



# TOWN OF AVON ZONING ORDINANCE

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# TOWN OF AVON ZONING ORDINANCE

## Contents

SECTION 1 – INTRODUCTION .....	5
A. AUTHORITY .....	5
B. PURPOSE .....	5
C. INTERPRETATION:.....	5
SECTION 2 – DEFINITIONS.....	6
A. GENERAL INTERPRETATION .....	6
B. SPECIFIC WORDS AND PHRASES DEFINED.....	6
SECTION 3 – ADMINISTRATION:.....	15
SECTION 4 – CHANGES AND AMENDMENTS:.....	18
SECTION 5 – GENERAL PROVISIONS: .....	18
A. INTRODUCTION .....	18
B. JURISDICTION.....	18
C. COMPLIANCE.....	18
D. SITE REGULATIONS: .....	18
E. DRAINAGE REGULATIONS.....	20
F. SANITATION AND WATER SUPPLY:.....	20
G. USE REGULATIONS .....	21
H. BUILDING LOCATION:.....	21
I. HEIGHT REGULATIONS:.....	24
J. AREA REGULATIONS:.....	24
K. OFF-STREET PARKING: .....	26
L. REDUCTION OR JOINT USE .....	28
M. SIGNS: .....	28
N. NON-CONFORMING USES:.....	30
O. PRIOR PERMIT: .....	31
P. CERTIFICATE OF OCCUPANCY .....	31
Q. PERFORMANCE STANDARDS: .....	32
R. SMART GROWTH PLAN STANDARDS .....	34
SECTION 6 – DISTRICTS .....	35
A. ESTABLISHMENT OF DISTRICTS .....	35

B.	ZONING MAP.....	35
6.1	A-PRIME AGRICULTURAL DISTRICT .....	36
A.	PURPOSE AND INTENT OF A-PRIME AGRICULTURAL DISTRICT .....	36
B.	REQUIREMENTS FOR PERMITTED AND CONDITIONAL USES WITHIN THE A-PRIME AGRICULTURAL DISTRICT .....	36
C.	A-PRIME AGRICULTURAL DISTRICT LAND USES .....	39
D.	CONDITIONAL USE.....	39
E.	REZONING LAND OUT OF THE A-PRIME AGRICULTURAL DISTRICT.....	41
6.2	A-1 AGRICULTURAL DISTRICT ONE.....	42
A.	PURPOSE AND INTENT OF A-1 AGRICULTURAL DISTRICT ONE .....	42
B.	USE REGULATIONS .....	42
C.	CONDITIONAL USES .....	43
6.3	R-1 RESIDENCE DISTRICT (SINGLE FAMILY) .....	44
A.	USE REGULATIONS .....	44
B.	CONDITIONAL USES .....	44
6.4	R-2 RESIDENCE DISTRICT (DUPLEX).....	45
A.	USE REGULATIONS .....	45
6.5	R-3 RESIDENCE DISTRICT (MULTIPLE FAMILY).....	46
A.	USE REGULATIONS .....	46
6.6	R-4 RESIDENCE DISTRICT (PLANNED DEVELOPMENT) .....	47
A.	USE REGULATIONS .....	47
6.7	B-1 RESTRICTED BUSINESS DISTRICT .....	48
A.	USE REGULATIONS .....	48
B.	CONDITIONAL USES .....	48
6.8	B-2 LOCAL BUSINESS DISTRICT .....	50
A.	USE REGULATIONS .....	50
6.9	B-3 GENERAL BUSINESS DISTRICT .....	52
A.	USE REGULATIONS .....	52
6.10	I-1 LIGHT INDUSTRIAL DISTRICT.....	53
A.	USE REGULATIONS .....	53
6.11	I-2 HEAVY INDUSTRIAL DISTRICT.....	55
A.	USE REGULATIONS .....	55

6.12	Q – 1 QUARRYING DISTRICT .....	56
A.	USE REGULATIONS FOLLOW ALL STATE AND FEDERAL REGULATIONS 56	
B.	CONDITIONAL USES .....	56
6.13	NROS: NATURAL RESOURCE OPEN SPACE DISTRICT.....	57
A.	PURPOSE AND INTENT .....	57
B.	PERMITTED USES .....	57
C.	CONDITIONAL USES .....	57
D.	REQUIREMENTS FOR PERMITTED AND CONDITIONAL USES.....	58
	SECTION 7 – CONDITIONAL USES: .....	59
A.	APPROVAL REQUIRED .....	59
B.	APPLICATION .....	59
C.	CONDITIONS .....	60
D.	OTHER PROVISIONS .....	60
E.	EXISTING USES .....	60
F.	REVIEW OF CONDITIONAL USES.....	60
G.	FINAL REVIEW AND APPROVAL.....	60
H.	COMPLIANCE.....	60
I.	APPLICATION FOR CHANGE OF CONDITIONAL USE PERMIT .....	61
J.	EXPIRATION OF CONDITIONAL USE STATUS .....	61
K.	AUTOMATIC EXPIRATION OF CONDITIONAL USE STATUS .....	61
	REVERTER.....	61
M.	CONDITIONAL USES PERMITTED .....	61
	SECTION 8 – ENFORCEMENT:.....	77
	SECTION 9 – BUILDING PERMITS: .....	78
	SECTION 10- VIOLATIONS AND PENALTIES:.....	78
	SECTION 11 – VALIDITY: .....	79

## TOWN OF AVON ZONING ORDINANCE

THE TOWN BOARD OF THE TOWN OF AVON, ROCK COUNTY, WISCONSIN, DOES ORDAIN AS FOLLOWS:

### SECTION 1 – INTRODUCTION:

A. **AUTHORITY**: This Ordinance is enacted and adopted pursuant to the provisions of Sections 60.61, 60.62, 60.65, and 62.23 of the Wisconsin Statutes.

B. **PURPOSE**: The provisions of this Ordinance are minimum requirements designed and adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the citizens of the Town of Avon. Among other purposes, such provisions are intended to provide for adequate light, air, sanitation, drainage, convenience of access, conservation, and safety from fire and other dangers; to promote the safety and efficiency of the public streets and highways; to aid in conserving and stabilizing the economic values of the community; to preserve and promote the general attractiveness and character of the community environment; to guide the proper distribution and location of population and of the various land uses; and to otherwise provide for the health and prosperous growth of the community.

C. **INTERPRETATION**:

1. **Construction**: In their interpretation and application, the provisions of this Ordinance shall be liberally construed in favor of the Town of Avon and shall not be construed as limiting or repealing any other power granted to the Town of Avon by the Wisconsin Statutes.
2. **Abrogation and Greater Restrictions**: Except as provided herein, the provisions of this Ordinance are not intended to repeal, abrogate, annul, impair or otherwise interfere with any existing easements, covenants or agreements between parties or with any rules, regulations, or permits previously adopted or issued pursuant to law; however, where this ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of a building or requires larger open spaces that are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this Ordinance shall govern.
3. **Conflict**: Except as provided herein, all prior Town of Avon ordinances, or parts of ordinances, and amendments thereto conflicting with this ordinance are hereby repealed and superseded by this ordinance.

## SECTION 2 – DEFINITIONS

**A. GENERAL INTERPRETATION:** In construing this Ordinance, the following rules shall be observed unless construction in accordance with these rules would produce a result inconsistent with the manifest intent of the Town Board.

1. **TENSES.** When not inconsistent with the context, the present tense of a verb includes the future, and the future perfect tense includes past and future tenses.
2. **SINGULAR AND PLURAL.** The singular includes the plural, and the plural includes the singular.
3. **CODE AND ORDINANCE.** The words “Code” and “Ordinance” are to be used interchangeably.
4. **MISCELLANEOUS DEFINITIONS.**
  - a. The word “person” may be taken for persons, associations, partnerships, limited liability companies, corporations, or the like.
  - b. The word “structure” includes buildings.
  - c. The word “occupied” includes intended to be occupied.
  - d. The word “used” includes designed or intended to be used.
  - e. The word “inhabit” includes intended to be inhabited.
  - f. The word “shall” is always mandatory and not merely permissive.
  - g. The term “County” refers to the County of Rock, Wisconsin.
  - h. The term “Town Board” refers to the Town Board of the Town of Avon.
  - i. Reference to any officer, such as “Clerk”, “Building Inspector”, “Engineer”, or “Attorney” means that officer appointed or otherwise officially designated by the Town of Avon in such capacity, unless otherwise specifically designated. Any words not herein defined shall be construed according to the definitions provided in the State and Town Codes.

### **B. SPECIFIC WORDS AND PHRASES DEFINED:**

1. **Accessory Building:** A building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted or conditional use of the main building or of the premises.
2. **Accessory Use:** A subordinate use on the same lot which is incidental and customary in connection with principal or conditional use.
3. **Airport:** Any area of land or water which is used, or intended for use, for the landing or take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.
4. **Alley:** A street or thoroughfare less than 21 feet wide and affording only secondary access to abutting property.

5. **Alterations:** Any change in the supporting members of a building or any substantial change in the roof structure or in the exterior walls of a building.
6. **Apartment:** A suite of rooms or a room in an apartment house which is arranged, intended or designed to be occupied as a residence for a single family, individual or group of individuals.
7. **Apartment House:** See "Dwelling, Multiple".
8. **Basement:** A story partly underground which, if occupied for living purposes, shall be counted as a story for purposes of height measurement.
9. **Boarding House:** A building other than a hotel, which is not open to daily transient customers, where meals, or lodging and meals, are furnished for compensation for three or more persons not members of a family.
10. **Building:** A structure used, designated or intended for the protection, shelter, enclosure, or support of persons, animals or property. When a building is divided into separate parts by un-pierced walls extending from the ground up, each part shall be deemed a separate building.
11. **Building, Height of:** The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck lines of a mansard roof or to the average height of the highest gable or a gambrel, hip or pitch roof.
12. **Building, Area of:** The total living area bounded by the exterior walls of a building at the floor levels, but not including basements, garages, porches, breezeways and unfinished attics.
13. **Buildings, Portable:** For purposes of setback regulations, portable buildings are considered structures.
14. **Common Ownership:** Ownership by the same person or persons, or by persons that are solely owned by the same persons or persons. Common ownership includes joint tenancy and tenancy in common. Solely for this definition, a land parcel owned by one member of a married couple is deemed to be owned by the married couple. Land is deemed to be under common ownership for purposes of this Ordinance if it is all owned by the same individual, married couple, joint tenants, tenants in common, corporation, limited liability company, partnership, estate or trust. If land parcels are owned by separate legal entities, but those legal entities are solely owned by exactly the same person or persons, those land parcels are deemed to be under common ownership for purposes of this Ordinance, but not necessarily for all purposes.
15. **Conditional Use:** A use of such a special nature as to make impractical its pre-determination as a principal use in a district.

16. **Dwelling Unit:** A building or portion thereof designed for and occupied by a family as defined herein.

17. **Dwelling Unit, Single Family:** A detached building designated for or occupied exclusively by one family. A mobile home converted to an expanded or permanent type home shall not be considered a single or two-family dwelling so as to qualify it for the residential district of this ordinance. Mobile homes converted to the so-called expanded or permanent type of homes shall be permitted only in existing trailer parks.

18. **Dwelling Unit, Two Family:** A detached or semidetached building designed for and occupied exclusively by two families.

19. **Dwelling Unit, Multiple:** A building or portion thereof designed for and occupied by two or more families, including duplexes, row houses, condominiums, apartment houses and apartment hotels.

20. **Excavation:** The act by which soil, earth, sand, gravel, rock, or any similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the conditions resulting therefrom.

21. **Family Farm Business:** A family business focused on agricultural activities conducted for the purpose of producing an income or livelihood.

22. **Farm:** All land under common ownership that is primarily devoted to agricultural use as defined in each zoning district. For purposes of this definition, land is deemed to be primarily devoted to agricultural use if any of the following apply:

- a) The land produces at least six thousand dollars (\$6,000) in annual gross farm revenues to its owner or renter, regardless of whether a majority of the land area is in agricultural use.
- b) Majority of the land area is in agricultural use.

In determining whether land is in agricultural use herein, the Town may consider how the land is classified for property tax purposes.

23. **Farm Residence:** Any of the following structures located on a farm:

- a) A single family residence that is the only residential structure on the farm.
- b) A single family residence that is occupied by any of the following:
  - (1) An owner or operator of the farm.
  - (2) A parent or child of an owner or operator of the farm.
  - (3) An individual who earned more than fifty-percent (50%) of his or her gross income from the farm.

24. **Family:** Any number of persons related by blood, adoption, or marriage living together in one dwelling as a single housekeeping unit; or a number of persons not exceeding four not so related, living together in one dwelling as single housekeeping unit.
25. **Floor Area:** A sum of the gross horizontal areas of all floors measured in square feet, not including the basement floor, except where such basement qualifies as story of a dwelling unit, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The floor area of a building includes elevator shafts and stairwells at each floor; floor space used for mechanical equipment (except equipment – open or closed – located on a roof or in a basement); penthouses; attic space having headroom of 7 feet 10 inches or more; interior balconies and mezzanines; enclosed porches; and floor area devoted to accessory uses.
26. **Frontage:** The smallest dimension of a lot abutting a public street measured along the street line.
27. **Garage, Private:** an accessory building or space used for the sole purpose of storing not more than three motor-driven vehicles.
28. **Garage, Public:** Any building or premises, other than a private or a storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored.
29. **Garage, Storage:** Any building or premises used for the sole purpose of storing motor-driven vehicles, pursuant to previous arrangements, and not to transients, and where no equipment, parts, fuel, grease or oil is sold and vehicles are not equipped, serviced, repaired, hired or sold.
30. **Grade, Established:** The elevation of the finished street at the centerline or curb as fixed by the Engineer or by such authority as shall be designated by law to determine such an elevation.
31. **Home Occupation:** A home occupation as used in this ordinance is defined as any gainful occupation, but with the following limitations:
- a) A home occupation shall not require structural alterations, additional construction or additional plumbing or electrical installation in the dwelling in which it is located, other than the customary and usual domestic requirements.
  - b) A home occupation must be conducted only by members of the family wholly within their place of dwelling and not in a garage or other accessory building.
  - c) No article shall be offered for sale on premises except those produced by the occupation.

- d) No mechanical or other equipment shall be used on the premises which is unusual in a home or in any way causes a nuisance to the neighborhood such as unreasonable noise, light, odors, smoke, radio or television interference.
  - e) No signs, including a sign designating name of occupation or business or any other matter shall be displayed other than one unlighted name plate, one foot square.
  - f) Products of the home occupation and all other material and equipment connected with it shall be stored inside the dwelling so as not to be exposed to view in any way.
  - g) No truck licensed vehicle may be used in connection with a home occupation.
  - h) Repair, dismantling or processing of any kind on the premises of motor vehicles and motor vehicle parts, household appliances, lawn and garden equipment, radio and television sets, and similar items is not permissible as a home occupation.
32. **Hotel:** A building in which lodging, with or without meals is offered to transient guests for compensation and in which there are more than five sleeping rooms with no cooking facilities in any individual room or apartment.
33. **Livestock:** Bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.
34. **Livestock facility:** A feedlot, dairy farm or other operation where livestock are or will be fed, confined, maintained or stabled for a total of 45 days or more in any 12-month period. A "livestock facility" includes all of the tax parcels of land on which the facility is located, but does not include a pasture or winter grazing area. Related livestock facilities are collectively treated as a single "livestock facility" for purposes of this Ordinance, except that an operator may elect to treat a separate species facility as a separate "livestock facility". The "livestock facility" is a business focused on agricultural activities conducted for the purpose of producing an income or livelihood
35. **Livestock Structure:** A building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility. "Livestock structure" includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. "Livestock structure" does not include a pasture or winter grazing area, a fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.
36. **Loading Area:** A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to public street or alley.

