ZONING BYLAWS

TOWN OF AVON
MASSACHUSETTS

Revised thru June 2014 including bylaws approved at the
Annual Town Meeting of May 6, 2014.
(pending Attorney General's approval)

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SECTION I
Title, Scope, Authority, Purposes

1-1 TITLE

This bylaw shall be known, and may be cited, as the Revised Zoning Bylaw of the Town of Avon, Massachusetts.

1-2 SCOPE

The Revised Zoning Bylaw of the Town of Avon shall consist of the bylaw adopted at the 1977 Annual Town Meeting of the Town of Avon, and all amendments thereto as may from time to time be adopted.

1-3 AUTHORITY

The Revised Zoning Bylaw of the Town of Avon has been adopted, and may from time to time be amended, in conformity with independent constitutional powers of cities and towns to protect the health, safety, and general welfare of their present and future inhabitants, as provided by Article 89 of amendments to the State Constitution and in conformity with laws enacted by the General Court in conformity with powers reserved to it by the said article of amendment.

1-4 PURPOSES

This By Law is enacted for purposes which include, but are not intended to be limited to the following: To lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic, and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space, and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment, to encourage the most appropriate use of land throughout the town, to preserve and increase amenities and to do so in a manner consistent with the recommendations of said master plan, with any divergence from such recommendations to be explained as per amended Sections 3-3, 4-1 and 6-1 of the Town of Avon Zoning Bylaws. *(amended 2009 ATM)*

SECTION II
Definitions

Definitions

For the purpose of this Bylaw, certain terms and words shall have the following meaning. Words used in the present tense include the future; the singular number includes the plural; the plural the singular; the words "used" or "occupied" include the words "designed", "arranged", "intended", or "offered", to be used or occupied; the words "building", structure", "lot", "land", or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "shall" is always mandatory and not merely directory. Terms and words not defined herein but defined in the State Building Code as it is applicable in the Town of Avon, or in the Avon Subdivision Regulations shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, Latest Edition. Uses listed in the Table of Use Regulations under the Classes Retail and Service Trade and Wholesale Trade and Manufacturing shall be further defined by the Standard Industrial Classification Manual published by the U.S. Bureau of the Census.

ABANDONMENT:
The visible or otherwise apparent intention of an owner to discontinue a nonconforming use of a building or premises indicated by the removal of the characteristic equipment or furnishings used in the performance of the nonconforming use, without its replacement by similar equipment or furnishings, by the replacement of the nonconforming use or building by a conforming use or building, or by the cessation of the nonconforming use for a period of two 2 years.

ADULT CABARET OR CLUB:
A restaurant, or other establishment licensed under Section 12 of Chapter 138, of the General Laws, which, as a form of entertainment, which features exotic dancers, strippers, male or female impersonators or similar entertainers, or allows a person or persons to work in a state of nudity; or provides films, motion pictures, video cassettes, compact disks, slides, photographic reproductions, or other visual and/or audio media, regardless of form or method of presentation, which are characterized by the depiction or description of sex-related anatomical areas, or relating to any sexual activity, including sexual conduct or sexual excitement, as defined M.G.L. c. 272 § 31, as amended.

ADULT BOOKSTORE:
An establishment having as a substantial or significant portion of its stock in trade printed matter, books, magazines, picture periodicals, motion picture films, video cassettes, or coin operated motion picture machines for sale, barter or rental which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Sexual Conduct" as that term is defined in M.G.L. c. 272, Sec. 3 1.

ADULT MOTEL:
A motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which are distinguished or characterized by its emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, Sec. 3 1, as amended.

ADULT MOTION PICTURE THEATER:
An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Sexual Conduct" as defined in G.L. c. 272, Sec. 31, for observation by patrons therein.

ADULT MINI MOTION PCTURE THEATRE:
An enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Sexual Conduct" as defined in G.L. c. 272, Sec. 31, for observation by patrons therein.

ADULT LIVE ENTERTAINMENT ESTABLISHMENTS:
Establishments which feature live entertainment which consists of entertainers engaging in "Sexual Conduct" or "Nudity" as defined in G.L. c. 272, Sec 31.

ADULT PARAPHERNALIA STORE:
An establishment having as a substantial or significant portion of its stock in trade devices, objects., tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L. c. 272 § 31.

ADULT USE:
A use of a building or business (whether partial or entire) for the purpose of engaging in the sale, display, hire, trade, exhibition or viewing of materials or entertainment depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, §3 1, including adult bookstores, adult live entertainment, adult motion-picture theatres, adult paraphernalia stores and adult video stores, massage service establishments, sexual encounter clubs, adult cabaret or club, adult motel or similar establishment customarily excluding any minor by reason of age as a prevailing practice, as may be further defined in this bylaw.

ADULT USE OVERLAY ZONE:
An overlay zone superimposed on a portion of the Industrial zone that shall allow, in addition to the uses allowed in the underlying zone, adult uses in accordance with Section 5-5 Adult Entertainment, geographically defined to include that portion of the Industrial zone located in the northwest quadrant of the Town of Avon, bounded by the Industrial zone line and including the following existing streets: Bodwell Street, Bodwell St. Ext., Wales Ave., Old Page Street, Page Street, Parker Drive, Ledin Ave., Strafello Drive, Robbie Road, Kiddie Drive., Murphy Drive, Doherty Ave. and Tracy Drive and any other ways that might hereinafter be developed within the boundaries of this overlay district as shown on the official Zoning Map of the Town of Avon.

ADULT VIDEO STORE:
An establishment having as a substantial or significant portion of its stock in trade, videos, movies, computer software, computer discs, laser discs or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, 31 as it may be amended.

AQUIFER:
A geologic formation composed of rock, sand or gravel containing significant amounts of potentially recoverable water.

ALTERATION:
Any construction, reconstruction, or other action resulting in a change in the structural parts or height, number of stories or exists, size, use or location of a building or other structure.

BASEMENT:
That portion of a building that is partly or completely below grade plane (See "Story above grade plane" in 780 CMR 202.0). A basement shall be considered to be a story above grade plane where the finished surface of the floor above the basement is:

1. More than six feet (1829 mm) above grade plane;
2. More than six feet (1829 mm) above the finished ground level for more than 50% of the total building perimeter; or
3. More than 12 feet (3658 mm) above the finished ground level at any point.

BOARDING HOUSE:
A dwelling in which four or more individual rooms without separate cooking and sanitary facilities are rented as with rooming houses or lodging houses, and meals are provided in a common dining room.

BUILDING:
A combination of any materials, whether portable or fixed, having a roof, and enclosed within exterior walls or firewalls, built to form a structure for the shelter of persons, animals or property. For the purposes of this definition "roof" shall include an awning or any similar covering, whether or not permanent in nature.

BUILDING ACCESSORY:
A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

BUILDING AREA:
The aggregate of the maximum horizontal cross-section area (the "footprint") as enclosed by a foundation, pier, piling and/or footings of all buildings on a lot exclusive of chimneys, expressed as a percentage of the total lot area.

BUILDING ATTACHED:
A building having a portion of one or more walls in common with one or more adjoining buildings.

BUILDING DETACHED:
A building having open spaces on all sides.

BUILDING, PRINCIPAL:
A building in which is conducted the principal use of the lot on which it is located.

BUSINESS:
A commercial activity engaged in as a means of livelihood or profit, any activity in which goods and/or services are exchanged for one another or money.

BY-LAW:
The Revised Zoning By-Laws of the Town of Avon.

CAMPING AND RECREATIONAL EQUIPMENT:
The term "camping and recreational equipment" shall include the following:

a) Travel Trailer – A vehicular, portable structure built upon a chassis and designed to be towed by another vehicle and having sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation, and vacation uses.
b) Pick-up Coach – A structure designed primarily to be mounted upon a pick-up chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation, and vacation use.
c) Camping Trailer – A folding or collapsible structure mounted upon wheels and designed to be towed by another vehicle and having sufficient equipment to render it suitable to be used, when raised, as a temporary dwelling for travel, recreation, and vacation use.
d) Motor Home- A portable, temporary dwelling consisting of a single, integrated, self-propelled vehicle with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation, and vacation use.
e) Boat- Any vessel or other craft designed to navigate upon water.
f) Boat Trailer – A trailer specifically designed to be used to transport a boat.
g) Utility Trailer – A small open device mounted upon wheels and designed to be towed by another vehicle and which is suitable for transporting tents, sleeping bags, blankets, and other camping and recreational equipment.

CELLAR:
"See Basement"

CLEAR AREAS:
The area surrounding a WECF to be kept free of habitable structures or potentially occupied parking areas.

CLUSTER DEVELOPMENT:
The number of lots over the entire tract shall not exceed the number permitted under normal application of the area regulations of the zone in which the tract is located, and the remaining land is protected open space.

COMMERCIAL WECF:
A free-standing WECF rated at > 500 KW and set up to sell power to the grid and ranging from 155 to 300 feet high.

COMMUNITY FACILITIES:
Premises owned and operated by a government or chartered nonprofit organization and being for broadly inclusive public use.

DISTRICT:
A zoning district as established by Section III of this By-law.

DRIVEWAY:
A paved area, on a lot, built for access to a garage, off-street parking area or loading space and running into the lot from the roadway frontage.

DUPLEX DWELLING:
A two-family building designed with separate dwelling units side by side separated by a fire wall.

DWELLING:
A privately or publicly owned permanent structure containing a dwelling unit or dwelling units. The terms "one-family" or "multi-family" dwelling shall not include hotel, lodging house, hospital, membership club, trailer or dormitory.

DWELLING UNIT:
One or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

DWELLING, MULTI-FAMILY:
A building containing three or more dwelling units.

DWELLING, TWO-FAMILY:
A building containing two dwelling units. Only one such building shall be developed on any one lot.

EARTH REMOVAL:
The removal of sand, gravel, loam, or similar material, but not solid rock, from a site for use elsewhere subject to a local earth removal permit, as opposed to grading for use on-site as part of an approved site development plan.

ESSENTIAL SERVICES:
Services provided by public utility or governmental agencies through erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission or distribution systems and collection, communications, supply, or disposal systems. Facilities necessary for the provision of essential services include poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. Specifically excluded from the definition are buildings necessary for the furnishing of adequate service by such public utility or governmental agencies for public health, safety, or general welfare.

EXCEPTION/SPECIAL PERMIT:
The use of a structure or lot or any action upon the premises which may be permitted under the By-Law only upon approval of the Special Permit Granting Authority in accord with the provisions of Section VII of this By-Law.

EXTRACTIVE INDUSTRY:
An industry which by means of chemical or mechanical action, as by pressure, distillation, excavation, screening, evaporation, or otherwise obtains from any substance (animal, vegetable or mineral) or from any place some particular substance, product or thing.

FAMILY:
One or more persons, including domestic employees, occupying a dwelling unit and living as a single, non-profit housekeeping unit, provided that a group of five or more persons, who are not within the second degree of kinship, shall not be deemed to constitute a family.

FLOOD LINE:
The limits of flooding from a particular body of water caused by a storm whose frequency of occurrence is once in five or more years, as determined and certified by a registered professional engineer, qualified in drainage.

FLOOD PLAIN:
The area subject to periodic flooding, the limits of which are determined by the flood line.

FLOOR AREA, GROSS:
The sum of the areas of the several floors of a building, measured from the exterior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this By-Law, or any such floor space intended and designed for accessory heating and ventilating equipment.

FREIGHT TERMINALS:
See "Truck Terminal"

GRADE PLANE:
A reference plane representing the average of finished ground level adjoining the building exterior walls. Where the finished ground level slopes away from the exterior wall, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet (1829 mm) from the building, between the building and a point six feet (1829 mm) from the building.

GENERAL BUSINESS:
Any retail, wholesale or office occupancy whether for profit or not, conducted entirely within a structure on a lot. The occupiable floor space of the business portion of the structure may not exceed 10,000 sq. ft. excluding basements and attics.

HEIGHT:
The vertical distance from the average finished grade of the adjacent ground to the top of the structure of the highest roof beams of a flat roof, or the beam level of the highest gable or the slope of a hip roof.

Height (definition refers to Wind Energy Conversion Facility [WECF] only)

The distance from the natural grade at the base of the WECF to the hub or the highest tip of the rotor or another component reaching above the supporting structure.

HOME OCCUPATION:

An occupation or profession which:

a) Is customarily carried on in a dwelling unit, or in a building or structure accessory to a dwelling unit, and
b) Is carried on by a resident of said dwelling unit, and
c) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and
d) Which conforms to the additional conditions set forth in Section 7-5 of this By-Law.

HOSPITAL:

A building providing 24 hour in-patient services for the diagnosis, treatment, or other care of human ailments including a sanitarium, clinic, rest home, sanatorium, nursing home, and convalescent home.

