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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 Mid MN Code Enforcement (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.

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. 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, or Planning Commission 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 (I") 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, overlayed 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.

CHAPTER _____

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 ~~No~~ 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 Righ-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:

Class of Street	Sidewalk Width (Ft)	Trail Width ROW/Paved
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.

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

ORDINANCE #133/CHAPTER 152
ESTABLISHING STORM WATER POLLUTION CONTROLS
FOR LAND DISTURBANCE ACTIVITIES
IN AVON, MINNESOTA

(ORDINANCE 133 AMENDED – March 6th, 2017)

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 Protections 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.

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.

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 <u>not</u> 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;

(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.

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.

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 hydrotropic 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)

Subd. 1. FINDINGS.

The City Council declares it necessary and appropriate to require a Civil Site Plan approval of land disturbing activities to preserve and promote attractive, well-planned, stable urban conditions, and for the purpose of drainage and erosion control.

The City of Avon hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, natural habitat areas, areas subject to soil erosion and areas containing restrictive soils adversely affects the public health, safety and general welfare by impacting water quality and contributing to other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the City of Avon to provide adequate water, sewage, flood control and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in such areas and in areas which may be affected by unplanned land usage.

Subd. 2. PURPOSE.

The purpose of this Chapter is to promote, preserve and enhance the natural resources within the City of Avon and protect them from adverse effects occasioned by poorly sited development or incompatible activities, in addition to protecting neighboring and downstream properties by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique and fragile environmentally sensitive land; by minimizing conflicts and encouraging compatibility between land disturbing and development activities and water quality and environmentally sensitive lands; and by requiring detailed review standards and procedures for land disturbing or development activities proposed for such areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas.

Subd. 3. SCOPE AND EFFECT.

A. APPLICABILITY.

Civil Site Plan approval is required for all proposed buildings or improvements in R-3, commercial, and industrial zoning districts, and is required in R-2 districts where the project is expected to disturb *more* than one acre or increases the impervious area by one acre or more. Civil Site Plan approval will also be required for any land disturbance of 1 acre or more in any zoning district (per MPCA/NPDES Permitting requirements) and will be required for any land disturbance adjacent to any wetland. A civil site plan is required before a Building Permit may be issued. A civil site plan shall be required unless, at the discretion of the City Council, the requirement is waived. No Subdivision approval or permit to allow land disturbing activities, including but not limited to, mining, excavation, filling and grading shall be issued until approval of the Civil Site plan or a waiver of the approval requirement has been obtained in conformance with the provisions of this

Ordinance. The provisions of this Chapter apply to all land, public or private, located within the City of Avon.

B. The provisions of this Chapter do not apply to:

1. Installation, of fence, sign, telephone and electric poles and other kinds of posts or poles.

2. Emergency work to protect life, limb or property.

C. The City Council upon recommendation of the Zoning Administrator and The City Clerk/Administrator, may waive any requirements of this Chapter upon making a finding that compliance with the requirement will involve an unnecessary hardship and the waiver of such requirement will not adversely affect the standards and requirements set forth in this Chapter. The City may require as a condition of this waiver, such dedication, or construction, or agreement to dedicate or construct as may be necessary to adequately meet said standards and requirements.

Subd. 4 CIVIL SITE PLAN AND SURFACE (STORM) WATER MANAGEMENT PLAN APPROVAL PROCEDURES.

A. Application.

1. A civil site plan consisting of the information described in subsection Subd.4 C, herein, along with a completed Application for site plan approval shall be submitted to the City at least two weeks prior to the City Council meeting, and before any disturbance of land on the site. The Application and civil site plan shall be made available for comment by the City Engineer and Planning Commission. Zoning Administrator and City Clerk/Administrator shall review and make recommendation to the City Council for approval or denial.

2. Upon review of the site plan and the application, the Zoning Administrator and City Clerk/Administrator, shall submit a recommendation for approval or denial of the application for site plan approval to the City Council. A recommendation for approval may be conditional, and the City Council may impose additional restrictions and conditions that it deems necessary to protect the public interest, and the general health, safety and welfare of the City.

3. Applications for site plan shall be on a form provided by the City and shall include the established fee. In all cases, the Civil Site plan and storm water management plan shall contain a pdf and (6) 11” x 17” hard copies.