37. **Lot:** A parcel of contiguous land which is legally recognized as a separate parcel, held in separate ownership, and occupied or intended to be occupied by such buildings and uses as permitted under this Ordinance.
38. **Lot Area:** The area of contiguous land bounded by lot lines, exclusive of land provided for public thoroughfare.
39. **Lot, Corner:** A lot abutting on two or more streets at their intersection, provided that the interior angle of such intersection is less than 135 degrees.
40. **Lot, Depth:** The mean horizontal distance measured between the street line and the opposing rear line or lines of the lot.
41. **Lot, Legal Non-Conforming:** A legally recognized lot which existed at the time of passage of this Ordinance but which does not conform to the District Regulations in the district in which it is located.
42. **Lot Lines:** The lines bounding a lot as defined herein.
43. **Lot Line, Side:** A lot line extending from a street line towards the interior of the block and separating adjoining lots or parcels.
44. **Lot Width:** The horizontal distance measured between side lot lines, perpendicular to the lot depth, measured at the setback line.
45. **Mobile Home:** That which is, or was as originally constructed, designed to be transported by a motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any addition, attachments, annex, foundation or appurtenance, except that a house trailer is not deemed a mobile home if the assessable value of such addition, attachments, annex, foundation or appurtenance equals or exceeds 50% of the assessable value of the house trailer.
46. **Mobile Home Park:** A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation.
47. **Modular Home:** A structure which is partially preassembled at a manufacturing plant and placed together on a lot or parcel as a dwelling unit or units. Also called "prefabricated" or "precut" homes. For the purpose of this Ordinance, modular homes must meet the requirements of all applicable state and local building codes.
48. **Motel:** A building or series of buildings in which lodging only is offered for compensation and which may have more than five sleeping rooms or units for this purpose and which is distinguished from a hotel primarily by reason of providing direct independent access, and adjoining parking, for each rental unit.

49. **Nonconforming Use:** Any land or water lawfully used or occupied at the time of the effective date of this Ordinance which does not conform to the regulations of this Ordinance or amendments thereto pertaining to uses.
50. **Nonconforming Structure:** Any structure, building or premises by virtue of the use to which it is put, which does not comply, at the time of the effective date of this Ordinance, with the use provisions of this Ordinance or amendments thereto pertaining to uses for the district in which it is located.
51. **Person:** An individual, corporation, partnership, cooperative, limited liability company, trust or other legal entity.
52. **Principal Use of Building:** A main or primary use of land or a building, as distinguished from a conditional, subordinate or accessory use, as specified and permitted by the regulations of the district in which it is located.
53. **Professional Office:** The office of a doctor, attorney, dentist, minister, architect, professional engineer, author, musician or other recognized profession. When established in a residential district, a professional office shall be incidental to the residential occupation, and only one unlighted name plate, not exceeding one square foot in area, containing the name and profession of the occupant of the premises shall be exhibited.
54. **Quarrying:** The removal of rock, slate, gravel, sand, topsoil or other natural materials from a parcel of land by excavating, stripping, leveling or any other such process.
55. **Refuse Disposal Site:** A tract of land operated by a public or private agent, subject to restrictions of use and under supervision, and where one or more families may take all types of refuse, including organic and inorganic wastes (but excluding human excrement, sewage, and/or other liquid wastes), for compacting and burial by sanitary land fill methods.
56. **Restaurant:** Any building, room or place wherein meals or lunches are prepared, served or sold to transients or the general public, and all places used in connection therewith. "Meals or lunches" shall not be deemed to include soft drinks, ice cream, milk, milk drinks, ices and confections. The serving in taverns of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter shall not constitute such taverns to be restaurants. The term "restaurant" does not apply to churches, religious, fraternal youth or patriotic organizations, which occasionally prepare, serve, or sell meals or lunches to transients or the general public, nor shall it include any school lunchroom or private individual selling foods from a movable or temporary stand at public sales.
57. **Roadside Stand:** A structure not permanently fixed to the ground that is readily removable in its entirety, covered or uncovered and used solely for the sale of farm products produced locally. There shall not be more than one roadside stand on any one premise.

58. **Sanitary Landfill:** See "Refuse Disposal Site".
59. **Setback:** The minimum horizontal distance between the street line and the nearest point of a building or any projection thereof, excluding uncovered steps.
60. **Sign:** Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is made known and which are used to advertise or promote any person, profession, business, commodity or product and which is visible from any public street or highway.
61. **Special Permit:** A grant of authority whereby the Town Board may allow the use of land or a building which is not specifically permitted by this Ordinance. The special permit is given personally to the individual, for that specific land or building, for a limited and defined purpose, for a limited period of time renewable by the Town Board, and the permit may be discontinued or terminated when the owner fails to continue to operate or make such use of the property as is allowed by the permit.
62. **Story:** That portion of a building included between the surface of a floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it. A basement or cellar having one-half or more of its height above grade shall be deemed a story.
63. **Story, Half:** The space under any roof which does not intersect with a story. The space under a flat roof is not a half story and shall be counted as a full story if said space is occupied for residential purposes.
64. **Street:** All property dedicated or intended for public or private street purposes or subject to public easements therefore and 21 feet or more in width.
65. **Street Line:** A dividing line between a lot, tract or parcel of land and a contiguous street.
66. **Structure:** Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground. This includes buildings.
67. **Structural Alterations:** See "Alterations".
68. **Swimming Pool:** a structure, designed to hold water more than 30 inches deep for the purpose of swimming.
69. **Telecommunication Tower:** Any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or mono-pole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support there to.

70. **Temporary Structure:** A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure.
71. **Tourist Camp:** A tract or parcel of land with or without buildings, or other equipment, on which one or more camp cabins are located, or where temporary accommodations are provided for two or more automobile trailers or house cars, open to the public free or for a fee.
72. **Travel Trailer:** A moveable trailer (not self-propelled) which is drawn by other vehicles.
73. **Yard:** An open space on the same lot with a building, unoccupied and unobstructed, from the ground upward except as otherwise provided herein.
74. **Yard, Front:** A yard extending the full width of the lot between the front lot line and the nearest part of the main building, excluding uncovered steps.
75. **Yard, Measurement of:** In measuring the horizontal distance for a yard, the distance shall be measured horizontally on a straight line from the property line to the face of the building, excluding the roof overhang, unless the roof overhang is more than 4 feet, in which case the measurement shall be made horizontally to the roof overhang. If the lot has a side line creating angles other than right angles, the property line for the purpose of determining yards shall be the line drawn between the two points made by the intersection of lot lines at the extremities of the yard to be measured. In construing the preceding sentence for measuring irregularly shaped yards, it is the intention of the Ordinance that the yard be measured as though the lot lines at the extremities of the yard formed right angles, even though a smaller or larger yard area is thereby created. If the lot line is a concave curve the measurement of the horizontal distance for a yard shall be made perpendicular to the nearest point of the curve.
76. **Yard, Rear:** A yard extending the full width of the lot being the minimum horizontal distance between the rear lot line and the nearest part of the building, excluding uncovered steps.
77. **Yard, Side:** A yard extending from the front yard to the rear, being the minimum horizontal distance between a building and the side lot line.
78. **Use, Accessory:** See "Accessory Use".
79. **Use, Conditional:** See "Conditional Use".
80. **Use, Principal:** See "Principal Use".
81. **Utility:** Public, semi-public or private facilities, such as water wells, water and sewage pumping stations, lift stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph

exchanges, microwave radio relays, and gas regulation stations, and further including electric power generation plants, sewage disposal plants, municipal buildings, municipal incinerators, warehouses, shops and storage yards.

82. **Variance:** A variance is the authority granted by the Board of Adjustment to use land or a building in a manner which is otherwise forbidden by this Ordinance.

## SECTION 3 – ADMINISTRATION:

**A.** A Planning & Zoning Committee is hereby established:

1. The Planning & Zoning Committee shall consist of five members appointed by the Town Board. Not more than one member of the Town Board shall be a member of the Planning & Zoning Committee. If a member of the Town Board is appointed to the Planning and Zoning Committee, the Town Board shall appoint four citizen members who upon creation of the committee shall be appointed for one, two and two members for three year terms. If a Town Board member is not appointed a member of the Planning & Zoning Committee, a fifth citizen member shall be appointed for an initial term of two years. The Town Chairperson shall appoint the committee's presiding officer.
2. All citizen members shall be residents of the Town of Avon, shall be persons with recognized experience and qualifications and shall hold office until their respective successors are selected and qualified. All members of the Planning & Zoning Committee shall be removable by the Town Board for cause, upon written charges and after public hearing.
3. Whenever a vacancy shall occur in the Planning & Zoning Committee, the Town Board shall select or appoint an appropriate member to complete the unexpired term.
4. The Town Board or other public body having authority thereon, shall refer to the Planning & Zoning Committee, for its consideration and report before final action is taken by the Town Board or public body, the following matters: the granting of conditional use permits; the location and architectural design of any public building; the location of any statue or other memorial; the location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition, or lease of land for any street, alley or other public way, park, playground, airport, area for parking facilities, or other memorial or public grounds; the location, extension, abandonment or authorization for any public utility whether public or privately owned; all plats of land in the township; the location, character and extent, or acquisition, leasing or sale of lands for public or semi-public housing, slum clearance, relief of congestion, or vacation camps for children; and the abandonment or repeal of any ordinance adopted pursuant to planning and zoning. Unless such report is made within 45 days or such longer period as may be stipulated by the Town Board, the board or other public body may take final action without it.

5. The Planning & Zoning Committee shall have the following powers:

- a. *Building Permits.* To recommend action to the Town Board regarding building permits when there is a question raised by the Building Inspector as to the literal requirements of this Ordinance and to recommend action to the Town Board regarding the denial of a building permit in the event the same is contested.
  - b. *Conditional Use Permits.* To review applications for Conditional Use Permits and to recommend to the Town Board whether said application should be granted or denied, including whether the same should be granted with conditions and/or restrictions.
  - c. *Subdivisions.* To review and recommend to the Town Board the approval or denial of preliminary and final subdivisions. Conditions of approval may be attached to preliminary or final approval.
  - d. *Substitutions.* To review applications for a substitution of more restrictive nonconforming uses for existing nonconforming, provided no structural alterations are to be made, and to make a recommendation regarding the same to the Town Board. Whenever the Town Board permits such a substitution, the use may not thereafter be changed without the approval of the Committee.
  - e. *Unclassified Uses.* To review applications for unclassified and unspecified uses, provided that such uses are similar in character to the principal uses permitted in the district and to make a recommendation regarding the same to the Town Board..
  - f. *Temporary Uses.* To review applications for temporary uses in any district, provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses, and to make a recommendation regarding the same to the Town Board. Any permit granted hereunder shall be temporary, revocable, subject to any conditions required by the Town Board and shall be issued for a period not to exceed twelve months. Compliance with all other provisions of this Ordinance shall be required.
6. Regular meetings shall be held monthly, as specifically determined by the Planning & Zoning Committee. Special meetings may be called by the presiding officer or upon written request of two committee members. Notice of special meeting shall be given by personal service to all members at least 24 hours prior to the called special meeting.
7. The minutes of the Planning & Zoning Committee meetings shall be kept by the Secretary.
8. Three members of the Planning & Zoning Committee shall constitute a quorum to transact any business and formulate its proper action thereon.
9. The presiding officer of the Planning & Zoning Committee shall name the Secretary. The committee may also formulate any lawful rules for its operation and procedures.

10. The members of the Planning & Zoning Committee shall be compensated as determined by the Town Board.

**B.** A Board of Adjustment is hereby established for the Town for the purpose of hearing appeals and applications, and granting variances and exceptions to the provisions of this Zoning Ordinance.

1. Membership

The Board of Adjustment shall consist of three (3) members appointed by the Town Chairperson and confirmed by the Town Board.

a. Terms shall be staggered three-year periods.

b. Chairperson shall be designated by the Board of Adjustment.

c. Conflict of Interest. Any member who has any interest in a matter before the Board shall not vote thereon and shall remove himself from any meeting or hearing at which said matter is under consideration.

d. An Alternate Member may be appointed by the Town Chairperson for a term of three (3) years and shall act only when a regular member is absent or refuses to vote because of conflict of interest.

e. No member shall be a Town Board member, Planning and Zoning Committee member, or the Building Inspector.

f. Secretary shall be designated by the Board of Adjustment.

g. Building Inspector shall attend all meetings for the purpose of providing technical assistance when requested by the Board of Adjustment.

h. Official Oaths shall be taken by all members in accordance with Section 19.01 of the Wisconsin Statutes within ten (10) days of receiving notice of their appointment.

i. Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

j. Compensation shall be as determined by the Town Board.

2. Organization

The Board of Adjustment shall organize and adopt rules of procedure for its own governance in accordance with the provisions of this Ordinance.

a. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. All meetings shall be open to the public.

- b. Minutes of the proceedings and a record of all actions shall be kept by the Secretary, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, the reasons for the Board's determination, and its findings of fact. The Secretary shall keep records of the Board's examinations and other official actions, all of which shall be immediately filed with the Town Clerk and shall be a public record.
- c. The Concurring vote of two (2) members of the Board shall be necessary to exercise the powers enumerated in 9.4(1), (2), (3), and (4).

### 3. Powers

The Board of Adjustment shall have the following powers:

- a. Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Building Inspector, or by the Town Board or its delegates in the enforcement of codes, regulations or ordinances under their jurisdiction.
- b. Variances. To hear and grant applications for variances as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of the Ordinance shall be observed and the public safety, welfare, and justice secured. Use variances shall not be granted, nor shall a variance be granted where the conditions exist as a result of a self-imposed hardship.
- c. Interpretations. To hear and decide applications for interpretations of the codes, regulations, ordinances and the boundaries of the zoning districts after the Planning & Zoning Committee has made a review and recommendations.
- d. Permits. The Board may reverse, affirm wholly or partly, modify the requirements appealed from, and may direct the issuance of a permit.
- e. Assistance. The Board may request assistance from other town and county officials, departments, commissions, and boards.
- f. Oaths. The Chairperson, or in his or her absence the Acting Chairperson, shall administer oaths and may compel the attendance of witnesses.

### 4. Appeals and Applications

Appeals from the decision of the Building Inspector, the Town Board or the Planning & Zoning Committee concerning the literal enforcement of this Ordinance may be made by any person aggrieved or by an officer, department, committee, board, or bureau of the Town. Such appeals shall be filed with the Secretary within thirty (30) days after the date of written notice of the decision or order of the Building Inspector, the Town Board or the Planning & Zoning Committee. Applications for variance and for interpretations of the

codes, regulations, ordinances and the boundaries of the zoning districts may be made by the owner of or lessee of the structure, land, or water to be affected at any time and shall be filed with the Secretary. Such appeals and applications shall include the following:

- a. Name and Address of the appellant or applicant and all abutting and opposite property owners of record, and owners within two hundred (200) feet.
- b. Plat of Survey prepared by a registered land surveyor showing all of the information required under Section 6.3 for a Building Permit.
- c. Additional Information required by the Town Planning & Zoning Committee, Board of Adjustment, Building Inspector or Town Board.
- d. Fee Receipt from the Town Treasurer in an amount equal to the greater of (a) \$250 or such amount as may be determined from time to time by Town Board resolution, or (b) the cost of legal notice publication and all other expenses related to the hearing.

#### 5. Hearings

The Board of Adjustment shall hold a public hearing within thirty (30) days of receiving written application for the hearing, give public notice thereof at least ten (10) days prior to the hearing by publication of a Class 1 notice under Chapter 985 of the Wisconsin Statutes, and shall give due notice to the parties in interest, the Building Inspector, the Town Board, and the Town Planning and Zoning Committee. At the hearing the appellant or applicant shall appear in person, by agent, or by attorney.

#### 6. Findings

The decision of the Board shall be accompanied by findings of fact. In this regard, no variance to the provisions of this Ordinance shall be granted by the Board unless it finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings.

- a. Exceptional Circumstances. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.
- b. Absence of Detriment. The variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.

#### 7. Decision

The Board of Adjustment shall decide all appeals and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the Board's decision to the

appellant or applicant, Building Inspector, Town Board and Town Planning & Zoning Committee.

- a. Conditions may be placed upon any Building Permit ordered or authorized by the Board.
- b. Variances granted or Building Permits directed for issuance by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

8. Review by Court of Record

Any person or persons aggrieved by any decision of the Board of Adjustment may present to the Court of Record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the Court within thirty (30) days after the filing of the decision in the office of the Town Clerk.

9. Livestock Facility Siting

The Board of Adjustment is not authorized to grant a variance from the state requirements related to livestock facility siting, except as provided in § 93.90 of the Wisconsin Statutes and in Chapter ATCP 51 of the Wisconsin Administrative Code.