HOTEL:

A building or any part of a building containing rooming units for transient occupancy and having a common entrance including an inn, motel, motor inn, guest suites facility and tourist court, but not including a boarding house, lodging house, or rooming house.

IMPERVIOUS SURFACE:

Materials or structures on, above or below the ground which prevent precipitation or surface water from penetrating the soil.

INTERIM WELL HEAD PROTECTION AREA (IWPA):

An area within a circle of one half mile radius described around a public water supply well and used until a final Zone II for a given well is approved by the Massachusetts Department of Environmental Protection – Division of Water Supply.

KW

Kilowatts or 1000 watts, equivalent to the current drawn by ten 100 Watt bulbs.

KWH

Kilowatt Hours, equivalent to ten 100 watt bulbs going for ten hours, or a 1000 watt appliance going for an hour.

LOADING SPACE:

An off-street space used for loading or unloading, not less than fourteen feet in width, forty-five feet in length and fourteen feet in height, and containing not less than 1,300 square feet, including both access and maneuvering area.

LODGING HOUSE:

A dwelling in which four or more individual rooms without separate cooking or sanitary facilities are rented to persons who share the dwelling's kitchen, bathroom and any common spaces. The same as a rooming house.

LODGING UNIT:
One or more rooms for the use of one or more individuals not living as a single housekeeping unit and not having cooking facilities. A "lodging unit" shall include rooms in boarding houses, tourist homes, or rooming houses.

LOT:
An area of land in one ownership, with definite boundaries, used or available for use, as the site for one or more buildings.

LOT, CORNER:
A lot at the point of intersection of or abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines, or in the case of a curved street, extended lot lines, being not more than 135 degrees.

LOT DEPTH:
The mean horizontal distance between the front lot line and the rear lot line.

LOT FRONTAGE:
A horizontal distance measured along the front lot line between the points of intersection of the lot side lines with the front lot line.

LOT LINE, FRONT:
The property line dividing a lot from a street (right of way). On a corner lot, the owner shall designate one street line as the front lot line.

LOT LINE, REAR:
The lot line opposite from the front lot line.

LOT LINE, SIDE:
Any lot line, not a front or rear lot line.

LOT NONCONFORMING:
A lot lawfully existing at the effective date of this By-Law, or any subsequent amendment thereto, which is not in accord with all of the present provisions of this By-Law.

LOT, THROUGH:
An interior lot, the front and rear lot lines of which abut streets, or a corner lot two opposite sides of which abut streets.

LOT WIDTH:
The horizontal distance between the side lot lines as measured at the minimum front yard depth (required setback distance) required by this By-Law.

MASSAGE SERVICE ESTABLISHMENTS:

A. Massage

Any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external parts of the human body with the hands or with the aid of any mechanical or electric apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniment, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage under such circumstances that it is reasonably expected that the person to whom the service is provided, or some third person on his or her behalf, will pay money or give any other consideration or any gratuity therefor.

B. The practice of massage shall not include the following individuals while engaged in the personal performance of duties of their respective professions:

1. Physicians, surgeons, chiropractors, osteopaths, massage therapists, or physical therapist who are duly licensed to practice their respective professions in the Commonwealth of Massachusetts.
2. Nurses who are registered under the laws of the Commonwealth of Massachusetts.
3. Barbers and beauticians who are duly licensed under the laws of the Commonwealth of Massachusetts, except that this exclusion shall apply solely to the massage of the neck, face and scalp of the customer or client for cosmetic or beautifying purposes.

MEMBERSHIP CLUB:

A social, sports, or fraternal association or organization used exclusively by members and their guests and which may contain bar facilities, but excluding sexual encounter clubs.

MEDICAL MARIJUANA TREATMENT CENTER:

any medical marijuana treatment center, as defined under state law as a Massachusetts not-for-profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations

MEDIUM WECF:

A free-standing WECF rated at >30 -500 KW for a large local residential or business load while set up to sell surplus power to the grid. This could range from 115 to 164 feet high plus the rotor's length.

METEOROLOGICAL TOWER :

A temporary tower bearing anemometers, wind direction recorders and related equipment to test wind conditions for a potential production tower.

MOBILE HOME PARK:

See Trailer Park.

MIXED USE LOW DENSITY:

Any combination of low-density residential use and general business use in a single structure.

MOBILE HOME:
A large trailer outfitted as a home meant to be parked more or less permanently at a location.

MOBILE HOME PARK:
See Trailer Park.

NUDITY:
Uncovered or less than opaquely covered human genitals, pubic areas, the human female breast below a point immediately above the top of the areola or the covered male genitals in a discernibly turgid stated. For the purposes of this definition, a female breast is considered uncovered if the nipple or areola only are covered as defined in M.G.L. c. 272, § 31 as amended.

OWNER:
The duly authorized agent, attorney, purchaser, devisee, trustee, lessee, or any person having vested or equitable interest in the use, structure, or lot in question.

OPEN SPACE:
The space on a lot unoccupied by buildings, unobstructed to the sky, not devoted to streets, driveways, off-street parking or loading spaces, and expressed as a percentage of total lot area.

PARKING SPACE:
An off-street space, whether inside or outside a structure for exclusive use as a parking stall for one motor vehicle, as required elsewhere in these By-Laws.

PERMIT GRANTING AUTHORITY:
Planning Board, Board of Appeals.

PLANNED DEVELOPMENT:
A development involving the construction of two or more principal buildings on the same lot for any permitted use.

PRODUCTION TOWER
A WERF tower and related equipment designed to produce electricity as opposed to a meteorological tower designed to test wind conditions for a proposed tower.

QUARRYING:
The business or occupation of extracting stone from an open excavation by any means or methods. Quarrying does not include the excavation of loam, sand, and gravel.

RECHARGE AREAS:
Areas that collect precipitation or surface water and allow it to move into an aquifer. These may include the following areas approved by the Massachusetts Department of Environmental Protection:

> **Zone I:** The protective radius around any public water supply well or wellfield which the water supplier must own or control through a conservation restriction. This is usually a 400-foot radius except for wells pumping under 100,000 gallons/day.

Zone II: The area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield with no recharge) as per 310 CMR 22.00.

Zone III: The land area beyond a Zone II from which surface water and ground water drain into a Zone II, as per 310 CMR 22.00.

RECORDED:

Recorded in the Norfolk District Registry of Deeds or registered in the Norfolk District Registry of the Land Court.

RESIDENTIAL HIGH DENSITY:

Residential construction or reconstruction at a density of more than four (4) dwelling units and less than eleven (11) dwelling units per 40,000 sq. ft. of land in a single structure. Dwelling units constructed must include at least 20% but not more than 50% affordable housing units as defined by the Commonwealth of Massachusetts of Housing and Community Development.

RESIDENTIAL LOW DENSITY:

Residential construction or reconstruction at a density of four (4) dwelling units or less per 40,000 sq. ft. of land in a single structure. Dwelling units constructed must include 25% or greater affordable housing units as defined by the Commonwealth of Massachusetts of Housing and Community Development.

RESIDENTIAL WECF

A free-standing WECF rated at < 30 KW and intended for local residential, neighborhood or business use even though it might sell some surplus power to the grid. This could produce enough power when operating to serve 10-15 at two kilowatts when running and could be from 60 to120' high plus the length of the rotor.

RESTRICTED DEVELOPMENT:

Any change to the use of a lot of land from the existing use at the time of adoption of this bylaw or any subsequent amendment, must be approved by a 2/3 majority vote of a town meeting.

ROOMING HOUSE:

A dwelling in which four or more individual rooms without separate cooking or sanitary facilities are rented to persons who share the dwelling's kitchen, bathroom and any common spaces. The same as a lodging house.

SEXUAL CONDUCT:

Human masturbation, sexual intercourse, actual or simulated, normal or perverted, any lewd exhibitions of the genitals, flagellation or torture in the context of a sexual relationship, any lewd touching of the genitals, pubic areas, or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals, and any depiction or representation of excretory functions in the context of a sexual relationship. Sexual intercourse is simulated when it depicts explicit sexual intercourse that gives the appearance of the consummation of sexual intercourse, normal or perverted as defined in M.G.L. c. 272, § 31 as amended.

SETBACK
Distance to adjacent property lines, rights of way, or habitable space in the Clear Areas, including parking areas potentially holding occupied vehicles.

SEXUAL ENCOUNTER CLUB:
A business or commercial enterprise, public or private, that as one of its primary business purposes, offers for any form of consideration: (A) physical contact in the form of wresting or tumbling between persons of the opposite sex; or (B) activities between male and female persons and/or persons of the same sex when one or more persons is in the states of nudity; or where the activities in (A) or (B) are distinguished or characterized by its emphasis depicting, or describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272 § 31, as amended.

SEXUAL EXCITEMENT:
The condition of human male or female genitals or the breasts of the female while in a state of sexual stimulation or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity as defined in M.G.L. c. 272, §31 as amended.

SIGN:
Any permanent or temporary representation used as, or which is in the nature of, an advertisement, announcement, or direction, or is designed to attract the eye by intermittent or repeated motion of illumination.

SIGN, BUSINESS:
A sign used to direct attention to a service, product sold, or other activity performed on the same premises upon which the sign is located.

SIGN, IDENTIFICATION:
A sign used simply to identify the name, address, and title of an individual family or firm occupying the premises upon which the sign is located.

SIGN, SURFACE AREA OF:

1. For a sign, either free standing or attached, the area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing, which are incidental to the display itself.
2. For a sign consisting of individual letters, designs, and symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest quadrangle, which encompasses all of the letters, designs, and symbols.

SPECIAL PERMIT GRANTING AUTHORITY:
Either the Planning Board, or the Board of Appeals, as determined by reference to Section VII of this By-Law.

SPGA (definition refers to Wind Energy Conversion Facility [WECF] only)
The Special Permit Granting Authority; usually the Zoning Board of Appeals, but in this case the Planning Board.

STORY:
That part of a building comprised between a floor and the floor or roof next above. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story.

STREET:
A way which is over twenty-four feet in right-of-way width, which is dedicated or devoted to public use by legal mapping or by any other lawful procedure. A street includes all public ways, a way which the Town Clerk certifies is maintained and used as a public way, a way shown on a plan approved and endorsed in accordance with the "Subdivision Rules, Regulations, and Requirements, in Avon, Massachusetts" and a way having in the opinion of the Avon Planning Board sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed uses of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

STRUCTURE:
A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent stadium, reviewing stand, platform, bin, sign, fence, flagpole, swimming pool, or the like.

STRUCTURE, NONCONFORMING:
A structure lawfully existing at the effective date of this By-Law or any subsequent amendment thereto, which does not conform to one or more provisions of this By-Law.

TOXIC OR HAZARDOUS MATERIAL:
Any substance or mixture of substances with Physical, chemical or infectious characteristics posing a significant actual or potential hazard to human health if discharged to land or water. These include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, all substances defined as Toxic or Hazardous under Massachusetts General Laws MGL Ch. 21C and 21E, and 310 CMR 30.000 along with products such as solvents and thinners in quantities greater than normal household use.

TRAILER:
An object on wheels or not having no motive power of its own, and which is designed to be transported by a powered vehicle and used for transportation and or the storage of goods or materials – as distinguished from "mobile homes" or "travel trailers".

TRAILER PARK:
A development accommodating mobile homes and large travel trailers permanently or semi-permanently on leased sites (rather than on separately owned lots) and providing interior roadways, hookups and common facilities – also a Mobile Home Park.

TRUCK TERMINAL:
A facility for consolidating loads from local sources, loading and unloading over-the-road trucks, sorting and delivering locally destined cargos, storing trucks, and maintaining / servicing trucks – also Freight Terminals.

USE:
The purpose for which structure or lot is arranged, designed, or intended to be used, occupied or maintained; an activity occurring on a lot.

USE, ACCESSORY:
A use incidental and subordinate to the principal use of a structure or lot, or a use by area shall be interpreted not to exceed 40 percent of the area of the total use of the structure or lot on which it is located.

USE, NONCONFORMING:
A use lawfully existing at the effective date of this By-Law, or any subsequent amendment thereto, which does not conform to one or more of the present provisions of this By-Law.

USE, PRINCIPAL:
The main or primary purpose for which a structure or lot is designed, arranged, or intended, or for which it may be used, occupied or maintained under this By-Law. Any other use within the main structure or the use of any other structure or land on the same lot and incidental or supplementary to the principal use and permitted under this By-Law shall be considered an accessory use.

USE, SUBSTANIALLY DIFFERENT:
A use which by reason of its normal operation would cause readily observable differences in patronage, service, sight, noise, employment, or similar characteristics from the use to which it is being compared.

VARIANCE:
Such departure from the terms of this By-Law as the Board of Appeals, upon appeal in specific cases, is empowered to authorize under the terms of Section 12-9.