B. Civil Site Plan Standards.

1. When possible existing natural drainageways, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

2. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

3. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference should be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

4. When constructed facilities are used for stormwater management, record drawings (as-builts) must be provided by the registered professional engineer that they are designed and installed consistent with applicable local, state and federal standards. This shall include field collected topographic data of all constructed stormwater BMP's. All ponds or infiltration basin volumes must be verified.

5. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

C. Civil Site Plan Required.

1. At a minimum, the civil site plan shall contain the following information:

   a. Existing Site Map: A map of existing site conditions showing the site and immediately adjacent areas, including:

      1. The name and address of the applicant; a legal description of the property directly associated with the request; north point; date; scale of drawing; and number of sheets;

      2. Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, Subdivisions, towns, and districts or other landmarks;

3. Existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than two (2) feet;

4. Existing drainage patterns.

5. A delineation of all streams, rivers, public waters and wetlands located on and immediately adjacent to the site, including depth of water, a description of vegetation which may be found in the water, a statement of general water quality, and any classification given to the water body or wetland by the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, and/or the United States Army Corps of Engineers;

6. Location and dimensions of existing surface (storm) water drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate surface (storm) water is conveyed from the site, identifying the receiving stream, river, public water, or wetland, and setting forth those areas of the unaltered site where surface (storm) water collects;

7. A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed and describing any remedial steps to be taken by the Developer to render the soils suitable; and

8. Vegetative cover and clearly delineating any vegetation proposed for removal.

b. Site Construction Plan: A site construction plan including

1. Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;

2. Locations and dimensions of all temporary soil or dirt stockpiles;

3. Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this Chapter;

4. Schedule of anticipated starting and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this Chapter; and

5. Provisions for maintenance of the construction site erosion control measures during construction.

6. Storm Water Pollution Prevention Plan. Must implement NPDES requirements.

7. Detailed Drainage analysis including existing and proposed storm water run-off model:

a. Two (2), ten (10), and on hundred (100) year – twenty four (24) hour rain events. Rainfall depths for the 2, 10, and 100 year storms determined using the Atlas 14 rainfall depths shall be modeled using SCS TR-20.
b. Ten (10) year runoff event for storm pipes using Atlas 14 rainfall intensities and modeled using the rational method.

c. Plan of Final Site Conditions: A plan of final site conditions on the same scale as the existing site map showing the site changes including:

1. Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;

2. A drainage plan of the developed site delineating in which direction and at what rate surface (storm) water will be conveyed from the site and settling forth the areas of the site where surface (storm) water will be allowed to collect;

3. The proposed size, alignment and intended use of any structures to be erected on the site;

4. A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and

5. Any other information pertinent to the particular project which in the opinion of the applicant is necessary for the review of the project.

Subd. 5. PLAN REVIEW PROCEDURE.

A. Process: Civil site plans meeting the requirements of Subdivision 4 shall be submitted by the Zoning Administrator to the City Engineer for review in accordance with the standards of Subdivision 6. Civil site plan may then be submitted to Planning Commission for their review and comment. The Zoning Administrator and City Clerk/Administrator shall submit any comments received from City Engineer and Planning Commission and shall recommend approval, recommend approval with conditions, or recommend denial of the civil site plan to the City Council. The civil site plan shall be submitted to the City Council at its next available meeting. City Council action on the civil site plan must be accomplished within sixty (60) days following the date the application for approval is filed with the City Clerk/Zoning Administrator unless the applicant agrees to an extension.

B. Duration: Approval of a plan submitted under the provisions of this Chapter shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval the applicant makes a written request to the City Clerk/Zoning Administrator for an extension of time to commence construction setting forth the reasons for the requested extension, the City may grant one extension of not greater than one single year. Receipt of any request for an extension shall be acknowledged by the Zoning Administrator within fifteen (15) days. The Zoning Administrator, after consulting with the City

Engineer shall make a decision on the extension within thirty (30) days of receipt. Any plan may be revised in the same manner as originally approved.

C. Conditions: A civil site plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this Chapter are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development; require the construction of structures, drainage facilities, storage basins, and other facilities; require replacement of vegetation; establish required monitoring procedures; stage the work over time; require alternation of the site design to insure buffering; and require the conveyance to the City or other public entity of certain lands or interests therein.