## SECTION 4 – CHANGES AND AMENDMENTS:

- A. The Town Board after review by the Planning & Zoning Committee and after public hearing, may alter, supplement or change the boundaries or regulations contained in this Ordinance. A Class Two notice of the hearing shall first be published in the Town and shall specify the time, place and purpose of the hearing.
- B. In case a protest against a proposed amendment, supplement or change be presented duly signed and acknowledged by the owners of 20% or more of the frontage proposed to be altered, or by the owners of at least 20% of the frontage immediately in the rear thereof, or by the owners of at least 20% of the frontage directly opposite the frontage proposed to be altered, such amendment shall not be passed unless recommended by a majority vote of the Planning & Zoning Committee.

## SECTION 5 – GENERAL PROVISIONS:

- A. **INTRODUCTION**: The use of zoning districts contained within this Ordinance are incapable of properly regulating the use of certain structures, lands, and waters. Therefore, the following regulations, which shall be applicable in addition to the district regulations, are necessary in order to accomplish the intent of this Ordinance.
- B. **JURISDICTION**: The provisions of this Ordinance shall apply to all buildings, structures, land, water, and air within the territorial limits of the Town of Avon, Rock County, Wisconsin.
- C. **COMPLIANCE**: Except as may be otherwise specifically provided, the use, size, height and location of structures now existing or hereafter erected, converted, enlarged or structurally altered; the provisions for open spaces; and the use of land, shall be in compliance with the regulations established herein for the district in which such land or structure is located.
- D. **SITE REGULATIONS**:
  - 1. **Building Must be On A Lot**: Every building hereafter erected, structurally altered or relocated shall be located on a lot as defined herein, and in no case, except in General Business, Agricultural and Industrial Districts, shall there be more than one principal building on a lot. Any building used for human habitation shall constitute the principal building. No accessory building shall be constructed or occupied for residential purposes. The Board of Adjustment may grant a variance to permit more than one

principal building on a lot in any district, provided, such grant would not be contrary to the spirit or intent of the Ordinance; and there is sufficient lot area provided so that the buildings so located are capable of individually meeting the setback, offset, lot size and open space requirements of the district in which it is located.

2. **Buildable Lot:** A buildable lot must have at least 250 feet of frontage road.
3. **Building on a Private Street or Way:** Upon the recommendation of the Planning & Zoning Committee and subject to the approval of the Town Board, a building may be permitted on a tract of land which does not abut on a public street or officially approved way, provided such tract of land is at least 3 acres in area, has access by permanent dedication at least 250 feet wide to a public street or way, and does not conflict with plans for the future development of streets in the area. The duty to maintain access to such tract of land shall be the responsibility of the owner of such land and not the Town of Avon. See page 26, Section 13 "Smart Growth Plan Standards."
4. **No Undesirable Objects or Structures:** No building shall be erected, structurally altered or relocated, and no lumber, materials, furniture or other equipment shall be stacked, piled or stored in a manner which adversely affects the property values and general desirability of the neighborhood in which it is located. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.
5. **Street Grade:** Every building hereafter erected, structurally altered, or relocated, shall be at a grade approved by the Building Inspector as being in satisfactory relationship with the established street grades, or with the existing street grade, where one is established, with particular consideration for proper drainage and safe vehicular access.
6. **Preservation of Topography:** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands, and to aid in preserving and protecting the natural beauty and character of the landscape:
  - a) No change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than three horizontal to one vertical, with a distance of 20 feet from the property line, except with the written consent of the abutting property owner and with the approval of the Planning & Zoning Committee; in no case, however, shall any slope exceed the normal angle of slippage of the material involved and all slopes shall be protected against erosion.
  - b) No change in the existing topography of any land shall be made which would alter the existing drainage or topography in any way as to adversely affect the adjoining property.

#### **E. DRAINAGE REGULATIONS:**

1. **Adequate Drainage Required:** No principal building shall be relocated to, erected on, or structurally altered on land which:
  - a) is not adequately drained at all times;
  - b) is subject to periodic flooding; or
  - c) has as its lowest floor level, including any basement, a floor which is less than 1 foot above the highest anticipated seasonal ground level.
2. **Obstruction to Drainage Prohibited:** The damming, filling, relocating or otherwise interfering with the natural flow of surface water along any surface water drainage channel or natural water course shall not be permitted except with the approval of the the Town Board, following recommendation by the Planning and Zoning Committee, and, where applicable, the Department of Natural Resources pursuant to Chapter 30 of the Wisconsin Statutes.
3. **Building Restricted Adjacent to Drainage Channels or Watercourses:** No building other than a bridge, dam, boathouse, or revetment subject to the aforesaid approval, shall be erected, structurally altered or relocated in such a manner which will be in conflict with or contrary to the currently enacted and in force Floodplain Ordinance of the Town of Avon.

#### **F. SANITATION AND WATER SUPPLY:**

1. **Safe Sewage Disposal Possible:** No principal building shall be erected, structurally altered, or relocated unless it has been certified by the Plumbing Inspector that it conforms to all Town Ordinances, County Ordinances, and other governmental laws or regulations then applicable to sewage disposal systems; and, if it is not served by an approved municipal or other state approved sewage disposal system, that satisfactory evidence has been submitted to show that a suitable provision for disposal of sewage, based on the proposed use, is possible on said lot.
2. **Approved Septic System:** No principal building shall be erected, structurally altered or relocated unless a sewer is installed running to a septic tank designed and located in accordance with the Town Ordinances and other governmental laws or regulations then applicable to sewage disposal systems or to an approved municipal or other state approved sewage disposal system.
3. **Outhouses Prohibited:** No outhouse or privy shall be hereafter erected.
4. **Water Supply Required:** A well or connection to an approved public water system shall be provided for each lot or parcel used for residential purposes.

**G. USE REGULATIONS:** Only the following uses or their essential services shall be allowed in any district:

1. Principal Uses specified for the district.
2. Accessory uses are permitted in any district but not until the principal structure is present or under construction. Uses accessory to Residential District developments shall not involve the conduct of any business, trade, or industry except for home and professional occupations as herein defined.
3. Conditional uses and their accessory uses shall be permitted in specified districts after a public hearing, review by the Planning & Zoning Committee, and approval by the Town Board in accordance with the procedures and standards established herein.
4. Temporary uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Town Board, following a recommendation by the Planning & Zoning Committee.
5. If a use is not specifically mentioned, specified or provided for in this Ordinance, then, before such use may be made of any property within the Town of Avon, application shall be made to the Town Board, following a recommendation by the Planning & Zoning Committee for an amendment to this Ordinance permitting such use in the district or districts specified in the application, such application for amendment must be in accordance with the procedures set forth in this Ordinance.
6. When any new land division is created or accomplished within the Town of Avon, such land division shall automatically be classified as being in an A-1 Agricultural District and shall remain so classified unless and until proper application is made for a change in classification, such application must be in accordance with the procedures set forth in this Ordinance.
7. Performance standards listed herein shall be complied with by all uses in all districts, except where specifically exempted herein.

**H. BUILDING LOCATION:**

1. Setback lines, unless otherwise described, shall be parallel to the centerline of the highway at the distance hereinafter specified for each highway.
2. No building or structure of any kind, except necessary highway and traffic signs in any district, signs in the Agricultural District not over 8 square feet in area advertising the sale of farm products on the premises, temporary structures in the Commercial District, and open fences through which there shall be clear vision, shall hereafter be constructed, erected or moved into the space within such setback lines.

3. No hedges or shrubbery shall be constructed, planted or exist within any road, street or highway right of way unless the hedges or shrubbery are less than 3 feet high and a minimum of 10 feet back from the boundary line of the improved highway.
4. Except as herein provided, no building or structure within the established setback lines shall be altered, enlarged or added to in any way which will increase or prolong the permanency of any portion of the building or structure located within the established setback line, nor shall any building or structure presently existing within such setback lines be replaced hereafter in any way except outside the setback line area.
5. The provisions of this section as they affect temporary structures shall not apply to the area within the setback lines established across the sectors at the intersections of highways or highways and railroads.
6. Where any of the highways for which setback lines are established by this ordinance are located on the town line or on municipal boundaries, such setback lines shall apply only within the Town of Avon.
7. Telephone, telegraph, and power transmission lines may be constructed within the setback lines.
8. Setback Lines Established: For the purposes of this Ordinance, the highways, roads and streets in the Town of Avon are divided into Major Streets and Minor Streets.
  - a) Major Streets: All United States, federal, state trunk, county trunk, and town highways laid out pursuant to Wisconsin Statutes, or otherwise, and any other road or street so designated by resolution of the Town Board are hereby designated as Major Streets.
  - b) For Major Streets, setback lines located parallel to and 100 feet from the centerline of the highway are hereby established.
  - c) Minor Streets: All highways, roads and streets in the Town of Avon not designated as Major Streets are hereby designated as Minor Streets.
  - d) For Minor Streets, setback lines parallel to and 100 feet from the centerline of the road or street are hereby established.
  - e) In addition to the foregoing, it is hereby required that in no case shall the setback line on any Major Street be less than 100 feet from the right-of-way line or property line or on any Minor Street less than 25 feet from the right-of-way line or property line and in all cases the setback shall be no less than that which may be required by the setback line shown on any recorded plat, or by restrictions filed with any

recorded plat or deed, or as may be required by other portions of this Ordinance or as may be designated by resolution of the Town Board.

- f) On corner lots, there shall be two setback lines, one from the street on which the structure fronts and the other on the side street. These setbacks shall be determined as above and shall apply to all structures on the lot.

9. Maintenance and Use of Setback and Side Yard Areas: Any such required setback or side yard area shall be landscaped and kept clean and free from the accumulation of debris or refuse and shall not be used for the storage, sale or display of equipment, products, vehicles or other material.

10. Accessory Building Location:

- a) For any parcel located in a residential zone, the following shall apply to accessory buildings:
  - i. no detached accessory building, including without limitation, sheds, tractor trailers, pods, etc. shall be erected, structurally altered or placed on a lot so that any roofed or enclosed portion thereof is closer than 20 feet to the principal building on said lot;
  - ii. Detached accessory buildings shall not occupy more than 30% of the area of the required rear yard and such buildings shall not be nearer than 20 feet to any lot line;
  - iii. any accessory building to be located in excess of 6 months shall be placed on a cement foundation; and
  - iv. there shall be no more than 1 accessory building located on any lot.
- b) For any parcel located in a zoning district other than residential, the following shall apply:
  - i. no detached accessory building, including without limitation, sheds, tractor trailers, pods, etc. shall be erected, structurally altered or placed on a lot so that any roofed or enclosed portion thereof is closer than 20 feet to the principal building on said lot;
  - ii. Detached accessory buildings shall not occupy more than 30% of the area of the required rear yard and such buildings shall not be nearer than 20 feet to any lot line;
  - iii. any accessory building to be located in excess of 6 months shall be placed on a cement foundation; and

11. Vertical Location: No building intended for human habitation shall be located so that its lowest floor, including any basement floor, is less than 1 foot above ground water level.

## **I. HEIGHT REGULATIONS:**

1. **Maximum Height Restricted:** No building or structure in any district shall be hereafter erected or structurally altered to a height in excess of that hereinafter specified by the regulations for that district.
2. **Exceptions:** The following shall be excepted from the height regulations of all districts:
  - a) Chimneys and flues.
  - b) Complementary agricultural accessing structures, including grain bins, silos, and grain elevator legs, which shall be of any height.
  - c) Subject to the approval of the Town Board, following recommendation by the Planning & Zoning Committee, by Conditional Use Permit: Cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks water towers, ornamental towers, spires, wireless or broadcasting towers, masts, aeriels, and necessary mechanical appurtenances.
3. **Increase Permitted:** The maximum height of any structure may be increased by not more than 10 feet, providing all required side yards, rear yard, and setbacks are increased by 1 foot for each 10 feet which such building exceeds the height limit of the district in which it is located.

## **J. AREA REGULATIONS:**

### **1. Floor Area:**

- a) Any building intended in whole or part for residential purposes shall provide a minimum floor area as specified by the regulations for the district in which such building is located. Such minimums are stated in terms of the minimum total floor area required for a building and that portion of the total which must be provided on the first floor level.

### **2. Calculating Floor Area:**

- a) Floor area shall be calculated at each level by measuring the length of the walls from the exterior of the building.
- b) When calculating the total minimum floor area, the floor area shall not include attached or detached garages, other outbuildings, open porches, or basements.

- c) In a split level building the first floor level shall include all area which is not over another living area of the building, unless the other living area is a portion of a basement, subject to the 2.d of this section.
- d) Exposed basements and the second floor of one and one-half and two story residences may be included in computing total minimum floor area according to the following schedule:
  - (1) That portion of the exposed basement of an exposed basement residence which has been designed as an integral part of the living area of the home, may be included in computing total minimum floor area when at least one side is exposed and access has been provided to the outside of grade level by means of at least one door.
  - (2) That portion of the second floor of one and one-half and two story buildings which has a minimum distance between the ceiling face and the top of the first floor ceiling joist of 7 ½ feet may be included in computing the total minimum floor area provided there is a permanent stairway leading from the first floor to the to the second floor.
  - (3) The Town Board, following recommendation by the Planning & Zoning Committee Commission may grant an exception to permit a building of less than the required minimum floor area where such grant would not be contrary to the spirit or intent of the Ordinance, and provided the proposed building would not be of such character or quality as to depreciate the property values of the surrounding area, and provided further that in no case shall a minimum floor area of less than 1,200 square feet be permitted.

### **3. Lot Size:**

- a) No building shall be erected on a lot of less area or of minimum average width than hereinafter specified by the regulations of the district in which such building is located.
- b) A lot shall be at least as wide as the specified minimum average width for a distance of at least one-half the length of the lot.
- c) No lot area shall be reduced by any means so as to create a lot of less than the required size or so that the existing side yards, setback, open space, or lot area would be reduced below that required by the regulations for the district in which such lot is located.
- d) Where a lot has less land area or width than required for the district in which it is located and was of record at the time of the passage of this Ordinance, such lot may be used for any purpose permitted in such district, but not for residential purposes for more than one family; provided, however, that in no case shall the setback, side yard, or open space requirements be reduced to less than that

required in the R-3 Residential District, except by order of the Town Board, following recommendation by the Planning & Zoning Committee Commission after review or as otherwise herein provided.

Such substandard lot shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the minimum lot area requirements of the R-1 Residential District, or as close to that minimum as possible.

#### **4. Open Space:**

- a) No building shall be erected, structurally altered or placed on a lot so as to reduce the useable open area of such lot to less than that, where specified, by the regulations for that district.
- b) To be considered usable, such open area shall be readily accessible and of a size and shape which can be reasonably considered to provide for the amenities and necessities of light, air, place space, drying yard, garden, etc. Crop, pasture and wood land may be included in computing such open area.

- 5. **Residence Size:** The buildable width of a residence shall not be less than 24 feet and in no case shall the external dimension of the residence be such as to provide less than 1,200 square feet for living area per family.

#### **K. OFF-STREET PARKING:**

##### **1. Parking Spaces and Aisles Required:**

- a) A “parking space” is a vehicle parking space with an area of 10 feet by 30 feet.
- b) Any building hereafter erected or structurally altered shall be provided with off-street serried parking spaces not more than 200 feet from the nearest point of the building and such space is to be used exclusively by the residents, patrons or employees of said building, according to the following schedule:
  - (1) ***Dwelling Units:*** Two parking spaces for one bedroom dwelling units and two and one-half parking spaces for dwelling units in excess of one bedroom.
  - (2) ***Auditoriums, Churches, Theaters:*** One parking space per four seats.
  - (3) ***Retail Business Establishments:*** A parking area of one and one-half times the square footage of the building.

