

**GENERAL BYLAWS**

**FROM THE CODE**

**OF THE**

**TOWN OF AVON**

**COUNTY OF NORFOLK**

**COMMONWEALTH OF  
MASSACHUSETTS**

**2008**

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Non Criminal Disposition - Any person who shall violate any of the provisions of these bylaws, the violation of which is subject to a specific penalty, may be penalized in the manner for non criminal disposition which is provided in section twenty-one D of chapter forty of the General Laws of the Commonwealth. The non criminal method of disposition may, in addition, be used to enforce the provisions of any rule or regulation adopted by any officer or multiple member body of the town for which a specific penalty is provided. For the purposes of this section the term “enforcing person” shall mean any police officer of the town of Avon, and any other person specifically authorized under the terms of a particular bylaw, rule or regulation.

## **ARTICLE II**

### **TOWN MEETING**

#### **SECTION 1 ANNUAL TOWN MEETING**

The annual Town Meeting shall be held on the first Tuesday in May at seven-thirty (7:30) o'clock in the afternoon.

#### **SECTION 2 NOTICE OF TOWN MEETINGS**

Notice of the annual Town Meeting and every special Town Meeting shall be posted by the Chief of Police or any other designated police officer of the Town in not less than seven (7) public places in the Town including the Post Office and not less than twenty (20) copies of the warrant shall be left in each of the public places for distribution at least seven (7) days before the date fixed for the Meeting Annual and fourteen (14) days before the date set for Special Town Meeting.

#### **SECTION 3 NOTICE OF ADJOURNED TOWN MEETING**

Notice of every adjourned meeting to another calendar day shall be posted by the Town Clerk in at least seven (7) public places, including the Post Office and the notice shall refer to the article numbers in the warrant which have not been considered.

#### **SECTION 4 TOWN MEETING PROCEDURE**

- A. Rules of Procedure - Town meetings shall be governed by the general rules of parliamentary procedure, except as modified by law or these bylaws and as consistent with orderly and democratic procedure.
- B. Seating of Voters - At any session of a town meeting held for the transaction of town business (other than for the election of such officers as are required by law to be elected by ballot) , no person whose name is not on the lists of voters or who does not hold a certificate of Registration shall be admitted to the part of the hall reserved for voters. The Moderator shall determine the bounds of such reserved space.
- C. Minutes of Previous Meeting - The first business in order of each adjourned meeting shall be the reading of the records of the previous session, unless reading is waived by a majority vote of the voters present and voting.
- D. Motions to be in Writing - A motion, if required by the Moderator shall be reduced to writing before being submitted to the meeting.
- E. Limitation on Speaking - No person may speak a second time to a question as long as any member desires to speak who has not spoken to the question or, may speak more than twice without first obtaining leave of the meeting except, in either case for the brief correction of an error in or misunderstanding of his

- previous statement, or may speak more than ten (10) minutes the first time, nor more than five (5) minutes each successive time thereafter without approval of the meeting.
- F. Reconsideration - No action shall be reconsidered unless public notice of the intention to move for a reconsideration has been given from the floor within one (1) hour after the vote has been declared, said motion to be in order only at the same session of said meeting. Remaining portion, if any, of said hour may be used for debate of such a motion at the next succeeding session of said meeting if and when debate is interrupted by adjournment of the session at which the motion is made. A motion may be made by any voter to reconsider a matter previously acted upon which shall require an affirmative vote of 2/3 of those present and voting to be reconsidered.
  - G. Voting - All voting in a town meeting shall be by a showing of hands unless otherwise required by law. If the result is questioned by seven (7) voters, the Moderator shall appoint tellers to verify the vote. Upon a motion properly made and seconded and passed by the meeting, the Moderator shall call for a secret ballot on any article involving an appropriation.
  - H. Quorum -- A quorum shall consist of seventy-five (75) registered voters. No motion except to adjourn to a stated time (meeting evening or end), shall be voted on at any town meeting, annual or special, adjournment thereof when at any such meeting less than a quorum is present with the exception, however, that at a third adjournment for lack of a quorum, the Moderator may accept a motion to adjourn sine die.
  - I. Reports of Committees; Discharge - When a report of a committee is placed in the hands of the Moderator, it shall be deemed to be proper before the meeting for its action thereon. Unless otherwise voted, a committee is automatically discharged upon the acceptance of its final report.
  - J. Failure to Report by Committee; Discharge - All committees shall report as directed by the Town. If no report is made within a year after appointment, unless provided otherwise at the time of the appointment, the committee shall be discharged unless granted an extension of time by the Town.
  - K. Appropriations for Committees - No appropriation shall be made to any committee of the town unless such request for appropriation is included in the warrant.
  - L. Department Heads – The head of any town department including the Superintendent of Schools shall be seated with their respective department and be allowed to speak or answer questions pertaining to their respective department at any Annual or Special Town Meeting.

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

Special Town Meetings shall take articles by lottery draw exclusively.

**SECTION 5                    PREPARATION OF TOWN MEETING WARRANT**

- A. The Selectmen shall be responsible for preparing the Town Meeting Warrant.
  
- B. In General - All articles must be submitted to the Board of Selectmen according to the terms of this section to be included on any warrant.
  
- C. Closing Date, Annual Town Meeting - The final date for inserting an article on the Annual Town Meeting Warrant shall be the second Thursday in February.
  