D. Security or Performance Bond: Prior to approval of any surface (storm) water management plan, the applicant may be required to submit an agreement to construct such required physical improvements, to dedicate property or easement, or to comply with such conditions as may have been agreed to. Such agreement may require a letter of credit, bond, or other security acceptable to the City of Avon to cover the amount of the established costs of complying with the agreement, generally 125% of the construction cost. The agreement and bond or security shall guarantee completion and compliance with conditions within a specified time, which time may be extended at the discretion of the City Council. The adequacy, conditions, and acceptability of any agreement and bond or other acceptable security shall be determined by the City Council or City Clerk/Administrator.

E. Fees: All applications for surface (storm) water management plan approval shall be accompanied by a processing and approval fee, if applicable, and as specified by the City Council through resolution.

Subd. 6. APPROVAL STANDARDS.

No civil site plan which fails to meet the standards contained in this Chapter shall be approved by the City Council.

Subd. 7. SITE DEWATERING.

Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow 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. All dewatering must meet the requirements of the NPDES permit.

Subd. 8. WASTE AND MATERIAL DISPOSAL.

All waste and unused building materials, including but not limited to, garbage, cleaning wastes, debris, wastewater, toxic materials or hazardous materials, shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or surface (storm) sewer system.

Subd. 9. TRACKING.

Each site shall be required to install rock construction entrances prior to the start of construction. Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.

Subd. 10 DRAIN INLET PROTECTION.

All surface (storm) drain inlets shall be protected during construction and maintained until all upstream areas have been stabilized.

Subd. 11. SITE EROSION CONTROL.

Each site shall follow Erosion Control Process, Best Management Practices required by NDPES permit and/or SWPPP.

Subd. 12. SURFACE (STORM) WATER MANAGEMENT CRITERIA FOR PERMANENT FACILITIES.

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

B. The applicant shall give consideration to reducing the need for surface (storm) water management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, 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.

C. The following surface (storm) water management practices shall be investigated in developing a surface (storm) water management plan:

1. Natural infiltration of precipitation on-site, if located outside of areas considered sensitive to groundwater contamination and where soils and groundwater table allow. NPDES prioritizes the use of infiltration or other volume reduction practices where feasible. City Council may waive this requirement for sites that have previously had a stormwater management plan completed and storm water runoff is not expected to exceed original design standards;

2. Flow attenuation by use of open vegetated swales and natural depressions;

3. Surface (storm) water retention facilities; and

4. Surface (storm) water detention facilities.

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

Subd. 13. DESIGN STANDARDS FOR DETENTION FACILITIES.

Surface (storm) water detention facilities constructed in the City of Avon shall be designed according to NPDES requirements.

Subd. 14. WETLANDS.

Rules and regulations applicable to wetlands and set forth by the Minnesota Wetland Conservation Act and Federal Clean Water Act are hereby incorporated.

Subd. 15. MODELS/METHODOLOGIES/COMPUTATIONS.

Civil site plans, hydrologic models, and design methodologies used for the determination of runoff and analysis of surface (storm) water management structures shall be approved by the City Engineer. Plan, specification, and computations for civil site plans, and surface (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.

Subd. 16. WATERSHED MANAGEMENT AND GROUNDWATER MANAGEMENT PLANS.

Surface (storm) water management plans shall be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with Minnesota Statutes Chapter 103B.231 and 103B.255 respectively, and as approved by the Minnesota Board of Water and Soil Resources in accordance with state law.

Subd. 17 EASEMENTS.

If a Civil Site Plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

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

CHAPTER 154: FLOODPLAIN ORDINANCE

Section

154. Adoption by reference

154. ADOPTION BY REFERENCE

The City's Floodplain Ordinance is hereby adopted by reference and incorporated herein as if set out in full. (Ordinance No. 196 passed January 9 2012)

CITY OF AVON

MN Floodplain Management Ordinance

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CITY OF AVON
FLOOD PLAIN MANAGEMENT ORDINANCE

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

1.1 Statutory Authorization: The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Avon, Minnesota does ordain as follows:

1.2 Findings of Fact:

1.21 The flood hazard areas of the City of Avon, Minnesota, may be subject to periodic inundation which could result in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

1.22 Methods Used to Analyze Flood Hazards. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

1.23 National Flood Insurance Program Compliance. This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

1.3 Statement of Purpose: It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.21 by provisions contained herein.

SECTION 2.0 GENERAL PROVISIONS

2.1 Lands to Which Ordinance Applies: This Ordinance shall apply to all lands within the jurisdiction of the City of Avon, Minnesota shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the flood plain.