- (4) **Wholesale and Other General Business Establishments:** A parking area of one and one-half times the square footage of the building.
  - (5) **Office Buildings and Customer Service Establishments:** One parking space per 150 square feet of the building's floor space.
  - (6) **Restaurants, Taverns, Supper Clubs, etc:** One parking space per 50 square feet of the building's floor space.
  - (7) **Industrial Buildings:** A parking area of one and one-half times the square footage of the building, or one parking space per employee, whichever is greater.
- c) In addition, aisles shall be provided for driveway purposes as follows:
- (1) For parallel parking a driveway aisle 12 feet wide.
  - (2) For forty five degree (45) parking a driveway aisle 15 feet wide.
  - (3) For sixty degree (60) parking a driveway aisle 18 feet wide.
  - (4) For ninety degree (90) parking a driveway aisle 24 feet wide.
3. **Residential Parking:** Parking of cars accessory to a residence use shall be limited to those actually used by the residents, or for temporary parking of guests.
4. **Parking of Trucks and Equipment:** No truck or other vehicular equipment of a commercial or industrial nature shall be regularly parked on a lot in any Residence District, except panel or pickup trucks may be so located or parked if used as personal vehicles.
5. **Surfacing:** All driveways and parking areas in any Residence District shall be paved, blacktopped, or concrete. Any off-street parking area, other than that provided for a Residence District shall be surfaced and maintained in a reasonably dustless condition.
6. **Screening:** Any off-street parking area, other than that provided for a residence, which abuts or faces a Residence District shall provide a planting screen, landscaped fence, or wall, at least 6 feet in height along the side abutting or fronting a Residence District.
7. **Proximity:** In any off-street parking area, other than that provided for a residence, which abuts a Residence District, no vehicle shall be allowed to park closer than 10 feet to the abutting residential lot line.

8. **Lighting:** Lights provided in any parking area shall be hooded or beamed so as not to create undesirable glare or illumination of adjacent residential property.
9. **Culvert:** Persons shall comply with all of the requirements of the applicable ordinances and regulations of the Town of Avon and other governmental bodies regarding culverts and their installation.
- L. **REDUCTION OR JOINT USE:** No lot, yard, parking area, building area, sanitary sewage disposal area or other space shall be reduced in area or dimensions so as to not meet the provisions of this Ordinance. No part of any lot, yard, parking area, sanitary sewage disposal area, or other space required for a structure or use shall be used to meet the requirements for any other structure or use.

**M. SIGNS:**

1. **Permit Required:** No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered, except as provided below, without first obtaining a permit for such sign by application to and approval of the Town Board. In addition, all signs shall meet and conform to the structural requirements of local and state building codes.
2. **Signs Permitted in All Districts Without a Sign Permit:** The following signs are permitted in all zoning districts without a permit subject to the following regulations:
  - a) Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor, not to exceed 2 feet in height and 2 feet in length.
  - b) Agricultural signs pertaining to the sale of agricultural products on a farm or to membership in agricultural or agricultural-related organizations, not to exceed 32 square feet in display area on all sides for any one farm.
  - c) Real Estate Signs not to exceed 4 square feet in display area which advertise the sale, rental, or lease of the premises upon which said signs are temporarily located.
  - d) Name, occupation, and warning signs not to exceed 2 square feet in display area located on the premises, and not closer than 50 feet between signs.
  - e) Bulletin boards of public, charitable or religious institutions not to exceed 8 square feet in display area located on the premises.
  - f) Memorial signs, tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
  - g) Official signs, such as traffic control, parking restrictions, information, and notices.

- h) Temporary signs or banners when authorized by the Town Board.
  - i) Recreational directory signs not to exceed two in number indicating the direction and distance to a specific cottage, residence, or recreation facility not to exceed 2 square feet in display area.
3. **Signs Permitted in All Business and Industrial Districts:** The following signs are permitted in the Business and Industrial Districts with a permit and subject to the following regulations:
- a) Wall signs placed against the exterior walls of buildings shall not extend more than 18 inches outside of a building's wall surface, shall not exceed 200 square feet in display area for any one premises, and shall not exceed 20 feet in height above the mean centerline street grade.
  - b) Projecting signs fastened to, suspended from, or supported by structures shall not exceed 100 square feet in display area on all sides for any one premises; shall not extend more than 6 feet in any required yard; shall not be less than 10 feet from all lot lines; shall not exceed a height of 20 feet above the mean centerline street grade; and shall not be less than 10 feet above a sidewalk or other pedestrian way nor 15 feet above a driveway or an alley.
  - c) On-Premises ground signs, limited to one sign for each individual business premises, which advertises the business names, services offered, or products sold on the premises shall not exceed 30 feet in height, shall meet all yard requirements for the district in which it is located, and shall not exceed 300 square feet in display area on any one side nor 600 square feet in display area on all sides for any one premises.
  - d) Off-Premises ground signs shall not be located within 50-feet of the existing or proposed right-of-way of any State or County Trunk Highway, or any town road measured horizontally along a line normal or perpendicular to the center of the highway; and shall not be located within 1,000 feet of any other off-premises ground sign, 300 square feet in display area on any one side nor 600 square feet in display area on all sides.
  - e) Window signs shall be placed only on the inside of commercial buildings and shall not exceed 25% of the glass area of the pane upon which the sign is displayed.
  - f) Combinations of any of the above signs shall meet all the requirements for the individual sign.
  - g) In addition to the above sign regulations, as a condition of approval, the Town Board, after a study of the sign and of the area, shall find as a fact that the exterior design of the proposed sign and its exterior architectural appeal will, when erected,

not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood as to cause a substantial depreciation in the property values of said neighborhood.

4. **Traffic:** Signs shall not resemble, imitate or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be attached to a standpipe or interfere with traffic visibility nor be lighted in such a way as to cause glare or impair driver visibility upon public ways.
5. **Existing Signs:** Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although the use, size, or location does not conform to the provisions of this Ordinance. However, such signs shall be deemed a nonconforming use or structure.

#### **N. NON-CONFORMING USES:**

1. **Existing Use Permitted:** The existing lawful use of a building or premises at the time of the enactment of this Ordinance or any amendment thereto may be continued although such use does not conform with the provisions of this Ordinance for the district in which it is located, subject to conditions hereinafter stated.
2. **Classification and Regulation:** For the purposes of administration, legal non-conformity shall be classified and regulated as follows:

##### **a) Non-Conforming Structures:**

- (1) A non-conforming structure may be restored to the size, location and use that it had immediately before the damage or destruction occurred, with no limits on the costs of the repair, reconstruction or improvement if all of the following apply:
  - (a) The nonconforming structure was damaged or destroyed on or after March 2, 2006.
  - (b) The damage or destruction was caused, concurrently or directly, by violent wind, vandalism, fire, ice, snow, water, flood, mold, fungus, bacteria, or infestation.
- (2) A non-conforming structure may be restored to the size larger than the size it was immediately before damage or destruction if necessary for the structure to comply with applicable state or federal requirements.

## **b) Non-Conforming Use of Structures and Land**

- (1) No such use shall be expanded or enlarged.
  - (2) Upon petition to and approval of the Planning & Zoning Committee and the Town Board, such use may be changed to another use provided that the new use would not result in a greater degree of non-conformity than the current use.
  - (3) When any such use is discontinued for twelve consecutive months or eighteen cumulative months during a three-year period, any future use of the land or structure shall conform to the use regulations of the applicable district. A business of a seasonal nature shall not be deemed discontinued during periods in which it is normally inactive (i.e. summer camps, snowmobile courses, ski areas, marinas, quarries, etc.)
- c) **Non-Conforming Lots:** The size and shape of such lots shall not be altered in any way which would increase the degree of such non-conformity to the applicable district regulations.
3. **Conditional Use Status:** Subject to the provisions of Section 7(M) of this ordinance, Conditional Use status may be granted to existing legal non-conforming uses upon petition of the owner where such use is determined to be not adverse to the public health, safety, or welfare; would not conflict with the spirit or intent of the Ordinance; and would not otherwise be detrimental to the community and to the particular surrounding neighborhood. Such Conditional Use status shall be granted only with the recommendation of the Planning and Zoning Committee and upon approval of the Town Board following public hearing in the manner provided.

## **O. PRIOR PERMIT:**

1. **Construction Permitted:** Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or part thereof for which a building permit has been issued before the effective date of this Ordinance and the construction of which shall have been substantially started within six months from the date of such permit.
  2. **Subsequently Non-Conforming.** Any such use which does not conform to the Use regulations of the district in which it is located shall, however, be subsequently considered a legal non-conforming use.
- P. CERTIFICATE OF OCCUPANCY:** The owner or person in control of any building containing more than two family dwelling units or any unit ownership buildings, commonly known as condominiums shall within twenty days after a written notice is mailed by the Town Clerk to the owner or the person in control at his last known address, prepare and file with the Clerk of the Town (for municipal administration purposes) the

name of all occupants of any specific dwelling unit less than 1,100 square feet in size for which information is sought by the Town Clerk as of the date of the mailing of the letter. Occupancy in violation of the terms of the ordinance shall be deemed a violation of the ordinance by the owner, the person in control, or the occupant. Willful filing of a false occupancy certificate shall also be deemed a violation of the ordinance.

**Q. PERFORMANCE STANDARDS:**

1. **Compliance:** This Ordinance permits specific uses in specific districts; and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. All structures, lands, air and waters shall hereafter, in addition their use, site and sanitary regulations, comply with the following performance standards, and all applicable standards set forth by the Wisconsin Departments of Industry, Labor, and Human Relations and Natural Resources in the Wisconsin Administrative Code.
2. **Air Pollution:** No activity shall emit any fly ash, dust, fumes, vapors, mists, or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation, or other forms of property.
3. **Fire and Explosive Hazards:** All activities involving the manufacturing, utilization, processing or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system.

The above-ground storage capacity of materials that produce flammable or explosive vapors shall not exceed the following:

<u>Closed Cup Flash Point</u>	<u>Gallons</u>
Over 187 degrees F.	400,000
105 degrees F. to 187 degrees F.	200,000
Below 105 degrees F.	100,000

4. **Glare and Heat:** No activity shall emit glare or heat that is visible or measurable at the boundaries of the lot on which the principal use is located. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.
5. **Water Quality Protection:** No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that would

be likely to run off, seep, percolate or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

In addition, no activity shall discharge any liquid, gaseous, or solid materials so as to exceed or contribute toward the exceeding of, the minimum standards and those other standards and the application of those standards set forth in Chapter NR-102 of the Wisconsin Administrative Code for all navigable waters in the County.

6. **Noise:** All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

In A and A-1 Districts all noise produced by farming operations are exempt from this requirement.

7. **Odors:** Except in the A and A-1 Districts, no activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside their premises. The guide for determining odor measurement and control may include any provisions from the Wisconsin Administrative Code.
8. **Radioactivity and Electrical Disturbances:** No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adverse to the use of neighboring premises.
9. **Vibration:** No activity in any district except the I-1 and I-2 Districts shall emit vibrations which are discernible without instruments outside its premises. No activity in the I-1 or I-2 shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

<u>Displacements (Inches)</u>		
<u>Frequency (Cycles Per Second)</u>	<u>Outside the Premises</u>	<u>Outside the District</u>
0 to 10	.0020	.0004
10 to 20	.0010	.0002
20 to 30	.0006	.0001
30 to 40	.0004	.0001
40 to 50	.0003	.0001
50 and over	.0002	.0001

**R. SMART GROWTH PLAN STANDARDS.** In accordance with the “Town of Avon Smart Growth Comprehensive Plan 2005-2024, adopted November 7, 2005, the following standards shall be used by the Town Board, and the Planning & Zoning Committee when considering zoning changes and land divisions for approval:

1. The proposed use is consistent with the Land Use Plan.
2. The parcel is suitable for development and development will not result in undue water or air pollution, cause unreasonable soil erosion or have an unreasonable adverse effect on rare or irreplaceable natural resources.
3. The provision of public facilities and services to accommodate the development will not place an unreasonable burden on the ability of the Town to provide them.
4. The development will not conflict with agriculture operations on other properties and the development will not limit the surrounding land’s potential for agricultural use.
5. The proposed parcel will front on a dedicated road.
6. The proposed parcel can be served by an on-site septic system approved by the Rock County Health Department.
7. Where possible, the proposed development will occur on the least productive farmland.
8. Where possible, the proposed development will be located near existing structures.
9. The proposed development will not have a detrimental impact on adjoining residential users.
10. The proposed development will not lead to the conversion of additional land to non-agriculture uses.
11. The proposed development will not cause unnecessary traffic congestion.
12. The proposed development will not adversely affect or harm historic, cultural or natural resources.
13. Once every 5 years, a landowner may create one lot of 3 acres or more provided the landowner owns 40 acres or more at the time of division. The remaining land shall remain agricultural. The landowner must have owned the parcel of at least 40 acres for at least 5 years prior to the land division under this paragraph. As an example, a landowner who owns less than 80 acres can only make one land division under this paragraph.

## SECTION 6 – DISTRICTS

**A. ESTABLISHMENT OF DISTRICTS:** For the purpose of this Ordinance, the Town of Avon is hereby divided into zoning districts which shall be designated as follows:

4.1	<b>A</b>	Prime Agricultural District
4.2	<b>A-1</b>	Agricultural District One
4.3	<b>R-1</b>	Residence District (Single Family)
4.4	<b>R-2</b>	Residence District (Duplex)
4.5	<b>R-3</b>	Residence District (Multiple Family)
4.6	<b>R-4</b>	Residence District (Planned Development)
4.7	<b>R-5</b>	Residence District (Mobile Home Park)
4.8	<b>B-1</b>	Restricted Business District
4.9	<b>B-2</b>	Local Business District
4.10	<b>B-3</b>	General Business District
4.11	<b>I-1</b>	Light Industrial District
4.12	<b>I-2</b>	Heavy Industrial District
4.13	<b>Q-1</b>	Quarrying District
4.14	<b>NROS</b>	Natural Resource Open Space District

**B. ZONING MAP:**

1. **Districts Mapped:** The boundaries of said districts are shown upon the map entitled, “District Map, Town of Avon, Rock County, Wisconsin” which map is made a part of this Ordinance, and all the notations, references and other information shown thereon shall be as much a part of this Ordinance as if the matters and information set forth by said map was as fully described herein. The map, and all updated copies thereof, shall be kept on file in the office of the Clerk of the Town of Avon.
2. **Determination of Boundaries:** District boundaries shall be determined by measurement from and as shown on the official zoning map in case of any questions as to the interpretation of such boundary lines, the Planning & Zoning Committee shall interpret the map according to the reasonable intent of this Ordinance.
  - a) Unless otherwise specified or indicated by dimension on the maps, the district boundaries are normally lot lines, section, quarter section, or sixteenth section lines; or the centerlines of streets, highway, railways, or alleys.
  - b) The boundaries of a natural resource district include but are not limited where appropriate and as drawn are intended to represent the edge of a swamp, marsh, and floodland or the highwater line along a stream or watercourse, and shall be finally determined by the actual conditions in each specific situation, provided, however, that along a stream or watercourse such line shall not be less than 100 feet from the center of such stream or watercourse.

## 6.1 A-PRIME AGRICULTURAL DISTRICT

### A. PURPOSE AND INTENT OF A-PRIME AGRICULTURAL DISTRICT

1. The purpose of the A-Prime Agricultural District is to provide a method of obtaining the agricultural goals and objectives and protecting the Agricultural Preservation Areas indicated in the Town Land Use Plan and the County Farmland Preservation Plan.
2. The intent in having this district is to conserve prime agricultural soils, historically farmed soils and prevent uncontrolled, uneconomical spread of residential development which results in excessive costs to the community for the provision of essential public services. Agricultural soils are predominant in this district and are to be very sparsely developed to protect the community's economic base and tax base and to be eligible for the State of Wisconsin Farmland Preservation Program.

### B. REQUIREMENTS FOR PERMITTED AND CONDITIONAL USES WITHIN THE A-PRIME AGRICULTURAL DISTRICT

A-PRIME APPLICABLE STANDARDS	
LOT SIZES	1 Acre Minimum
BUILDING LOCATION	
FARM DWELLING:	
Setback:	100 feet minimum
Side Yard:	20 feet minimum
Rear Yard:	20 feet minimum
OTHER STRUCTURES:	
Setback:	100 feet minimum
Side Yard:	20 feet minimum, if structure is not being used for the housing of animals; 100 feet minimum if structure is being used for housing of animals
Rear Yard	20 feet minimum
HEIGHT REGULATIONS ACCESSORY BUILDINGS:	
Farm:	60 feet maximum
Other:	20 feet maximum at eave
FLOOR AREA REGULATIONS:	

1,200 square feet minimum for a dwelling unit
<b>ARTERIAL SETBACK:</b>
100 Feet from Right-of-Way
<b>FRONTAGE:</b>
250 feet of frontage road

1. All new livestock facilities, regardless of size must, as a minimum, meet the Agricultural performance standards and prohibitions as identified in WI ADMIN CODE NR 151, prior to populating the site with animals. The Rock County Land Conservation Department will verify that all performance standards are met and will report findings of fact to the board.