WIND ENERGY CONVERSION FACILITY (WECF) or WIND ENERGY CONVERSION SYSTEM (WECS):
All equipment and structures used to convert wind to electricity or other forms of energy. This includes towers, rotors, generators, collection systems, and any associated collection, storage and transmission equipment such as transformers, sub-stations and service roads.

WIND MONITORING OR METEOROLOGICAL TEST TOWER:
A temporary tower used to support an anemometer, wind vane or other equipment used to assess wind resources at a given height, usually allowed for one year unless the SPGA finds a need for more time.

YARD:
A portion of a lot, upon which the principal building is situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein. A court shall not be considered to be a front yard or any part thereof.

YARD, FRONT:
A yard extending for the full width of the lot between the front line of the nearest building wall and the front lot line.

YARD, REAR:
A yard, except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

YARD, SIDE:
Yard extending for the full length of a building between the nearest building wall and the side lot line.

ZONING ACT:
Chapter 40A of the General Laws of the Commonwealth (as most recently inserted by Chapter 808 of the Acts of 1975).

SECTION III
Establishment of Zoning Districts

3-1 DIVISION INTO DISTRICTS

The Town of Avon, Massachusetts, is hereby divided into eight Zoning Districts to be designated as follows:

Full Name	Short Name
Residence-Suburban A	RES R-25
Residence-Suburban B	RES R-40
General Business	GEN BUS
Industrial	IND
Flood Plain	FP
Commercial	COM
Water Supply Protection District	WSPD
Mixed Use – Low Density	MU Low D
Residential - High Density	R HD

3-2 ZONING MAP

The location and boundaries of the Zoning Districts are hereby established as shown on a map titled "Zoning Map of the Town of Avon, Massachusetts" which accompanies and is hereby declared to be a part of this Zoning By-Law. The authenticity of the Zoning map shall be identified by the signature of the Town Clerk, and the imprinted seal of the Town under the following words: "This is to certify that this is the Zoning Map of the Town of Avon, Massachusetts, referred to in the Zoning By-Law of the Town of Avon, Massachusetts, which was approved by the Town Meeting on May 12, 1998". The Zoning Map shall be draw at a scale of 1" = 600' with ink on stable material, and shall be located in the Office of the Building Inspector. Photographic reductions of this large scale map may serve as copies of the Zoning Map.

3-3 CHANGES TO MAP

Any change in the location of boundaries of a Zoning District hereafter made through amendment of this By-Law shall be indicated by the alteration of such map, and the map thus altered is declared to be part of the By-Law thus amended. Any Town Meeting article proposing changes to the map shall indicate the degree to which such changes are consistent with the present master plan adopted by the Planning Board, and explain any major divergences for such recommendations. *(amended 2009 ATM)*

3-4 BOUNDARIES OF DISTRICTS

Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules apply:

a) Where a boundary is indicated as a street, railroad, watercourse, or other body of water, it shall be construed to be the centerline or middle thereof, or where such boundary approximates a town boundary, then to the limits of the town boundary.
b) Where a boundary is indicated as following approximately or parallel to a street, railroad, watercourse, or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as dimensioned on the Zoning Map. If no dimension is given, such distance shall be determined by the use of the scale shown on the Zoning Map.
c) Where a dimensioned boundary coincides within ten feet or less with a lot line, the boundary shall be construed to be the lot line.
d) Where a boundary is indicated as intersecting the centerline of a street, railroad, watercourse or other water body, it shall be construed to intersect at right angles to said centerline, or in the case of a curved centerline, at right angle to the tangent to the curve at the point of intersection.
e) Whenever any dispute arises on district boundaries as to the exact location of a district boundary line, the location of such line shall be determined by the Planning Board.
f) Where a zoning district follows property lines as a setback from a street, railroad, water course, body of water, the zoning district will end at the nearest property line of commonly owned adjacent parcels (lots). *(added 2010 ATM)*

SECTION IV
Interpretation and Application

4-1 Interpretation, Conflict of Laws

This By-law is intended to constitute the minimum requirements which are to be complied with in the preservation and promotion of the peace, health, safety, and general welfare of the inhabitants of the Town of Avon. In any case in which the provisions of this By-law are, or appear to be, in conflict with any other town by-law or rule or regulation adopted by any town agency which establishes a higher standard or more restrictive provision shall apply. Any Town Meeting article proposing changes to Section V "Use Regulations" shall indicate the degree to which such changes are consistent with the present master plan adopted by the Planning Board, and explain any major divergences from such recommendations. *(amended 209 ATM)*

4-2 Application

Except as herein provided, or as specifically exempted by the Zoning Act, the provisions of this By-Law shall apply to the erection, construction, reconstruction, alteration, or use of buildings and structures or use of land. Except as herein provided, any existing conforming use, structure, or lot shall not by any action become nonconforming and any existing nonconforming use, structure, or lot shall not become further nonconforming.

4-3 Interlocal Cooperation

When a lot is situated in part in the Town of Avon and in part in an adjacent municipality, the provisions of this By-Law shall be applied to the portion of such lot which is situated in the Town of Avon in the

same manner as if the entire lot were situated in the Town of Avon, provided, however, that no use of any such lot shall be authorized or approved without consultation with the Planning Board of such abutting municipality in which the non-Avon portion of the lot is situated and the use of the lot made harmonious with the zoning regulations of such abutting municipality, insofar as it is practical so to do. The use of the Old Colony Planning Council or the Department of Community Affairs of the Commonwealth, to assist in resolving such situations is hereby recognized as appropriate.

4-4 Lots Transected by District Boundaries

When a lot is transected by a zoning district boundary, the regulations of the By-Law applicable to the larger part of the area of such lot may also at the option of the lot owner be deemed to govern in the smaller part beyond such zoning district boundary but only to the extent not more than thirty linear feet in depth beyond such district boundary.

4-5 Restrictions on Dwellings Construction

No dwelling shall be erected except on a lot fronting on a street, and there shall be not more than one principal residential building on any lot unless otherwise authorized by Special Permit.

4-6 Effect of Land within Street Lines

Land within the lines of a street on which a lot abuts shall not be counted as part of such lot for the purpose of meeting the area requirements of the By-Law even though the fee to such land may be in the owners of abutting lots.

4-7 Exemption

Any increase in area, frontage, width, yard or depth requirements of this By-Law shall not apply to a lot for a single- or two-family residential use which at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with any adjoining land, conformed to the then existing requirements and had less than the proposed requirement but at least five thousand square feet of area and fifty feet of frontage. The provisions of this paragraph shall not be construed to prohibit a lot being built upon, if at the time of building, building upon such lot is not prohibited by the Zoning By-Law then in effect.

4-8 Effect of Eminent Domain

Any land taken by eminent domain, or conveyed for a public purpose for which the land could have been taken by eminent domain, shall not be deemed to be transferred in violation of the land area, width, and space provisions of this By-Law.

SECTION V
Use Regulations

5-1 Effect of this Section

Except as provided by this By-Law or in this By-Law, in each district no building, structure, or land shall be used or occupied except for the purposes permitted as set forth in the accompanying Table of Use Regulations, Section 5-3.

5-2 Interpretation of this Section

A use listed in Section 5-3 is permitted as of right in any district under which it is denoted by the letter "Y" subject to such requirements as may be specified elsewhere in this By-Law. If designated in the Tables by the letters "SP" the use may be permitted only upon the issuance of a Special Permit by the Special Permit Granting Authority, as determined by reference to Section VII, and subject to such restrictions and conditions as may be attached to any such Special Permit. The letter "N" shall designate that the use is not permitted.

NOTE: The Watershed Protection District is superimposed over other Districts. See Section 5-4. See Section 11-3 for permitted uses and special requirements in the Flood Plain District.

5-3 TABLE OF USE REGULATIONS – PRINCIPAL USES

AVON ZONING DISTRICTS
(amended 2010 ATM)

		RES. R-25	RES. R-40	GEN. BUS.	IND.	COM.	MU LOW D	RES. HD
A. Residential Uses								
1	Detached Dwelling on a separate lot occupied by not more than one family.	Y	Y	N	N	N	N	N
2	One two-family or one duplex dwelling on a separate lot.	Y	Y	N	N	N	N	N
3	Attached dwelling occupied by not more than one family in each unit between side walls. See Section 7.5A	SP	SP	SP	N	N	Y	Y
4	Apartments, See Section 7.5A	SP	SP	SP	N	N	Y	Y
5	Planned Unit Development, See Section 7-5F	SP	SP	N	N	N	N	SP
6	Cluster Residential Development, See Section 7.5E	SP	SP	N	N	N	N	SP
7	Hotels/Motels, See Section 7-5B	N	N	SP	SP	SP	SP	N
8	Renting of rooms in an existing dwelling to not more than six (6) persons (amended 2009 ATM)	SP	SP	SP	N	N	SP	N
9	Conversion of an existing dwelling to accommodate not more than two families, provided that each resulting unit has at least 900 square feet of habitable floor space. (amended 2009 ATM)	SP	SP	SP	N	N	Y	SP
10	Mobile Homes	N	N	N	N	N	N	N
11	Trailer Park or Mobile Home Park	N	N	N	N	N	N	N
12	Campgrounds	N	N	N	N	N	N	N
13	Parking of Commercial Vehicles over five (5) tons.	SP	SP	SP	Y	Y	SP	N
B. Institutional, Recreational, and Educational Uses								
1	Place of Worship	Y	Y	Y	Y	Y	Y	Y
2	Religious, sectarian, and nonsectarian denominational, private, or public school not conducted as a private business for gain.	Y	Y	Y	Y	Y	Y	Y
3	Cemeteries	SP	SP	N	N	N	N	N
4	Recreational facility owned or operated by an agency of town or other government.	Y	Y	Y	Y	Y	Y	Y
5	Public Utilities	SP	SP	SP	SP	SP	SP	SP
6	Private nonprofit libraries or museums (amended 2009 ATM)	SP	SP	SP	N	SP	Y	Y

B. Institutional, Recreational, and Educational Uses - *continued*		RES. R-25	RES. R-40	GEN. BUS.	IND.	COM.	MU LOW D	RES. HD
7	Private, nonprofit, community center building, settlement house, adult education center, or other similar facility provided indoor or outdoor noisy activities shall not be less than one hundred (100) feet from any lot line and shall not be detrimental to the neighborhood by reason of noise in any season.	SP	SP	Y	N	Y	Y	Y
8	Hospital, infirmary, nursing home, convalescent home.	SP	SP	Y	N	N	SP	SP
9	Omitted							
10	Overnight camps for children under 18 years of age.	SP	SP	N	N	N	N	N
11	Trade, professional or other school conducted as a private business for gain.	N	N	SP	SP	SP	Y	N
12	Private, nonprofit membership club or lodge.	SP	SP	Y	Y	N	SP	N
13	Country, golf, swimming, tennis, or other recreational facility	SP	SP	SP	SP	SP	N	SP
14	Entertainment and recreational facilities operated as a business for gain, including but not limited to bowling alley, theatre, or sport arena provided such use is housed indoors in sound-insulated structure protecting neighborhood from inappropriate noise in any season.	N	N	Y	SP	SP	Y	N
15	All town and Municipal Uses	SP	SP	SP	SP	SP	SP	SP
C. Agricultural Uses								
1	Farms-agricultural, floricultural, orchard, horticultural, or silver cultural (5 acres or more)	Y	Y	Y	Y	Y	N	N
2	Farms-livestock or poultry, but not swine provided that any building housing livestock or poultry be not less than fifty (50) feet from the property boundary (5 acres or more)	Y	Y	Y	Y	Y	N	N
3	One roadside stand per farm for sale of agricultural products the major portion of which are grown or produced on the premises	Y	Y	Y	Y	Y	N	N
D. Office and Laboratory								
1	Business, financial, professional, or governmental offices but no retail business, no manufacturing and no processing.	N	N	Y	Y	Y	Y	N