2.2 Establishment of Official Zoning Map: The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the Flood Insurance Rate Map Panels for Stearns County, Minnesota And Incorporated Areas numbered 27145C0375E and 27145C0600E and the Flood Insurance Rate Map Index (Map Number 27145CIND1A), all dated February 16, 2012 and prepared by the Federal Emergency Management Agency. The Official Zoning Map shall be on file in the Office of the City Clerk and the Zoning Administrator.

2.3 Regulatory Flood Protection Elevation: The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

2.4 Interpretation:

2.41 In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

2.42 The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

2.5 Abrogation and Greater Restrictions: It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

2.6 Warning and Disclaimer of Liability: This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Avon, Minnesota or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

2.7 Severability: If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

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

2.811 Accessory Use or Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

2.812 Basement - means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

2.813 Conditional Use - means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

(a) Certain conditions as detailed in the zoning ordinance exist.
(b) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

2.814 Equal Degree of Encroachment - a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

2.815 Flood - a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

2.816 Flood Frequency - the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

2.817 Flood Fringe - that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term :floodway fringe" used in the Flood Insurance Study for Stearns County, Minnesota. and Incorporated areas.

2.818 Flood Plain - the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood. Flood plain shall encompass all areas shown as Zone A on the Flood Insurance Rate map panels adopted in Section 2.2 of this ordinance.

2.819 Flood Proofing - a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

2.820 Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

2.821 Lowest Floor - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

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

2.823 Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

2.824 Principal Use or Structure - means all uses or structures that are not accessory uses or structures.

2.825 Reach - a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

2.826 Recreational Vehicle - a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable

by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

2.827 Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood", 1-percent annual chance flood or 100-year flood elevation.

2.828 Regulatory Flood Protection Elevation - The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

2.829 Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 9.31 of this Ordinance and other similar items.

2.830 Substantial Damage - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

2.831 Substantial Improvement - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

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

(b) Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this Ordinance, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1.

2.832 Variance - means a modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

2.9 Annexations: The Flood Insurance Rate Map panels adopted by reference into Section 2.2 above may include floodplain areas that lie outside of the corporate boundaries of the City of Avon, Minnesota at the time of adoption of this Ordinance. If any of these floodplain land areas are annexed into the City of Avon, Minnesota after the date of adoption of this Ordinance, the newly annexed floodplain lands shall be subject to the provisions of this Ordinance immediately upon the date of annexation into the City of Avon, Minnesota.

SECTION 3.0 ESTABLISHMENT OF ZONING DISTRICTS

3.1 Districts:

3.11 Floodway District. For lakes, the Floodway District shall include those areas designated as Zone A on the Flood Insurance Rate Map panels adopted in Section 2.2 that are below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

3.12 Flood Fringe District. For lakes, the Flood Fringe District shall include those areas designated as Zone A on the Flood Insurance Rate Map panels adopted in Section 2.2 that are below the 1% annual chance flood elevation (100-year flood elevation) but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

3.13 General Flood Plain District. The General Flood Plain District shall include those areas designated as Zone A on the Flood Insurance Rate Map adopted in Section 2.2, which are not subject to criteria mentioned in 3.11 and 3.12 above.

3.2 Compliance: No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in Sections 4.0, 5.0 and 6.0 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

3.21 New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically Section 9.0.

3.22 Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 11.0.

3.23 As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Ordinance and specifically as stated in Section 10.0 of this Ordinance.

SECTION 4.0 FLOODWAY DISTRICT (FW)

The permitted and conditional uses listed below are only allowable in the floodway if not prohibited by any other underlying zoning district classifications of the City of Avon and if not prohibited by any applicable state or federal law.