Where a livestock facility is expanded upon as to increase its size by 20% or more, the expansion must, at a minimum, meet the Agricultural performance standards and prohibitions, prior to populating the site with animals, as identified in WI ADMIN CODE NR 151. This requirement is only applicable to the proposed expansion component. The Rock County Land Conservation Department will verify that all performance standards are met and will report findings of fact to the board.

2. Agricultural use shall be calculated using contiguous parcels.
3. General Setbacks Applicable to Livestock Structures
  - a) *Property lines.* Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from the property line if the livestock facility will have fewer than 1,000 animal units, and 200 feet from the property line if the livestock facility will have 1,000 or more animal units. The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of this setback requirement, except that a structure may not be expanded closer to the property line.
  - b) *Public Road Right-of-Way.* Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from a public road right-of-way if the livestock facility will have fewer than 1,000 animal units, and 150 feet from a public road right-of-way if the livestock facility will have 1,000 or more animal units. This setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of this setback requirement, except that a structure may not be expanded closer to the public road right-of-way.

- c) *Waste Storage Structure.* A new waste storage structure may not be located within 350 feet of a property line, or within 350 feet of the nearest point of any public road right-of-way.

A single new waste storage structure may be constructed closer to the property line or public road if the new structure is:

- (1) located on the same tax parcel as a waste storage structure in existence before May 1, 2006;
- (2) no larger than the existing structure;
- (3) no further than 50 feet from the existing structure;
- (4) no closer to the road or property line than the existing structure.

This setback requirement does not apply to existing waste storage structures, except that an existing structure within 350 feet of a property line may not expand toward that property line or road.

#### 4. Water Quality and Related Setback Requirements

- a) *Navigable waters and wetlands.* A livestock facility shall comply with setback and related requirements in any applicable Rock County shore land or wetland zoning ordinances or chapter enacted within the scope of authority granted under §§ 59.692, 61.351 or 62.231 of the Wisconsin Statutes.
- b) *Flood Plain.* A livestock facility shall comply with setback and related requirements in any applicable flood plain zoning ordinance or chapter that is enacted within the scope of statutory authority under § 87.30 of the Wisconsin Statutes.
- c) *Wells.* All wells located within a livestock facility shall comply with Chapters NR811 and 812 of the Wisconsin Administrative Code. New or substantially altered livestock structures shall be separated from existing wells by the distances required in said Chapters NR811 and 812, regardless of whether the livestock facility operator owns the land in which the wells are located.

A livestock structure in existence on May 1, 2006, may be altered as long as the alteration does not reduce the distance between the livestock structure and an existing well.

### **C. A-PRIME AGRICULTURAL DISTRICT LAND USES**

#### **Permitted Uses:**

1. Livestock under 1000 Animal units (NR 243.05), nurseries, and other similar agricultural uses in accordance with Section 91.01(2) of the Wisconsin Statutes.
2. Forest management, crop or forage production, grazing, hatcheries, nurseries, orchards, and paddocks used in accordance with Section 91.01(2) of the Wisconsin Statutes.
3. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
4. Any other use that the Wisconsin Department of Agriculture or Trade and Consumer Protection (DATCP), by rule, identifies as an agricultural use.
5. Any Accessory use, including:
  - a) A building, Structure or improvement that is an integral part of or is incidental to an agricultural use.
  - b) One (1) single family farm residence.
6. Any Agriculture-related use, including:
  - a) An agricultural equipment dealership; facility providing agricultural supplies; facility for storing or processing agricultural products; or facility for processing agricultural wastes.
  - b) Any other use that the DATCP[ZC1], by rule, identifies as an agriculture related use.
7. Farm stands or sale of farm products produced on the premises that do not require outside processing before they are offered for sale, and up to two unlighted signs not larger than 32 square feet each advertising such sale.

### **D. CONDITIONAL USE**

1. The following land uses in the A-Prime Agricultural District may be permitted as a conditional use only after following the procedure found in Section 7(M) of this Ordinance.
  - a) The following Agricultural-related uses.
    - (1) An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.

- (2) Any use DATCP, by rule, identifies as an agricultural-related use.
- b) Non-Agricultural Business/ Home Occupation. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
- (1) It is conducted on a farm by an owner or operator of that farm;
  - (2) It requires no buildings, structures, or improvements other than those existing as a permitted, accessory or conditional use;
  - (3) It employs no more than four (4) full-time employees annually; and
  - (4) It does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
- c) Governmental, institutional, religious, or nonprofit community uses may also be permitted in the A-Prime Agricultural District as a conditional use if the use meets all of the following criteria:
- (1) The use and its location in the zoning district are consistent with the purposes of the zoning district;
  - (2) The use and its location in the zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law;
  - (3) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use;
  - (4) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use; and
  - (5) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- d) A transportation, communications, pipeline, electric transmission, utility, or drainage use, not requiring authorization under SS. 196.491 Wis. Stats., provided they are enclosed by an eight-foot or more protective fence must meet the following:
- (1) The use and its location in the zoning district are consistent with the purposes of the zoning district;
  - (2) The use and its location in the zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law;
  - (3) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use;
  - (4) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use; and

- (5) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- e) The owner or operator of the farm may, upon issuance of a conditional use permit, conduct commercial storage of non-agriculture items in buildings, structures or improvements existing as of October 1, 1980, or in new buildings in the immediate vicinity of buildings existing as of October 1, 1980, that are an integral part of, or are incidental to an agricultural use. Provided the activity or business operation employs no more than 4 full-time employees annually, and does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
- f) Nonmetallic mineral extraction may also be permitted in the A-Prime Agricultural District as a conditional use if it meets all of the following criteria:
  - (1) The operation complies with Subchapter I of Chapter 295, Wisconsin Statutes, and rules promulgated under that subchapter, with applicable provisions of local ordinances under Wis. Stat. § 295.13 or Wis. Stat. § 295.14 (including all applicable provisions of this ordinance), and with any applicable requirements of the department of transportation concerning the restoration of nonmetallic mining sites;
  - (2) The operation and its location are consistent with the purposes of the A-Prime Agricultural District;
  - (3) The operation and its location are reasonable and appropriate, considering alternative locations outside the A-Prime Agricultural District or are specifically approved under state or federal law;
  - (4) The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural or open space;
  - (5) The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use; and
  - (6) The owner is required to restore the land to agricultural use, consistent with any required locally approved reclamation plan, when extraction is completed.
- g) Oil and gas exploration or production that is licensed by the Department of Natural Resources under Subchapter II of Chapter 295 of the Wisconsin Statutes.

**E. REZONING LAND OUT OF THE A-PRIME AGRICULTURAL DISTRICT**

- 1. In addition to following the requirements of Section 4, the Town of Avon may rezone land out of the A-Prime Agricultural District after it holds a Public Hearing and notes in writing that it finds all of the following:
  - a) The rezoned land is better suited for a use not allowed in the farmland preservation zoning district;

- b) The rezoning is consistent with the Town of Avon Comprehensive Plan and substantially consistent with the county certified farmland preservation plan; and
  - c) The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned A-Prime Agricultural District or legally restricted to agricultural use.
- 2. Existing Farm dwellings and related farm structures may be separated from the farm plot according s. 91.48(1), Wisconsin Statutes. The remaining portion of the original parcel shall conform to the standards of the A-Prime Agricultural District, and the new parcel with the existing farm dwelling shall conform to the standards of the A-1 District. The rezone must follow the requirements of Section 4 – Changes and Amendments.
  - 3. The Town Avon shall by March 1 of each year provide the Department of Agriculture, Trade, and Consumer Protection a report of the number of acres that has been rezoned out of the A-Prime Agricultural District during the previous year. The report shall include a map showing the location of those acres. Additionally, this report shall be sent to the Rock County Planning and Development Agency.

## **6.2 A-1 AGRICULTURAL DISTRICT ONE**

### **A. PURPOSE AND INTENT OF A-1 AGRICULTURAL DISTRICT ONE**

- 1. The purpose of the A-1 District is to provide a means of accomplishing the agricultural goals and objectives in the Town of Avon Comprehensive Plan for land parcels in the General Agricultural Area. This district is designed to promote the maintenance and preservation of areas that have been historically utilized for agricultural purposes.
- 2. The intent of the A-1 District is to provide for agricultural activities and uses that are compatible with agriculture that is generally best suited for smaller farm units.

### **B. USE REGULATIONS**

#### **PERMITTED USES:**

- 1. Ordinary farm uses, including dairying, livestock and poultry raising and truck farming.
- 2. Apiculture (beekeeping).
- 3. Equestrian Trails.
- 4. Fish hatcheries.
- 5. Horticulture, including greenhouses and nurseries.
- 6. Nature trails and walks.
- 7. Orchards.
- 8. Paddocks.

9. Pea vineries, provided same are not located or operated nearer than 500 feet to any dwelling.
10. Roadside stands not exceeding one per farm relating to the retail sale of locally produced farm products.
11. Sod farming.
12. Stables.
13. Viticulture (grape growing).

### **C. CONDITIONAL USES**

Uses specified in Section 7(M), provided that such uses are approved in accordance with the procedures set forth in Section 7(M) of this ordinance, and further provided that such conditional uses are limited to those agricultural-related, religious, other utility, institutional or governmental uses which do not conflict with agricultural use and are found to be necessary in light of the alternative locations available for such uses.

<b>A-1 APPLICABLE STANDARDS</b>	
<b>LOT SIZE</b>	1 Acre Minimum
<b>BUILDING LOCATION</b>	
<b>FARM DWELLING:</b>	
Setback:	100 feet minimum
Side Yard:	20 feet minimum
Rear Yard:	20 feet minimum
<b>OTHER STRUCTURES:</b>	
Setback:	100 feet minimum
Side Yard:	20 feet minimum, if structure is not being used for the housing of animals; 100 feet minimum if structure is to be used for housing of animals
Rear Yard	20 feet minimum
<b>HEIGHT REGULATIONS ACCESSORY BUILDINGS:</b>	
Farm:	60 feet maximum
Other:	20 feet maximum at eave
<b>FLOOR AREA REGULATIONS:</b>	
1,200 square feet minimum for a dwelling unit	

## 6.3 R-1 RESIDENCE DISTRICT (SINGLE FAMILY)

### A. USE REGULATIONS

PRINCIPAL USES:

2. Single-family dwelling units
3. Parks and playgrounds

### B. CONDITIONAL USES

Such uses as are specified in Section 7(M) herein.

R-1 APPLICABLE STANDARDS	
LOT SIZE (unless grandfathered in):	
Width:	250 feet minimum
Area:	Three (3) acre minimum
BUILDING LOCATION:	
Setback:	100 feet minimum
Side Yard:	20 feet minimum
Rear Yard:	20 feet minimum
HEIGHT REGULATIONS:	
35 feet maximum	
FLOOR AREA REGULATIONS:	
1,200 square feet minimum for a dwelling unit	

# 6.4 R-2 RESIDENCE DISTRICT (DUPLEX)

## A. USE REGULATIONS

### PRINCIPAL USES:

All uses in this district are Conditional Uses, and must be approved in accordance with the procedures established in Section 7 of this Ordinance.

R-2 APPLICABLE STANDARDS	
LOT SIZE (unless Grandfathered in):	
Width:	250 feet minimum
Area:	Six (6) acre minimum
BUILDING LOCATION:	
Setback:	100 feet minimum
Side Yard:	20 feet minimum
Rear Yard:	20 feet minimum
FLOOR AREA REGULATIONS:	
2,400 square feet minimum for a total of two (2) dwelling units	

## 6.5 R-3 RESIDENCE DISTRICT (MULTIPLE FAMILY)

### A. USE REGULATIONS

1. All uses in this district are Conditional Uses, and must be approved in accordance with the procedures established in Section 7(M) of this Ordinance.

<b>R-3 APPLICABLE STANDARDS</b>	
<b>LOT SIZE:</b>	
Width:	Multiple Family Dwelling Units – 250 feet minimum
Area:	Multiple Family Dwelling Units – Three (3) acres per single family dwelling unit
<b>BUILDING LOCATION:</b>	
Setback:	100 feet minimum
Side Yard:	20 feet minimum
Rear Yard:	20 feet minimum
<b>FLOOR AREA REGULATIONS:</b>	
1,200 square feet minimum for a single family dwelling unit	

## 6.6 R-4 RESIDENCE DISTRICT (PLANNED DEVELOPMENT)

### A. USE REGULATIONS

#### PRINCIPAL USES:

1. All principal uses permitted in the B-1 or B-2 Business District, provided that such uses shall not occupy more than 15% of the total development area. Nevertheless, all uses in this district are Conditional Uses, and must be approved in accordance with the procedures established in Section 7(M) of this Ordinance.

<b>R-4 APPLICABLE STANDARDS</b>	
<b>PARK AND OPEN SPACE LAND:</b>	
Park and open space land, exclusive of the required yards, access drives, and parking area, shall comprise at least 10% of the total development area. Such required park and open space land may be placed in more than one location within the development area provided, however, that no single area shall contain less than 1 acre and that each area shall have its least dimension more than one quarter its length.	
<b>BUILDING LOCATION:</b>	
Setback:	100 feet minimum
Side Yard:	20 feet minimum
Rear Yard:	20 feet minimum

## 6.7 B-1 RESTRICTED BUSINESS DISTRICT

### A. USE REGULATIONS

#### PRINCIPAL USES:

1. All uses in this district are Conditional Uses, and must be approved in accordance with the procedures established in Section 7(M) of this Ordinance.

### B. CONDITIONAL USES

1. The following retail or customer service establishments of a restrictive nature:
  - a) Art Studios;
  - b) Gift Shops;
  - c) Interior Decorators;
  - d) Professional Offices or Studios;
  - e) Tourists Homes; and
  - f) Cabinet Shops.
2. Any similar use, subject to the approval of the Town Board, following recommendation by Planning & Zoning Committee.
3. Residential dwelling units not to exceed one per principal use when attached to the principal structure.
4. Such uses as are specified in Section 7(M) herein.

B-1 APPLICABLE STANDARDS	
LOT SIZE:	
Width:	250 feet minimum (unless grandfathered in)
Area:	Three (3) acres minimum
BUILDING LOCATION:	
Setback:	100 feet minimum
Side Yard:	20 feet minimum

Rear Yard:	20 feet minimum
<b>HEIGHT REGULATIONS</b>	
Principal Building	35 feet maximum at eave
Accessory Buildings	20 feet maximum at eave
<b>FLOOR AREA REGULATIONS</b>	
MINIMUM REQUIRED IF RESIDENTIAL UNIT ATTACHED (Does not include business area)  1,200 square feet minimum for a dwelling unit	

## 6.8 B-2 LOCAL BUSINESS DISTRICT

### A. USE REGULATIONS

#### PRINCIPAL USES:

1. All uses in this district are Conditional Uses, and must be approved in accordance with the procedures established in Section 7(M) of this Ordinance. Any use permitted in the B-1 Restricted Business District except residential use. Any of the following retail and commercial service establishments, providing the location, plat plan and other required documents are submitted to and approved by the Building Board:

- g) Antique Shops;
- h) Art Shops;
- i) Appliance Stores;
- j) Bakeries (not over ten employees);
- k) Barber Shops;
- l) Beauty Shops;
- m) Banks or Savings & Loan Offices;
- n) Clinics;
- o) Clothing or Dry Goods Stores;
- p) Confectionery Stores;
- q) Delicatessens;
- r) Drug Stores;
- s) Florist Shops;
- t) Funeral Homes;
- u) Furniture Stores;
- v) Fruit and Vegetable Markets;
- w) Grocery or Other Food Products Stores;
- x) Hardware Stores;
- y) Ice Cream Stores;
- z) Jewelry Stores;
- aa) Meat and Fish Markets;
- bb) Music and Radio Stores;
- cc) Newsstands;
- dd) Notion or Variety Shops;
- ee) Parking Lots;
- ff) Pharmacies;
- gg) Radio and Television Sales and Repair Shops;
- hh) Photographers;
- ii) Shoe Stores;
- jj) Soda Fountains;
- kk) Stationery or Book Stores;
- ll) Tailors or Dressmaking Shops;

- mm) Telegraph and Telephone Office and Telephone Exchanges;
- nn) Utility Company Offices;
- oo) Garages for storage of vehicles used in conjunction with the operation of the businesses; and
- pp) Any similar uses, subject to approval of the Town Board, following recommendation by the Planning & Zoning Committee.

