

CHAPTER 1 GENERAL DISTRICT PROVISIONS.

Subd. 1. Purpose.

The performance standards established in this Ordinance are designed to encourage a high standard of development and delineate requirements for Planned Unit Developments, mobile home parks, signs, parking and loading and sewage disposal. Before any zoning permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to these standards. Applicants shall provide data necessary to demonstrate such conformance. Said data may include, but is not limited to: description of equipment to be used; hours of operation; method of refuse disposal; and, type and location of exterior storage. The purpose of this Chapter is to establish general development standards to assure compatible land uses to prevent blight and deterioration and to enhance the health, safety and general welfare of the City.

Subd. 2. Dwelling Unit Restrictions.

- A. No cellar, basement, garage, tent or accessory building shall at any time be used as an independent residence or dwelling unit, temporarily or permanently, except allowed interim use as set forth and regulated by this Ordinance.
- B. Basements may be used as living quarters or rooms as a portion of residential dwellings. Rental unit(s) in basements shall be subject to provisions of the appropriate zoning district.
- C. Tents, play houses or similar structures may be used for play or recreational purposes, but shall not be independent living quarters.
- D. Existing cellars or basements used as an independent dwelling unit and not complying to this Ordinance shall have the status of a non-conforming use, subject to the provisions of this Ordinance.
- E. No dwelling shall hereafter be erected or altered unless there is direct access to it from a public street.

Subd. 3. Accessory Buildings.

- A. In cases where an accessory building is attached to the principal structure, it shall be made structurally a part of the principal structure and shall comply in all respects with the requirements of this Ordinance applicable to the principal structure.
- B. For the purposes of this Ordinance setbacks shall be measured from the property line which shall be marked as the location of the property pins, measurement from the right of way and/or edge of traveled portion of an alley.
 - a. All detached accessory buildings in the R-1, R-2, and R-3 Residential Districts which are greater than one-hundred-twenty (120) square feet shall be setback a minimum of ten (10) feet from the side and rear yard lot lines. Corner lots shall have a side and rear yard setback of twenty (20) feet unless specifically stated elsewhere in the ordinance.
 - b. Accessory buildings on a through street shall have a twenty (20) foot rear setback.
 - c. Accessory buildings having direct access onto an alley shall be setback ten (10) feet from the property lot line and/or edge of traveled portion of an alley.
 - d. Accessory buildings one-hundred-twenty (120) square feet or less shall require a zoning permit and must be setback five (5) feet from the side and rear lot lines.
 - e. Accessory structures shall not be located over any easement.
 - f. An accessory building unless attached to and made a part of the principal structure shall be no closer than ten (10) feet to the principal structure.
 - g. No detached accessory structure shall be erected or altered so as to encroach in the front yard setback of a lot.
- 1. Public water setbacks, unless a deck is to be added to a structure existing on the date of the adoption of this ordinance, subject to the following conditions:

- a. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
 - b. The deck encroachment toward the ordinary high water level does not exceed fifteen (15) percent of the existing shoreline setback of the structure from the ordinary high water level or does not encroach closer than thirty (30) feet, whichever is more restrictive; and,
 - c. The deck is constructed primarily of wood, and is not roofed and does not feature screens.
2. In all other cases, other than those noted within Subsection 2 above, accessory buildings shall conform to setbacks which are imposed within the respective zoning district. In districts where gas stations are allowed, pump islands may be located within a required yard provided they are not less than fifteen (15) feet from any street right-of-way line.
 3. Within the R-1 and R-2 districts, the combination of accessory structures shall not exceed the floor area of the principal structure. In the event there is not an attached garage on the principal structure, a portion of the largest accessory structure shall be included in the principal structure calculations. Only 700 Sq. ft. of the largest accessory structure would be included in the principal structure calculation. In addition, impervious surface requirements outlined within the respective districts shall be adhered to.
 4. An owner of a lot shall only have two detached accessory structures that must meet the limits set forth under impervious surface rules.
 5. In the case of a principle structure that does not have an attached garage, a third accessory building can be constructed 120 sq. ft. or smaller. In addition, lot coverage requirements outlined within the respective districts shall be adhered to.
 6. Construction of an accessory structure shall be of the same or similar in color, quality and appearance to that of the principle structure including roofing and roof line design. An exception to this requirement is provided for pre-fabricated construction kits or stick built structures of 180 sq. ft. or less or where there is an existing dwelling and the exterior is brick, stone or stucco and the cost to mimic the exterior is impractical. In these instances, alternate materials, but in similar compatible colors may be approved.
 7. Except as expressly allowed by conditional use permit, accessory buildings shall comply with the following height limitations and accessory buildings other than garages shall be limited to twelve (12) foot sidewalls on all single and two family and townhouse unit lots with a maximum of sixteen (16) feet.
 8. Except as expressly allowed by variance, detached garage sidewalls shall not exceed twelve (12) feet and the pitch shall be no greater than that of the principal structure.
 9. Construction of an accessory structure on a lot prior to the construction of the principal structure, must follow all requirements under Subd. 4 (below), and must be reviewed by the planning commission which will then make a recommendation to the city council for further action.

Subd. 4. *General Building and Yard Regulations.*

- A. This Chapter identifies yard, building type and height requirements in each zoning district.