	C. **Office and Laboratory – *continued***	**RES. R-25**	**RES. R-40**	**GEN. BUS.**	**IND.**	**COM.**	**MU LOW D**	**RES. HD**
2	Offices and clinics for medical, psychiatric, or other health services for the examination or treatment of persons as outpatients, including only laboratories that are part of such office or clinic (amended 2009 ATM)	N	N	Y	Y	Y	Y	N
3	Laboratory or Research Facility	N	N	Y	Y	SP	SP	N
4	Commercial or educational radio or television studio	N	N	N	Y	SP	SP	N
E.	**Retail Business and Consumer Service Establishments**							
1	Store serving local retail business needs of residents of vicinity including but not limited to bakery, grocery, meat market, fruit stores, florist, hardware or paint store, news and/or tobacco store, drugstore, provided gross floor area of each establishment is equal to or less than 25% of lot area and further provided all display, storage and sales of material is conducted within a building and provided there will be no manufacturing on the premises. (amended 2010 ATM)	N	N	Y	N	N	Y	SP
2	Store for retail sale of merchandise provided all display, storage, and sales of materials is conducted within a building and provided there will be no manufacturing on the premises. (amended 2009 ATM)	N	N	Y	SP	Y	Y	N
3	Eating places serving food and beverages to be consumed within the building, no dancing or live entertainment permitted.	N	N	Y	SP	SP	SP	SP
4	Eating places serving food and beverages to be consumed within the building with dancing and/or live entertainment permitted.	N	N	Y	SP	SP	SP	N
5	Drive-in or open air restaurant or other establishment providing food and beverages with no live or mechanical entertainment.	N	N	SP	SP	SP	Y	N
6	Space for manufacturing, assembly, or packaging of consumer goods provided that at least 50 percent of such merchandise is sold at retail on the premises and that all display, sales and storage is conducted within the building, and further provided that not more than 25 percent of floor area is devoted to manufacturing, assembly, or packing of consumer goods and that not more than five persons are employed at any one time for the manufacturing assembly, or packaging of such goods.	N	N	Y	SP	SP	N	N

E. Retail Business and Consumer Service Establishments- *continued*		RES. R-25	RES. R-40	GEN. BUS.	IND.	COM.	MU LOW D	RES. HD
8	Hand laundry, dry cleaning or tailoring or other similar uses provided personnel are limited to not more than ten persons at any one time on the premises.	N	N	Y	N	SP	Y	N
9	Mortuary, undertaking or funeral establishment.	N	N	Y	N	N	Y	N
10	Veterinary establishment or similar establishment provided that animals are kept wholly indoors.	N	N	Y	N	N	SP	N
11	Store of retail sale of merchandise such as but not limited to lumber yards wherein merchandise is stored in the open, provided that all merchandise so stored is screened from ground level view from any abutting street or abutting property where such material is stored.(amended 2009 ATM)	N	N	SP	Y	SP	N	N
12	Planned business development	N	N	Y	SP	SP	SP	N
13	Adult Entertainment Establishments in accordance with Section V 5-5.	N	N	N	SP	N	N	N
F. Automotive Service and Open Air Drive-In Retail Service								
1a	Full service, attendant operated motor vehicle service station	N	N	Y	Y	SP	N	N
1b	Self-service gasoline sales outlet	N	N	N	N	N	N	N
2	Sale or rental of automobiles, boats, and other motor vehicles and accessory storage conducted entirely within and enclosed sound-insulated structure to protect the neighborhood from inappropriate noise and other disturbing effects such as but not limited to flashing, fumes, gases, smoke, and vapors.	N	N	Y	SP	SP	N	N
3	Sale or rental of automobiles, boats, and other motor vehicle and accessory storage conducted partly or wholly on open lots.	N	N	Y	SP	SP	N	N
4	Automobile repair shops provided all work is carried out within the building.	N	N	Y	Y	SP	N	N
5	Car washing establishments.	N	N	Y	Y	SP	N	N
6	Sales place for flowers, garden supplies, agricultural produce partly or wholly outdoors, including commercial greenhouses.	N	N	Y	Y	SP	Y	N
7	Outdoor sports facility conducted for profit such as golf courses, country clubs, tennis clubs, marina.	SP	SP	SP	SP	N	SP	SP
8	Place for exhibition, lettering or sale of gravestones.	N	N	Y	N	N	Y	N

G. Industrial, Wholesale and Transportation Uses		**RES R-25**	**RES R-40**	**GEN. BUS.**	**IND.**	**COM**	**MU LOW D**	**RES. HD**
1	Laundries and dry cleaning plant.	N	N	SP	Y	N	N	N
2	Printing, binding, publishing, and related arts and trades.	N	N	SP	Y	N	SP	N
4	Plumbing, electrical or carpentry shop or other similar services or repair establishment.	N	N	SP	Y	N	N	N
5	Place for manufacturing, assembling or packaging of goods, provided that all resulting cinders, dust flashing fumes, gases, odors, refuse matter smoke, and vapor be effectively confined to the premises or be disposed of in a manner that does not create a nuisance or hazard to safety or health.	N	N	N	Y	N	N	N
6	Wholesale business and storage in a roofed structure.	N	N	N	Y	N	N	N
7	Trucking terminals	N	N	N	SP	N	N	N
8	Freight terminals	N	N	N	SP	N	N	N
9	Extractive industries	N	N	N	N	N	N	N
10	Planned industrial development	N	N	N	SP	N	N	N
11	Facilities for processing materials for recycling (amended 2009 ATM)	N	N	SP	SP	N	N	N
12	Residential Wind Energy Conversion Facilities by Special Permit with the Planning Board as SPGA. (amended 2010 ATM)	SP	SP	SP	SP	SP	SP	SP
13	Medium Wind Energy Conversion Facilities by Special Permit with the Planning Board as SPGA. (amended 2010 ATM)	N	N	SP	SP	SP	SP	SP
14	Commercial Wind Energy Conversion Facilities by Special Permit with the Planning Board as SPGA. (amended 2010 ATM)	N	N	N	SP	SP	SP	SP
15	Temporary wind monitoring or meteorological towers. (amended 2010 ATM)	SP	SP	SP	SP	SP	SP	SP
H. Other Principal Uses								
1	Any trade, industry, or other use that is noxious, or hazardous by reason of vibration or noise or the emission of odors, dust gas, fumes, smoke, cinders, flashing or excessively bright lights, refuse matter or electromagnetic radiation.	N	N	N	N	N	N	N
2	Signs or advertising devices except as permitted by this Bylaw (See Section X).	N	N	N	N	N	N	N
3	Open lot storage or sale of junk or salvaged materials.	N	N	N	N	N	N	N

H. Other Principal Uses- *continued*		RES R-25	RES R-40	GEN. BUS.	IND.	COM	MU LOW D	RES. HD
4	Any use hazardous to health because of danger of flooding, inadequacy of drainage, or inaccessibility to fire-fighting apparatus or other protective services.	N	N	N	N	N	N	N
5	The stripping of loam, peat, sand, or gravel or other materials except for reuse on the same property. (See Section 7-5C)	SP	SP	SP	SP	SP	N	SP
6	Wireless or Broadcasting towers over 100 feet high erected on Federal, State, County or Town property only. (amended 2010 ATM)	SP	SP	SP	SP	SP	SP	SP
I. Accessory Uses								
1	Garage, private greenhouse, stable, tennis court, swimming pool or other similar building or structure for domestic use.	Y	Y	Y	Y	N	Y	Y
2	The raising or keeping of livestock or poultry as pets or for use by residents of the premises provided that no building for livestock or poultry may be less than 35 feet from any side or rear lot line nor nearer than 50 feet to any front lot line.	Y	Y	Y	Y	N	N	N
3	Any customary home occupation or the office of a resident physician, dentist, attorney-at-law, architect, engineer or member of other recognized profession provided that not more than three persons shall practice or be employed on the premises at any one time.	SP	SP	Y	Y	N	Y	N
4	The use of a portion of a dwelling or accessory building thereto by a resident builder, rental office carpenter, painter, plumber, electrician, mason, or other tradesman for incidental work and storage in connection with an off-premises occupation, provided there is no external change which alters the residential appearance of the buildings and further provided that all storage is kept indoors.	SP	SP	Y	Y	N	SP	N
5	Store or garaging of camping and recreational equipment, for personal use.	Y	Y	Y	Y	N	Y	Y
6	Wireless or Broadcasting towers over 100 feet high erected on Federal, State, County or Town property only. (amended 2010 ATM)	N	N	N	Y	N	N	N
7	Residential tree surgeon, landscape gardener.	N	N	SP	Y	SP	N	N

5-4 Water Supply Protection District

A. Purpose

The Water Supply Protection district and the regulations herein have been established:

1. To promote the health, safety and general welfare of the community by protecting existing and potential community water supplies through preservation and maintenance of the ground water table and protection of surface waters;

2. To protect and preserve inland wetlands and water courses in order to safeguard the purity of inland waters used, or potentially used, for surface water supplies, and to protect the food chain supporting of marine life;

3. To encourage the most appropriate and suitable use of land in areas potentially affecting ground or surface water sources.

B. Scope of Authority

As an overlay district, this district applies in addition to the basic underlying zoning. It applies to all new construction, reconstruction or expansion of buildings and to any new or expanded uses. Those uses allowed in the underlying district are allowable through a special permit and subject to the provisions of this district. Uses prohibited in the underlying district remain prohibited.

C. Location

The Water Supply District is established as shown on the map titled "Zoning Map of the Town of Avon, Massachusetts" as amended, on file in the Office of the Town Clerk and referred to under Section 3-2, Zoning Map. It includes aquifers and the aquifer recharge areas in the Zones I and II of the present town wells in the form of Interim Wellhead Protection Areas, the watershed of the main stem of Trout Brook, and the watershed of Beaver Brook which flows to the Avon Reservoir.

D. Use Regulations

In the Water Supply Protection district no building may be constructed, altered or otherwise placed or moved for any purpose except for those listed under 1, below, which are permitted as-of-right, and those uses listed under 2, below, which are allowable by special permit subject to the listed standards and findings. Uses listed under item 3, below, are explicitly prohibited.

1. Permitted Uses
   a. Conservation of water, plants and wildlife, including wildlife management shelters.

b. Legally permitted outdoor recreation not requiring development or landscape alteration in conflict with the purpose of this district including nature study, fishing, hunting and foot-bicycle-horse paths.

c. Grazing, forestry and other agricultural uses, excluding manure piles, feed lots, or other prohibited components and activities, consistent with the of this district.

d. Municipal, water supply facilities including retention ponds, wells, pumping stations and pipelines (but not underground fuel storage tanks), and the normal operations of existing water bodies and related control, supply and conservation structures.

2. Uses permitted by Special Permit subject to the findings required under Section E-3 a. and the standards under Section E-4:

a. The construction, enlargement, or alteration of any uses allowed in the underlying zoning districts.

b. The digging or drilling of a well, intended as a private source of water.

c. The application of pesticides including herbicides, insecticides, fungicides and rodenticides for non-domestic or non-agricultural uses in accord with state and federal standards.

d. The application of fertilizers for non-domestic or nonagricultural uses so as to minimize nutrient transport and deposition.

e. Uses which render impervious more than 15% or 2500 sq. ft. of any lot, whichever is larger.

f. Activities involving the handling of toxic or hazardous materials in quantities beyond normal household use.

3. Prohibited Uses

In the Water Supply Protection District, the following uses are explicitly prohibited:

a. The storage of liquid petroleum products except for the approved above-ground or in building storage in a free standing container with secondary containment for the tank's full capacity of fuel for household heating, for legally required waste-oil retention facilities, for emergency generators or for water treatment works designed and approved according to 314 CMR 5; however, replacement of existing tanks or systems for keeping, dispensing or storing of gasoline is allowed consistent with state and local requirements.

b. Landfills or open dumps as defined in 310 CMR 19.006.

c. The construction of an on-site sewage disposal system unless limited to disposal of 110 gallons/quarter acre under one ownership/day, or 440 gallons/acre under one ownership/day whichever is greater, but exempting replacement or repair of an existing system without an increase in design capacity over the original design or over the design capacity of 310 CMR 15.00, whichever is greater, unless demonstrated not to cause an aggregate nitrate loading of 5 mg/1 according to a DEP-approved methodology, or otherwise determined to be consistent with the water supply protective intent of this bylaw and the state Sanitary Code in the judgment of the Avon Board of Health and its Agent. Upon, making the above findings the Health Board and its agent may allow increases in the capacity of the individual sewage disposal system in existence on the date of the passage of this bylaw as per 310 CMR 22.21 (2) (a) 5.a.

d. Landfilling or storage of sludge or septage as defined in 310 CMR 32.05 unless such Storage complies with 310 CMR 32.30-31.

e. The storage of animal manures or de-icing chemicals or the stockpiling/disposal of snow and ice containing de-icing chemicals unless protected against the generation or escape of contaminated runoff or leachate.

f. The permanent ie., greater than 45-day, removal of earth to within 6 feet of the historical high water table, except for construction of foundations, roads or public utilities.

g. Facilities generating treating, storing or disposing of hazardous waste that are subject to 310 CMR 30, or MGL C.21C except for very small quantity generators defined under 310 CMR 30.00, household hazardous waste collection centers or events pursuant to 310 CMR 30.390, waste oil retention facilities required under MGL Ch. 21 §52A, and water remediation treatment works approved under 314 CMR 5.00.

h. Storage of liquid hazardous materials, as defined in MGL Ch. 21E, unless either in a free standing container within a building or in a covered free standing container above ground level with protection adequate to contain a spill the size of the container's storage capacity.

i. Motor vehicle graveyards and junkyards as defined in MGL Ch. 140B, § 1.

j. Treatment or disposal works for non-sanitary waste waters that are subject to 314 CMR 5.00 except the replacement or repair of an existing system that will not increase its design capacity and DEP- approved treatment works for ground or surface waters.

k. Storage of commercial fertilizers and soil conditioners, as defined by MGL Ch. 1.28 § 64, unless in protective structures.

l. Use of septic system cleaners toxic or hazardous materials.

E. Administration, Procedures and Standards

1. General

When an application is made for a building permit which the Building Inspector believes may involve the use of I and in the Water Supply Protection District, s/he shall require that the applicant provide, as part of such application, a plan of the lot on which proposed development is intended, showing elevations above mean sea level at 2-foot contour levels, indicating the bench marks used and certified by a Registered Land Surveyor or Registered Engineer. The Building Inspector shall transmit a copy of the plan to the Planning Board, Water Commissioners, Conservation Commission and the Board of Health. Upon, consultation with the Planning Board, the Building Inspector may waive information requirements which are inapplicable in a given case. The Building Inspector may waive this process for building additions or accessory structures of under 300 square feet which do not discharge fluids or increase sewage flows, if so directed by the Planning Board following consultation with the Water Commission, the Conservation Commission and the Board of Health.

2. Non-conforming Uses

This Section shall not apply to any building or structure in existence or for which building permits had been issued prior to the adoption of this section except that the repair, alteration or enlargement of any such structure must comply with all provisions of this bylaw and applicable state and town laws, and must not adversely affect the ground or surface water supplies in the district.

3. Special Permit Procedures

a. After a public hearing and after the application has been referred to other municipal agencies as per Section Two(2) of this Subparagraph, if it is established to the satisfaction of the Planning Board that a proposed use will not interfere with the general purposes of the District, and will not be detrimental to the public health, safety or welfare, and will not violate the standards of Section E-3 below, the Board may grant a special permit for any use permitted for any use permitted as-of-right in the underlying district and not explicitly prohibited above.

b. The Planning Board, as Special Permit Granting Authority, may adopt more detailed regulations to govern the design of specially permitted projects.

c. The applicant for such permit shall provide the Planning Board with an original and five copies of the application for a special permit. The application shall include a plan prepared and certified by a registered professional engineer or a registered land surveyor.

This plan will show:

- The location, boundaries and dimensions of the lot;

- Existing and proposed facilities, water courses and drainage systems and protective measures;
- A grading plan showing existing and proposed ground contours at 2-foot intervals;
- Means of access, parking area and other extensive impervious areas.
- Any proposed sewage disposal facilities;
- Test borings of sufficient depth to show location of peat, harpan, other impervious material and ground water;
- A complete list of chemicals, pesticide fertilizers, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than household use.

d. The Planning Board will forward one copy of each application to the Sewer Commission, Building Inspector, Water Commission, Board of Health and Conservation Commission. These agencies shall then file written recommendations with the Planning Board within fourteen (14) days of the publication of the first public hearing notice.

e. The burden of showing that the proposed development meets the standards listed below rests upon the applicant who shall provide any engineering and hydro-geologic data required by the Board to make its determination.

f. The Planning Board shall hold a hearing within 65 days, give notice to affected parties and reach a decision in accord with provisions of MGL Ch. 40A, § 9.

4. Standards

To issue a Special Permit, the Planning Board must make the findings in Section E-3 above, and must find that the proposed development will not result in the following:

a. A one percent or greater reduction in the ground water yield of the public wells in the district;

b. Pollution from sewage wastes, storm water runoff or other liquid or water-soluble materials that would reduce the affected aquifers or streams to below drinking water standards or otherwise reduce the quality of water available in the public wells in the District or in downstream surface water supplies;

c. Violation of Underground Injection Control regulations under 310 CMR 27 and 248 CMR 2.00.

In addition, the applicant shall demonstrate that creation of any impervious surface greater than 15% of the lot or 2500 square feet, whichever is larger, includes facilities sufficient to recharge water from a 50 year storm without endangering the groundwater. The facilities shall use vegetated infiltration basins where, possible rather than dry wells, and shall be protected by oil, grease and sediment traps.

F. Enforcement

Written notice of any violations of these provisions shall be given by the Building Inspector to the responsible Person as soon as possible after detection of a violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the provision violated and the nature of the violation(s), and may identify actions necessary to remove or remedy the violation(s) and to prevent future violations along with a schedule for compliance. A copy of such notice shall be submitted to the Board of Health, Conservation Commission and Water Superintendent, and for violations in the Beaver Brook watershed, to the City of Brockton's Commissioner of Public Works. The cost of containment cleanup or other action of compliance shall be borne by the owner and operator of the premises.

5-5 Adult Entertainment

A. Authority, Purpose and

1. This bylaw is enacted pursuant to MGL Chapter 40A and pursuant to the Town's authority under the Home Rule Amendment to The Massachusetts Constitution to serve the compelling Town interests of limiting the location of and preventing the clustering and concentration of certain adult entertainment enterprises, as defined and designated herein, in response to studies demonstrating their deleterious effect.

2. It is the purpose of the bylaw to address and mitigate the secondary effects of adult entertainment establishments and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime and blight, the flight of existing business, and adverse impacts on public health, property values of residential and commercial properties, the business climate, and the general quality of life in the community. All of said secondary impacts are adverse to the health, safety and general welfare of the Town of Avon and its inhabitants.

3. The provisions of the bylaw have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials that are protected by the U.S. or Massachusetts Constitutions, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Similarly, it is not the intent nor effect of this chapter to condone or legitimize the distribution of obscene or other illegal matter or materials.

B. Definition

As used herein, and further defined in Section H. Definitions, and consistent with the definitions in MGL Ch. 40A, §9A, Adult Uses shall include the following: adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre establishment, adult live massage service establishment, sexual encounter club, adult cabaret or club, adult motel or any other business or establishment characterized by an emphasis depicting, describing or related to sexual conduct or sexual excitement as defined in MGL Ch. 272, §31 as amended.

Adult uses shall include an establishment with a combination of adult use materials as listed above including books, magazines, devices, objects, tools, or toys, movies, videos, and any similar audio/visual

media for sale or rent, which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Ch. 272, §31 as amended, which in combination, is either:

(a) greater than fifteen percent(15%) of the subject establishment's inventory stock subject measured by volume and not value; or
(b) greater than twenty-five percent (25%) of subject premise's gross floor area, or 200 square feet, whichever is greater.

C. Adult Use Overlay Zone

The Adult Use Overlay Zone is hereby established to include that portion of the Industrial zone located in the northeast quadrant of the Town, as defined in Section II Definitions. Adult entertainment uses shall be prohibited except in the Adult Use Overlay zone, where such uses shall be allowed only upon the grant of a Special Permit by the Zoning Board of Appeals in accordance with the provisions of this section and following Site Plan Review by the Planning Board.

D. Special Permit

No adult use shall be established prior to obtaining a Special Permit from the Zoning Board of Appeals in accordance with this section and pursuant to the application requirements and procedures of Section VII of this Zoning Bylaw.

1. The application for a special permit for an adult use shall provide name and address of the legal owner of the establishment, legal owner of the property, manager of the proposed establishment, proposed number of employees proposed security precautions, and description and illustration of the physical layout of the premises.

2. No adult use special permit shall be issued to any applicant, or the representative of an owner, operator, or manager of an adult entertainment facility who has been convicted of violating the provisions of MGL Ch .19, §63 (Inducing or abetting delinquency of a child or MGL Ch. 272, §28 (Crimes against chastity, morality, decency and good order) or equivalent statues in other jurisdictions. The application shall include authorization for the Town to confirm criminal record information through the appropriate authorities.

3. Any adult entertainment use granted a special permit shall comply with all other Town Bylaws and all statutes of the Commonwealth of Massachusetts regarding public nuisances, sexual conduct, lewdness, obscene or harmful matter, or the exhibition or public display thereof.

4. Siting Criteria: Adult uses in the Adult Use Overlay zone shall comply with the following siting criteria where the distance from the developed portion of the subject site shall:
   a. Adult uses shall not be located closer than 500 feet from a residential zoning district or residential dwelling;
   b. Not be located within 1000 feet from a church, school, playground, play field, cemetery, public open space, youth center, day care center or other location where groups of minors regularly congregate; or
   c. Not be located within 1000 feet from another adult use as defined herein;

d. Not be located within 500 feet from an establishment licenses under MGL Ch. 138, § 12 allowing sale of alcohol for drinking on premises;

e. Not be located within 500 feet of the Right of Way of Route 24 and Harrison Blvd, measured horizontally;

f. Not to be located within 500 feet of any residential zone in the abutting towns of Randolph and Stoughton;

g. Not to be located within 100 feet of the Right of Way of Page Street, measured horizontally;

h. The distance specified in this section shall be measured by a straight line from the nearest developed portion of the premises on which the adult entertainment use is proposed (including structures proposed to contain adult uses and associated accessory structures and parking) to the nearest property line of the uses stated in a. through g. above

5. Adult uses shall be in keeping with the general scale and character of the neighborhood in terms of building appearance and use.

6. The Avon Zoning Board of Appeals may waive the provisions of Section 4. Siting Criteria above by special permit if in its sole discretion it finds:

a. that the proposed use will not be contrary to the public interest or injurious to the neighborhood and that the spirit and intent of this bylaw will be observed;

b. that the proposed use will not enlarge or encourage the development of a "skid row" area;

c. that the establishment of any additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of urban renewal; provided, however, that the Board of Appeals shall not, under any circumstances, utilize this waiver authority to grant a Special Permit for an adult entertainment establishment which shall be closer than 200 feet to any of the uses listed in section D.4.a. thru f. above.

E. Conditions

The special permit granting authority may impose reasonable conditions, safeguards and limitations on the adult use as are deemed necessary and appropriate to protect the neighborhood and the Town. In addition, the following performance criteria shall be met.

1. An adult use special permit shall be personal to the applicant, and shall not run with the land or with the business.

2. No adult use shall be allowed to disseminate or offer to disseminate adult matter or paraphernalia to minors or suffer minors to view displays or linger on the premises. All entrances to an adult entertainment business, or portion of the business displaying materials of adult content, shall be clearly and legibly posted by a notice indicating that minors are prohibited from entering the premises or portion of the business as the case may be.

3. If the Adult Use allows for the showing of films or videos within the premises, and booths in which the films or videos are viewed shall not be closed off by curtains, doors or screens. All booths must be able to be clearly seen from the center of the establishment.

4. No adult use shall be allowed within a building containing residential uses.

5. No adult use shall be allowed within a shopping center, shopping plaza or mall. For the purposes of this section "shopping center", "shopping plaza", and "mall" shall be defined as an integrated group of retail establishments and associated parking whether located one or more parcels of land.

6. No loudspeakers or sound equipment shall be used by an Adult Entertainment Business for the amplification of sound to a level discernible by the public beyond the walls of the building in which the Adult Entertainment Business is conducted.

7. An Adult Entertainment Business shall not remain open for business, or permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service between the hours of 1:00 A.M. and 10:00 A.M. of any particular day. In the case of Adult Bookstores, Woo Stores, and Adult Paraphernalia Stores, business hours shall be limited to hours between 9:00 A.M. to 10:00 P.M. These hours of operation may be further restricted in the conditions approving a Special Use Permit for an Adult Entertainment Business.

8. No Certificate of Occupancy for an Adult Use shall, be issued until the applicant has first received any required license from the appropriate Licensing Boards.

9. Bookstores, video stores and other retail establishments providing toys, devices, objects, tools, or other media shall be limited in that no more than 50% of the stock for sale or rent, measured in terms of volume and not value, shall be of adult content as defined herein;

10. If the proposed adult use includes live entertainment including displays of nudity, or any other activity defined in MGL Ch. 138, §12, said premises shall not be permitted to serve alcoholic beverages;

11. A violation of any of one of these conditions may result in the revocation of the establishment's Special Permit.

12. The Board may approve an application for an adult use special permit only if it finds that, in its judgment, all of the following conditions are met: the site is an appropriate location for the proposed use; the use involved will not be detrimental to the established or future character of the neighborhood, or the town as a whole there will be no nuisance or serious hazard to vehicles or pedestrians; adequate and appropriate facilities will be provided for the proper operation of the proposed use; the public safety, convenience and welfare will be substantially served.

F. <u>Site Plan Review</u>

No adult entertainment use shall be established prior to Site Plan Review by the Planning Board. Simultaneously with the submission of the Special Permit Application to the Board of Appeals, the applicant may submit a site plan to the Planning Board in accordance with section 12-2 D.