4.1 Permitted Uses:

4.11 General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

4.12 Industrial-commercial loading areas, parking areas, and airport landing strips.

4.13 Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

4.14 Residential lawns, gardens, parking areas, and play areas.

4.2 Standards for Floodway Permitted Uses:

4.21 The use shall have a low flood damage potential.

4.22 The use shall be permissible in the underlying zoning district if one exists.

4.23 The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

4.3 Conditional Uses:

4.31 Structures accessory to the uses listed in 4.1 above and the uses listed in 4.32 - 4.38 below.

4.32 Extraction and storage of sand, gravel, and other materials.

4.33 Marinas, boat rentals, commercial docks, piers, wharves, and water control structures.

4.34 Railroads, streets, bridges, utility transmission lines, and pipelines.

4.35 Storage yards for equipment, machinery, or materials.

4.36 Placement of fill or construction of fences.

4.37 Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 9.3 of this Ordinance.

4.38 Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

4.4 Standards for Floodway Conditional Uses:

4.41 All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that

will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

4.42 All floodway conditional uses shall be subject to the procedures and standards contained in Section 10.4 of this Ordinance.

4.43 The conditional use shall be permissible in the underlying zoning district if one exists.

4.44 Fill:

(a) Fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

(b) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

(c) As an alternative, and consistent with Subsection (b) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the County Recorder.

4.45 Accessory Structures:

(a) Accessory structures shall not be designed for human habitation.

(b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:

(1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

(2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(c) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:

(1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;

(2) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and

(3) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

4.46 Storage of Materials and Equipment:

(a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

4.47 Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

4.48 A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

SECTION 5.0 FLOOD FRINGE DISTRICT (FF)

5.1 Permitted Uses: Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a permitted use in the Flood Fringe District provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe District “Permitted Uses” listed in Section 5.2 and the "Standards for all Flood Fringe Uses" listed in Section 5.5.

5.2 Standards for Flood Fringe Permitted Uses:

5.21 All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

5.22 As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood proofed in accordance with the following standards:

(a) Accessory structures shall not be designed for human habitation.

(b) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code and, for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. Flood proofed accessory structures must meet the following additional standards.

(1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls.

(2) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and

(3) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less that one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the

bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

5.23 The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Section 5.21 of this ordinance.

5.24 The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

5.25 The provisions of Section 5.5 of this Ordinance shall apply.

5.3 Conditional Uses: Any structure that is not elevated on fill or flood proofed in accordance with Section 5.21 - 5.22 and or any use of land that does not comply with the standards in Section 5.23 - 5.24 shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Sections 5.4-5.5 and 10.4 of this Ordinance.

5.4 Standards for Flood Fringe Conditional Uses:

5.41 Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(a) Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

(b) Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

(1) A minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

(2) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

5.42 Basements, as defined by Section 2.812 of this Ordinance, shall be subject to the following:

(a) Residential basement construction shall not be allowed below the regulatory flood protection elevation.

(b) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with Section 5.43 of this Ordinance.

5.43 All areas of non residential structures including basements to be placed below the regulatory flood protection elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

5.44 When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

5.45 Storage of Materials and Equipment:

(a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

5.46 The provisions of Section 5.5 of this Ordinance shall also apply.

5.5 Standards for All Flood Fringe Uses:

5.51 All new principal structures/driveways must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

5.52 Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.

5.53 Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land

uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 5.52 above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

5.54 Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

5.55 Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

5.56 Standards for recreational vehicles are contained in Section 9.3.

5.57 All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

SECTION 6.0 GENERAL FLOOD PLAIN DISTRICT AND ZONE A LAKES

6.1 General Flood Plain District:

6.11 Permissible Uses:

(a) The uses listed in Section 4.1 of this Ordinance shall be permitted uses.

(b) All other uses shall be subject to the 1% annual chance flood (100-Year Flood Elevations) and/or Floodway and Flood Fringe determinations criteria pursuant to Sections 6.12 below. Section 4.0 shall apply if the proposed use is in the Floodway District and Section 5.0 shall apply if the proposed use is in the Flood Fringe District.

6.12 Procedures for 1% annual chance flood (100-Year Flood Elevations) and/or Floodway and Flood Fringe Determinations for Streams Located Within the General Flood Plain District:

(a) Upon receipt of an application for a permit or other approval within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District.