B. Building Restrictions.

1. Any person desiring to improve property shall submit to the Zoning Adm. information on the location and dimensions of existing and proposed buildings, location of easements crossing the property encroachments, and any other information which may be necessary to insure conformance to City Ordinances. Applicants shall be responsible for locating all property boundaries and providing certification of said property boundaries.
2. All buildings shall be so placed that they will not obstruct future streets that may be constructed by the City in conformity with existing streets and according to the system and standards employed by the City.
3. In the R-1 and R-2 zoning districts, lots exceeding one (1) acre as provided for in this Ordinance may not contain more than one (1) principal building. The words "principal building" shall be given their common, ordinary meaning; in case of doubt or on any question or interpretation, the decision of the Zoning Administrator shall be final, subject to the right of appeal to the Planning Commission and City Council.

C. Building Type and Construction.

1. No galvanized sheet metal, unfinished steel, ridged, corrugated sheet metal, galvalume, asbestos, or iron, whether or not they are colored shall be permitted in any zoning district except in association with agricultural, commercial, or industrial uses.
2. Within all residential districts, pole-type construction (shouse) shall not be permitted.
3. Within all residential and commercial zoning districts, structures or building constructed of canvas and fabric shall not be permitted.
4. Within all residential and C-1 districts hoop/tubular structures shall not be allowed.

Exterior building finishes for all residential structures (including accessory structures) shall consist of materials comparable in grade and quality to the following:

Exterior Wall Finish:

- a. Brick
- b. Natural stone
- c. Stone veneer
- d. Masonry material
- e. Decorative concrete block
- f. Wood
- g. Stucco
- h. Vinyl, colored aluminum, or colored steel siding with hidden fasteners and overlapping in sections not wider than 12 inches

Roofing Material:

- i. Asphalt shingles
 - j. Wood shakes
 - k. Copper
 - l. Slate
 - m. Concrete tile
 - n. Metal with material approved in accordance with the State Building Code including standing-seam profiled metal, 24 gauge, hidden fasteners and constructed of corrosion resistant material or have a corrosion resistant coating.
5. Residential dwellings in the R-1, R-2 and R-MH Districts shall have a minimum roof pitch of 4:12, and each roof shall feature approved materials as stated above. Residential dwelling structures in the R-1 and R-2 Districts shall have a minimum of seventy percent (70%) of the structure a minimum width of twenty-two (22) feet. All residential dwelling structures in the R-1 and R-2 Districts shall be placed on permanent foundations of wood or concrete.

6. Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to ensure that they will not adversely impact the property values of the abutting properties or adversely impact the public health, safety and general welfare.
7. Exterior building finishes shall consist of durable finish-type materials of a high grade and quality.

D. Temporary Structures.

1. Temporary buildings that are larger than 10' x 12' shall be permitted as an accessory use in an industrial zone only. Temporary buildings shall not be allowed on any property in all other zones within the city limits of the City of Avon, said zones including agricultural, residential (both single family and multi-family), core commercial, general commercial, and PUD.
2. All temporary buildings which are in place in the City of Avon, in a zone other than an Industrial Zone as of December 6, 1999 that are larger than 10' x 12' shall be removed or shall be altered so as to constitute a permanent building as above defined, on or before January 1, 2010. Temporary buildings 10 x 12 or smaller shall be anchored via earth anchor.
3. Failure to remove a temporary building or alter said structure so as to constitute a permanent building by January 1, 2010 shall be a violation of this Ordinance and such offence shall be treated as a misdemeanor.

E. Building Height.

1. Building heights in excess of those standards contained in the district provisions may be permitted through a conditional use permit, provided that:
 - a. The site is capable of accommodating the increased intensity of use.
 - b. The use does not negatively impact traffic flow or capacity of surrounding public rights of way.
 - c. Applicants proposing structures constructed exclusively for or hosting telecommunications equipment shall provide written verification of approval from the Federal Communications Commission and the Federal Aviation Administration to the extent required by those agencies.
2. Building height limits established for districts shall not apply to the following providing said structures do not exceed two hundred (200) feet above ground level:
 - a. Cooling Towers.
 - b. Elevator penthouses.
 - c. Flag poles.
 - d. Monuments.
3. Building height limits established for districts shall not apply to the following provided a conditional use permit is issued, in accordance with Chapter 23, Subdivision 10.
 - a. Belfries.
 - b. Chimneys or flues.
 - c. Church Spires.
 - d. Cupolas and domes which do not contain usable space.
 - e. Parapet walls extending not more than three (3) feet above the limiting height of the building.
 - f. Poles, towers, and other structures for essential services.
 - g. Necessary mechanical and electrical appurtenances.
 - h. Farming buildings.