- D. Closing Date, Special Town Meeting - The final date for inserting an article of a Special Town Meeting Warrant shall be set by the Selectmen but no final date shall be set that will not allow the Finance Committee less than twenty-one (21) calendar days to review the warrant and prepare and print a recommendation for that Special Town Meeting or unless the Finance Committee in writing waives that time period.
  
- E. Delivery to Finance Committee - The Selectmen shall prepare and print the Annual Town Meeting Warrant and deliver such warrant to the Finance Committee no later than the second Wednesday in March.
  
- F. Names of Petitioners - All articles shall appear on the warrant with the name of the Officer, Board, Committee or Commission that sponsors the article, or if such article is a petition, the name of the principal sponsor shall appear with the article.
  
- G. Reopening of Warrants - The Selectmen shall have the power to open any warrant and insert additional articles therein.



committee as authorized by law, provided however that the Finance Committee shall not appropriate any money from the Reserve Fund to finance any article defeated at a town meeting.

## **ARTICLE III**

### ***TOWN ELECTIONS***

#### **SECTION 1                      ANNUAL TOWN ELECTION**

The election of town officers and the determination of such matters as are required by law to be determined by secret ballot shall be held on the second Monday in April. The polls shall be opened no later than seven (7) o'clock A.M. and shall remain open until eight (8) o'clock in the P.M.

#### **SECTION 2                      NOTICE OF TOWN ELECTION**

Notice of election of town officers shall be posted by the Chief of Police or any other designated police officer of the town in no less than seven (7) public places including the Post Office and not less than twenty (20) samples of election warrant shall be left in each of the public places for distribution at least seven (7) days before the date fixed for the election.

## **ARTICLE IV**

### **TOWN REPORTS**

#### **SECTION 1 ANNUAL REPORTS, CONTENTS**

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

#### **SECTION 2 PUBLICATION, DISTRIBUTION OF ANNUAL REPORTS**

The Board of Selectmen shall publish and distribute the Annual Report under the terms of Article VI, Section 1(b), of the Avon General Bylaws.

#### **SECTION 3 REAL ESTATE VALUATION LIST**

The Board of Assessors beginning in the year 1987 and every third year thereafter shall furnish to the Selectmen for publication in the Annual Town Report, a true and accurate copy of the real estate valuation list showing the names of the property owners, address and all other information as shown on said lists, also a true and accurate copy of the personal property lists as permitted by law. [STM 2/10/86, article 1]

#### **SECTION 4 TOWN EMPLOYEES LISTING**

The Town Treasurer shall annually publish a list of Town Employees by Department. Such list shall include the base salary of said Employee and the gross wages paid said Employee for the previous calendar year.

## **ARTICLE V**

### ***FINANCIAL REGULATIONS***

#### **SECTION 1            IN GENERAL**

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

#### **SECTION 2            LOANS**

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

#### **SECTION 3            FEES**

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

#### **SECTION 4            PUBLIC BIDDING REQUIREMENTS**

- A. Expenditure Limitation Without Bid - No contract for the purchase of equipment, supplies or materials, or to do any public work, or erect, construct, alter, remodel, demolish or repair any building the estimated cost of which equals or exceeds four thousand dollars (\$4,000.00) shall be awarded unless written proposals on identical written specifications - therefore have been invited by advertisement in one or more newspapers, published or having general circulation in the Town, such invitation stating the time for opening the proposals reserving the right to reject any or all such proposals. Written specifications of the kind of work to be performed and the manner of performance, shall be incorporated as part of any contract and shall also be in writing.

- B. Emergency Exception - Nothing in this bylaw shall prevent the awarding of contract without advertising in cases of emergency declared by the Selectmen and as provided by in Chapter 44, Section 31, of the General Laws.
- C. Appropriation Limit - No contract for the purpose of equipment, supplies, or materials, or to do any public work, or erect, construct, alter, remodel, demolish or repair any building shall be awarded in excess of the appropriation therefore or in excess of the current funds thereof, in accordance with Chapter 44, Section 31 of the General Laws. Where the contract equals or exceeds four thousand dollars (\$4,000.00), the Town accountant must certify that funds are available in the appropriate account which match the value of the contract prior to award, and in accordance with Chapter 41, Section 3 1C of the General Laws.

**SECTION 5 PERFORMANCE BONDS**

Performance Bonds - A bond, for the duration of the Contract, shall be required for the faithful performance or any and all contracts which exceed two thousand dollars (\$2,000). Where contracts exceed one (1) year, the performance bond shall be renewed at the end of each contract year.

**SECTION 6 PERSONAL PROPERTY**

- A. Sale of Town's Personal Property - No personal property of the Town shall be sold by any officer or board, except that if its book value, resale or trade in value is two hundred dollars (\$200.00) or less, it may then be sold by authorization of the Selectmen, such authorization shall in each case, (a) be in writing, (b) certify that the proposed selling price is in accordance with the above, (c) be filed with the Town Treasurer and Town Property Officer, if any. All other personal property of the Town shall not be sold except by vote of the Town. Revenues from such transactions shall be applied to the General Fund.
- B. Transfer of Town's Personal Property - Any board or commission or officer in charge of a department may effect the transfer of personal Town Property assigned to that agency to any other board, or department within the Town with the express permission of the Selectmen and notification to the Town Property Officer, if any. This transfer can only be made effective after the transferring agency has maintained possession of the property for a period of one (1) year. Temporary loans of equipment between governmental agencies of the Town may be executed through notifications to the Town Property Officer, if any. The responsibility for the assigned personal property shall remain with the loaning agency.