(1) A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

(2) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.

(3) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.

(4) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

(b) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining the 1% annual chance flood (100-Year Flood Elevations), if not available, whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

(1) Estimate the peak discharge of the regional flood.

(2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

(3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

(c) The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Governing Body. The Governing Body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Governing Body, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District Boundaries have been determined, the Governing Body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Section 4.0 and 5.0 of this Ordinance.

6.2 Zone A lakes: Procedures for determining 1% annual chance flood elevations (100-YR flood elevations) for lakes located in Zone A:

6.21 Upon receipt of an application for a permit or other approval within a Zone A, the Zoning Administrator will use the 1% annual chance flood elevation for that basin that has previously been determined in accordance with approved FEMA methods, if available. If the 1% annual chance flood elevation has not been previously determined, the applicant shall be required to furnish all necessary information as deemed necessary by the Zoning Administrator for the determination for the 1% annual chance flood elevation in accordance with approved FEMA methods.

6.22 The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining the 1% annual chance flood elevation (100-year flood elevation). Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis.

6.23 Once the 1% annual chance flood elevation (100-year flood elevation) has been determined, the Zoning Administrator shall process the permit application consistent with the applicable provisions of

Section 4.0 and 5.0 of this Ordinance depending on whether the use is in the Floodway district or the Flood Fringe District, respectively, as determined by the criteria in sections 3.11 and 3.12 of this ordinance.

SECTION 7.0 SUBDIVISIONS[2]

7.1 Review Criteria: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

7.2 1% chance annual flood (100-Year Elevations) and/or Floodway/Flood Fringe Determinations. Applicants shall provide the information required in Section 6.0 of this Ordinance to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site as applicable.

7.3 Removal of Special Flood Hazard Area Designation: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

SECTION 8.0 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

8.1 Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.

8.2 Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Sections 4.0 and 5.0 of this Ordinance. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

8.3 On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

SECTION 9.0 MANUFACTURED HOMES (TRAILER HOMES) AND MANUFACTURED HOME PARKS AND PLACEMENT OF RECREATIONAL VEHICLES.

9.1 New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 7.0 of this Ordinance.

9.2 The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 5.0 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 5.51, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.

9.21 All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

9.3 Recreational vehicles that do not meet the exemption criteria specified in Section 9.31 below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 9.33-9.34 below.

9.31 Exemption - Recreational vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 9.32 below and further they meet the following criteria:

(a) Have current licenses required for highway use.

(b) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.

(c) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

9.32 Areas Exempted For Placement of Recreational Vehicles:

(a) Individual lots or parcels of record.
(b) Existing commercial recreational vehicle parks or campgrounds.
(c) Existing condominium type associations.

9.33 Recreational vehicles exempted in Section 9.31 lose this exemption when development occurs on the parcel exceeding $500 for a structural addition to the recreational vehicle or exceeding $500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections 4.0 and 5.0 of this Ordinance. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

9.34 New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

(a) Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with Section 5.51 of this Ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

(b) All new or replacement recreational vehicles not meeting the criteria of (a) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of 10.4 of the Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Section 9.31 (a) and (b) of this Ordinance will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 8.3 of this Ordinance.

SECTION 10.0 ADMINISTRATION

10.1 Zoning Administrator: A Zoning Administrator or other official designated by the Governing Body shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 12.0 of the Ordinance.

10.2 Permit Requirements:

10.21 Permit Required. A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair)**,** or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

10.22 Application for Permit. Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

10.23 State and Federal Permits. Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

10.24 Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.

10.25 Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 12.0 of this Ordinance.

10.26 Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

10.27 Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.

10.28 Notifications for Watercourse Alterations. The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

10.29 Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

10.3 Board of Adjustment/City of Avon Planning Commission:

10.31 Rules. The Board of Adjustment/City of Avon Planning Commission shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.

10.32 Administrative Review. The Board of Adjustment/City of Avon Planning Commission shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.