F. Yards/Driveways

1. No lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this Ordinance, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced. No required open space provided about any building or structure shall be included as part of any open space required for another structure.
2. The following shall not be considered as encroachments on yard setback requirements but they do need to meet impervious surface coverage:
 - a. Chimneys, flues, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters and the like provided they do not project more than two (2) feet into a yard.
 - b. Terraces/patios, steps, uncovered porches, stoops, fire escapes or similar features provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than five (5) feet from any lot line.
 - c. In rear yards: recreational and laundry drying equipment, arbors, and trellises, detached outdoor living rooms, and air conditioning or heating equipment, provided they are at a distance of five (5) feet from the rear lot line.
 - d. A one-story entrance for a detached single family or duplex dwelling may extend into the front yard setback not exceeding five (5) feet.
3. Where adjacent structures have front yard setbacks different from those required, the minimum front yard setback shall be the average setback of such adjacent structures. If only one adjacent lot is occupied by a structure, the minimum front yard shall be the average of the required setbacks and the setback of such adjacent structure. In no case shall the setback requirement exceed the minimum established for the respective zoning district.
4. New Construction. Prior to construction, bare lots must be mowed and maintained. All structures located on the Property must be of new construction, and no structure may be moved from any other location onto any lot within Avon Estates development. No manufactured homes may be located on the property.
5. Grade Changes. No sod, soil, sand, or gravel may be sold or removed from any part of the property, except for the purpose of excavating for the construction or alteration of a building or structure on the property, or for the proper grading thereof, and any excess soil remaining from excavation or grading, and not otherwise used by the owner in the improvement of the owner's own site must be removed by the owner. The elevation of a lot may not be changed so as to materially affect the surface elevation of surrounding lots. The owner of any land subject to this ordinance will be responsible for the drainage of surface waters from their part of the property other than by natural watercourses.
6. Parking. Each lot owner must provide off-street parking for all vehicles used by the lots residents. Garages and hard surfaced parking areas on the property may be used only for parking of vehicles owned or leased by owners and occupants and their guests, and incidental uses. No parking on landscaped areas is permitted. All parking areas must have a surface constructed of concrete, bituminous or brick type pavers. Parking surfaces of gravel/sand and/or crushed granite will NOT be permitted.

Subd. 5. *Fencing, Screening, and Landscaping.*

1. Prior to constructing or reconstructing a fence or wall, which includes a living wall within the City, the person or entity owning the property on which the wall or fence is to be constructed or reconstructed shall first secure a land use permit from the Zoning Administrator. A permit fee, in an amount set by resolution of the City Council, shall be paid at the time the application for a permit is submitted.
1. Fence Height.
 - a) Fences and walls located within a residential area (including riparian lots) shall not exceed the height of six feet; except fences located between the front of the residential structure and the adjacent roadway shall not exceed four feet. Living

fences are not restricted in height except those adjacent to the front of residential structure shall not exceed 4 ft.

- b) Fences and walls located in a commercial area shall not exceed the height of eight feet.
 - c) Fences and walls located in an industrial area shall not exceed eight feet unless a higher fence or wall is approved as part of the conditional use permit allowing the industrial use.
 - d) Fence setbacks: a fence shall be constructed two (2) ft. inside of the property lines unless the fence is constructed of maintenance free materials. It may then be placed on the property line with the fence being two inches above the ground.
 - e) If a fence is located within six (6) ft. of the property line the finished appearance shall be the side which faces the adjacent property.
 - f) A fence shall not be placed within ten (10) ft. of a curb surface of street, road, or alley. No fence is allowed in any Public Right of Way.
 - g) Fences and walls located on riparian lots shall have a setback from the OHWL of 35'
 - h) If two different zones abut, the zoning requirements of the property owner constructing the fence shall control.
 - i) Corner lots shall have a fence setback of fifteen (15) ft. from the front property line. On a corner lot of any zone or PUD district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to impede vision.
2. Fences shall be constructed out of low maintenance/composite materials (see definition). Barbed wire, electrical fences, chicken wire and woven/welded wire are strictly prohibited except as allowed by conditional use permit in an industrial area. Use of creosote lumber is strictly prohibited. Other materials that are not specifically prohibited may be permitted by variance if they do not conflict with the stated purposes of this ordinance.
 3. This Ordinance shall apply only to fences and walls constructed after August 1st, 2005. Any pre-existing fence or wall that does not conform with the provisions thereof shall not be altered, extended or reconstructed except in conformance with this Ordinance.
 4. All fences and walls located within the City shall be maintained in a safe condition. The owner of the property on which a fence or wall is located shall be responsible for the maintenance and repair of the fence or wall.
 5. No fence or wall may be maintained in a location which obstructs the ability of a driver of a motor vehicle to see other drivers or pedestrians on any street or alley.
 6. An access opening for emergency entrance shall be incorporated into any fenced areas within which a building is totally or partially located. For residential use property, the access opening shall be at least four (4) feet in width. For commercial or industrial use property, the access opening shall be at least fourteen (14) feet in width. A gate or unfenced area shall qualify as an access opening if it is of stated width.
 7. Landscaping. Within 1 year from the completion of construction of a dwelling on a lot (date of the certificate of occupancy) the lot must be landscaped, which must include a sodded or seeded lawn on the front, side and rear.

Subd. 6. Moving of Buildings. Regulations of Building Relocation

Building Requirements:

1. Buildings or structures, excluding manufactured homes which are moved into or within the City must comply with the provisions of this Section, the City Zoning Ordinance, and the State Building Code for new buildings or structures.
2. Manufactured homes that are moved into or within the City must comply with the provisions of this Section, the City Zoning Ordinance and the State Manufactured Home Building Code (see no. 4).