<b>B-2 APPLICABLE STANDARDS</b>	
<b>LOT SIZE:</b>	
Width:	250 feet minimum (unless grandfathered in)
Area:	Three (3) acres minimum
<b>BUILDING LOCATION:</b>	
Setback:	100 feet minimum
Side Yard:	20 feet minimum
Rear Yard:	20 feet minimum
<b>HEIGHT REGULATIONS</b>	
Principal Building	35 feet maximum
Accessory Buildings	20 feet maximum

## 6.9 B-3 GENERAL BUSINESS DISTRICT

### A. USE REGULATIONS

#### PRINCIPAL USES:

1. All uses in this district are Conditional Uses, and must be approved in accordance with the procedures established in Section 7(M) of this Ordinance.
2. Any use permitted in the B-2 Local Business District. The following business and trades of a more general nature, normally serving a larger trade area, providing the location, plat plan and other required documents are submitted to and approved by the Building Board:
  - a) Automobile salesrooms, repair shops and storage yards, and garages for equipment, supplies or vehicles, but not including the storage of junked or wrecked automobile parts;
  - b) Dairies and bottling plants;
  - c) Dry cleaning and dyeing establishments;
  - d) Laundries;
  - e) Lockers and cold storage plants;
  - f) Printing and publishing houses;
  - g) Theaters, dance halls and other amusement places;
  - h) Used car lots;
  - i) Wholesalers and distributors; and
  - j) Any similar uses, subject to the approval of the Town Board, following recommendation by the Planning and Zoning Committee.

B-3 APPLICABLE STANDARDS	
<b>LOT SIZE:</b>	
Width:	250 feet minimum (unless grandfathered in)
Area:	Three (3) acres minimum
<b>BUILDING LOCATION:</b>	
Setback:	100 feet minimum
Side Yard:	20 feet minimum
Rear Yard:	20 feet minimum
<b>HEIGHT REGULATIONS</b>	
Principal Building	35 feet maximum at eave
Accessory Buildings	20 feet maximum at eave

## 6.10 I -1 LIGHT INDUSTRIAL DISTRICT

### A. USE REGULATIONS

#### PRINCIPAL USES:

1. All uses in this district are Conditional Uses, and must be approved in accordance with the procedures established in Section 7(M) of this Ordinance.
2. Any use permitted in the B-3 General Business District or A-1 Agricultural District, except that residential use shall be permitted only in conjunction with or accessory to an otherwise permitted use.
3. The following trades or industries of a restrictive character which are not detrimental to the district or to the adjoining residential areas by reason of appearance, noise, dust, smoke or odor, provided the location, plat plan, and other required documents have been submitted to and approved by the Building Board:
  - a) Creameries, milk condensers, cheese factories;
  - b) Storage and warehousing of fuel and materials in contractors yards, except for storage of wrecked and dismantled vehicles, junk, explosives or in-flammable gases or liquids; provided, however, that inflammable gases or liquids may be stored if there has been compliance with the Flammable Liquid Code of Wisconsin and any subsequent amendments thereto;
  - c) Manufacture of products from paper, but not the manufacture of paper or pulp;
  - d) Processing, packing and manufacture of food, except meat and meat products, fish and fish products, sauerkraut and cabbage by-products or the vining of peas;
  - e) Manufacture of sporting goods, home and office appliances and supplies;
  - f) Manufacture of goods from leather, but not tanning of hides or manufacture of leather;
  - g) Knitting mills and the manufacture of products from finished fabrics;
  - h) Manufacture of jewelry and cosmetics;
  - i) Manufacture of cigars, cigarettes and smoking tobacco;
  - j) Enameling and painting;
  - k) Industries engaged in machining operations;
  - l) Manufacture of goods from plastics;
  - m) Pattern shops and the manufacture of wood products;
  - n) Brass and/or aluminum foundries, subject, however, to the following conditions and limitations:
    - (1) The foundry must be operated in conjunction with another permitted use of the Industrial District;
    - (2) No objectionable smoke, odors or noise is permitted from the operations;
    - (3) Only gas, oil or electricity shall be used as a fuel; and

- (4) Any new material, finished product or waste matter that requires outside storage must be enclosed behind a solid fence so as not to be visible from any roadway.
4. No use enumerated with particularity in the I-2 General Industrial District shall be permitted in this District, nor shall drop forges, foundries (except for brass and/or aluminum foundries as provided herein), refineries, tanneries, or any similar use, the normal operation of which causes objectionable noise, odor dust or smoke.

<b>I-1 APPLICABLE STANDARDS</b>	
<b>LOT SIZE:</b>	
Width:	250 feet minimum (unless grandfathered in)
Area:	Three (3) acres minimum
<b>BUILDING LOCATION:</b>	
Setback:	100 feet minimum
Side Yard:	20 feet minimum
Rear Yard:	20 feet minimum
<b>HEIGHT REGULATIONS</b>	
Principal Building	50 feet maximum
Accessory Buildings	50 feet maximum

## 6.11 I-2 HEAVY INDUSTRIAL DISTRICT

### A. USE REGULATIONS

PRINCIPAL USES: (All Conditional Uses)

1. All uses in this district are Conditional Uses, and must be approved in accordance with the procedures established in Section 7(M) of this Ordinance.
2. Any use as permitted in the I-1 Light Industrial District.
3. Any other commercial or industrial use not otherwise prohibited by law, provided the location, plat plan, and other required documents have been submitted to and approved by the Town Board, following recommendation by the Planning & Zoning Committee, except the following:
  - a) Cement, lime, gypsum or plaster manufactures;
  - b) Acid manufactures;
  - c) Storage of explosives, except as incidental to a permitted use;
  - d) Fertilizer manufactures;
  - e) Offal or dead animal reduction; and
  - f) Glue manufacture, fat rendering or distillation of bones.

I-2 APPLICABLE STANDARDS	
<b>LOT SIZE:</b>	
Width:	250 feet minimum (unless grandfathered in)
Area:	Three (3) acres minimum
<b>BUILDING LOCATION:</b>	
Setback:	100 feet minimum
Side Yard:	20 feet minimum
Rear Yard:	Same as Setback requirements
<b>HEIGHT REGULATIONS</b>	
Principal Building	60 feet maximum
Accessory Buildings	60 feet maximum

## 6.12 Q – 1 QUARRYING DISTRICT

### A. USE REGULATIONS FOLLOW ALL STATE AND FEDERAL REGULATIONS

#### PRINCIPAL USES:

1. Any use permitted in the A-1 Agricultural District.

### B. CONDITIONAL USES

1. Quarrying, provided such use is approved in accordance with the procedures established in Section 7(M) of this Ordinance.

Q-1 APPLICABLE STANDARDS	
LOT SIZE	
Width:	250 feet minimum
Area:	Three (3) acres minimum
BUILDING LOCATION	
SET BACK:	
Quarrying Operations	See Section 7(M)
Other Permitted Uses	50 feet minimum
SIDE YARD:	
Quarrying Operations	See Section 7(M)
Other Permitted Uses	20 feet minimum
REAR YARD:	
Quarrying Operations	See Section 7(M)
Other Permitted Uses	50 feet minimum
HEIGHT REGULATIONS	
Principal Building	35 feet maximum at eave
Accessory Buildings	60 feet maximum

## **6.13 NROS: NATURAL RESOURCE OPEN SPACE DISTRICT**

### **A. PURPOSE AND INTENT**

1. The purpose of the NROS Natural Resource Open Space District zoning district is to provide a means of achieving the natural resource, open space, and outdoor recreation goals, objectives, and policies of the Town of Avon Comprehensive Plan or similar document.
2. The intent of the NROS zoning district is to provide for lands that maintain and enhance ecosystem health and/or offer passive and active outdoor recreation opportunities.

### **B. PERMITTED USES**

1. The following uses are permitted in the Natural Resource Open Space District:
  - a) Parks and recreational areas, arboretums, and botanical gardens;
  - b) Public athletic fields and facilities including but not limited to soccer fields, baseball/softball diamonds, basketball courts, volleyball courts, swimming beaches, horseshoe pits, ice skating areas, golf course, driving ranges, disk golf courses, tennis, sledding areas;
  - c) Forestry, management of forest, forest preservation, wildlife reservations, wildlife preserves, and conservation projects;
  - d) Harvesting of wild crops, such as wild rice, marsh hay, ferns, moss, berries, tree fruits and tree seeds;
  - e) The management of wildlife, including waterfowl, fish, and other similar lowland animals;
  - f) Hunting;
  - g) Public water recreation facilities including but not limited to boat launches, fishing piers and courtesy docks;
  - h) Public and private parks, picnic areas, and similar uses;
  - i) Hiking trails and bridle paths;
  - j) Preservation of areas of scenic, historic, or scientific value;
  - k) Watershed conservation areas; and
  - l) Uses similar and customarily incident to any of the above uses.

### **C. CONDITIONAL USES**

1. The following uses require a Conditional Use Permit be approved by the Town Board prior to the use being established. The Town Board shall hold a public hearing, review the applicable facts pertaining to the proposed Conditional Use, and apply the provisions and standards in Section 7 – Conditional Uses of this Ordinance prior to taking action on the application.
  - a) Dams, reservoirs, ponds, water storage and primary facilities or any stream course changing, waterway construction or enlargement, dams, and changing of natural drainage ways;

- b) Power plants deriving their power from the flow of water, and transmission lines and other facilities accessory thereto;
- c) Utilities such as, but not restricted to telephone, internet, power, or other transmission lines;
- d) Relocation of any watercourse;
- e) Filling, drainage or dredging of wetlands, provided that this shall conform to any Shorelands Zoning Ordinance enacted by Rock County pursuant to Chapter 59.692 of the Wisconsin Statutes, "Zoning of Shorelands on Navigable Waters";
- f) Sewage disposal plants;
- g) Golf courses both public and private;
- h) Horse stables, riding clubs, and fairgrounds;
- i) Hunting and fishing clubs, including trap and skeet shooting facilities, target ranges and gun clubs when such activities are located at least 200 feet from the boundaries of the property involved;
- j) Residences for a park supervisor;
- k) Animal hospitals, shelters and kennels; and
- l) Any building or structure used in conjunction with a permitted or conditional use. This may include but not limited to removable shelters, clubhouses, nature centers, maintenance buildings and restroom facilities.

#### **D. REQUIREMENTS FOR PERMITTED AND CONDITIONAL USES**

1. Maximum Building Height	35 feet
2. Minimum Front Yard Setback	50 feet
3. Minimum Setback from High Water Mark	75 feet
4. Minimum Rear Yard Setback	50 feet
5. Minimum Lot Size	No minimum Lot Size
6. Minimum District Width	30 feet
7. Minimum Side Yard Setback	20 feet
8. All front yard setbacks are to also refer to Section 5 of this Ordinance for setbacks on Arterial, Collector, and Local roads.	
9. Buildings are not allowed, unless an implied component of the permitted or conditional use	

## SECTION 7 – CONDITIONAL USES:

**A. APPROVAL REQUIRED:** Certain uses and situations which are of a special nature, or are so dependent upon actual contemporary circumstances as to make impractical predetermination in each individual situation, may be permitted as Conditional Uses in districts, subject to such requirements as are hereinafter specified for each situation.

**B. APPLICATION:**

1. Application for Conditional Use permits shall be made in duplicate to the Planning & Zoning Committee on forms furnished by them and shall include the following where pertinent and necessary for proper review:
  - a) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners of record.
  - b) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site, type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
  - c) Plat of Survey prepared by a land surveyor registered in Wisconsin or other map drawn to scale showing the location, property boundaries, dimensions, elevations, uses, and size of the following: subject site, existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, loading areas and driveways, existing highway access restrictions; existing and proposed street, side, and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within 40 feet of the subject site, soil mapping unit lines; mean and historic high water lines on or within 40 feet of the subject premises; and existing and proposed landscaping.
  - d) Additional information as may be required by the Planning & Zoning Committee or Town Board, including, without limitation, ground surface elevations, basement and first floor elevations, utility elevations, historic and probable future floodwater elevations, areas subject to inundation by floodwaters, depths of inundation, flood proofing measures, soil type, slope, boundaries, and plans for proposed structures giving dimensions and elevations pertinent to the determination of the hydraulic capacity of the structure or its effects on flood flows.
2. The application fee shall be \$ 175.00 or the cost of public notice and other associated fees, whichever is more. Renewals of Conditional Use Permits as required or provided herein shall require an additional fee, the amount of which shall also be set and determined from time to time by resolution of the Town Board.
3. Once an application for a conditional use has been denied, the applicant may not re-apply for the same conditional use for six months.

- C. **CONDITIONS**. Conditions, such as time limitations with which to act; landscaping, architectural design; type of construction, construction commencement and completion dates; sureties; lighting; fencing; location; size and number of signs; water supply and waste disposal systems; higher performance standards; street dedication; certified survey maps; flood proofing; ground cover; diversions; silting basins; terraces; stream bank protection; planting screens; operational control; hours of operation; improve traffic circulation; deed restrictions; highway access restrictions; increased yards; or additional parking may be required by the Planning & Zoning Committee or Town Board upon finding that these are necessary to fulfill the purpose and intent of this Ordinance.
- D. **OTHER PROVISIONS**: Compliance with all other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic, highway access, and performance standards, shall be required of all Conditional Uses.
- E. **EXISTING USES**: All uses existing at the effective date of this Ordinance which would be classified as conditional uses in the particular zoning district concerned if they were to be established after the effective date of this Ordinance, are hereby declared to be conforming conditional uses to the extent of the existing operation only. Any addition, alteration, extension, or other proposed change in the existing operation shall be subject to the conditional use procedures as if such use were being established anew.
- F. **REVIEW OF CONDITIONAL USES**: The Planning & Zoning Committee shall review the site; existing and proposed structures; architectural plans; neighboring land and water uses; parking areas; driveway locations; highway access; traffic generation and circulation; drainage waste disposal; water supply systems; and the effects of the proposed use; structure, operation, and improvement upon flood damage protection; water quality; shore land cover; natural beauty; and wildlife habitat. After their review and recommendation is made, the Town Board shall hold a public hearing after publishing a Class two notice thereof as provided by law.
- G. **FINAL REVIEW AND APPROVAL**: The Town Board shall review the proposal as submitted along with any requirements as may be recommended by the Planning & Zoning Committee. The Town Board may issue a Conditional Use Permit after said review and public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this Ordinance and are found not to be hazardous, harmful, offensive or otherwise adverse to the environment quality, water quality, shore land cover, or property values in the Town of Avon. Any conditions deemed necessary by the Town Board shall be made an integral part of the permit. Such conditions shall be set forth in detail and in writing by the Town Clerk and a copy of such conditions shall be sent by certified mail, return receipt requested, to the applicant.
- H. **COMPLIANCE**: The conditions set forth in and with the Conditional Use Permit shall be complied with by the applicant and any deviation or alteration of those conditions as set forth shall constitute a violation of the terms of the Conditional Use Permit. Such violation

shall constitute a violation of this Ordinance and will be subject to prosecution and penalties under the terms of this Ordinance.