1. In addition to the requirements of section 12-2, the site plan shall depict all existing and proposed buildings, parking spaces, driveways, service areas, open space and other land

uses. The site plan shall show the distance between the proposed adult entertainment use and the boundary of the nearest residential zoning district or property and the location of other uses noted in section D.4.a. – 4.d above if located within 1000 feet,

2. In addition to the Dimensional Requirements specified in Section VI, a twenty(20) foot wide vegetative buffer and or fence containing adequate screening, given the character of the neighborhood it abuts and the intensity of the use, shall be provided between adult entertainment uses and abutting uses, if any. The applicant shall provide a landscaping plan illustrating proposed landscaping, fences, walls or other design features. Any buffer vegetation shall be evergreen and of a height and breadth to sufficiently shield the adult use from abutting uses year round. Alternatively, a combination of design features may be used to provide the buffer. A maintenance plan shall also be provided to ensure that the applicant will be responsible for the care and maintenance of the buffer.

3. All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment, or any portion thereof in which regulated adult uses take place, from the exterior.

4. All signs must meet the requirements of Section X. Sign Regulations, of the Zoning Bylaws of the Town of Avon. Furthermore, no adult use shall be allowed to display for advertisement or other purpose any signs, placards or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent material any sexually explicit figures or words as defined in MGL Ch. 272, § 31. No adult use shall exhibit a free-standing or mobile sign.

5. The proposed adult entertainment use shall comply with the off-street parking requirements for uses in the Industrial zone as set forth in Section VIII

6. No adult entertainment use shall have any flashing lights visible from outside the establishment.

G. <u>Expiration; Lapse</u>

Notwithstanding the provisions of section VII Special Permits, a special permit to conduct an adult entertainment use shall expire after a period of one calendar year from its date of issuance and shall be automatically renewable for successive one-year periods thereafter, provided that a written request for such renewal is made to the special permit granting authority at least 20 days prior to said expiration. Upon written request, the Board of Appeals shall hold a public hearing within 30 days and shall grant the renewal so long as there are no existing zoning violations and that no objection to said renewal is made and sustained by the special permit granting authority based upon the public safety factors applied at the time that the original special permit was granted.

The Special Permit shall remain in effect until the conclusion of the public hearing and decision of the Board of Appeals either granting or denying the Special Permit renewal. If violations are identified during the public hearing process, the applicant shall be given a reasonable opportunity to correct such issues, prior to the Board's final decision. In granting the renewal, the Board may impose additional conditions including time limits to correct violations, hours of operation, additional screening and so on, upon which a lapse of time without correction or compliance shall result in a revocation of the permit.

The Special Permit shall not be renewed if any of the following has taken place on or in proximity to and associated with the premises: a) unlawful sexual activity; b) gambling; c) drug use; d) violent crimes; e)offenses against children; f) repeated public disturbances requiring intervention by the police; and g) any other illegal activities.

Violation any of the conditions of approval of the Special Permit shall be grounds for non- renewal of the Special Permit as provided for in this section.

A Special Permit issued under this section shall lapse upon any transfer of ownership or legal interest in the business, or upon any change in contractual or legal interest in the subject premises or property. The Special Permit may be renewed thereafter only in accordance with this section and the procedures outlined herein and in Section VII.

Special Permits issued hereunder shall lapse unless substantial use thereof is made within six (6) months of being granted, exclusive of the time, if any, consumed during any appeals pursuant to M.G.L. Ch. 40A, §17, except for good cause shown. Any application for an extension of this period shall be filed prior to the lapse of the Special Permit.

H. Retroactive Application

Each adult use in existence upon the effective date of this section shall apply for an adult use Special Permit within 90 days of the adoption of this By-Law, consistent with the provisions of M.G.L. Ch. 40A, §9A.

I. Severability

The provisions of this section are severable and, in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

SECTION VI
Dimensional and Density Regulations

6-1 Effect of this Section

No building or structure shall be built nor shall any existing building or structure be enlarged except in conformance with the regulations of the Avon Zoning By-Law as to lot coverage, lot area per dwelling unit, lot width, front, side and rear yards, and maximum height of structures, in the districts as set forth below except as may otherwise be provided elsewhere in the Avon Zoning By-Law. Any Town Meeting article proposing changes to Section VI shall indicate the degree to which such changes are consistent with the present master plan adopted by the Planning Board, and explain any major divergences from such recommendations.*(amended 2009 ATM)*

6-2 Restriction, Land Area

The land and yard spaces required for any new building or use shall not include any land or area required by any other building or use to fulfill Avon Zoning requirements.

6-3 Restriction, More Than One Building

If more than one building (other than a one-, two-, or three-car garage, a tool shed, a greenhouse or a cabana) may lawfully be placed on any lot in single or common ownership, the distance between the nearest parts of such building shall be not less than twenty (20) feet.

6-4 Dimensional and Density Regulations Table

Zoning District	Minimum Lot Size s.f.	Minimum Lot Area Per Dwelling Unit s.f.	Minimum Lot Frontage	Minimum Yard Depth (b)			Maximum Building Height	Max % of Lot Coverage by structure
			(a)	Front	Rear	Side	(c)	
Residential A (k)	25,000	25,000 (b)	150’ (d)	25’ (d)	30’ (d)	15’ (d)	35’ (i)	35 (j)
Residential B (k)	40,000	40,000 (d)	200’ (d)	35’ (d)	40’ (d)	20’ (d)	35’ (i)	35 (j)
General Business	8,000	8,000 (d)	50’ (d)	15’ (d)	30’ (d)	----- (d)(f)	35’ (i)	
Industry	40,000	-------	200’	40’ (h)	40’ (h)	25’ (h)	40’	60
Commercial	40,000		200’	40’ (h)	40’ (h)	25’ (h)	40’	60
Mixed Use Low Density *(Added 2010ATM)*	25,000	10,000(d)	100’(d)	6’(d)	50”(d)	10’(d)	35’	25
Residential High Density *(Added 2010ATM)*	25,000	4,000	200’(d)	35’(d)	40’(d)	20’(d)	35’	35

Dimensional and Density Regulations –Footnotes

a. Frontage may be measured at the front yard set back line if the street is in an arc of a curve with a radius of 300’ or less provided there be in any event not less than 50 feet width of such frontage at the street. Not less than the frontage requirements shall be maintained throughout the front yard.

b. On lots abutting streets on more than one side, the front yard requirements shall apply to each of the abutting streets.

c. These height restrictions shall not apply to chimneys, water towers, skylights, and other necessary features appurtenant to buildings which are usually carried above roofs and are not used for human occupancy. *(Amended ATM 10/11/95)*

d. See section VII – Special Permits

e. A dwelling need not be set back more than the average of the setbacks of dwellings on the lots adjacent to either side. If a vacant lot exists on one side, it shall be considered as a dwelling set back the depth of the required front yard.

f. When abutting residential property, the minimum side yard of the business is to be 20 feet.

g. No restrictions – determine by required yard depths and parking requirements.

h. Except 60 feet when abutting or across the street from a residential zone.

i. Height restrictions for apartment usage may be varied by a Special Permit.

j. This restriction does not apply to above-ground swimming pools.

k. For standards applying to attached dwellings and apartments see Section 7-5A 'Specific Requirements for Particular Uses by Special Permit, A. Apartments, Multiple or Attached Dwellings' *(added 2009 ATM)*

SECTION VII
Special Permits

7-1 Special Permits required for certain Uses

The uses authorized by this section, and as designated by Section V-3, Table of Use Regulations, are to be permitted only in those districts as specified and then, only upon the prior issuance of a Special Permit, as provided in this Section. A Special Permit shall only be issued for a use which is in harmony with the general purposes and intent of this By-Law. A Special Permit issued under this Section may impose conditions, safeguards and limitations on time or use in order to further the objectives of this By-Law.

7-2 Procedures

A. Rules

The Special Permit Granting Authority shall adopt, and it may from time to time amend, rules relative to the granting of Special Permits. An up-to-date copy of such rules shall be kept on file in the office of the Town Clerk. Such rules may prescribe the size, form, contents, style and number of copies of plans and specifications, and the procedure for the submission, processing and approval of all applications for such permits.

B. Filing of Applications

An applicant for a Special Permit shall begin his application by submitting the materials required by the rules of the Special Permit Granting Authority with the Special Permit Granting Authority and by filing a copy with the Town Clerk.

C. Public Hearing

Not more than sixty-five days following the date an application has been filed with it the Special Permit Granting Authority shall hold a public hearing concerning each such application.

D. Notice of Public Hearing

Notice of a Public hearing under this Section shall be by publication or posting as provided in Chapter 40A, §11, and by mailing to all parties in interest, as therein defined.

E. Action on Application

The Special Permit Granting Authority shall act with respect to each such application within 90 days following the date of the public hearing on such application. Failure of the Special Permit Granting Authority to take final action within such period shall be deemed to be approval of such application.

F. Voting

Special Permits shall require a two-thirds vote of a board having five or more members, a vote of at least four members of a five member board and a unanimous vote of a three member board.

G. Withdrawal of Application

An application for a Special Permit which has been transmitted to the Special Permit Granting Authority may be withdrawn, without prejudice, by the applicant prior to the publication of the notice of a public hearing thereon, thereafter it may be withdraw without prejudice, only with the approval of the Special Permit Granting Authority.

H. Copy of Decision

Upon the granting of a Special Permit the Special Permit Granting Authority shall issue a certified copy of its decision to the owner, and to the applicant if other than the owner. The decision shall contain the name and address of the owner, identify the land affected, set forth compliance with the statutory requirements for the issuance of the Permit and certify that copies of the decision an all plans referred to in the decision have been filed with the Planning Board and with the Town Clerk.

I. Time of Taking Effect

No Special Permit shall become effective until a copy of the decision of the Special Permit Granting Authority bearing the certification of the Town Clerk that twenty days have elapsed an no appeal has been filed or that such appeal has been filed, that it has been dismissed or denied, is recorded in the Norfolk County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

J. Lapse of Permit

A Special Permit issued under this Section shall lapse at the expiration of two years following the date of the decision of the Special Permit Granting Authority unless substantial use of the Permit has been commenced, except for good cause, or, in the case of a Permit for construction, if construction has not begun prior to such date except for good cause.

K. Conditions

The Special Permit Granting authority may impose conditions, safeguards and limitations on time or use.

L. Repeat of Applications

No application which has been unfavorably and finally acted upon by the Special Permit Granting Authority shall be favorably acted upon within two years following the date of final unfavorable action unless such Special Permit Granting Authority finds (by the same vote as required above) specific and material changes in the conditions upon which the previous unfavorable action was based, and describes such changes in the record of the Special Permit Granting Authority, and unless all but one of the members of the Special Permit Granting Authority consents thereto after notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered.

7-3 General Considerations for Approval

In considering an application under this Section the Special Permit Granting Authority shall assure, in addition to any special requirements otherwise established in this By-Law for specific use, consideration of the following general conditions:

a) Protection of adjoining premises against detrimental or offensive issues.
b) Convenience and safety of vehicular and pedestrian traffic and movement within the site, and in relation to the adjacent streets, property or improvements.
c) Adequacy of methods of disposal for sewage, refuse and other wastes resulting from the uses permitted or permissible, and the methods for drainage of water.
d) Adequacy of space for off-street parking, movement and loading, unloading, delivery, pick-up or other vehicular requirements.
e) Adequate access to any structures for fire and service equipment is provided.
f) Any lighting provided does not have a deleterious effect on neighboring property.
g) Effective use is made of topography, existing trees, and other vegetation and other natural terrain features with the building design and placement.
h) Adequacy of the Town water supply system to service the proposed use.

7-4 Authority to Issue Permits

Planning Board – The Planning Board shall be the Special Permit Granting Authority for all requests or applications for the following:

Hotels/Motels

Multiple dwelling units on a single lot in a residential or mixed-use zone *(amended 2010 ATM)*

Planned Business Development

Planned Industrial Development

Cluster Zoning	Removal of Sand, Gravel, Loam
Planned Unit Development	And, in conjunction with the Conservation Commission, Filling of Water, Wet Area or depression.

Board of Appeals- The Board of Appeals shall be the Special Permit Granting Authority for all requests or applications for Special Permits for the following:

All other instances in which a Special Permit is required.

7-5 Specific Requirements for Particular Uses by Special Permit

A. Apartments, Multiple or Attached Dwellings in zoning districts where not permitted by right *(amended 2010ATM)*

The Planning Board, as a Special Permit Granting Authority, may issue a Special Permit for the construction of a building or buildings intended to be used for three or more dwelling units provided that the following conditions are met with respect to any particular parcel of land:

1. The lot shall have not less than two hundred feet of frontage and shall contain not less than forty thousand square feet of land.