Moving Permit Required:

1. A person must not move, or cause to be moved, a building or structure, including a manufactured home, into, within, or out of the City without first obtaining a permit to do so.
2. Public Hearing Required
 - (1) Before a building or structure, excluding a manufactured home or a residential accessory structure, may be moved into or within, the City, a permit must be granted by the City Council, following a public hearing and recommendation by the Planning Commission.
 - (2) Before a residential accessory structure may be moved into or within the City, a permit must be issued by the Zoning Officer.
3. A notice of the time and place of the public hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing. A similar notice shall be mailed at least (10) days before the date of said hearing to each owner of property situated within a radius of 350 feet of the property to which the building is proposed to be moved. Notice containing the same information shall be posted on the property to which the building is proposed to be moved not less than ten (10) days prior to the date of the hearing. A copy of the published notice, the posted notice, and a list of the owners and addresses to whom notice was sent, shall be attested to by the responsible person and shall be made a part of the proceedings. Failure to receive mailed notice by individual property owners or defects in the notice shall not invalidate the proceedings, provided a bonafide attempt to comply with this provision has been made.
4. Manufactured Home Permit Requirements
 - (1) Before a previously occupied manufactured home may be moved into or within the City, excluding into or within a manufactured park; a permit must be granted by the City Council following a public hearing and recommendation by the Planning Commission.
 - (2) If a previously owned manufactured home is moved into or within a designated manufactured park the Zoning Officer shall issue the permit.
 - (3) If a new manufactured home is moved into the City, whether or not into a designated manufactured park, the Zoning Officer shall issue the permit.

5. Before a building or structure, including a manufactured home or a residential accessory structure, may be moved out of the City, a permit must be issued by the Zoning Officer.
6. Permits are not required for moving a residential accessory building which has a floor area that is less than 120 square feet.

Moving Permit Application

1. An application for a moving permit must include the following:
 - (1) A certificate from the City Building Official that the building or structure meets the requirements of the State Building Code.
 - (2) The address, tax identification number, and legal description of the premises from which the building is to be moved.
 - (3) The address, tax identification number, and legal description of the premises to which the building will be moved.
 - (4) A plot plan showing:
 - (4.1) The proposed location of the building on the premises to which the building will be moved.
 - (4.2) The proposed grade and elevation as it relates to adjacent lots.
 - (4.3) The proposed elevation of the first floor and finished height of the building
 - (4.4) All drainage and fill requirements.
 - (4.5) Size and approximate weight of the building.
 - (5) Photos showing:
 - (5.1) all sides of the building or structure
 - (5.2) the proposed building location
 - (5.3) Photographs of all adjacent lots and structures
 - (6) A list of the highways, streets, and other property over which the building is proposed to be moved.
 - (7) The proposed moving date and hours
 - (8) Evidence that all taxes, assessments, and other charges against the lots from which, and to which, the building is to be moved are currently paid.
 - (9) Evidence showing that the applicant is the owner of the building and is entitled to move the building.
 - (10) The City Building Official inspection fee, as established by the City Council.
 - (11) The permit fee, as established by the City Council.
 - (12) A bond or certified check from the property owner in an amount established by the City Council payable to the City of Avon to ensure that:

- (a) the City is reimbursed for the cost of removing and replacing electric wires, street lamps, and poles belonging to the City.
 - (b) the structure is properly removed from the former property
 - (c) the structure is properly located on the proposed property and attached to the foundation
 - (d) all work is performed in compliance with the permit, the State Building Code, and this Section
- (13) The name, address and telephone number of proposed building mover
- (14) Any additional information requested by the City

PERMIT ISSUANCE

1. The Commission may refuse to recommend and the City Council may refuse to issue a moving permit if it finds that:
 - (1) A requirement has not been met
 - (2) The building is too large to move or that no route is available that does not endanger persons or property, or that no route is available that does not seriously inconvenience traffic in the City. Limited vegetation trimming or removal may be allowed in the permit.
 - (3) The proposed route includes the use of private property and no consent from the owner has been obtained.
 - (4) People or property in the City would be endangered by moving the building.
 - (5) The building is structurally unsafe or unfit for the purpose for which it is being moved, if the proposed location is in the City.
 - (6) The building is a manufactured home that does not comply with the provisions of the City Zoning Ordinance, the State Manufactured Home Building Code or other applicable regulations.
 - (7) The proposed building mover's equipment is unsafe and persons and property would be endangered by its use.
 - (8) The proposed building mover does not have a current license issued by the state under Minn. Stat. 221.81
 - (9) The proposed building mover has been shown to be unreliable and irresponsible in complying with the City requirements.

- (10) The building to be moved is not worth at least 50 percent of the cost of a similar new building.
 - (11) The building in the proposed location in the City would fail to comply with a provision of the City Code of Ordinances.
 - (12) The building in the proposed location in the City would not conform to the general character of, and the types of architecture in, the use district to which the building would be moved.
 - (13) The building in the proposed location in the City is not compatible with the houses in the neighborhood to which the applicant wishes to move the house or building, with respect to height, age, style, condition, or design and, as a result, would reduce the values of existing houses in the neighborhood to which the building would be moved. If the building to be moved is more than ten years older than the oldest building situated on a lot adjacent to the proposed location, such fact shall be evidence that the building to be moved is not compatible with the houses in the neighborhood.
2. The permit must specify the permitted days, hours, route, movement, parking, speed limit, and vegetation removal for the proposed move.
 3. The City Council may impose additional conditions or requirements in the permit.
 4. The issuance of a permit by the City does not relieve the applicant of the obligation to obtain required permits from other governmental agencies and does not permit the use of private property, except with the written consent of the landowner.

SUPPLEMENTAL INFORMATION

1. At least ten business days before the actual move is to take place, the applicant must submit to the Zoning Officer the following supplemental information:
 - (1) Confirmation of the proposed moving date and hours.
 - (2) A copy of the proposed building mover's state license and an insurance certificate showing that the mover has current insurance coverage required by state law.
 - (3) A signed statement from the applicant or a contractor agreeing to fence or secure the foundation at the original building location, to fill the foundation cavity, and to keep the area safe and clean, if the original building location is in the City.
 - (4) A signed statement from the applicant or a contractor agreeing to properly abandon and seal any wells, fill or remove any septic tanks and properly shut off and disconnect any utilities if the original building location is in the City.
 - (5) A signed statement from the applicant or a contractor agreeing to connect the building to its new foundation if the proposed building location is in the City.

2. A permit for a building move is void if the additional information above is not provided within 30 days.
3. In consultation with the Chief of Police and the Public Works Director, the Zoning Officer may deny the proposed moving date and hours if the move at that time would unreasonably interfere with the public's use of a street or highway or would otherwise adversely affect the public interest.
4. The Zoning Officer may deny use of the proposed building mover if the proposed building mover's equipment is not in compliance with federal and state requirements, the proposed building mover does not have a current license or insurance as required by state law, or the proposed building mover has previously been unreliable or irresponsible in complying with City requirements.
5. The Zoning Officer must notify the applicant in writing of a denial at least three business days before the proposed moving date, giving the reasons for the denial. The applicant may file a written appeal of this decision with the City Clerk to be heard by the Council at its next available meeting, unless the applicant selects a later date.

BUILDING MOVING CONDITIONS

1. A licensed building mover must comply with the following when moving building into, within or out of the City. The building mover must:
 - (1) Move a building only in compliance with the permit conditions and only over the streets and other property designated for that use in the permit.
 - (2) Obtain prior permission from the Chief of Police and Public Works Director for any changes in the route or times for the move.
 - (3) Notify the Police Department at least one hour in advance of the proposed move.
 - (4) Notify the Public Works Director of all damage done to property during the move within 24 hours after the damage has occurred.
 - (5) Be responsible for all damage caused by the move and pay the cost to correct the damage or the value of the property lost because of the damage.
 - (6) Comply with state and county requirements for over-sized vehicles and loads.
 - (7) When necessary, erect and maintain barricades across the streets to protect the public from damage or injury because of the move.
 - (8) Complete the move within 48 hours after either:
 - (8.1) the building crosses into the City, if moved from a location outside of the City; or
 - (8.2) the building is raised from its original foundation, if moved from a location within the City.

- (9) Pay the expense of employees or other individuals who are required by the City to accompany or monitor the movement of the building for the purpose of ensuring compliance with the moving permit or protecting the public health, safety or welfare
 - (10.) Comply with all applicable state laws and local ordinance.
2. A building mover cannot transfer its obligations to the building owner or any other party, except where the responsibility for damage is insured by a contract for liability insurance.
3. Within 120 days after the date of the permit issuance, the building must be moved, the State Building Code requirements met as they apply to the structure at its new location, and a certificate of occupancy or a satisfactory final inspection report from the City Building Official for the building received.
4. Within 180 days after the date of the permit issuance, all proposed exterior improvements to the building shall be completed; and within one year after the date of the permit issuance, all landscaping on the premises shall be completed, which must include a sodded or seeded lawn on the front, side and rear.
5. A person must not cause or permit a structure that has been raised from a foundation and placed on supports to:
 - (1) Remain at a location or locations in the City, other than the new permanent location, for longer than 48 hours.
 - (2) Remain on any property without the property owner's permission.
6. The applicant, the landowner and the contractor hired to be responsible for the work must not leave rubbish or other materials at the site from which the building is moved or otherwise allow that site to remain in an unsafe, unsanitary or unsightly condition.
7. The applicant, the landowner and the contractor hired to be responsible for a building foundation must not allow an open and unattended foundation to remain unsecured for more than a two-hour period immediately after a building has been raised from the foundation. Foundations must be fenced or secured in some other manner to prevent uninvited access, particularly by children, to the open foundation (if within the city limits).
8. The applicant, the landowner and the contractor hired to be responsible for a building foundation must not allow a foundation from which a building has been removed to remain open longer than seven days after the building was removed. The foundation must be removed and the cavity filled with appropriate earth materials that are graded level with the adjacent areas, or be used in the construction of a new building, if approved by the building official.
9. No later than the time required above for filling the foundation from which a building has been removed, the applicant, the landowner, and the contractor hired to be responsible for the work must properly;

- (1) Abandon and seal any wells. All work needs to be done by a licensed well company. The City needs to be provided a copy of the seal records.
- (2) Fill or remove any septic tanks remaining on the original site of the building
- (3) Properly shut off and disconnect any utilities, as specified by the utility provider
10. The building must be connected to the foundation at its new location in accordance with the City Building Code within ten days after the move has been completed.
11. The applicant, the landowner and the contractor hired to be responsible for work must construct and provide all necessary and proper drainage and erosion control for the premises on to which the building is to be moved or moved from, such drainage to be installed and constructed according to plans submitted by the landowner and approved by the Public Works Director. Erosion control measures shall be in accordance with all City stormwater-NPDES requirements and watershed district standards.
12. Variances from the ordinance may be granted by the City Council upon good cause shown
13. A failure to comply with a permit provision, State Building Code requirement, or condition in this section will result in a forfeiture of the bond or cash deposit. The City may use the bond proceeds or cash deposit to complete unfinished work required by the permit, the State Building Code, or this Section, or to pay for any damage caused by the move.

ENFORCEMENT

This ordinance will be enforced by the Zoning Officer, the Chief of Police, and authorized agents.

Subd. 7. Vision Clearance at Corners, Curb Cuts and Railroad Crossings.

Notwithstanding any part of this Ordinance or any permit or variance granted, no structure, vehicle, vegetation, fence, sign, building or any obstacle or any portion thereof, shall be placed or retained in such a manner to constitute a traffic hazard or obstruct the vision clearance of corners, curb cuts or railroad crossings.