- I. APPLICATION FOR CHANGE OF CONDITIONAL USE PERMIT:** If any holder of a Conditional Use permit wishes to extend or alter the terms of this permit, he must apply for such extension or alteration through the procedure of application for Conditional Use Permits detailed herein.
- J. EXPIRATION OF CONDITIONAL USE STATUS:** Conditional use status will terminate when, after due notice and public hearing, the Town Board shall determine either of the following:
1. The conditional use has not continued in conformity with the conditions of the permit; or
  2. The conditional use has been discontinued for period of twelve consecutive or eighteen months in a three year period. A business of a seasonal nature shall not be deemed discontinued during periods in which it is normally inactive (i.e. summer camps, snowmobile courses, ski areas, marinas, quarries, etc.)
- K. AUTOMATIC EXPIRATION OF CONDITIONAL USE STATUS:** A conditional use shall automatically expire, without notice or hearing, if actual construction of the approved use for which a permit was issued has not been substantially commenced within the time limitations, if any, set forth in the Conditional Use Permit.
- L. REVERTER:** Upon expiration or revocation of a conditional use status, the owner of the premises shall, within ninety days from such determination, be required to bring all such land and buildings into conformity with the district regulations of the district in which such former conditional use is located, and all other provisions of this Ordinance.
- M. CONDITIONAL USES PERMITTED:** Subject to the foregoing, in addition to such uses enumerated in the district regulations, the following may be permitted as Conditional Uses in the districts specified:
1. **Airports, Landing Fields, and Take-off Strips:** Upon submission and approval as provided herein. If proposed within the A-Prime Agricultural District it shall be directly tied to agriculture as an accessory use or as an agricultural accessory use.
  2. **Antique Shops, Gift Shops, and Art Studios:** Such uses are permitted by grant in certain Business Districts. In addition, such uses are conditionally permitted in Residential and Agricultural Districts, subject to the following:
    - a) Submission and approval as provided herein;
    - b) Such use is compatible with surrounding residential land uses; and

- c) If proposed within the A-Prime Agricultural District, such uses are conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than a building, structure or improvement that is an integral part of, or is incidental to an agricultural use, or a farm residence. It shall not employ more than four (4) full-time employees annually, and shall not impair or limit the current or future agricultural use of the farm or other parcel within the A-Prime Agricultural District.
3. **Automobile Service Stations:** In Local or General Business Districts and Industrial Districts, subject to the following:
- a) Submission and approval as provided herein;
  - b) No gasoline pump or other accessory equipment shall be closer than 15 feet to the Setback line; and
  - c) No lighting installations shall be permitted which create a hazard to traffic or nuisance to surrounding property.
4. **Animal Hospitals, Kennels, and Laboratories Using Animals or Animal Products:** In any Local or General Business District, Agricultural District and Industrial District, subject to the following:
- a) Submission and approval as provided herein;
  - b) No such use shall be permitted on a lot of less than three acres;
  - c) No building other than one used only for residence purposes shall be closer than 50 feet to the lot line of an adjoining lot in a district permitting residential use; and
  - d) If proposed within the A-Prime Agricultural District, such uses are conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than a building, structure or improvement that is an integral part of, or is incidental to an agricultural use, or a farm residence. It shall not employ more than four (4) full-time employees annually, and shall not impair or limit the current or future agricultural use of the farm or other parcel within the A-Prime Agricultural District. A proposed Laboratory using animals or animal products may be allowed if it is an agricultural related use.
5. **Churches, Synagogues and Other Buildings for Religious Assembly:** In any Residential District, subject to the following requirements:
- a) Submission and approval as provided herein;

- b) Off street parking be provided for one space for each four seats provided in the main assembly of the building;
  - c) Such use shall conform to the setback, height, and double the offset requirements of the district in which it is located; and
  - d) The height limitation may be extended to a maximum of 50 feet provided the minimum required setbacks and offsets shall be increased 2 feet for every additional foot of height in excess of the permitted maximum in that district. The aforesaid height limit regulation shall not apply to the spire or belfry of a church except where Airport Safety Zone regulations specifically limit the maximum height.
6. **Cemeteries and Mausoleums for the Burial of Human Remains Only:** In any district except a Business or Industrial District. In the A-Prime Agricultural District, subject to the following:
- a) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district;
  - b) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law;
  - c) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use;
  - d) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use; and
  - e) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
7. **Drive-In Establishments Serving Food or Beverages to Customers Other Than at a Booth or Table:** In Local and General Business Districts and Industrial Districts, subject to the following:
- a) The location and plat plan and other required documents have been submitted to and approved by the Building Board; and
  - b) The conditional use requirements of "Restaurants", found subsequently herein are fully met.

8. **Condenseries, Driers and Other Commercial Crop Processing Equipment:** In Agricultural or Industrial Districts, subject to the following:

- a) Submission and approval as provided herein;
- b) No such use shall be permitted on a lot less than 5 acres in area; and
- c) No building other than one used for residential purposes shall be closer than 50 feet to the lot line of an adjoining lot in a district permitting residential use.

9. **Laboratories for Testing, Experimental or Analytical Purposes:** In Agricultural Districts, Business or Industrial Districts, subject to the following:

- a) Submission and approval as provided herein;
- b) No building other than one used only for residence purposes shall be closer than 50 feet to the line of an adjoining lot in a district permitting residential use;
- c) Off-street parking shall be provided as required for Office Buildings and Customer Service establishments; and
- d) If proposed within the A-Prime Agricultural District such uses shall qualify as an agricultural related use.

10. **Mobile Home Parks and Mobile Homes:** In any Agricultural or Residential District, subject to the following and in addition to other regulations and requirements contained herein:

a) Definitions:

(1) **Licensee** – any person, partnership or corporation licensed to operate and maintain a mobile home park under the provisions of this ordinance.

(2) **Mobile Home** – a detached single family dwelling unit with all of the following characteristics:

- (i) Designed and constructed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub and shower bath, and kitchen facilities, with plumbing, electrical and fuel connections provided for attachment to outside systems;
- (ii) Designed and constructed to be transported after fabrication on its own wheels, or on flatbed or other trailers or detachable wheels;

- (iii) Upon delivery at the site where it is to be occupied as a dwelling containing major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations and location on foundation supports and connection to utilities and the like; and
- (iv) In the A-Prime Agricultural District a Mobile Home is limited to use as a farm residence or found only temporarily in the District.
- (3) **Mobile Home Park** – Any plot of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.
- (4) **Mobile Home Space** – A plot of ground within a mobile home park designated for the accommodation of one mobile home.
- (5) **Park** – Mobile Home Park.
- (6) **Permittee** – Any person to whom a temporary permit is issued to maintain or operate a mobile home park under the provisions of this ordinance.
- (7) **Person** – Any individual, firm, trust, partnership, voluntary association or corporation.
- (8) **Non-conforming Mobile Home Park** – Any mobile home park in existence and otherwise in full compliance with all applicable Town ordinances as of the date of the adoption of this ordinance.
- (9) **Collector Street** – A street designed primarily for through traffic and leading directly to an exit or entrance and permitting two-way traffic.
- b) **License:** It shall be unlawful for any person to maintain or operate a mobile home park within the limits of the Town of Avon unless such person shall first obtain a license therefore, except that the maintenance or operation of a mobile home in existence of the effective date of this ordinance may be continued under the terms set forth in Section o).
- c) **License fees and temporary permit fees.**
  - (1) The annual license fee for such mobile park shall be set by resolution of the Town Board.
  - (2) The fee for transfer of a license shall be set by resolution of the Town Board.
  - (3) The temporary permit fee for each 180 day period shall be one-half of the annual license fee prescribed in subsection (a) of this section.

**d) Application for Initial License:**

- (1) An application for an initial mobile home park license and all accompanying plans and specifications shall be filed in triplicate.
- (2) Application for initial mobile home park license shall be filed with the designated official. The application shall be in writing, signed by the applicant and shall include the following:

- (i) The name and address of the applicant;
- (ii) The location and legal description of the mobile home park;
- (iii) A complete plan of the park in conformity with the requirements of Section f of this ordinance;
- (iv) Plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the mobile home park; and
- (v) Such further information as may be requested by the designated official to enable him to determine if the proposed park will comply with all existing regulations and ordinances of the town and any applicable State law;

- (3) The designated official shall investigate the applicant and inspect the application and the proposed plans and specifications. If the applicant is of good moral character, and the proposed mobile home park will, when constructed or altered in accordance with such plans and specifications, be in compliance with all provisions of this ordinance and all other applicable ordinances and statutes, the designated official shall approve the application, and upon completion of the park according to the plans, payment of the license fee and filing of the bond as required elsewhere in this ordinance, shall issue the license.

- e) **Application for renewal license** – Upon application in writing by a licensee and upon payment of the annual license fee, and the filing of a bond as required elsewhere in this ordinance, the designated official shall issue a certificate renewing such license for another year, providing all the terms and conditions of this ordinance, providing all the terms and conditions of this ordinance and the terms and conditions of the initial license have been and are being fully complied with.

- f) **Application for transfer of license** – Upon application in writing for transfer of a license and payment of the transfer fee, and the filing of a bond as required elsewhere in this ordinance, the designated official shall issue a transfer if the transferee is of good moral character, and providing all the terms and conditions of this ordinance and the terms and conditions of the initial license have been and are fully complied with.

- g) **Revocation of license:** Any license granted under the provisions of this ordinance shall be subject to revocation or suspension for cause by the Town Board upon complaint filed with the Town Clerk, signed by any law enforcement officer, health

officer or building inspector after a public hearing upon such complaint, provided that the holder of such license shall be given 10 days' notice in writing of such hearing and the licensee shall be entitled to appear and be heard as to why such license shall not be revoked. Any holder of a license which is revoked or suspended by the Town Board may, within 20 days of the date of such revocation or suspension, appeal therefrom to the Circuit Court for Rock County by filing a written notice of appeal with the Town Clerk, together with a bond executed to the Town in the sum of \$500.00, with two sureties or a bonding company approved by the Clerk, conditioned upon the faithful prosecution of such appeal and the payment of costs adjudged against the licensee.

h) **Posting of license:** The license certificate shall be conspicuously posted in the office of or on the premises of the mobile home park at all times.

i) **Mobile Home Park Plan:**

(1) Prior to occupancy, the mobile home park shall conform to the following requirements:

(i) *Well and Drainage.* The park shall be located on a well-drained site, properly graded to insure rapid drainage and free from stagnant pools of water.

(ii) *Mobile Home Spaces.* Each park shall provide mobile home spaces, and each such space shall be clearly defined or delineated. Each space shall have an area of not less than three acres, exclusive of roadways; provided, however, that mobile home parks which, at the time of the adoption of this ordinance, existed lawfully with mobile home spaces that do not comply with any of the foregoing minimum area and width or minimum average width requirements, may continue to operate and shall be excused from such compliance.

(iii) *Mobile Home Spacing.*

(a) Mobiles homes shall be so located on each space, whether parked end-to-end or side-to-side, with at least 20 feet of clearance between each mobile home.

(b) No mobile home shall be located closer than 10 feet to any building within the park or closer than 25 feet to any property line of the park which does not abut upon a public street or highway.

(c) All mobile homes shall be located on the corresponding mobile home space in such a way as to comply with the set back and side yard requirements with respect to conventional buildings in the district in which the mobile home park is located, if said requirements are more restrictive.

(iv) *Parking*. Each mobile home space shall be provided with two paved off-street parking spaces and no overnight on street parking shall be permitted.

(v) *Park Approval*. Each park shall be approved by the Town Board and the Planning & Zoning Committee after Public Notice and Hearing.

(vi) *Collector Streets*.

(a) The right-of-way for collector streets is to be 70 feet in width with a traveled portion of the roadway to be 36 feet in width, and it shall be provided with a curb and gutter construction or, at the option of the owner, an open drain ditch for disposal of surface water and built to town specifications.

(b) Said right-of-way, beyond the travel portion of the roadway, can be used for off-street parking.

(c) Non-collector streets may be of less size, but the street plan for non-collector streets must be approved by the Town Board before the license is issued. The Town Board shall issue, prior to construction, a street plan approval certificate, upon which the owner can rely that the street system, if constructed in conformity with the plans as filed, shall be deemed in compliance with the terms of this ordinance.

(vii) *Driveways and Walkways*. All driveways and walkways within the park shall be hard surfaced and lighted at night with uniform low level ornamental type lighting for each lot.

(viii) *Fencing and Hedges*. Fencing and hedges, except boundary screening fencing and hedges referred to in Section 7, are limited in mobile home spaces to 3 feet in height, and the design and material used for fencing must be acceptable to the Building Inspector.

j) **Utilities:**

(1) **Water supply** – An adequate supply of pure water for drinking and domestic purposes shall be supplied to all service buildings and to all mobile home spaces within the park to meet the occupancy requirements of the park. Each mobile home space shall be provided with a cold water tap at least four inches above the ground.

(2) **Electrical service** – An electrical outlet supplying at least 100-115/220-250 volts, 100 amperes shall be provided for each mobile home space.

(3) **Central fuel supply** – All mobile homes shall operate from a central fuel supply for the fuel needs of the mobile home.

**k) Service Buildings:**

- (1) A service building or buildings shall be provided and maintained for the purpose of providing washing and drying facilities, laundry facilities, public toilet facilities, and said building or buildings shall be a permanent structure. Said building or buildings, including their electrical installation and plumbing, shall comply with all applicable ordinances and statutes.
- (2) In addition to subsection (1) of this section, service buildings must meet the following requirements:
  - (i) Well lighted at all times of the day and night;
  - (ii) Well ventilated with screened openings;
  - (iii) Constructed of such moisture-proof material, which may be painted woodwork, which shall be repeatedly cleaned and washed, where feasible;
  - (iv) The floors of the service buildings shall be of water impervious material.
  - (v) Maintained at a temperature of at 68 degrees Fahrenheit during the period from October 1 to May 1.
- (3) All service buildings and the grounds of the park shall be maintained in a clean, slightly condition and kept free of any condition which will menace the health of any occupant or the public or constitute a nuisance.

**l) Sewage and refuse disposal:**

- (1) Waste from showers, bath tubs, flush toilets, urinals, lavatories and slop sinks in service shall be discharged into a sewer system in compliance with applicable ordinances.
- (2) Each mobile home space shall be provided with a sewer at least four inches in diameter, which shall be connected to receive the waste from the showers, bath tub, flush toilet, lavatory and kitchen sink of the mobile home harbored in such space and having any or all of such facilities. The sewer in each space shall be connected to discharge the mobile home waste into a public sewer system in compliance with applicable ordinances, or into a privately owned and operated sewage treatment plant and disposal system, provided said privately owned system is approved by the administrative agency having charge of approvals of such systems of the State of Wisconsin, and provided the system is approved by the Town Board of the Town of Avon in accordance with minimum standards on file with the Town Board.

**m) Personal Storage:**

- (1) Waste, debris, rubbish, refuse, and garbage shall be deposited in metal cans or other suitable containers with tight-fitting covers with a sufficient supply of said containers for adequate disposal of all waste.

- (2) Garbage, rubbish, and debris shall be collected and disposed of as frequently as is necessary to insure that garbage and refuse containers do not overflow or create an odor or otherwise cause a nuisance.
- (3) All equipment and cans used for storage or collection of garbage, refuse or equipment shall be kept in a sanitary condition at all times.
- (4) Each space shall have a shed or storage cabinet located within the space, fully enclosed, providing a square foot ground level area of not less than 50 square feet, and not to exceed 8 feet in height. The storage shed or cabinet shall be of a common design with other like storage sheds or cabinets provided in the park, and the general design shall be compatible with remaining buildings in the park.
- (5) A storage building must be provided in the park for inside storage of equipment and other items used to maintain the park.

n) **Fire Protection:**

- (1) Every park shall be equipped at all times with fire extinguishing equipment in good working order, of such type, size and number and so located within the park as to satisfy applicable reasonable regulations of the fire department.
- (2) No open fires shall be permitted at any place which may endanger life or property.
- (3) No fires shall be left unattended at any time.

o) **Non-conforming mobile home parks:**

- (1) All mobile home parks in existence upon the effective date of this ordinance shall be deemed non-conforming parks, and shall be permitted to continue in operation, provided all other applicable town ordinances are fully complied with, and provided further that all services presently being supplied with or without charge to the customer, including, but not necessarily limited to, heat, water power, light, parking, drainage, screening, sanitation shall be continued. However, the use of a non-conforming park cannot be extended without Town Board approval.
- (2) All licenses and fees of this ordinance shall apply to non-conforming parks. Substantial abandonment of the use being made by the non-conforming park for a continuous period of six months shall terminate the right of the non-conforming park to operate under this section, and thereafter all remaining provisions of this ordinance shall apply.
- (3) Within 10 days after the effective date of this ordinance, each mobile home park owner or operator, in order to claim the benefits of this section, shall file with the Town Board a set of pictures, at a cost to the non-conforming park owner or operator not to exceed \$25.00, setting forth such views of the existing park as the Building Inspector shall require, and said pictures shall be filed with the Town Clerk, each picture is to contain a legend on the reverse side thereof, setting forth as a minimum the date taken, who took the picture, and the direction the camera was facing.