2. Each dwelling unit will require the following land areas: *(amended 2009 ATM)*

	Res. A and Business (25,000 sq. ft. lots)	**Res. B (40,000 sq. ft. lots)**
First 8 units	12,500 sq. ft.	15,000 sq. ft.
Added units	8,000 sq. ft.	10,000 sq. ft.
Max. dwelling unit on a 2 acre site (Low Density)	6(3/acre)	5(2.5/acre)
Max. dwelling unit on a 10 acre site(High Density)	49 (4.9/acre)	39(3.9/acre)

3. A space, not less than twenty feet in width along each sideline, the rear yard lot line and not less than forty-five feet from the front lot line, except for entrance and exit driveways, shall be maintained with grass, trees, shrubs, flowers and other plantings and landscape features.

4. The manner of sewage disposal shall be approved, in writing, by the Board of Health.

B. Hotels and Motels

The Planning Board, as a Special Permit Granting Authority, may issue a Special Permit for the construction of a building or buildings intended to be used for a hotel and/or motel provided that the following conditions are met with respect to any particular parcel of land:

1. The lot shall have not less than two hundred feet of frontage, shall contain not less than forty thousand square feet of land area.

2. The front yard, side yards, and rear yard depths shall not be less than fifty feet.

3. A space not less than twenty feet in width along each side yard, from the rear yard lot line and from the front yard lot line, except for exit and entrance driveways, shall be maintained with grass, trees, shrubs, flowers and other planting and landscape features. Such area shall not be used for parking or otherwise.

4. The manner of sewage disposal shall be approved in writing by the Board of Health.

5. The site shall be provided with not more than two (2) motor vehicle driveways for each abutting street which shall intersect the abutting street or streets at ninety (90) degrees. Coverage of the land shall not exceed twenty (20) percent.

C. Removal of Loam, Sand, Gravel, Quarry, or other Earth Materials

The Planning Board, as a Special Permit Granting Authority, may issue a Special Permit for the removal of loam, sand, gravel, quarry or other earth material provided that the following conditions are met with respect to any particular parcel of land.

1. For the removal of loam, sand, gravel, quarry, or other earth materials other than that which is incidental to and in connection with the construction of a building on a lot, and for processing and treating raw materials, the following conditions shall govern:

    a. Removal and processing operations shall not be conducted closer than fifty (50) feet to a public street.

    b. All equipment for sorting, washing, crushing, grading, drying, processing and treating, or other operation of machinery shall not be closer than 100 feet from any public street or from any adjoining lot line.

    c. Off-street parking as required in Section VIII shall provided.

    d. Any access to excavated areas or areas in the process of excavation will be adequately posted with KEEP-OUT-DANGER signs.

e. Any work face or bank that slopes more than (30) degrees downward adjacent to a public street will be adequately fenced at the top.

f. Adequate provision is to be made for drainage during and after the completion of operations.

g. Lateral support shall be maintained for all adjacent properties. A maximum rate of slope shall be established by the Planning Board and set out in the Special Permit.

h. The use of explosives shall be done in accordance with the regulations for storage or handling of an explosive as published by the Commonwealth of Massachusetts.

i. All operations shall be conducted in such a manner so as to comply with the laws of the Commonwealth of Massachusetts regulating water pollution and air pollution.

j. The work hours of operation shall be designated by the Planning Board and set out in the Special Permit.

k. Plan for regrading of all or parts of the slopes resulting from such excavation or fill.

l. Plan for replacement of at least six (6) inches of topsoil over all excavated, filled, or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization.

m. Plan for lighting, if night operation is contemplated.

n. Proper provision for vehicular traffic, service roads, control of entrances and exits to highways.

o. Provision for a substantial fence enclosing the excavation or quarry where any excavation or quarry will extend under original ground level or will have a depth of 10 feet or more and create a slope of more than 1 foot in 2 feet. Such fence shall be located 10 feet or more from the edge of the excavation or quarry, and shall be at least 6 feet in height.

p. Provision shall be made for the submission to the Building Inspector of as-built plans of all final grading and site-improvements.

q. The Planning Board may require the posting of a performance bond, in such sum as they may determine to be reasonably necessary, in order to insure compliance with the restrictions herein set forth, and such other restrictions, conditions and safeguards as may be imposed by the Planning Board.

2. Proposed reuse of the land after or during the removal of loam, sand, gravel, quarry or other earth materials shall be submitted and the following conditions shall apply:

a. The applicant shall submit engineering or architectural site plans drawn at a scale of forty feet to the inch prepared by a registered professional engineer or architect showing all details as may be deemed necessary by the Planning Board to meet the regulations for the proposed reuse of the land or the type of buildings to be erected.

b. The Planning Board may require up to three approved alternative future land reuse plans be submitted for such land as is used for the extraction of sand, gravel, rock, and associated earth materials. It is recognized that land reuse of the removal areas is in the public interest.

c. Said land reuse plan and its implementation applies to the conversion of the abandoned site and its planned reuse. It is, therefore, required that any land reuse plan correspond to a situation which could reasonably occur in the immediate future (0 to 5 Years) and revised as required by the Planning board as the existing physical character of the removal area changes.

d. The land reuse plan or any part thereof which reasonably applies to an area which has been abandoned from removal use shall be put into effect within one year of the abandonment of said operation.

3. No permit of any type shall be issued for a future use of the site until all of the conditions stipulated in the Special Permit have been satisfied.

D. Filling of Any Water, Wet Area or Depression

The Planning Board as a Special Permit Granting Authority, and in conjunction with the Conservation Commission, may issue a Special Permit for the filling of any water, we area or depression provided that the following conditions are met with respect to any particular parcel of land:

1. For the filling in of any pond, lake, swamp, or other existing body of water or wet area; and the filling in of any swale, valley or other area of depression, where 500 cubic yards or more; or where the area to be filled exceeds 10,000 square feet, the following conditions shall apply: (such conditions shall include, where applicable, prior approval of the Board of Selectmen and subsequent endorsement by the Conservation Commission.) See also Section 11-3 of the By-law.

a. Limitation of fill to terrace fills which are not to exceed 10 feet at any one time nor be within 10 feet of an adjacent lot line or any cut.

b. Regarding of all or parts of the slopes resulting from such fill.

c. Replacement of at least (6) six inches of loam or topsoil over all filled or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization.

d. Provision for temporary and permanent drainage of the site.

e. The work hours of operation shall be designated.

f. Where any fill will have a depth of 10 feet or more and create a slope of more than 1 foot in 2 feet, there shall be a substantial fence enclosing the fill at least 6 feet in height with suitable gates. Such fence shall be located 10 feet or more from the edge of the fill.

2. Proposed reuse of the land during and after the filling-in shall be submitted and the following conditions shall apply:

a. The applicant shall submit engineering or architectural site plans drawn at a scale of forty feet to the inch prepared by a registered professional engineer or architect showing all details as may be deemed necessary by the Planning Board to meet the regulations for the proposed reuse of the land or the type of building to be erected.

b. The Planning Board may require up to three approved alternative future land reuse plans be submitted for such land as is used for filling in. It is recognized that land reuse of the removal areas is in the public interest.

c. Said land reuse plan and its implementation applies to the conversion of the abandoned site and its planned reuse. It is therefore, required that any land reuse plan correspond to a situation which could reasonably occur in the immediate future (0 to 5 years), and be revised as a required by the Planning Board as the existing physical character of the removal area changes.

d. The land reuse plan or any part thereof which reasonably applies to an area which has been abandoned for filling-in use shall be put into effect within one year of the abandonment of said operation.

3. No permit of any type shall be issued for a future use of the site until all of the conditions stipulated in the Special Permit have been satisfied.

E. Cluster Residential Development

The Planning Board, as a Special Permit Granting Authority, may issue a Special Permit for the construction of a cluster residential development provided that the following conditions are met with respect to any particular parcel of land:

1. For residential development in a cluster pattern subject to the dimensional regulation less than the minimum required for the development of an individual lot in the same district, the following conditions shall apply:

a. The tract of single or consolidated ownership at the time of application shall be at least 15 acres in size, and shall be subject to the approval of the Planning Board under the Subdivision Control law.

b. Each individual lot shall be subject to all requirements for a one-family detached dwelling in any "R-25" District.

c. The total number of proposed lots in the development within any District shall not exceed the number of lots which could be developed under normal application requirements of the R-25 District. For purposes of this section, it shall be assumed that a maximum of 80 percent of the total tract area could be utilized to meet lot are requirements.

d. The development shall be served by a public water system.

e. The manner of sewage disposal shall be approved in writing by the Board of Health.

f. At least ten percent of the total tract area (of which at least 50 percent shall not be wetland or over 5 percent slope land) shall be set aside as common land and shall either be deeded to the town or covenanted with the town to be maintained as permanent 'open space' in private or cooperative nonprofit ownership.

g. Such common land shall be deeded to and accepted by the town or permanently covenanted simultaneously with the Planning Board's approval of the Definitive Subdivision Plan.

h. Such common land shall be restricted to open space recreational uses such as tot lot, park, playground, playfield, golf course, or conservation area.

i. Such common land shall have suitable access to a street.

F. Planned Unit Development

The Planning Board, as a Special Permit Granting Authority, may issue a Special Permit for the construction of a planned unit development provided that the following conditions are met with respect to any particular parcel of land:

1. For development in a planned unit concept for uses including among others, residential, recreational, commercial, and institutional, and not subject to the Table of Dimensional and Density Regulations, the following conditions shall apply:

a. The tract shall be at least 50 contiguous acres in single or consolidated ownership at the time of application and shall be subject to approval b the Planning Board under Subdivision Control law.

b. The following uses shall be permitted: residential (one-, two-, and multifamily dwelling); community facilities (religious or educational; membership club for

exclusive use of the residents of the planned unit development, public recreation or open space, fire station) and commercial (retail or service establishment).

c. At least 20 percent of the land area shall be set aside as permanent open space and offered to the town for acceptance as public open space or covenanted by the owner as public open space.

d. The remaining 80 percent of the land area may be developed for residential, community facilities and commercial uses. No more than 5 percent of the total residential gross floor area at any time may be devoted to commercial gross floor area.

e. The residential net density within the developed area (80 percent portion) shall not exceed 20 dwelling units per acre, not including streets.

f. At any one time not more than 30 percent of the total dwelling units shall be of one type of bedroom composition.

g. Buildings shall be at least (50) fifty feet from any district boundary and at least fifteen feet from any street line or parking area and at least 24 feet apart.

h. Buildings shall not exceed (3) three stories in height.

i. The development shall be served by a public water system.

j. The manner of sewage disposal shall be approved in writing by the Board of Health.

G. Planned Business Development

The Planning Board, as a Special Permit Granting Authority, may issue a Special Permit for a planned business development provided that the following conditions are met with respect to any particular parcel of land:

1. For planned business development of land subject to maximum building coverage more than the maximum permitted in the Table of Density and Dimensional Regulations and less than the parking requirements contained in the Table of Off-Street Parking Regulations, the following conditions shall apply:

a. The tract shall be in single or consolidated ownership at the time of application and shall be at least 5 acres in size.

b. Uses shall be continued in one continuous building except that groupings of buildings may be allowed by Special Permit of the Planning Board where such groupings are consistent with the safety of the users of the development and are further consistent with the overall intent of this section.

c. The gross area of the buildings shall not exceed 50 percent of the total lot area.

d. The development shall be served by one common parking area and by common exit and entrance areas.

e. Reduction in parking space requirements shall not exceed more than 10 percent of those required under normal application of requirements for the particular uses proposed.

f. The development shall be served by a public water system.

g. The manner of sewage disposal shall be approved in writing by the Board of Health.

H. Planned Industrial Development

The Planning Board, as a Special Permit Granting Authority, may issue a Special Permit for the construction of a planned industrial development, provided that the following conditions are met with respect to any particular parcel of land:

1. The tract in single or consolidated ownership at the time of application shall be at least 15 acres in size. Where the site plan constitutes a subdivision, it shall require approval by the Planning Board under the Subdivision Control Law.
2. Individual lot sizes shall not be reduced more than 10 percent below that normally required for manufacturing or service industrial purposes in the district.

3. The total number of establishments in the development shall not exceed the number of establishments which could be developed under normal application requirements of the district.

4. The permitted uses shall be limited to manufacturing or service industrial uses with the total use completely within the building.

5. The development shall be served by a public water system.

6. At least 10 percent of the total tract area (of which at least 50 percent shall not be wetlands or over 5 percent slope land) shall be set aside as common land and shall be either deeded to the town or covenanted to be maintained as permanent “open space” in private or cooperative nonprofit ownership, or permanently covenanted simultaneously with the Planning Board’s approval of the Definitive Subdivision Plan, if any.

7. Such common land shall be restricted to open space, playfield, golf course, or conservation area and shall have suitable access to a street.