Subd. 8. Lighting.

Any lighting used to illuminate an off-street parking area, sign or structure shall be arranged so as to deflect light away from any adjoining residential properties or uses from the public streets.

Subd. 9. Satellite Dishes and Other Dishes.

- A. Satellite receiving antenna (dishes) of twenty four (24) inches or less in diameter shall be exempt from construction alteration, repair or zoning permit requirements.
- B. Before proceeding with construction, alteration or repair of satellite receiving antenna in excess of twenty four (24) inches in diameter a zoning permit shall be obtained by the owner or his/her agent. Underground utility wires, lines, pipes, etc. shall be located prior to the installation of a satellite receiving antenna.

- C. Each satellite receiving antenna shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with the radio and/or television reception to adjacent properties.
- D. Satellite receiving antenna shall be constructed of non-combustible and corrosive resistant material.
- E. Ground mounted satellite receiving antenna shall be located only in a rear yard a minimum of ten (10) feet from any lot line unless otherwise approved. Screening may be required depending upon the location of the receiver.
- F. Any satellite receiving antenna which is not used for six successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.
- G. The Minnesota Department of Natural Resources shall be notified of the construction of a satellite receiving antenna zoning permit application within a shoreland overlay area.

Subd. 10. Residential Pools and Spas.

A. Definitions.

- 1. Residential swimming pools shall be defined as any constructed pool, permanent or portable, which is intended for non-commercial use as a swimming pool by the owner's family and their guests and which is over twenty-four (24) inches in depth and has a surface area exceeding two hundred (200) square feet.
- 2. Spa shall be defined as a unit primarily designed for therapeutic use which is not drained, cleaned or refilled for each individual. It may be included but not limited to hydrojet circulation, hot water, cold water mineral baths, air induction bubbles or any combination thereof. Industry terminology for a spa includes, but is not limited to, therapeutic pool, hydrotherapy pool, whirlpool, hot spa, etc.

B. Construction.

- 1. Utility Lines. Pools and spas shall not be located beneath utility lines or over underground utility lines of any type.
- 2. Required Setbacks. No person shall build, situate or install a pool or spa within ten (10) feet of any side or rear lot line, nor within six (6) feet of any principal structure nor within any required front yard. When placed in shoreland areas, pools and spas are subject to applicable lake and river setbacks and are considered structures.
- 3. Temporary Fence Required during Construction. While being constructed, the pool or spa must be fenced with a portable fence, such as snow fence, of not less than four (4) feet in height.

C. Permanent Fencing Required.

- 1. Minimum Height. All outdoor pools hereafter constructed shall be completely enclosed by a fence or wall of the non-climbing type so as to be impenetrable by toddlers, afford no external handholds and a minimum of four (4) feet in height.
- 2. Self Closing. All outdoor fence openings or outdoor points of entry into the pool area shall be equipped with self-closing and self-latching devices. The openings between the

bottom of the fence and the ground or other surface shall not be more than three (3) inches.

3. Latchable Cover. All outdoor spas shall have either a fence as described in C(1) and C(2) or a latchable cover. The cover shall be constructed of a material impenetrable by toddlers.

D. Permits.

1. No person shall construct, alter or renovate a pool or spa without a zoning permit.

Subd. 11. Land Reclamation, Mining and (Shoreland) Extractive Use Standards.

A. Land Reclamation.

1. Under this Ordinance, land reclamation is the reclaiming of land by depositing of materials so as to elevate the grade. All land reclamation shall require a conditional use permit per Chapter 22, Subd. 10 of this Zoning Ordinance, and shall meet the following standards:
 - a. The smallest amount of bare ground is exposed for as short a time as feasible.
 - b. Temporary ground cover is used and permanent ground cover, such as sod, is planted.
 - c. Methods to prevent erosion and trap sediment are employed.
 - d. Fill is stabilized to accepted engineering standards.
2. Final slopes for cut slopes should be a maximum of 1:1, or one hundred percent (100%); fill slope 3:1 or thirty percent (30%); and grade or construction slope 5:1 or twenty percent (20%).

B. Mining.

1. The extraction of sand, gravel, or other material from the land in the total amount of four hundred (400) cubic yards or more and removal thereof from the site without processing shall be defined as mining. In all districts, the conduct of mining shall be permitted only upon issuance of an Interim Use Permit. Such permit shall include, as a condition thereof, a plan for a finished grade which will not adversely affect the surrounding land or the development of the site on which the mining is being conducted, and the route of trucks moving to and from the site.

C. Extractive Use Standards Applicable to Shoreland Overlay Districts.

1. Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and shall clearly explain how the site will be rehabilitated after extractive activities end.
2. Setbacks for processing Machinery. Processing machinery must be located consistent with setback standards for structures from the ordinary high water levels of public waters and from bluffs.
3. Extractive uses within the Shoreland Overlay District are subject to standards set by the State of Minnesota and the Minnesota Department of Natural Resources.

Subd. 12. *Alternative Energy Source*

ALTERNATIVE ENERGY SYSTEMS

PURPOSE.

The purpose of this chapter is to:

(A) Accommodate alternative energy sources by removing regulatory barriers and creating a clear regulatory path for approving alternative energy systems.

(B) Create a livable community where development incorporates sustainable design elements such as resource and energy conservation and use of renewable energy.

(C) Protect and enhance air quality and decrease use of fossil fuels.

(D) Accommodate alternative energy development in locations where the technology is viable and environmental, economic and social impacts can be mitigated.

(Ord. 227, passed 5-2-22)

GROUND SOURCE HEAT PUMP SYSTEMS.

(A) Zoning district allowance. Ground source heat pump systems in accordance with the standards in this chapter are allowed as a permitted accessory use in all zoning districts.

(B) Standards.

(1) System requirements.

(a) Only closed loop ground source heat pump systems utilizing heat transfer fluids as defined in this section are permitted. Open loop ground source heat pump systems are not permitted.

(b) Ground source heat pump systems in public waters may be permitted as a conditional use in accordance with this section and subject to the following:

1. Approval from the Minnesota Department of Natural Resources.

2. Written consent of all property owners and/or approval by an association in accordance with its adopted bylaws.

3. Demonstrated compliance with applicable city permit requirements.

(c) Ground source heat pump systems in water bodies owned or managed by the City of Avon are not permitted.

(2) Setbacks.

(a) All components of ground source heat pump systems including pumps, borings and loops shall be set back at least 5 feet from interior side lot lines and at least 10 feet from rear lot lines.

(b) Above ground equipment associated with ground source heat pumps shall not be installed in the front yard of any lot or the side yard of a corner lot adjacent to a public right-of-way and shall meet all required setbacks for the applicable zoning district.

(3) Easements. Ground source heat pump systems shall not encroach on public drainage, utility roadway, or trail easements.

(4) Noise. Ground source heat pump systems shall comply with Minnesota pollution control agency standards outlined in Minnesota Rules Ch. 7030.

(5) Screening. Ground source heat pumps are considered mechanical equipment and shall be screened from view to the extent possible without impacting their function.

(6) Safety. Ground source heat pumps shall be certified by Underwriters Laboratories, Inc., and meet the requirements of the State Building Code.

(C) Abandonment. If a ground source heat pump system remains nonfunctional or inoperative for a continuous period of 1 year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained in accordance with the following:

(1) The heat pump and any external mechanical equipment shall be removed.

(2) Pipes or coils below the land surface shall be filled with grout to displace the heat transfer fluid. The heat transfer fluid shall be captured and disposed of in accordance with applicable regulations. The top of the pipe, coil or boring shall be uncovered and grouted.

(3) Lake ground source heat pump systems shall be completely removed from the bottom of the body of water.

(D) Permits. A building permit shall be obtained for any ground source heat pump system prior to installation. Borings for vertical systems are subject to approval by the Minnesota Department of Public Health.

(Ord. 227, passed 5-2-22)

WIND ENERGY SYSTEMS.

(A) Zoning district allowance. Small wind turbine systems in accordance with the standards in this chapter are allowed as a permitted accessory use in all zoning districts.

(B) General standards. The following standards shall be applicable to small wind turbine systems in all zoning districts:

(1) Number. No more than 1 wind energy system is permitted per parcel.

(2) Setbacks. The base of the wind turbine tower shall be set back from all property lines a distance equal to the highest possible extension of the system apparatus.

(3) Roof mounting. Roof mounted wind turbines shall be permitted only when a determination is made by the City Building Official that the underlying roof structure will support such system and all applicable building standards are satisfied.

(4) Rotor clearance. No part of a rotor blade shall be located within 35 feet of the ground and within 20 feet of the nearest tree, structure or aboveground utility facility.

(5) Noise. Wind energy systems shall comply with Minnesota pollution control agency noise standards outlined in Minnesota Rules Ch. 7030 at all property lines.

(6) Screening. Wind energy systems shall be screened from view to the extent possible without impacting their function.

(7) Aesthetics. All portions of the wind energy system shall be a nonreflective, neutral/earth tone color, subject to the approval of the zoning administrator. The appearance of the turbine, tower and any other related components shall be maintained throughout the life of the wind energy system pursuant to industry standards. Systems shall not be used for displaying any advertising. Systems shall not be illuminated.

(8) Feeder lines. The electrical collection system shall be placed underground within the interior of each parcel. The collection system may be placed overhead near substations or points of interconnection to the electric grid.

(9) Safety.

(a) Wind energy systems shall meet minimum standards such as International Electrotechnical Commission (IEC) 61400-2 or the American Wind Energy Association's (AWEA) small wind turbine performance and safety standard or other standards as determined by the City Building Official.

(b) Wind energy systems shall be certified by Underwriters Laboratories, Inc., and the National Renewable Energy Laboratory, the Small Wind Certification Council or other body as determined by the city. The city reserves the right to deny a building permit for proposed wind energy systems deemed to have inadequate certification or testing for operation in a severe winter climate.

(c) Wind energy systems shall be maintained under an agreement or contract by the manufacturer or other qualified entity.

(d) All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect shall be provided if required by the utility.

(10) Abandonment. If a wind energy system remains nonfunctional or inoperative for a continuous period of 1 year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure including foundations to below natural grade and transmission equipment.

(11) Permits. A building permit, and conditional use permit if required, shall be obtained for any wind energy system prior to installation.

(C) Residential district standards.

(1) Mounting. All wind turbine systems shall be roof mounted. Ground mounted systems are not permitted.

(2) Height. Wind energy systems shall not extend more than 6 feet above the highest point of the roof.

(D) Commercial, industrial, and institutional district standards.

(1) Mounting. Subject to the requirements of this chapter, wind energy systems may either be roof mounted or ground mounted.

(2) Height.