10.33 Variances. The Board of Adjustment/City of Avon Planning Commission may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment/City of Avon Planning Commission shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Ordinance, any other zoning regulations in the Community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation

for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

(a) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
(b) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

10.34 Hearings. Upon filing with the Board of Adjustment/City of Avon Planning Commission of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Adjustment/City of Avon Planning Commission shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustment/City of Avon Planning Commission shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

10.35 Decisions. The Board of Adjustment/City of Avon Planning Commission shall arrive at a decision on such appeal or variance within 60 days. In passing upon an appeal, the Board of Adjustment/City of Avon Planning Commission may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board of Adjustment/City of Avon Planning Commission may prescribe appropriate conditions and safeguards such as those specified in Section 10.46, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance punishable under Section 12.0. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

10.36 Appeals. Appeals from any decision of the Board of Adjustment/City of Avon Planning Commission may be made, and as specified in this community's official controls and also by Minnesota Statutes.

10.37 Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

10.4 Conditional Uses. The Board of Adjustment/City of Avon Planning Commission shall hear and decide applications for conditional uses permissible under this Ordinance. Applications shall be submitted to the Zoning Administrator who shall forward the application to the City of Avon City Council for final approval.

10.41 Hearings. Upon filing with the City of Avon Planning Commission an application for a conditional use permit, the Zoning Administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

10.42 Decisions. The City of Avon City Council shall arrive at a decision on a conditional use within 60 days. In granting a conditional use permit the City of Avon City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 10.46, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Ordinance punishable under Section 12.0. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

10.43 Procedures to be followed by the City of Avon City Council in Passing on Conditional Use Permit Applications Within all Flood Plain Districts.

(a) Require the applicant to furnish such of the following information and additional information as deemed necessary by the City of Avon City Council for determining the suitability of the particular site for the proposed use:

(1) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel; and

(2) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

(b) Transmit one copy of the information described in subsection (a) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

(c) Based upon the technical evaluation of the designated engineer or expert, the City of Avon City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

10.44 Factors Upon Which the Decision of the City of Avon City Council Shall Be Based. In passing upon conditional use applications, the City of Avon City Council shall consider all relevant factors specified in other sections of this Ordinance, and:

(a) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(b) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

(c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(e) The importance of the services provided by the proposed facility to the community.

(f) The requirements of the facility for a waterfront location.

(g) The availability of alternative locations not subject to flooding for the proposed use.

(h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(i) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

(j) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(l) Such other factors which are relevant to the purposes of this Ordinance.

10.45 Time for Acting on Application. The City of Avon Planning Commission shall act on an application in the manner described above within 60 days from receiving the application, except that where additional information is required pursuant to 10.43 of this Ordinance. The Zoning Administrator shall render a written decision within _60_ days from the receipt of such additional information.

10.46 Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, the City of Avon City Council shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

(a) Modification of waste treatment and water supply facilities.

(b) Limitations on period of use, occupancy, and operation.

(c) Imposition of operational controls, sureties, and deed restrictions.

(d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

(e) Flood proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

SECTION 11.0 NONCONFORMING USES

11.1 A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 2.831(b) of this Ordinance, shall be subject to the provisions of Sections 11.11 – 11.15 of this Ordinance.

11.11 No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.

11.12 Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 11.13 and 11.16 below.

11.13 The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must meet the standards of Section 4.0 or 5.0 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

11.l4 If any nonconforming use is discontinued for l2 consecutive months, any future use of the building premises shall conform to this Ordinance. The Assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of l2 months.

11.15 If any nonconforming use or structure is substantially damaged, as defined in Section 2.830 of this Ordinance, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 4.0, 5.0 or 6.0 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

11.16 If a substantial improvement occurs, as defined in Section 2.831 of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Section 4.0 or 5.0 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

SECTION 12.0 PENALTIES FOR VIOLATION

12.1 Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

12.2 Nothing herein contained shall prevent the City of Avon from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

12.21 In responding to a suspected Ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The Community must act in good faith to enforce these official controls and to correct Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

12.22 When an Ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

12.23 The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either: (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or (2) notify the

responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.

12.24 If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

SECTION l3.0 AMENDMENTS

The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.

EFFECTIVE DATE: ***This Ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law and/or charter.***

Adopted by the _____ Board/City Council
(Community Name)

This _____ of _____, _____
(Day) (Month) (Year)

Attest: _____ , County Board Chairperson/Mayor
(Name of Elected Official)

Attest: _____, County Administrator/City Clerk
(Name of Community Official)

Stamp With Community Seal: