and shall be effective upon publication.

Marge Evens, Mayor

Jodi Austing-Traut, Clerk/Administrator

(Ord. 160, passed 4-11-05; Am. Ord. 166, passed -- 2006

CHAPTER 152: STORM WATER POLLUTION CONTROLS

Section

- 152.01 Purpose
- 152.02 Scope
- 152.03 Definitions
- 152.04 Financial securities
- 152.05 Notification of failure of the storm water pollution control plan
- 152.06 Storm water pollution control plan
- 152.07 Review
- 152.08 Modification of plan
- 152.09 Enforcement
- 152.10 Right of entry and inspection
- 152.11 Expenses of compliance
- 152.12 Effective date

§ 152.01 PURPOSE.

The purpose of this chapter is to control or eliminate storm water pollution, along with soil erosion and sedimentation, within the city. It establishes standards and specifications for conservation practices and planning activities which minimize storm water pollution, soil erosion, and sedimentation.
(Ord. 133, passed 9-10-2001)

§ 152.02 SCOPE.

Except where a variance is granted, any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision thereof proposing land disturbance activity within the city shall apply to the city for the approval of the storm water pollution control plan. No land shall be disturbed until the plan is approved by the city and conforms to the standards set forth herein. Notwithstanding the foregoing, for a period of 10 years from the date of adoption of this chapter, its requirements shall not apply to the initial development of individual platted lots that were approved as platted lots by the City of Avon prior to the adoption of this chapter.
(Ord. 133, passed 9-10-2001)

§ 152.03 DEFINITIONS.

For the purpose of this chapter, the following term, phrases, words, and their derivatives shall have the meaning stated below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directive.

APPLICANT. Any person or entity that applies for a building permit, subdivision approval, or a permit to allow land-disturbing activities.

BEST MANAGEMENT PRACTICES (BMP’S). Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies. Examples of **BMP’S** can be found in the current versions of the Minnesota Pollution Control Agency’s “Protecting Water Quality in Urban Areas,” and the same agency’s “Storm-Water and Wetlands: Planning and Evaluation Guidelines for Addressing Potential Impacts of Urban Storm-Water and Snow-Melt Runoff on Wetlands,” the United States Environmental Protection Agency’s “Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices,” (as a reference for **BMP’S**) and the Minnesota Department of Transportation’s “Erosion Control Design Manual.”

DEVELOPER. A person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in a land disturbance activity.

DISCHARGE. The conveyance, channeling, runoff, or drainage of storm water, including snow melt, from a construction site.

ENERGY DISSIPATION. This refers to methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to: aprons, riprap, splash pads, and gabions that are designed to prevent erosion.

EROSION. Any process that wears away the surface of the land by the action of water, wind, ice, or gravity. **EROSION** can be accelerated by the activities of people and nature.

EROSION CONTROL. Refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

EROSION AND SEDIMENT PRACTICE SPECIFICATIONS OR PRACTICE. The management procedures, techniques, and methods to control soil erosion and sedimentation, as officially adopted by either the city or local watershed group, whichever is more stringent.

EXPOSED SOIL AREAS. All areas of the construction site where the vegetation (including trees, shrubs and brush) has been removed. This includes topsoil stockpile areas, borrow areas, and disposal areas within the construction site.

FILTER STRIPS. A vegetated section of land designed to treat runoff as overland sheet flow. They may be designed in any natural vegetated form from a grassy meadow to a small forest. Their dense vegetated cover facilitates pollutant removal and infiltration.

FINAL STABILIZATION. Means that all soil-disturbing activities at the site have been completed, and that a uniform perennial vegetative cover, with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures, has been established or equivalent permanent stabilization measures have been employed.

HYDRIC SOILS. Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

HYDROPHYTIC VEGETATION. Macrophytic plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

IMPERVIOUS SURFACE. A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

LAND DISTURBANCE ACTIVITY. Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within this government's jurisdiction, including clearing and grubbing, grading, excavating, transporting and filling of land. **LAND DISTURBANCE ACTIVITY** does not mean:

- (1) Minor land disturbance activities such as home gardens and individual home landscaping, repairs, and maintenance work;
- (2) Construction, installation, and maintenance of electric, telephone, and cable television utility lines or individual service connection to these utilities, except where a minimum of 5,000 square feet of land disturbance can be anticipated;
- (3) Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural crops;
- (4) Installation of fence, sign, telephone, and electric poles, and other kinds of posts or poles; or
- (5) Emergency work to protect life, limb, or property, and emergency repairs, unless the land disturbing activity would have required an approved erosion and sediment control plan, except for the emergency, then the land area disturbed shall be shaped and stabilized in accordance with the city's requirements.

PAVED SURFACE. A constructed hard, smooth surface made of asphalt, concrete, or other pavement material. Examples include, but are not limited to, roads, sidewalks, driveways, and parking lots.

PERMANENT COVER. Final stabilization, such as grass, gravel, asphalt, and concrete.

RUNOFF COEFFICIENT. The average annual fraction of total precipitation that is not infiltrated into, or otherwise retained by, the soil, concrete, asphalt, or other surface upon which it falls that will appear at the conveyance as runoff.

SEDIMENT. The product of an erosion process. Solid material, both mineral and organic, that is in suspension, being transported, or been moved by water, air, or ice, and has come to rest on the earth's surface, either above or below water level.

SEDIMENT CONTROL. The methods employed to prevent sediment from leaving the site. **SEDIMENT CONTROL** practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

SEDIMENTATION. The process or action of depositing sediment caused by erosion.

SOIL. The unconsolidated mineral and organic material on the immediate surface of the earth.

STABILIZED. The exposed ground surface after it has been covered by sod, erosion control blanket, rip-rap, or other material that prevents erosion from occurring. Grass seed is not **STABILIZATION**.

STORM WATER. Precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage, defined in 40 C.F.R. 122.26(b)(13), as it may be amended from time to time.

STRUCTURE. Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

TEMPORARY PROTECTION. The methods employed to prevent erosion. Examples of such protection include: straw, mulch, erosion control blankets, wood chips, and erosion netting.

URBAN. Of, relating to, or characteristic of a city.

VEGETATED OR GRASSED SWALES. A vegetated earthen channel that conveys storm water while treating the storm water by biofiltration. Pollutants are removed by both filtration and infiltration.

WATERS OF THE STATE. As defined in M.S. § 115.01, Subdivision 22, as it may be amended from time to time, the term **WATERS OF THE STATE** means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or order upon the state or any portion thereof. (Constructed wetlands designed for wastewater treatment are not **WATERS OF THE STATE**. See the definition of **WETLANDS**.)

WET DETENTION FACILITY. A permanent manmade structure for the temporary storage of runoff that contains a permanent pool of water.

WETLANDS. As defined in Minn. Rules, part 7050.0130, subpart F, as it may be amended from time to time, “wetlands are those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.” Constructed wetlands designed for wastewater treatment are not “waters of the state.”

(1) Wetlands must have the following attributes:

(a) A predominance of hydric soils;

(b) Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and

(c) Under normal circumstances support a prevalence of the vegetation.

(2) A quick reference on what is an existing identified wetland would be the National Wetlands Inventory maps distributed by the U.S. Department of the Interior's Fish and Wildlife Service. They list most, but not all, wetlands.
(Ord. 133, passed 9-10-2001)

§ 152.04 FINANCIAL SECURITIES.

(A) The applicant shall provide security for the performance of the work described and delineated on the approved grading plan and the storm water pollution control plan in an amount of \$3,000 per gross acre (\$6,000 for work done in a trout stream's watershed), or \$1,000 for each single- or twin-family home, whichever is greater. The form of the securities shall be 1 or a combination of the following, to be determined by the city:

(1) The first \$3,000 of the financial security for erosion control shall be by cash deposit to the city;

(2) If at any time during the course of the work, this amount falls below the original amount of the deposit, the developer shall make another deposit in the amount necessary to restore the cash deposit to the original amount. The city may draw on the developer's letter of credit to restore the original amount of the deposit. The city will wait 5 working days after notifying the developer before drawing on the developer's letter of credit;

(3) Deposit, either with the city, a responsible escrow agent, or trust company, at the option of the city, money, negotiable bonds of the kind approved for securing deposits of public money or other instruments of credit from 1 or more financial institutions, subject to regulation by the state and federal government wherein the financial institution pledges funds are on deposit and guaranteed for payment, or deposit with the city a promissory note made payable to the City of Avon, which is secured by readily available collateral acceptable to the city to secure performance of the work; or

(4) Cash in U.S. currency.

(B) The city may act against the appropriate security if any of the conditions listed below exist. The city shall use funds from the appropriate security to finance remedial work undertaken by the city or a private contractor under contract to the city and to reimburse the city for all direct cost incurred in the process of remedial work including, but not limited to, staff time and attorney's fees:

(1) The applicant ceased land-disturbing activities and/or fills and abandons the work site prior to completion of the grading plan;

(2) The applicant fails to conform to the grading plan and/or the storm water pollution control plan as approved by the city;

(3) The techniques utilized under the storm water pollution control plan fail within 1 year of installation; and/or

(4) The city will determine what action is necessary to prevent excessive erosion from occurring on the site.

(C) Security deposited with the city for faithful performance of the grading and erosion control work to finance necessary remedial work shall be released 1 full year after the completion of installation of all storm water pollution control measures as shown on the grading and/or the storm water pollution control plan. (Ord. 133, passed 9-10-2001)

§ 152.05 NOTIFICATION OF FAILURE OF THE STORM WATER POLLUTION CONTROL PLAN.

(A) *Generally.* The city shall notify the permit holder of the failure of the storm water pollution control plan's measures.

(B) *Notification by the city.* The initial contact will be by phone to the parties listed on the application and/or the storm water pollution control plan. Forty-eight hours after notification by the city or 72 hours after the failure of erosion control measures, the city, at its discretion, may begin corrective work.

(C) *Erosion off-site.* If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right of entry from the adjoining property owner, and implement the cleanup and restoration plan with 48 hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the city, may more than 7 calendar days go by without corrective action being taken. If, in the discretion of the city, the permit holder does not repair the damage caused by the erosion, the city may do the remedial work required.

(D) *Erosion into streets, wetlands, or water bodies.* If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, cleanup and repair shall be immediate. The applicant shall provide all traffic controls and flagging required to protect the traveling public during the cleanup operations.

(E) *Failure to do corrective work.* When an applicant fails to conform to any provision of this policy within the time stipulated, the city may take the following actions:

(1) Withhold the scheduling of inspections and/or the issuance of a certificate of occupancy;

(2) Direct the correction of the deficiency by city forces or by a separate contract. The issuance of a permit constitutes a right of entry for the city or its contractor to enter upon the construction site for the purpose of correcting deficiencies in erosion control;

(3) All costs incurred by the city in correcting storm water pollution control deficiencies shall be reimbursed by the applicant if payment is not made within 80 days after costs are incurred by the city, payment will be made from the applicant's financial securities as described in § 152.04; and/or

(4) If there is an insufficient financial amount in the applicant's financial securities, as described in § 152.04, to cover the costs incurred by the city, then the city may assess the remaining amount against the property. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the city, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all

rights by virtue of M.S. § 429.081, as it may be amended from time to time, to challenge the amount or validity of assessment.

(Ord. 133, passed 9-10-2001) Penalty, see § 10.99

§ 152.06 STORM WATER POLLUTION CONTROL PLAN.

(A) *Generally.* Every applicant for a building permit, subdivision approval, or permit to allow land-disturbing activities must submit a storm water pollution control plan to the City Engineer. No building permit, subdivision approval, or permit to allow land-disturbing activities shall be issued until approval of this plan.

(B) *General policy on storm water runoff rates.* Storm water runoff rates should not increase over the predevelopment 2-year, 10-year, and 100-year storm peak discharge rates.

(C) *To be included.* The storm water pollution control plan shall include:

(1) *Project description.* The nature and purpose of the land-disturbing activity and the amount of grading, utilities, and building construction involved;

(2) *Phasing of construction.* Time frames and schedules for the project's various aspects;

(3) *A map of the existing site conditions.* Existing topography, property information, steep slopes, existing drainage systems/patterns, types of soil, waterways, wetlands, vegetative cover, 100-year flood plains, and labeling the portions of the site within trout stream watersheds;

(4) *A site construction plan.* That includes the proposed land-disturbing activities, stockpiles, erosion and sediment control plan, construction schedule, and the maintenance and inspections of the storm water pollution control measures;

(5) *Adjacent areas.* Neighboring streams, lakes, residential areas, roads, and the like which might be affected by the land-disturbing activity;

(6) *Designate the site's areas.* With the potential for serious erosion problems;

(7) *Erosion and sediment control measures.* The methods that will be used to control erosion and sedimentation on the site, both during and after the construction process;

(8) *Permanent stabilization.* How the site will be stabilized after construction is completed, including specifications, time frames, or schedule; and

(9) *Calculations.* Any that were made for the design of the items as sediment basins, wet detention basins, diversions, waterways, and other applicable practices.

(D) *General storm water pollution control plan criteria.* The erosion and sediment control part of the storm water pollution control plan shall address the following:

(1) Stabilizing all exposed soils and soil stockpiles and the related time frame or schedule;

(2) Establishing permanent vegetation and the related time frame or schedule;

- (3) Preventing sediment damage to adjacent properties and other designated areas such as streams, wetlands, lakes, and unique vegetation (oak groves, rare and endangered species habitats);
- (4) Scheduling for erosion and sediment control practices;
- (5) Using temporary sedimentation basins;
- (6) Engineering the construction and stabilization of steep slopes;
- (7) Measures that will control the quality and quantity of storm water leaving a site;
- (8) Stabilizing all waterways and outlets;
- (9) Protecting storm sewers from the entrance of sediments;
- (10) What precautions will be taken to contain sediment when working in or crossing water bodies;
- (11) Restabilizing utility construction areas as soon as possible;
- (12) Protecting paved roads from sediment and mud brought in from access routes;
- (13) Disposing of temporary erosion and sediment control measures; and
- (14) How the temporary and permanent erosion and sediment control practices will be maintained.

(E) *Minimum storm water pollution control and related inspections.* These minimum control measures are required where bare soil is exposed. Due to the diversity of individual construction sites, each site will be individually evaluated. Where additional control measures are needed, they will be specified at the discretion of the City Engineer:

- (1) Diversion of channeled runoff around disturbed areas, if practical, or the protection of the channel;
- (2) The scheduling of the site's activities to lessen their impact on erosion and sediment control measures;
- (3) Minimize amount of exposed soil;
- (4) Control runoff as follows:
 - (a) Stabilize inactive disturbed areas with sod or seed with mulch; and
 - (b) For disturbed areas greater than 5 acres, construct temporary or permanent sedimentation basins. Sedimentation basins must have minimum surface area equal to at least 1% of area draining to basin, 3-foot minimum depth, and constructed in accordance with accepted design specifications. Sedimentation basins must be maintained regularly, including sediment removal to maintain a 3-foot depth. Basin discharge rates must also be controlled to prevent erosion in the discharge channel. The applicant is required to obtain a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) construction storm water permit from the Minnesota Pollution Control Agency; or

(c) For disturbed areas less than 5 acres, sedimentation basins are encouraged but not required. The applicant shall install erosion and sediment controls at locations directed by the city. Minimum requirements include silt fences, rock check dams, or other equivalent control measures along slopes. Silt fences are required along channel edges to reduce sediment reaching channel. Silt fences, rock check dams, and the like, must be regularly inspected and maintained.

(5) For soil stockpiles greater than 10 cubic yards, the toe of the pile must be more than 25 feet from a road, drainage channel, or storm water inlet. If left for more than 7 days, they must be stabilized with mulch, vegetation, tarps, or other means. If left for less than 7 days, erosion from stockpiles must be controlled with silt fences or rock check dams. If, for any reason, a soil stockpile is located closer than 25 feet from a road, drainage channel, or storm water inlet, and left for more than 7 days, it must be covered with tarps or controlled in some other manner;

(6) Temporary stockpiling of 50 or more cubic yards of excess soil on any lot or other vacant area will not be allowed without issuance of a grading permit for the earth moving activity in question;

(7) Where a project's ultimate development replaces surface vegetation with 1 or more acres of cumulative impervious surface, and all runoff has not been accounted for in a local unit of government's existing storm water management plan or practice, the runoff shall be discharged to a wet sedimentation basin prior to entering waters of the state. Work shall conform with the current version of the Minnesota Pollution Control Agency's "Protecting Water Quality in Urban Areas," and the current requirements found in the same agency's NPDES permits for storm water associated with construction activities;

(8) All grading plans and building site surveys shall be reviewed by the city for effectiveness of erosion control measures in the context of the site topography and drainage;

(9) Generally, sufficient silt fence will be required to hold all sheet flow runoff generated at an individual site, until it can infiltrate or seep through silt fence pores;

(10) Temporary rock construction entrances are required wherever vehicles enter and exit a site;

(11) Sediment control measures shall be properly installed by the building before construction activity begins. The structures may be adjusted during dry weather to accommodate short-term activities, such as those that require very large vehicles. As soon as this activity is finished, or before rainfall, the erosion and sediment control structures must be returned to the configuration specified by the city. A sediment control inspection must then be scheduled and passed before a footing can be done;

(12) Follow-up inspections shall be performed by the city on a regular basis to ensure that erosion and sediment control measures are properly installed and maintained. In all cases the inspectors will attempt to work with the builder or developer to maintain proper erosion and sediment control at all sites. In cases where cooperation is withheld, construction stop orders may be issued by the city until erosion end sediment control measures meet specifications. A second erosion and sediment control/grading inspection must then be scheduled and passed before the final inspection will be done;

(13) Parking is prohibited on all bare lots and all temporary construction entrances, except where street parking is not available. Gravel entrances are to be used for deliveries only, as per the development contract;

(14) Streets shall be cleaned and swept whenever tracking of sediments occurs and before sites are left idle for weekends and holidays. Establishment of a regular sweeping schedule is encouraged;

(15) Water impacted by the construction activity that is being removed from the site by pumping, shall be treated by temporary sedimentation basins, geotextile filters, grit chambers, sand filters, up flow chambers, hydro-cyclones, swirl concentrators or other appropriate controls as appropriate. Water may not be discharged in a manner that causes erosion or flooding of the site or-receiving channels or a wetland;

(16) All storm drain inlets shall be protected during construction until control measures are in place with either silt fence or an equivalent barrier that meets accepted design criteria, standards, and specifications contained in the latest version of the Minnesota Pollution Control Agency's publication, "Protecting Water Quality in Urban Areas";

(17) All newly installed and rehabilitated catch basins shall be provided with a sump area for collecting coarse-grained material. The basins shall be cleaned when they are half-filled with material;

(18) All newly constructed and reconstructed buildings shall route roof drain leaders to pervious areas (not natural wetlands) where the runoff can infiltrate. The flow rate of water exiting the leaders shall be controlled so no erosion occurs in the pervious areas;

(19) All storm water pollution control management facilities shall be designed to minimize the need of maintenance, to provide easy access for maintenance purposes and be structurally sound. These facilities shall have a plan of operation and maintenance that ensure continued effective removal of the pollutants carried in storm water runoff. The city or its designated representative shall inspect all storm water management facilities during construction, during the first year of operation and at least once every 5 years thereafter. The city will keep all inspection records on file for a period of 6 years. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the storm water management facilities for inspection and maintenance purpose; and

(20) If a storm water management plan involves directing some or all runoff from the site, the applicant shall obtain from adjacent property owners any necessary easements or other property interest concerning flowage of water.

(F) *Permanent storm water pollution controls.*

(1) The applicant shall install or construct, or pay the city fees for all storm water management facilities necessary to manage increased runoff, so that the 2-year, 10-year and 100-year storm peak discharge rates existing before the proposed development shall not be increased. Also, accelerated channel erosion shall not occur as a result of the proposed land-disturbing or development activity. An applicant may also make an in-kind or a monetary contribution to the development and maintenance of the community's town water management facilities designed to serve multiple land-disturbing and development activities undertaken by 1 or more persons, including the applicant.

(2) All calculations and hydrologic models/information used in determining peak flows shall be submitted along with the storm water pollution control plan.

(3) The applicant shall consider reducing the need for storm water management facilities by incorporating the use of natural topography and land cover such as natural swales and depressions as they exist before development, to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond. (The sensitivity of a wetland to degradation varies. Sedge meadows, open bogs and swamps, coniferous bogs, calcareous fen, low prairies, lowland hardwood swamps; and seasonally flooded basins, are highly sensitive, while flood plain forests, reed canary

grass meadows shallow (reed canary grass, cattail, giant reed or purple loosestrife) marshes are only slightly sensitive. See the Minnesota Pollution Control Agency's publication, "Storm Impacts of Urban Storm-Water and Snow-Melt Runoff on Wetlands.")

(4) The following storm water management practices shall be investigated in developing the storm water management part of the storm water pollution control plan in the following descending order of preference:

(a) Protect and preserve as much natural or vegetated area on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than to adjoining streets, storm sewers and ditches;

(b) Flow attenuation by use of open vegetated swales and natural depressions;

(c) Storm water wet detention facilities; and

(d) A combination of successive practices may be used to achieve the applicable minimum control requirements specified in division (F)(1) above. The applicant shall provide justification for the method selected.

(G) *Minimum design standards for storm water wet detention facilities.* These facilities shall conform to the most current technology as reflected in the current version of the Minnesota Pollution Control Agency publication "Protecting Water Quality in Urban Areas" and the current requirements found in the same agency's NPDES permits for storm water associated with construction activities.

(1) Runoff shall not be discharged directly into wetlands without appropriate quality and quantity runoff control, depending on the individual wetland's vegetation. See the current version of the Minnesota Pollution Control Agency's publication, "Storm Water and Wetlands: Planning and Evaluation Guidelines for Addressing Potential Impacts of Urban Storm-Water and Snow-Melt Runoff on Wetlands" for guidance.

(2) At the minimum, a 100-foot-wide protective buffer strip of natural woods shall surround all wetlands. The width of this buffer strip shall be increased by at least two feet per 1% of slope of the surrounding land.

(3) Wetlands must not be drained or filled, wholly or partially, unless replaced by either restoring or creating wetland areas of at least equal public value. Replacement must be guided by the following principles in descending order of priority:

(a) Avoid the direct or indirect impact of the activity that may destroy or diminish the wetland;

(b) Minimize the impact by limiting the degree or magnitude of the wetland activity and its implementation;

(c) Rectify the impact by repairing, rehabilitating, or restoring the affected wetland environment with 1 of at least equal public value;

(d) Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the activity; and

(e) Compensating for the impact by replacing or providing substitute wetland resources or environments with those of at least equal public value. (Compensation, including the replacement ratio and quality of replacement, should be consistent with the requirements outlined in the rules adopted by the Board of Water and Soil Resources to implement the Wetland Conservation Act of 1991.)

(H) *Models/methodologies/computations.* Hydrologic models and design methodologies used for determining runoff characteristics and analyzing storm water management structures shall be approved by the City Engineer. Plans, specifications, and computations for storm water management facilities submitted for review shall be sealed and signed by a registered professional engineer. All computations shall appear on the plans submitted for review, unless otherwise approved by the City Engineer.

(I) *Variance.* Where, in the judgment of a registered professional engineer who is experienced in the field of storm water and erosion and sediment control, site conditions warrant, or where the practices or practice standards will be insufficient to control erosion and sedimentation for a land-disturbance activity, the City Engineer may grant a variance on a case-by-case basis. The content of a variance shall be specific, and shall not affect other approved provisions of a plan.

(J) *Special trout stream watershed requirements.*

(1) There shall be no increase in either the volume or rate of storm water runoff for any design storm with a statistical recurrence interval of less than ten years (i.e. the 2-year, 5-year, or 100-year storm events), unless the soil is not suitable for storm water infiltration techniques. (The intent is to encourage either storm water infiltration or diversion, since urban trout streams are a unique resource.) The phrase, "soil not suitable for storm water infiltration techniques," means soils with permeability values less than Group C soils (less than 2.5 inches per hour), as defined by the Natural Resources Conservation Service.

(2) Temporary sedimentation basins are required for disturbed areas over 1 acre.

(3) Storm water treatment devices that remove oil and heatable material (e.g, basin outlets with submerged entrances), shall be part of BMP systems.

(4) Where feasible, lightly used vehicle traffic areas, such as overflow parking lots, should use pervious surfaces such as cabled concrete blocks.

(5) If the proposed project includes a trout stream tributary that currently experiences erosion and/or sedimentation problems, the applicant must work with the city to include channel modifications in the project that will also address the existing erosion and/or sedimentation problem.

(6) Preservation of, or installation of, a stream bank native tree canopy within 100 feet of the top of the stream bank directly on a Minnesota department of Natural Resources designated trout stream reach and for all tributaries feeding directly to the designated trout stream reach. The width of this buffer strip shall be increased by at least 2 feet for 1% of slope.

(7) Preservation of, or installation of, a stream bank native tree canopy within 50 feet of the top of the stream bank for the reach upstream of a Minnesota Department of Natural Resources designated trout stream reach and for all tributaries upstream of the designated trout stream reach. The width of this buffer strip shall be increased by at least 2 feet for each 1% of slope of the surrounding land.

(8) Permanent buildings erected on sites that border directly on Minnesota Department of Natural Resources designated trout streams shall not be occupied until the permanent vegetative cover has been

established. The cover must meet this chapter's definition of "final stabilization." The applicant must consider methods for reducing the amount of impervious surface on the site. Suggestions include:

- (a) Reduce road widths;
- (b) Eliminate paving in the center of cut-de-sacs;
- (c) Reduce sidewalk widths;
- (d) Allow and provide for shared parking;
- (e) Install semi-permeable/permeable or porous paving;
- (f) Vegetated swales instead of curb and gutter; and
- (g) Filter strips.

(Ord. 133, passed 9-10-2001) Penalty, see § 10.99

§ 152.07 REVIEW.

(A) *Generally.* The City Engineer shall review the storm water pollution control plan. This review shall be completed within 14 days of receiving the plan from the developer.

(B) *Permit required.* If the city determines that the storm water pollution control plan meets the requirements of this chapter, the city shall issue a permit valid for a specific period of time that authorizes the land-disturbance activity, contingent on the implementation and completion of this plan.

(C) *Denial.* If the city determines that the storm water pollution control plan does not meet the requirements of this chapter, the city shall not issue a permit for the land-disturbance activity. This plan must be re-submitted for approval before the land-disturbance activity begins. All land use and building permits shall be suspended until the developer has an approved storm water pollution control plan.

(Ord. 133, passed 9-10-2001)

§ 152.08 MODIFICATION OF PLAN.

An approved storm water pollution control plan may be modified on submission of an application for modification to the city, and after approval by the City Engineer. In reviewing such an application, the City Engineer may require additional reports and data.

(Ord. 133, passed 9-10-2001)

§ 152.09 ENFORCEMENT.

(A) The city shall be responsible for enforcing this chapter.

(B) Any person, firm, or corporation failing to comply with, or violating any of these regulations, shall be deemed guilty of a misdemeanor. All land use and building permits shall be suspended until the developer has corrected the violation. Each day that a separate violation exists shall constitute a separate offense.

(Ord. 133, passed 9-10-2001)

§ 152.10 RIGHT OF ENTRY AND INSPECTION.

The applicant shall allow the city and their authorized representatives, upon presentation of credentials:

(A) To enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, surveys or investigations;

(B) To bring the equipment upon the permitted development as is necessary to conduct the surveys and investigations;

(C) To examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site;

(D) To inspect the storm water pollution control measures required in this permit; and

(E) To sample and monitor any items or activities pertaining to permits issued by the city.

(Ord. 133, passed 9-10-2001)

§ 152.11 EXPENSES OF COMPLIANCE.

All expenses incurred by the City of Avon in determining compliance with this chapter shall be borne exclusively by the developer, and not by the city. All expenses incurred by the City of Avon, including, but not limited to, engineering fees, attorney fees, reviews, inspections, and enforcement costs shall be reimbursed by the developer within 30 days of receiving a billing from the city, and prior to any further development occurring.

(Ord. 133, passed 9-10-2001)

§ 152.12 EFFECTIVE DATE.

This chapter will take effect and be in force after its passage and official publication.

(Ord. 133, passed 9-10-2001)

CHAPTER 153: ZONING CODE

Section

153.01 Adoption by reference

§ 153.01 ADOPTION BY REFERENCE.

The city's zoning code is hereby adopted by reference and incorporated herein as if set out in full.
(Ord. 84, passed 3-3-1980; Am. Ord. 92, passed 10-5-1981; Am. Ord. 96, passed 7-21-1982; Am. Ord. 97, passed 11-10-1982; Am. Ord. 98, passed 4-4-1983; Am. Ord. 129, passed 12-6-1999; Am. Ord. 130, passed 2-5-2001; Am. Ord. 148, passed 8-18-2003; Am. Ord. 159, passed 4-11-2005; Am. Ord. 161, passed 8-1-2005)

SEE CITY OF AVON ZONING ORDINANCE