**SECTION 7 CAPITAL PLANNING AND OUTLAY COMMITTEE**

- A. Composition, Appointment, Term of Office - There shall be a Capital Planning and Outlay Committee which shall consist of seven (7) members appointed by the

Board of Selectmen for terms of three (3) years each, so arranged that as nearly an equal a number of terms as is possible shall expire each year.

B. Powers and Duties - The Capital Planning and Outlay Committee shall annually prepare a five (5) year capital improvement program and a proposed expenditure plan for the ensuing fiscal year. The report shall include:

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

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

Every town agency shall cooperate fully with the capital planning and outlay committee and shall provide to the committee such information as it may request concerning the anticipated capital requirements of the said town agency.

### **SECTION 8**

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



- G. Street Excavations - No person shall make any excavation within the limits of any public way in the Town except by permit of the Board of selectmen. Such permit shall be subject to such restrictions and conditions as set forth by the Board of Selectmen and Superintendent of Streets. Final issuance of such permit will be upon acceptance of written application, payment of proper fee and posting of bond, if so required. Such permit may be revoked at any time if conditions or restrictions of such permit are violated.
- H. Appointment Powers - The Board of Selectmen shall make all appointments not otherwise provided for by law or bylaw. Annual appointments shall be made on the first Thursday in June to be effective July 1 to coincide with the Town's fiscal year. All appointments will be made on an approved budget for that office.
- I. Naming of Ways - The Board of Selectmen shall approve the name of all ways within the Town, but no present name of any Way shall be given to another.
- J. Naming of Facilities - The naming of all public or town-owned facilities shall be the duty of the Board of Selectmen after consultation with the Town agency having control over/or responsibility for such facility.

**SECTION 2** **TOWN COUNSEL; SPECIAL COUNSEL**

Town Counsel - The Board of Selectmen may annually appoint a Town Counsel who shall be an attorney-at-law and a member in-good-standing of the Massachusetts Bar. Such appointment shall coincide with the Town's fiscal year.

Special Town Counsel - The Board of Selectmen may, from time to time, employ special or additional counsel, whenever, in its judgment, the necessity therefore arises.

**SECTION 3** **GAS INSPECTOR**

The Board of Selectmen shall annually appoint an Inspector of Gas whose duty shall be the enforcement of rules and regulations of the State Board of Gas Fitting established by General Laws, Chapter 25, Section 12H.

**SECTION 4** **WIRING INSPECTOR**

The Board of Selectmen shall annually appoint an Inspector of Wiring who shall be responsible for the enforcement of the State Board of Fire Prevention Regulations as provided in the General Laws, Chapter 143, Section 3L.

**SECTION 5** **COUNCIL ON AGING**

The Board of Selectmen shall appoint a Council on Aging to coordinate and carry out programs designed to meet the problems of the aging in coordination with the Commission of Aging established under Massachusetts General Laws, Chapter 6, Section 73. The Council shall consist of seven (7) members. The Board of Selectmen shall annually appoint or re-appoint members for the Council on Aging to fill expired terms. Such appointments shall be for three (3) year terms.

**SECTION 6** **PERSONNEL BOARD**

The Moderator shall appoint a Personnel Board consisting of five (5) members under the provisions of General Laws, Chapter 41, Section 108A and Section 108C, to have all authority as provided by law relative to the administration of a classification and compensation plan. Said Personnel Board may, as it deems necessary, propose amendments to this bylaw for consideration by the Town at a Town Meeting.

**SECTION 7** **POLICE DEPARTMENT**

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

**SECTION 8** **FIRE DEPARTMENT**

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

**SECTION 9** **COLLECTOR OF TAXES**

The collector of taxes shall use all proper means of collecting taxes, which a town treasurer, when appointed as collector, may use.

**SECTION 10** **GENERAL BYLAW COMMITTEE**

There shall be a standing General Bylaw Committee to study, review and recommend additions, deletions, and changes to the Avon General Bylaws and to hold public hearings thereon and to submit recommendations to the Board of Selectmen. Said General Bylaw Committee to consist of five (5) members to be appointed by the Board of Selectmen; one (1) member initially for one (1) year, one (1) member initially for two (2) years, and one (1) member initially for three (3) years, with succeeding terms of three (3) years; and two (2) members whose initial and succeeding terms shall be for one (1) year.

**SECTION 11** **BUILDING INSPECTOR**

The board of selectmen shall, pursuant to the provisions of General Laws chapter 143, section 3, appoint an Inspector of Buildings to administer and enforce the provisions of the state building code within the town. The person appointed as Inspector of Buildings shall, in addition, be charged with the enforcement of the zoning bylaw, as provided in General Laws chapter 40A, section 7.

The Inspector of Buildings in seeking compliance with the provisions of any section of any law, bylaw, rule or regulation which he is charged with enforcing and in addition to any other method available to him may prosecute any such violations under the provisions of General Laws chapter 40, section 21D. If no other specific penalty is provided the penalty to apply in cases brought under the said chapter 40, section 21D shall be fifty dollars for each offense.

**SECTION 12** **COMMITTEE REPORTS**

All committees of the Town, elected or appointed, shall record minutes of every meeting and cause to be filed with the Town Clerk a copy of same within five (5) days of the meeting at which the minutes were approved.

**ARTICLE VII**  
***POLICE REGULATION***

**SECTION 1 DISCHARGE OF FIREARMS, FIREWORKS**

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

**SECTION 2 FUND RAISING**

**A. Purpose:**

This bylaw, adopted pursuant to G.L. c. 43B. s. 13 and the Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes registration requirements and specific operation requirements for all persons intending to engage in door-to-door canvassing or solicitation in the Town of Avon in order to (1) protect its citizenry from disruption of the peaceful enjoyment of the residences and from the perpetration of fraud or other crimes; and (2) to allow for reasonable access to residents in their home by persons or organizations who wish to communicate either commercial or non-commercial messages.

**B. Definitions:**

1. "Soliciting" shall mean and include any one or more of the following door-to-door activities:
  - a. selling or seeking to obtain orders for the purchase of goods or services for any kind of consideration whatever;
  - b. selling or seeking to obtain prospective customers for application or purchase of insurance of any kind;
  - c. seeking to obtain subscriptions to books, magazines, periodicals, newspapers or any other type of publication;
  - d. seeking to obtain gifts or contributions of money, clothing, or any other valuable thing for the support or benefits of any association, organization, corporation or project;
  - e. Seeking to obtain information on the background, occupation, economic status, political or religious affiliation, attitudes, viewpoints, or the like of the occupants of a residence for the purpose of selling or using such data, wholly or in part, for commercial purposes.
  
2. "Canvassing" shall mean and include any one or more of the following door-to-door activities:

- a. person-to-person distribution of literature, periodicals, or other printed materials, but shall not include placing or dropping off printed materials on the premises;
  - b. circulation of petitions;
  - c. seeking to enlist membership in any organization;
  - d. Seeking to present, in person, organizational information or doctrine.
3. "Residence" shall mean and include every individual dwelling unit occupied for residential purposes by one or more persons.
  4. "Registered solicitor" shall mean any person who has obtained a valid certificate of registration from the Town as required by this bylaw.

### C. Registration:

Every person or organization intending to engage in soliciting or canvassing door-to-door in the Town of Avon must register with the Police Department at least three (3) days in advance by filing a registration application form with the Chief of Police.

1. Organization application forms shall include the following information:
  - a. The name and address of the organization applying for registration, and the names and addresses of the organization's principal officers;
  - b. The name, title and telephone number, IRS or Social Security number of the person filing the application form;
  - c. The name and addresses of the person(s), if any, who will be directly supervising the solicitation or canvassing operation in the Town of Avon;
  - d. A list of the names, addresses, dates of birth, and social security numbers of all individuals who will be employed in solicitation or canvassing by the applicant;
  - e. Period of time for which certificates of registration is needed (note: no certificate may be granted for longer than a 90-day period);
  - f. Names of the last three communities (if any) in which the organization has conducted a solicitation or canvassing operation.
2. Individual registration forms shall be required for all individuals, including those who are affiliated with an organization registered under C.
  - (1). Individual registration forms shall contain the following information:
    - a. Name and address of the present place of residence and length of residence at that address; if less than three (3) years residence at present address, the address of residence(s) during the past three years;
    - b. Date of birth;

- c. Name and address and telephone number of the person or organization whom the applicant represents and the length of time the applicant has been associated with or employed by that person or organization;
- d. Name and address of employer during the past three (3) years if other than listed in (c);
- e. Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 90-day period);
- f. Names of the last three (3) communities (if any) in which the applicant has solicited or canvassed door-to-door;
- g. Social Security number;
- h. Recent passport-sized photograph of the applicant to be affixed to the registration card;
- i. Make, model and registration number of any vehicle to be used by the applicant while soliciting or canvassing.

#### D. Registration Fee:

1. Each applicant for registration or re-registration shall pay a fee of \$5.00 to the Town.

#### E. Registration Cards:

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

F. Exceptions:

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

G. Duties of Solicitors:

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

H. Restrictions on Methods of Solicitation:

1. It shall be unlawful for a solicitor or canvasser to do any of the following:
  - a. Falsely represent, directly or by implication that the solicitation or canvassing is being done on behalf of a governmental organization;
  - b. Solicit or canvass at any residence where there is a posted sign prohibiting solicitation, without express prior permission of an occupant;
  - c. Solicit or canvass at any residence without express prior permission of an occupant, before 9:00 A.M. or after 8:00 P.M. where there is no sign posted otherwise limiting solicitation or the hours of solicitation.

I. Penalty:

1. Any person or organization violating any of the provisions of this bylaw shall be subject to a fine of \$100.00 for each offense.





**SECTION 13                    TRANSPORTATION OF BUILDINGS**

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

**SECTION 14                    PARKING OF COMMERCIAL VEHICLES, RESTRICTED**

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

**SECTION 15                    SWIMMING POOL REGULATIONS**

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

- A. The pool's location, dimensions, depths and volume in gallons shall be consistent with public health and safety and standard principles of building construction;
- B. All pools shall be enclosed by an enclosure a minimum of four (4) feet in height including self-latching gates which shall not be less than four (4) feet in height above the ground;
- C. The type and size of filter systems, and filtration and backwash capacities shall be approved by the Board of Health;
- D. The pool piping layout and all pipes and valves shall be approved by the Inspector of Plumbing;
- E. All wires, wiring and electrical connections and motors shall be approved by the Inspector of Wires;
- F. The permit shall be granted on condition that the pool may be inspected at reasonable times before or during its operation by any of the above-named officials or their representatives. Failure to maintain said pool in safe condition pursuant to this bylaw, shall result in revocation of said permit. The Board of Selectmen may require the payment by the owner of a swimming pool of a permit fee for each permit granted.

**SECTION 16                    ABANDONED OR JUNK VEHICLES**

No person as owner or as one in control of a premises, unless licensed dealers as provided by law, shall keep in an area exposed to the view of the public and/or any

abutter, any vehicle which is worn out, discarded, ready for dismantling, collected or stored for salvage or for stripping unless such motor vehicle is properly registered with the Registry of Motor Vehicles. Any parts from such a vehicle shall be considered a junk motor vehicle for the purposes of this Code.

**SECTION 16A UNREGISTERED MOTOR VEHICLES**

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

**SECTION 16B VIOLATIONS**

- A. Once a written violation notice is issued, the owner and/or person or entity in control of the property shall have thirty (30) days to correct the violation without penalty. If the violation is not corrected within said thirty (30) days, a fine of \$100.00 per violation shall be imposed upon the owner and/or person or entity in control of the property, pursuant to M.G.L. Section 21 or civil fines pursuant to M.G.L. Section 40 Section 21D.
- B. The provisions of this section shall be enforced by the Building Inspector, Police Department and/or Prosecuting Officer of the Town of Avon Police Department. The Building Inspector shall be responsible for the maintenance of records pertaining to violations and penalties imposed hereunder.
- C. For the purposes of this section, the existence of a violation shall be deemed a separate offence for each day that such violation continues.
- D. If the owner or person or entity in control of the property fails to pay fines issued for violations of this section, the Town may impose a lien upon the property pursuant to M.G.L. Chapter 40, Section 58.

**SECTION 17 BURGLAR ALARM SYSTEMS, REGISTRATION AND REGULATIONS**

**A. Definitions**

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

- 1. The term "Alarm System" means an assembly or equipment and devices or a single device such as a solid state unit which plugs directly into a 110 volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any

other condition not directly related to the detection of unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this bylaw.

- a. The provisions of "B, Penalties" of this bylaw shall not apply to any Town or governmental agency.
2. The Term "False Alarm" means:
    - a. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or his employees or agents;
    - b. Any signal or oral communication transmitted to the Police Department requesting or requiring or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion, robbery or burglary, or attempt thereof. For the purpose of this definition, activation of alarm systems by Acts of God, including, but not limited to, power outages, hurricanes, tornadoes, earthquakes, and similar weather or atmospheric disturbances shall not be deemed to be a false alarm.
  3. The term "Automatic Dialing Devices -Interconnection to the Police Department" means:
    - a. No automatic dialing device shall be interconnected to any telephone numbers at the Police Department after the effective date of this bylaw;
    - b. Within six (6) months after the effective date of this bylaw, all automatic dialing devices interconnected to any telephone numbers at the Police Department shall be disconnected therefrom. The user of each such device shall be responsible for having the device disconnected upon notification of the Police Chief and/or his designee.

## B. Control and Curtailment of Signals Emitted by Alarm Systems

1. Every alarm user shall submit to the Police Chief and/or his designee the names and telephone numbers of his residence and place of employment and at least two (2) other persons who are authorized to respond to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed. The alarm user will be responsible to keep this information current and updated.
2. All alarm systems installed after the effective date of this bylaw which use an audible horn or bell shall be equipped with a device that will shut off such horn or bell within ten (10) minutes of activation of the alarm system.

3. Any alarm system emitting a continuous and uninterrupted signal for more than ten (10) minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under paragraph (1) of this section, and which disturbs the peace, comfort or repose of a community, a neighborhood, or a considerable number of inhabitants of the area where the system is located shall constitute a public nuisance. Upon receiving complaints regarding such continuous and uninterrupted signal, the Police Chief and/or his designee shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under paragraph (1) of this section in an effort to abate the nuisance. The Police Chief and/or his designee shall cause to be recorded the names and addresses of the complainants and the time each complaint was made.

### C. Penalties

1. Upon receipt of three (3) or more false alarms within a calendar year, the Police Chief and/or his designee may:
  - a. Order the user to discontinue the use of the alarm;
  - b. Disconnect any direct connection with the Police Department;
  - c. Order that further connections to the communications console in the Police Department will be contingent upon the user equipping any alarm system with a device that will shut off any audible horn or bell, within ten (10) minutes after activation of the alarm system.
2. The user shall be assessed fifty dollars (\$50.00) as a false alarm service fee for each false alarm in excess of three (3) occurring within a calendar year. All fees assessed hereunder shall be paid to the Town of Avon c/o Town Treasurer.

## **SECTION 18      FIRE LANES**

- A. Private Ways - It shall be unlawful to obstruct or block a private way with a vehicle or by any other means so as to prevent access by fire apparatus or equipment to any multiple unit residential structure, stores, shopping centers, schools, businesses or place of public assembly.
- B. Establishment - The Fire Chief shall designate an area consisting of a strip of land at least twelve (12) feet in width running around the perimeter of any building, except one used for single or two-family residential purposes, as a fire lane. Such lane shall extend from the curbing, if any, or if no curbing exists as otherwise designated by the fire chief.

- C. Marking, Signs - The owner or other person having charge of any building shall provide and install signs and pavement markings, as directed by the Fire Chief, to designate fire lanes, such signs and pavement markings to read: "FIRE LANE - NO PARKING - TOWN ZONE".
- D. Towing - Any vehicle or other object blocking a fire lane established pursuant to this section may at the direction of a police officer of the town be removed or towed by the town at the expenses of the owner and without liability to the Town of Avon.
- E. Penalties - If the owner or other person having charge of a building shall fail to conform with the order of the Fire Chief to establish and to mark an area running around the perimeter of a building as a fire lane within thirty (30) days following the date such order is issued, such person shall be subject to a penalty of fifty (50) dollars for each day on which such violation continues.

Any person who parks a vehicle or other object in an area which has been established and designated and which is marked as a fire lane shall be subject to a penalty of fifty (50) dollars for each such offense.

- F. Non-Criminal Disposition - Any person found in violation of this section by any police officer, or the chief of the Fire Department, or the officer in charge of any shift in the Fire Department, may be cited by such person for such offense pursuant to the non-criminal disposition provisions of these bylaws. The penalty for each offense, so cited, shall be fifty (50) dollars. Each day on which a violation exists shall be deemed to be a separate, distinct offense.

## **SECTION 19 SECURED KEY ACCESS FOR FIRE DEPARTMENT**

Any building other than a residential structure containing five (5) or fewer dwelling units having a fire alarm system or other fire protection system shall provide a secure key box installed at a location accessible to members of the Fire Department in the event of an emergency. The secure key box shall contain keys to the fire alarm control panels and any other keys as may be necessary to operate or service any fire protection system or devices. The secure key box shall be of a type approved by the Fire Chief and shall be located and installed as approved by the said fire chief. Any owner or other person having control of a building who after receiving instructions concerning such installation from the Fire Chief shall fail within thirty (30) days to provide such a secure, key box shall be subject to a penalty of fifty dollars for each day on which such violation shall continue.

### **Non-Criminal Disposition**

Any person found in violation of this section by any police officer, or the chief of the Fire Department, or the officer in charge of any shift in the Fire Department, may be cited by such person for such offense pursuant to the non-criminal disposition provisions of these

bylaws. The penalty for each offense, so cited, shall be fifty (50) dollars. Each day on which a violation exists shall be deemed to be a separate, distinct offense.

**SECTION 20                    HANDICAPPED PARKING REGULATIONS**

A. Reserved Spaces to be Provided - Any person or body having lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees, shall reserve parking spaces in said off-street parking area for vehicles owned and operated by a disabled veteran or handicapped person and vehicles transporting a handicapped person which vehicles bear the distinguishing license plate authorized by section two of chapter ninety of the General Laws of Massachusetts or a license plate similarly authorized by the laws of any other state of the United States or under the laws of any Canadian province, according to the following formula:

Total Number of Spaces Provided	To Be Reserved for Handicapped/Disabled
16 to 25	1
26 to 40	five percent, but, at least 2 spaces
41 to 100	four percent, but, at least 3 spaces
101 to 200	three percent, but, at least 4 spaces
201 to 500	two percent, but, at least 6 spaces
501 to 1000	one and one half percent, but, at least 10 spaces
1001 to 2000	one percent, but at least 15 spaces
2001 to 5000	three-fourths of one percent, but, at least 20 spaces
more than 5000	one-half of one percent, but, at least 30 spaces

The parking spaces required according to this section shall be identified by the use of above grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May Be Removed at Owner's Expense"; shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be twelve (12) feet wide or two eight (8) foot wide areas with four (4) feet of cross hatch between them.

- B. Enforcement - The Chief of Police shall be responsible for the enforcement of section (a) of this bylaw. The Chief of Police shall, by written notice to the person or body having control of any off street parking area in which such spaces are not provided, or are not provided according to the formula contained in this section, direct that steps be taken to bring the area into compliance within a period not to exceed thirty days. Whenever such notice has been given, and such spaces have not been provided within the time allowed, the Chief of Police may enforce this section pursuant to the non-criminal provisions of these bylaws or such officer may seek enforcement through the provisions for criminal disposition pursuant to section twenty-one of chapter forty of the General Laws. The penalty for failure to comply with the provisions of this section under the non-criminal method of enforcement shall be fifty (50) dollars for each space not provided for each day each such space is not so provided.
  
- C. Unauthorized Use of Reserved Spaces; Penalty for Unauthorized Use of Spaces Reserved for Handicapped - No person shall park a vehicle, or leave a vehicle unattended in a space designated for use by a disabled veteran or a handicapped person unless such vehicle bears the distinguishing license plate as provided in the paragraph (a) of this section. No person shall park a vehicle, or leave a vehicle unattended which blocks or obstructs a curb ramp designed for use by handicapped persons as a means of egress to a street or public way.

This section may be enforced by any police officer pursuant to the provisions for the non-criminal enforcement of these bylaws. The penalty for violations in this manner shall be fifty (50) dollars for each offense.

**SECTION 21 UNAUTHORIZED USE OF WATER SUPPLY**

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

Any police officer, the Fire Chief or any other authorized member of the Fire Department or the water superintendent may prosecute any person found to be in violation of this section. The penalty for any violation prosecuted pursuant to the provisions of General Laws chapter 40, section 21 shall be the maximum permitted by law and in the discretion of the court to impose. The penalty for any violation prosecuted pursuant to the provisions of General Laws chapter 40, section 21D shall be three hundred dollars for each such violation.

**SECTION 22 RUBBISH COLLECTIONS**

- A. No person as owner or as one in control of the premises shall place rubbish upon the sidewalk in a manner blocking pedestrian traffic.

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



**SECTION 3** **COMPLAINT OF NUISANCE**

If any person shall make a complaint first in writing to the Dog Officer that any dog owned or harbored within his jurisdiction is a nuisance by reason of vicious disposition or excessive barking or of other disturbance, the Dog Officer shall investigate such complaint which may include an examination under oath of the complainant, submit a written report to the Selectman of his findings and recommendations, together with the written complaint. Upon receipt of such report and examination of the complainant and the owner of the dog, under oath, the Selectmen after hearing, of which time the owner of the dog will be given due notice to appear, may make such order concerning the restraint, muzzling, disposal of such dog, dismissal of the complaint or such other action as may be deemed necessary. The Dog Officer, after investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed fourteen (14) days to enable the Selectmen to issue their order following the receipt of the report of the Dog Officer. If the Selectmen fail to act during the period of interim order, upon examination of the period the interim order is automatically vacated.

**SECTION 4** **RESTRAINT OR MUZZLING**

The Dog Officer may restrain or muzzle, or issue an interim order to restrain or muzzle, for a period not to exceed fourteen (14) days, any dog for which any of the following reasons:

- A. For having bitten or threatened (worried) any person;
- B. If found at large or unmuzzled, as the case may be while an order for the restraint of such dog is in effect;
- C. If found in a school, schoolyard or other recreational area;
- D. For having killed or maimed or otherwise damaged any domestic animal;
- E. For chasing any vehicle (including bicycles) upon any public way or way open to public travel in the town;
- F. For any violation of SECTION 2.

ALL OF THE ABOVE ARE SUBJECT TO PENALTIES OR FINES

Upon restraining or muzzling, or issuing an interim order to restrain or muzzle, the Dog Officer shall submit, in writing, to the Selectmen a report of his action and the reasons therefore. Upon receipt of such report, the Selectmen may make such order concerning the restraint, muzzling or disposal of such dog as may be deemed necessary. If the Selectmen fail to act upon the report during the period the dog is restrained or muzzled, upon expiration of the period, the interim order automatically is vacated. If the dog is ordered to be restrained or muzzled six (6) weeks of a twelve month period the Selectmen must issue a permanent order of restraint, muzzling or disposal of said animal.



owner or keeper to place and keep such dog, while in such cycle, in a commercial or boarding kennel or to remove it from the area so that the nuisance is abated.

**SECTION 9 POUND AND EQUIPMENT**

The Board of Selectmen may select a commercial kennel facility within the Town or use the existing Town Kennel to impound or keep dogs that have been apprehended by the Dog Officer as being strays or violators of the law, providing that both of the foregoing are within cost limitations and specifications set by the Board of Selectmen. The fee to impound and keep a dog in the town kennel is \$10.00 each day.

**SECTION 10 FINES AND PENALTIES**

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

- A. Failure to License a dog \$ 35.00
  
- B. Violation of Leash Law
  - 1st offense \$ 35.00
  - 2nd offense \$ 50.00
  - 3rd offense \$ 50.00
  - 4th offense \$100.00
  
- C. Dog bite - The Animal Control Officer must make judgment as to determine the severity and provocation of the bite to determine processing a procedure of this violation.
  - 1st offense \$ 50.00
  - 2nd offense \$ 50.00
  - 3rd offense \$100.00
  
- D. Dog found in School yard
  - Additional to SECTION 10, Sub-section B \$ 50.00
  
- E. Complaints such as, but not limited to excessive outdoors barking, littering, defecating of sidewalks or private property and public playground; or schoolyards.
  - 1st offense \$ 25.00
  - 2nd offense \$ 40.00
  
- F. Failure to comply with order of restraint in accordance with General Laws, Chapter 140, Sec. 168:
  - \$100.00

G. Failure to comply with notice to kill or confine in accordance with General Laws, Chapter 164:

\$100.00

H. Failure to vaccinate dogs against rabies in accordance with General Laws Chapter 140, Section 145B:

\$100.00

\* At large meaning a dog which is (1) unaccompanied by a person of adequate age and discretion to properly control its actions and (2) is unrestrained by a lead or chain of less than seven (7) feet that is of suitable test for size of dog being restrained.

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

The provisions of this bylaw may be enforced by the animal control officer, or by any police officer of the Town of Avon, in the manner provided by General Laws, Chapter 40, Section 21D.



## B. Existing Tanks

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

## L. C. All tanks

1. A perpetual inventory of the total product received, the total dispensed, and the total in storage shall be maintained for each tank in the Town of Avon. Any shortage of fifty (50) gallons or more shall be immediately reported to the Fire Chief.
2. Continued operation of licensed storage tanks is governed by Section 13 of Chapter 148 of General Laws requiring annual registration of such license.
3. Annual registration applications shall be accompanied by a perpetual inventory of tank contents for the preceding year.
4. There shall be at least a quarterly inspection of the vault sump for evidence of product, by a qualified person and a record of such inspection entered under that date in the perpetual inventory log.

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

## **ARTICLE X**

### ***WETLANDS PROTECTION***

#### **SECTION 1                    PURPOSE**

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

#### **SECTION 2                    JURISDICTION**

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

#### **SECTION 3                    EXCEPTIONS**

The permit and application required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunication services, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

The permit and application required by this bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural use, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

The permit and application required by this bylaw shall not apply to emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the

Commonwealth or a political subdivision thereof, provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement, provided that the Commission or its agent certifies the work as an emergency project, provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency, and provided that within twenty-one (21) days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

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

**SECTION 4 APPLICATIONS FOR PERMITS & REQUESTS FOR DETERMINATION**

Written application shall be filed with the Commission to perform activities regulated by this bylaw affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

The Commission in an appropriate case may accept as the permit application and plans under this bylaw the notice of intent and plans files under the Wetlands Protection Act, G.L. c. 131, s 40, and Regulations, 310 CMR 10.00.

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a request for determination shall include such information and plans as are deemed necessary by the Commission.

At the time of a permit application or request for determination, the applicant shall pay a filing fee specified in regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act G.L. c. 131, s 40, and Regulations, 310 CMR10.00.

Upon receipt of a permit application or request for determination, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the consultant fee. The specific consultant services may include but are not limited to wetlands survey and delineation, analysis of wetland values, hydrogeologic and drainage analysis, wildlife habitat evaluations, and environmental land use law.

The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. The applicant shall pay the fee to the Town to be put into a consultant services account of the Commission, which may be drawn upon by the Commission for specific consultant services approved by the Commission at one of its public meetings.

The exercise of discretion by the Commission in making its determination to require the payment of a fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.

The Commission shall return any unused portion of the consultant fee to the applicant unless the Commission decides at a public meeting that other action is necessary. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of Massachusetts General Laws.

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

<u>Project Cost</u>	<u>Maximum Fee</u>
Up to - \$ 50,000	No fee
\$ 50,000 - \$ 100,000	\$ 1,000
\$ 100,001 - \$ 500,000	\$ 2,500
\$ 500,001 - \$1,000,000	\$ 5,000
\$1,000,001 - \$1,500,000	\$ 7,500
\$1,500,001 - \$2,000,000	\$10,000

Each additional \$500,000 project cost increment (over \$2,00,000) shall be charged at an additional \$2,500 maximum fee per increment.

The project cost means the estimated, entire cost of the project including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The consultant fee shall be paid pro rata for that portion of the project cost applicable to those activities within resource areas protected by this bylaw. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the Commission's request, but the lack of such estimated project costs shall not allow the applicant to avoid the payment of the consultant's fee.

The Town hereby accepts G.L. c. 44, s. 53E for purposes of administering jointly the filing fee and professional service conservation account provisions of this bylaw.

**SECTION 5 NOTICE & HEARING**

Any person filing a permit application or a request for determination with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing address shown on the



Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission prior to final action.

**SECTION 7 PERMITS, DETERMINATION, & CONDITIONS**

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

The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the wetland values protected by this bylaw; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

A permit shall expire two (2) years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five (5) years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one (1) year period, provided that a request for a renewal is received in writing by the Commission prior to expiration.

For good cause the Commission may revoke or modify a permit or determination issued under this bylaw after notice to the holder of the permit; then notice to the public, abutters, and Town Boards, pursuant to Section 5, and a public hearing may be held.

The Commission in an appropriate case may combine the permit or determination issued under this bylaw with the order of conditions and determination of applicability issued under the Wetlands Protection Act.

No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected thereby be registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certified in writing to the Commission that a permit has been so recorded.

**SECTION 8** **REGULATIONS**

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

At a minimum these regulations shall define key terms in this bylaw not inconsistent with the bylaw and procedures governing the amount and filing of fees .

**SECTION 9** **DEFINITIONS**

The following definitions shall apply in the interpretation and implementation of this bylaw.

The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

The term "alter" shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
- C. Drainage, or other disturbance of water level or water acceptable;
- D. Dumping, discharging or filling with any material which may degrade water quality;
- E. Placing of fill, or removal of material, which would alter elevation;
- F. Driving of piles, erection, or repair of buildings, or structures of any kind ;
- G. Placing of obstructions or objects in water, or in seasonal waterways;
- H. Destruction of plant life including cutting of trees;
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters;

- J. Any activities, changes or work which may cause or tent to contribute to pollution of any body of water or groundwater and;
- K. Application of pesticides or herbicides.

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

## **SECTION 10                    SECURITY**

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

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

## **SECTION 11                    ENFORCEMENT**

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity or fill to be left in place, without the required authorization pursuant to this bylaw.

The Commission, its' agents, officers, and employees shall have authority, with or without prior approval from the property owner, to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or samplings as the Commission deems necessary.

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

Upon request of the Commission, the board of selectmen and the Town counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this bylaw, regulation thereunder, or permits or administrative orders issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or portion thereof during which a violation continues, or unauthorized fill remains in place, shall constitute a separate offence, and each provision of the bylaw, regulations, permit, or order violated shall constitute a separate offence. The provisions of this bylaw may be enforced by the conservation officer or by any police officer of the Town of Avon in the manner provided by general laws chapter 40, section 21d.

As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the non-criminal disposition procedure set forth in G.L. c. 40, s. 21, and adopted by the Town as a general bylaw.

**SECTION 12** **BURDEN OF PROOF**

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

**SECTION 13** **APPEALS**

A decision of the Commission shall be reviewable in the superior court in an action filed within sixty (60) days thereof, in accordance with G.L. c. 249, s. 4.

**SECTION 14** **RELATION TO THE WETLANDS PROTECTION ACT**

This bylaw is adopted under the home rule amendment of the Massachusetts Constitution and the home rule statutes, independent of the Wetlands Protection Act, G. L. c. 131, s. 40, and regulations thereunder.

**SECTION 15** **SEVERABILITY**

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