- p) **Recreational area:** A playground and recreational area shall be furnished and equipped. The area is to be not less than one acre for each ten acres of mobile home parking spaces or portion thereof (exclusive of streets). The playground and recreational area shall be planted with trees and shrubs, and kept mowed.
- q) **Supervision:** The licensee or permittee, or a duly authorized attendant or caretaker, shall be in charge at all times to keep the mobile home park, its facilities and equipment in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with the licensee or permittee for all violations.
- r) **No occupancy prior to complete installation:** No mobile home shall be moved into any mobile home park and no mobile home shall be occupied until the terms and conditions of the initial license have been fully satisfied and all construction therein completed throughout the entire park area; provided, however, that a staged development plan for a mobile home park may be filed and if approved by the Town Board or by the designated official, the mobile home park may be occupied and operated in accordance with the terms and conditions of that part of the state of development as is set forth in the plan.
- s) **Private roadways built to existing town specifications:** Except as expressly modified herein, all private roadway systems within the mobile home park shall be installed and maintained in accordance with existing town specifications, or as said specifications may from time to time be modified.
- t) **Maintenance of roadways within a mobile home park:** All maintenance of roadways within the mobile home park shall be maintained by the licensee and shall not be the responsibility of the town.
- u) **Location outside of mobile home park:** It is hereby declared to be unlawful for any person to park any mobile home on any street, alley or highway, or on land owned by an person within the Town of Avon, except as follows:
- (1) *Mobile Home Park.* In a duly licensed mobile home park.
  - (2) *Temporary or Transient.* For a period not to exceed 30 days where the occupancy is temporary or transient.
  - (3) *Rear Yard or Garage.* In a rear yard not to exceed 30 days, or in a garage, provided that no living quarters are maintained or business conducted in said mobile home. If the time is extended by a Town Board special permit, the mobile home may be stored in the rear yard for an indefinite time, provided no living quarters are maintained or business conducted in said mobile home.
  - (4) *During Construction.* On owner-occupied property on which the owner occupant desiring to occupy a mobile home, has installed sanitation facilities

which comply with the plumbing code, and upon which said owner intends to commence building a home within 3 months, and intends to complete said home within 12 months, the Town Board may issue a permit therefor, for a special permit fee, but the permit shall state on the face thereof that the permit shall expire automatically, without further notice, if the construction does not commence within 3 months of the date of issue or if the construction is not completed within 12 months of the date of issue.

- (5) *Hardship.* The Town Board may, in its discretion, direct the Town Clerk to grant a temporary permit, upon payment of a permit fee, determined by the Town Board, not to exceed one year, if the Town Board determined, after notice and hearing, that hardship exists. The burden of proof as to hardship shall be upon the applicant. Any permit issued under this subsection must clearly state the expiration date thereon. Any mobile home authorized under this section must comply with the sanitation rules as set forth in this ordinance.

The temporary permit may be renewed for additional six-month periods by the Board if the hardship continues beyond the licensed period. The Town Clerk is hereby granted authority to permit a mobile home to remain on premises until the next regular meeting of the Town Clerk or Town Chairman, so as to permit the processing of the application, and if the application is granted, liability for the monthly parking permit fee shall accrue from the first day the mobile home was occupied.

- v) **Outside storage regulated:** Outside storage, including but not necessarily limited to lawn equipment, lawn chairs, bicycles, toys, utensils, lumber, debris and items of a like or dissimilar nature of any kind and nature whatsoever, shall not be stored outside. Outside storage, in this paragraph shall mean storage outside of any enclosure fully screened from view. Storage under the mobile home shall be deemed outside storage unless the storage is screened from view. This provision concerning outside storage refers to all mobile homes, whether located within or without a mobile home park.
- w) **Wrecked, damaged or dilapidated mobile homes:** Wrecked, damaged or dilapidated mobile homes shall not be kept or stored either within or without a mobile home park at any time. The Town Board shall determine if a mobile home is damaged or dilapidated to a point which makes said mobile home unfit for human occupancy on either a temporary or permanent basis. Whenever such a determination is made, the mobile home shall be vacated and removed from the premises.
- x) **Attempt to Convert Mobile Home to Permanent Abode Regulated:** Any action to attach a mobile home to the ground by means of posts, piers, foundations, or otherwise, or to addition thereto in any way shall be subject to the requirements of

the Building Code as well as this ordinance, and if the Building Code does not permit the addition, said addition shall be prohibited.

- y) **Taxes or Monthly Parking Permit Fees:** General property taxes, if required to be levied by State law, or monthly parking permit fees, if required to be levied by State law, or any other permit fee which the Town Board is authorized to impose, or which the Town Board is required to impose, shall be imposed from time to time by resolutions of the Town Board, as set forth at length upon the minutes of the Town Board, and said taxes or fees are hereby imposed under this ordinance by reference to said resolution.
  - z) **Bond for Licensees:** Before any license shall be issued to a licensee, whether it be the initial license, renewal license, or temporary license, a surety bond in the sum of \$1,000.00 shall be filed with the application to guarantee collection by the licensee of all monthly parking permit fees and payment of same by the licensee to the Town Treasurer, payment by the licensee of any fine or forfeiture, including court costs, imposed upon the licensee for any violations under this ordinance.
  - aa) **Variance:** The Town Board may grant a variance in any of the terms and conditions of this section if a literal enforcement will result in hardship and if the spirit and intent of the over-all licensing plant will not be violated.
11. **Motels and Hotels:** In any district except A-Prime Agricultural, Natural Resource and Open Space, Residential, or Local Business Districts subject to the following:
- a) The location, plat plan and other required documents shall be submitted to and approved by the Building Board;
  - b) At least one off-street parking space shall be provided for each rental unit; and
  - c) No building shall be closer than 50 feet to the lot line of an adjoining lot in a district permitting residential use.
12. **Multiple Family Dwelling Units:** In any R-3 or R-4 Residential or any Business District, subject to the following:
- a) The location, plat plan and other required documents have been submitted to and approved by the Building Board;
  - b) The method of sewerage disposal is approved by the County Sanitarian and the Town Plumbing Inspector;
  - c) The Building Board has architecturally reviewed the project;

- d) The setback, side yard, rear yard and landscaping requirements have been met and have been approved by the Planning & Zoning Committee; and
- e) Off-street parking is provided as required for dwelling units. The location and arrangement of these spaces is subject to the approval of the Planning & Zoning Committee and the Town Board.

13. **Non-conforming Uses:** In any district as provided herein.

14. **Planned Development:** Due to increased urbanization and the associated greater demands for open space, it is herein provided that there be flexibility in the regulations governing the development of land. This provision is intended to encourage Planned Development in directions which will recognize both the changes in design and technology in the building industry, and the new demands in the housing market. It is intended that those provisions create imaginative and interesting communities with substantial open area for the enjoyment of the residents. An over-all development plan must be submitted to the Planning & Zoning Committee and the Town Board for review. This use shall be permitted subject to the following:

- a) That all sanitary provisions are approved by the County Sanitarian and the Town Plumbing Inspector.
- b) That the proposed development is in conformity with and is not contrary to the general welfare or economic balance of the community.
- c) That all other requirements of the Planned Development are met.
- d) Adequate guarantee shall be provided for permanent retention of open area resulting from these regulations, either by private reservation for use of the residents within the development or by public dedication. Buildings or uses for non-commercial, recreational or accessory facilities may be permitted in such open space area with the approval of the Planning & Zoning Committee and the Town Board.
- e) Perpetual care and maintenance of such open space areas shall be provided for and an operational plan shall be submitted for approval to the Planning & Zoning Committee and the Town Board.
- f) Ownership and tax liability of the open space areas shall be established in a manner acceptable to the Town and made a part of the conditions of approval.
- g) The economic practicality of the proposed Planned Development shall be justified on the basis of purchasing potential, competitive relationship and demonstrated tenant interest.

- h) The proposed Planned Development shall be served by adequate off-street parking, loading and service facilities.
- i) The Planned Development shall not create an adverse effect upon the general traffic pattern of adjoining property values.
- j) Architecture, landscaping, lighting and general site development shall be compatible with the surrounding neighborhood.
- k) The proposed mixture of residential and business or commercial uses shall produce a unified composite which is compatible both within itself and with the surrounding neighborhood.
- l) The mixed uses shall conform to the general requirements applicable to each of them as hereinbefore set forth.
- m) After all conditions of a Planned Development project are certified by the Town as being completed, the conditional use status of such completed development shall be changed to a permitted use in the district in which it is located.

**15. Private Clubs and Outdoor Recreational Facilities such as Recreational Camps, Golf Courses, Bathing Beaches, Riding Academies, Gun Clubs and Resorts:** In any district except the A-Prime Agricultural District subject to the following:

- a) Submission and approval as provided herein.
- b) No such use shall be permitted on a lot less than 3 acres in area.
- c) No building, other than one used only for residence purposes, shall be closer than 50 feet to the lot line of an adjoining lot in a district permitting residential use.
- d) Off-street parking shall be provided as required by the Planning & Zoning Committee adequate to meet the particular needs of the proposed use.
- e) No such permitted use shall include the operation of a commercial facility such as a bar or restaurant except as may be specifically authorized in the grant of permit.

**16. Quarrying:** In any district other than a Residence or Business District. In the A-Prime Agricultural District non-metallic mining meeting the provisions of Chapter 91.46(6) of Wisconsin Statutes. All Quarrying is subject to State and Federal law, OSHA, UMSHA and the following:

- a) General and Operational Requirements:

(1) No part of the quarrying operation shall be permitted which would violate Federal or State law.

- b) Setback Requirements: 100 feet minimum
- c) Side Yard Requirements: 20 feet minimum
- d) Restorative Requirements: All restorative procedures required by the State of Wisconsin laws and regulations shall be followed in the Town of Avon.

**17. Refuse Disposal Sites, Junk Yards, Public and Commercial:** In the Prime Agricultural District these uses shall meet Chapter 91.46(1)(g) and 91.46(5) of Wisconsin State Statutes. In any district other than Residence or Business Districts subject to the following:

- a) Submission and approval as provided herein.
- b) No such use shall be permitted on a lot of less than 10 acres.
- c) Regulation: Refuse Disposal Sites and Junk Yards shall comply with all existing regulations, and amendments thereto, of the Town of Avon, as well as all applicable ordinances, rules and regulations of the County, State and Federal government.

**18. Restaurants, Taverns, Supper Clubs, Lake Resorts, and Similar Uses:** In the A-Prime District these uses shall meet Chapter 91.01(1)(d) of Wisconsin State Statutes. In any Agricultural, Business or Residential District subject to the following:

- a) Submission and approval as provided herein.
- b) The minimum lot area shall be 3 acres with at least 250 feet in minimum average width.
- c) Off-street parking shall be provided within 200 feet of the proposed building, but 20 feet from any adjoining Residential District, and as required by Section 7, herein.
- d) An approved screen of at least 6 feet in initial height shall be provided between any abutting Residential District and the proposed use.
- e) The proposed building shall be at least 50 feet from any abutting Residential District.

**19. Utility and/or Accessory Buildings, Structures, and Uses:** In any district subject to the following:

- a) Submission and approval as provided herein.

- b) Such use shall conform to the setback, height, rear yard, and side yard requirements of the district in which it is located.
- c) The height limitation may be extended to a maximum of 50 feet provided the minimum required setbacks and offsets shall be increased 2 feet for every additional foot of height in excess of the permitted maximum of that district.

**20. Ponds and Aquaculture:** In any A-1, I-1 or I-2 District, the construction of Ponds and/or Aquaculture must be applied for as a Conditional Use permit, subject to the following:

- a) Definition – Aquaculture: The raising of fish or other marine life in ponds, holding tanks or other water filled apparatus for commercial purposes.
- b) Such use shall conform to the setback, height, rear yard and side yard requirements of the district in which it is located.
- c) The person rezoning the property shall comply with all of the requirements of the laws and regulations of the State of Wisconsin and more specifically, the Department of Natural Resources and the State of Wisconsin Conservation Service.
- d) Any pond shall be lined or coated with such soil or coatings as may be approved for such use by the State of Wisconsin Conservation Service or other appropriate agency.
- e) In addition to any other submittals made by the person applying for rezoning/conditional use, a complete set of plans must be submitted for the construction of ponds.
- f) No dam or obstruction shall be constructed in any drainage ditch in order to create a pond for any use recited herein.

## **SECTION 8 – ENFORCEMENT:**

**A.** It shall be the duty of the Town Board to enforce the provisions of this Ordinance.

## SECTION 9 – BUILDING PERMITS:

- A. It shall be the duty of the Town Board to hire a Building Inspector to issue building permits.
- B. No building shall hereafter be erected, moved or structurally altered until a building permit therefore shall have been applied for and issued and building permit fee paid.
- C. All applications for a building permit shall be accompanied by legible blueprint plans in duplicate, and other plans or diagrams showing the location, legal description, actual shape and dimensions of the lot to be built upon, legal ownership, the exact size and location on the lot of the proposed or existing building and accessory building, including garages, the lines within which the building shall be erected, altered or moved, the existing and/or intended use of each building or part of a building, the number of families the building is intended to accommodate, as well as proof of approved permits from all appropriate State and County agencies, including without limitation, percolation test approval and driveway permits, and such other information with regard to the lot and neighboring lots of buildings as may be necessary to determine and provide for the enforcement of this Ordinance.
- D. All dimensions shown relating to the location and size of the lot shall be based upon an actual survey. The lot and the location of the building planned thereon shall be staked out on the ground before construction is started.

## SECTION 10- VIOLATIONS AND PENALTIES:

- A. **FORFEITURE AND COSTS:** Any person who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance shall, upon conviction thereof, forfeit not less than \$250.00 nor more than \$ 1,500.00, and the costs of prosecution, including reasonable attorney fees, for each offense. Each day of violation shall constitute a separate offense.
- B. **INJUNCTION:** All violations of this ordinance may be enforced by the forfeiture described above, and/or by injunctive order as provided in Section 60.74 (4) Wis. Stats.

The following, without limitation, shall be deemed violations of this Ordinance enforceable by injunctive order under this Ordinance:

1. Failure to comply with the terms or conditions of a Conditional Use Permit.

2. Failing to maintain any other condition imposed by the Building Board, the building inspector, or the Planning & Zoning Committee as a condition with the issuance of a building permit.
3. Failing to maintain the premises in such a condition as not to depreciate substantially property values in the immediate neighborhood provided, however, that no violation of this sub-paragraph shall be deemed to occur unless the Town Board, after a view of the premises and the neighborhood, finds as a fact that said premises are being maintained in such a manner as to cause a substantial depreciation in the property values of the immediate neighborhood.

**C. NOTICE FOR INJUNCTIONAL ORDER:** injunctive relief may not be sought unless the Town Board shall cause a notice to personally served upon or mailed, certified mail, return receipt requested, to the owner and/or occupant of said premises, setting forth the alleged violation and advising that injunctive relief will be sought if corrective action is not taken and completed within ten days of the date of such notice. If the owner and/or occupant cannot be found or located with due diligence, then it shall be sufficient if such notice is attached in a conspicuous place of the premises. Ownership for purposes of this section shall be that as appears on the tax assessment rolls of the Town of Avon.

## **SECTION 11 – VALIDITY:**

- A. REPEAL OF CONFLICTING ORDINANCES:** All other ordinances or parts of this ordinances in conflict with the provisions of this Ordinance are hereby repealed.
- B. SEVERABILITY AND CONFLICT:** If any section, sub-section, sentence, clause, phrase or word of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.
- C. EFFECTIVE DATE:** In accordance with Wisconsin Statute 61.50(1), this ordinance shall take effect the day after proof of posting has been filed and recorded with the Town Clerk.
- D. ADOPTION:** Adopted and approved by the Town Board of the Town of Avon, Rock County, Wisconsin, this 6<sup>th</sup> day of December, 2016.

Michael F. Moore (SEAL)  
Michael F. Moore, Chairperson

Duane F. Niedermeier (SEAL)  
Duane Niedermeier, Supervisor

Eugene Engen (SEAL)  
Eugene Engen, Chairperson

Teresa Peters (SEAL)  
Teresa Peters, Clerk