(a) Except as may otherwise be allowed by conditional use permit, wind turbine systems shall conform to the maximum height requirements of the applicable commercial, industrial or institutional zoning district.

(b) Wind turbine system heights in excess of the maximum height requirement of the applicable zoning district may be permitted by conditional use permit provided that:

1. The system height, as measured from the base of the tower for ground mounted systems, or base of the building for roof mounted systems, to the highest possible extension of the system apparatus shall not exceed 100 feet.
2. The additional system height is required to allow for the improved operation of the wind energy system.
3. The additional wind energy system height results in a net energy gain.
4. The wind energy system does not adversely affect solar access to adjacent properties.
5. The wind energy system complies with all other engineering, building, safety, and fire regulations.
6. The wind energy system is found to not have any adverse impacts on the area, including the health, safety, and general welfare of occupants of neighboring properties and users of public rights-of-way.
7. The criteria and applicable standards of this section are considered and determined to be satisfied.

(3) Ground mounted systems.

(a) Ground mounted wind energy systems shall not be installed in the front yard of any lot or in the side yard of a corner lot adjacent to a public right-of-way.

(b) Only monopole towers are permitted.

(c) System height shall be measured from the base of the tower to the highest possible extension of the system apparatus.

(d) Ground located wind energy systems shall not encroach on public drainage, utility roadway or trail easements.

(4) Rotor Blade Diameter. Rotor blades diameter must not exceed 35 feet in length.

(Ord. 227, passed 5-2-2022)

SOLAR ENERGY SYSTEMS.

(A) Zoning district allowance. Solar energy systems in accordance with the standards in this chapter are allowed as a permitted accessory use in all zoning districts.

(B) Standards.

(1) Exemption. Passive or building integrated solar energy systems are exempt from the requirements of this chapter and shall be regulated as any other building element.

(2) Height.

(a) Residential roof mounted solar energy systems are permitted to exceed the maximum height requirements in the applicable zoning district up to 18 inches above the rooftop to which it is attached.

Residential rooftop mounted solar energy systems must be installed parallel to the rooftop to which it is attached. Residential ground mounted solar energy systems shall not exceed 10 feet in height.

(b) Commercial roof mounted solar energy systems are permitted to project a maximum of 4 feet from the roof to which it is attached to. The pitch shall not exceed 40% at maximum tilt. Commercial ground mounted solar energy systems shall not exceed 15 feet in height at maximum tilt.

(c) Ground mounted solar energy systems must be engineered to include 3 feet of clearance from grade to bottom of the solar energy system.

(3) Location. In residential zoning districts, ground mounted solar energy systems shall be limited to the rear or side yard. Lake frontage properties shall be limited to the side yards. In commercial, industrial and institutional districts, ground mounted solar energy systems may be permitted in front yards, side yards adjacent to public rights-of-way and rear yards.

(4) Setbacks. Ground mounted solar energy systems shall comply with all accessory structure setbacks in the applicable zoning district. Roof mounted systems shall comply with all building setbacks in the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted.

(5) Roof mounting. Roof mounted solar collectors may be flush mounted or bracket mounted. Bracket mounted collectors shall be permitted only when a determination is made by the City Building Official that the underlying roof structure will support apparatus, wind, and snow loads and all applicable building standards are satisfied.

(6) Easements. Solar energy systems shall not encroach on public drainage, utility roadway or trail easements.

(7) Screening. Solar energy systems shall be screened from view and the public right of way to the extent possible without impacting their function.

(8) Maximum area.

(a) Residential ground mounted solar energy systems shall be limited to 1% of the lot area.

(b) Commercial ground mounted solar energy systems shall be limited in size to the maximum area requirement allowed for accessory structures or no more than 25% of the yard in which the solar energy system is placed, whichever is less.

(c) Ground mounted solar energy systems are exempt from maximum impervious surface limitations in each zoning district.

(9) Aesthetics. All solar energy systems shall be installed or positioned so as not to cause any glare or reflective sunlight onto neighboring properties, right of ways or structures, obstruct views and minimize glare toward vehicular traffic.

(10) Feeder lines. The electrical collection system shall be placed underground within the interior of each parcel. The collection system may be placed overhead near substations or points of interconnection to the electric grid.

(C) Safety.

(1) Standards. Solar energy systems shall meet the minimum standards outlined by the International Electrotechnical Commission (IEC), the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE), ASTM International, British Standards Institution (BSI), International Organization for Standardization (ISO), Underwriter's Laboratory (UL), the Solar Rating and Certification Corporation (SRCC) or other standards as determined by the City Building Official.

(2) Certification. Solar energy systems shall be certified by Underwriters Laboratories, Inc., and the National Renewable Energy Laboratory, the Solar Rating and Certification Corporation or other body as determined by the community development director. The city reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.

(3) Utility connection. All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect shall be provided if required by the utility.

(D) Abandonment. If a solar energy system remains nonfunctional or inoperative for a continuous period of 1 year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure including transmission equipment.

(E) Permit. A building permit shall be obtained for any solar energy system prior to installation. A building permit submittal must include the following: to-scale site plan, manufacturers and installation specifications, a complete structural review worksheet for residential roof mounted solar arrays and any additional information requested by city staff and/or the building official.

(Ord. 227, passed 5-2-2022)

Subd. 13. Compliance.

All uses shall comply with all federal, state and local pollution and nuisance laws and regulations, including, but not limited to, glare, smoke, dust, odors and noise. The burden of proof for compliance of appropriate performance standards shall lie with the applicant.