8. The manner of sewage disposal shall be approved in writing by the Board of Health.

I. Home Occupation

The Board of Appeals, as a Special Permit Granting Authority, may issue a Special Permit for the use of a portion of a dwelling unit for a home occupation, provided that the following conditions are met:

1. The occupation or profession is carried out wholly within the principal building, or within a building or structure accessory to the principal building.

2. The occupation of profession occupies not more than forty percent or four hundred square feet, whichever of the two is the less, of the total net floor area of the dwelling unit and any building or other structures accessory thereto.

3. Not more than one person not a resident of the dwelling unit shall be employed in the home occupation.

4. There shall be no exterior display or storage of materials and no other exterior indication of the use of the premises for other than residential purposes except for an exterior sign, either stationary or portable, as may be permitted by Section X of the bylaw. *(amended 2009 ATM)*

5. No offense noise, heat, smoke, dust, odor, vapor, vibration or other deleterious side effects of such home occupation shall be produced.

6. Sufficient space shall be provided so that all parking is accommodated off-street. In particular a home occupation shall include, but is not necessarily limited to the following:

   Art studio

   Dressmaker, millinery, handicraft

   Musician

   Professional office of a physician, surgeon, dentist, lawyer, engineer, architect, landscape architect, clergyman.

   Real Estate or insurance or investment counseling office

   Hairdresser

   A home occupation is specifically intended not to include the following uses:

   Clothing rental
   Barber shop
   Restaurants and tea rooms
   Dance instruction band instrument instruction
   Convalescent mortuary establishments
   Stores, trades or business not herein excepted
   Tourist home
   Stables or kennels (for hire)

J. Temporary Additional Living Quarters

The Board of Appeals, as a Special Permit Granting Authority, may issue a Special Permit authorizing the conversion and use of a portion of a single family dwelling into separate living quarters for a relative of the owner or owners. Said permit shall be valid only for the occupancy of the said premises by the person for whom it is issued; upon cessation of occupancy by such person, the permit shall lapse. If occupancy of the said additional living quarters is then desired by another relative of the owner or owners a new application for a Special Permit authorizing such occupancy shall be made. It is the intention of this provision that such additional living quarters shall not be used as an apartment for hire, but only as a convenience for a member of the owner's family, under special circumstances and it shall not exceed 770 sq. feet in gross floor area. *(amended 2009 ATM)* Special Permits for temporary additional living quarters expire at the departure of the person for whom the permit is issued or after 5 years whichever comes first. (*amended 2010 ATM)*

K. Scientific Research, Development, Production

The Board of Appeals, as a Special Permit Granting Authority, may issue a Special Permit for uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter related production, provided there is a finding that the proposed accessory use does not substantially derogate from the public good.

L. Trailers Use for Storage

The Board of Appeals, as the Special Permit Granting Authority, may issue a Special Permit authorizing the temporary storage of one or more unregistered trailers. Such Special Permit shall specify the number of trailers so authorized and the period of time such authorization shall continue.

M. Extension or Alteration of Existing Structures or Uses

The Board of Appeals, as the Special Permit Granting Authority, may issue a Special Permit for the extension or alteration of an existing building, structure or use upon a specific finding by the said Board that such change, extension or alteration shall not be substantially more detrimental than the existing non- conforming structure or use to the neighborhood.

N. Adult Entertainment
See Sec. V Paragraph 7 – Requirements

O. Wind Energy Conversion Facilities *(added 2010 ATM)*

General Requirements

Documentation - Applicant shall submit evidence of control of the site and the clear areas and of the right to install and use the facility when applying for the special permit.

General Regulatory Compliance - Applicant shall also demonstrate that the tower meets all applicable local, state, and federal electrical, construction, noise, safety, environmental and communication requirements.

Monitoring - After the WECF is operational the applicant shall submit annual reports to the town covering data such as days of operation, periods of feathered inoperation, amount of energy produced and its distribution to local users or to the grid, and any signs of bird kill.

Maintenance - The owner shall maintain the WECF in good condition including painting, structural integrity of the foundation and tower, security barriers, and any landscaping of the clear area.

Ownership - The owner shall notify the town of any proposed change in ownership.

Closure - If a WECF is scheduled to be discontinued, the owner shall notify the town of the proposed date by certified mail. Without such notification or explanation of a period of inactivity, the WECF shall be considered to be discontinued if it does not operate for 180 days. If the operator does not report plans to restore the operation or to sell the facility, it shall physically remove the WECF and leave the site in a natural condition within 180 days. The SPGA may extend these periods at the request of the owner.

To ensure removal of a permanently closed facility and restoration of the site, the developer may be required to post a bond or other surety sufficient to remove the facility and restore the site in a condition satisfactory to the SPGA.

Filing Requirements - These shall be as described below, with special permits normally limited to twenty five years, subject to renewal by the SPGA.

Design Standards
Meteorological Towers

General - Applicant shall demonstrate that the sitting and design of the facility and any proposed mitigations minimize any negative visual or aural impacts on nearby neighborhoods.

Allowed Height - As required for effective research, subject to engineering data and approval by the SPG,A and to any applicable Federal Aviation Administration (FAA) or Massachusetts Aeronautical Commission (MAC) requirements, and to documented clear area guy wire requirements.

Required Setback or Clear Area - Sufficient to accommodate the guy wires of Meteorological Tower and to prevent a collapsed tower and equipment from crossing adjacent property lines, rights-of-way, or habitable space including parking areas potentially holding occupied vehicles. This is equivalent to at least the height of the tower and any extended boom holding the instruments, and shall be to the satisfaction of the

SPGA. Owner-occupied properties accommodating WECFs may remain in occupied uses at the option of the owner. However the clear area setback requirements continue to apply within the rest of the defined Clear Area.

[The guy wires typically require a greater area that a monopole production tower, e.g., a 131'-foot tower would require a 135-foot radius clear area, and a 160-foot radius "Guy Diameter" according to the UMass Renewable Energy Research Laboratory.]

Lights - Warning lights must be installed according to documented FAA standards. Any other lighting shall shine down and be shielded to avoid lighting the sky or shining on abutting properties.

Co-Location - Meteorological towers may be used to accommodate temporary telecommunications antennae when so doing would meet a public purpose, and subject all applicable regulations. The requirements of such uses, (e.g., to be below the instruments if needed to avoid interference) may be considered by the SPGA when considering the allowable height of a Meteorological tower.

Production Towers

General - Applicant shall demonstrate that the sitting and design of the facility and any proposed mitigations minimize any negative visual or aural impacts on nearby neighborhoods, or avian impacts.

Allowed Height - As required for effective operations subject to engineering data and approval by the SPGA and subject to any applicable Federal Aviation Administration (FAA) or Massachusetts Aeronautical Commission (MAC) requirements and consistent with meeting clear area requirements.

Required Setback or Clear Area - Equivalent to the height of the tower and an extended rotor or other equipment, and sufficient to prevent a collapsed tower and extended rotor or other equipment from crossing adjacent property lines, rights-of-way, or habitable space including
parking areas potentially holding occupied vehicles, and to prevent damage from thrown ice as
defined by an engineering study to the satisfaction of the SPGA. Owner-occupied properties accommodating WECFs may remain in occupied uses at the option of the owner. However the clear area setback requirements continue to apply within the rest of the defined Clear Area.

Lighting - Warning lights must be installed according to documented FAA standards for lighting and marketing. Other facility lighting shall shine down to avoid lighting the sky and shall be shielded so as to not spill over to abutting properties.

Colors - The tower and rotor shall be painted with a non-reflective paint that blends with the sky and clouds unless the SPGA finds that some other rotor color or pattern would better lessen any potential bird injuries.

Co-Location - WECFs may be used to accommodate telecommunications antennae when so doing would reduce the need for multiple towers in the vicinity, and subject to all applicable regulations. The requirements of such uses, (e.g. to be below the arc of the rotors if needed to avoid interference) may be considered by the SPGA when considering the allowable height of a WECF.

Antennae - Antennae shall be flush mounted where possible to be in keeping with the approved design of the tower.

Ancillary Equipment - All equipment needed to operate and monitor the WECF or any telecommunications facility should be sited to avoid visual clutter within the tower if possible, in a underground vault, or in an adjacent separate structure.

Signs - Signs shall be those needed to identify the facility, and its owner, to warn of any dangers, and to describe the facility and its effects, consistent with sign regulations in Section X.

Environmental Standards

Land Clearing - WECFs and meteorological towers shall use previously developed sites when possible and shall restrict land clearing to that required for the facility and access drives.

Noise - The WECF and related equipment shall conform to the Massachusetts Noise regulations at 310 CMR 7.10 as applied by a qualified sound engineer. [The UMass Renewable Energy Research Laboratory estimates that the policy typically keeps turbines 3 times hub height from residences or about twice the clear area required based on rotor tip height.]

Shadowing /Flicker - WEFCs and meteorological towers shall be sited to avoid significant shadow or flicker impacts on nearby residences or such impacts shall be mitigated where unavoidable.

Sites in wetlands or flood plain shall follow the prescribed procedures in this bylaw and the Wetlands Protection Act and related regulations.

Avian Impacts - Applications shall indicate the chance of significant bird or bat impact according to a qualified wildlife biologist or comparable authority regarding migration patterns, location of important nesting or foraging areas for threatened or endangered species, or the availability of prey attracting many raptors.

Application Filing Requirements

These shall be as described below with special permits normally limited to one year:
The application for a WEFC shall follow the procedures in Section VII- Special Permits but with the inclusion of the following information:

1. Documentation of control over the site and the clear area, and of the right to install and use the facility when applying for the special permit.

2. A one inch = 40' vicinity plan showing the following for the 300'around the [minimal 40,000 sq ft., 36 foot diameter circle] proposed site, or the height of the proposed WECF plus 36 feet whichever is greater:

-All property lines
-All buildings, roads and ways
-Elevations and two-foot contours
-Proposed changes, including existing and proposed contours, land clearing and road construction
-Detailed representation of the proposed WECF showing all equipment, structures and other alterations and improvements.
-Existing tree cover including average heights, and proposed tree cover showing heights when planted
-Proposed security barriers indicating their heights.

3. Two sightline representations showing the visibility of the structure from the closest habitable structures, public roads, or public spaces by superimposing the proposed facility on photographs from the same viewing points and noting the elevation of the viewing point.

4. A description of the materials to be used for all elements of the facility and the proposed colors shown on a color board.

5. A proposed landscape plan showing present trees and shrubs, and those proposed to be removed or added, identified by size/height at installation.

6. A statement of existing and projected maximum noise levels at the property line of the nearest habitable structures certified by a qualified engineer and stating that the projections are accurate and meet applicable local and state standards

7. Indication of filed applications or pending applications to the FAA and New England Power Grid as applicable.
8. A summary of the findings of any required studies such as bird/impacts and noise impacts required above.

9. Evidence of bonding or other forms of surety sufficient for facility removal and site restoration in the case of permanent closure as defined in Section 7-5.

Note: The SPGA (Special Permit Granting Authority) may waive part or all of the above requirements which it finds to be unnecessary to understand and evaluate the proposed facility and its setting.

SECTION VIII
Off-Street Parking and Loading Regulations

8-1 Off-Street Parking and Loading Requirements

In any district, if any structure is constructed, enlarged, or extended, and any use of land established, or any existing use is changed, after the effective date of this By-Law, parking and loading spaces shall be provided in accordance with the Table of Off-Street Parking Regulations and the Table of Off-Street Loading Regulations, An existing structure which is enlarged or an existing use which is extended after the effective date of the By-Law shall be required to provide parking and loading spaces in accordance with the following tables for the entire structure or use, unless the increase in units or measurements amounts to less than 25 percent whether such increase occurs at one time or in successive stages.

8-2 Existing Spaces

Parking or loading spaces being maintained in any district in connection with any existing use on the effective date of this By-Law shall not be decreased so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere such that the total number of spaces conforms to the requirements of the tables of this Section provided: this regulation shall not require the maintenance of more parking or loading spaces than is required according to the tables.

8-3 Computation of Spaces

When the computation of required parking or loading spaces results in the requirement of a fractional space, any fraction over one-half shall require one space.

8-4 Combined Facilities

Parking required for two or more buildings or uses may be provided in combined facilities on the same or adjacent lots, subject to approval by the Zoning Officer, where it is evident that such facilities will continue to be available for the several buildings or uses.

8-5 Location of Parking Spaces

Required off-street parking spaces shall be provided on the same lot as the principal use they are required to serve or when practical difficulties as determined by the Board (of Appeals) prevent their establishment upon the same lot, they shall be established no further than 200 feet from the premises to which they are appurtenant.

8-6 Table of Off-Street Parking Regulations

Uses	Number of Parking Spaces per Unit
1. One single or two-family dwelling	Two for each dwelling unit
2. Multifamily dwelling Apartments	Two for each dwelling unit
3. Lodging unit	One for each bedroom in a lodging unit
4. Theater, restaurant, auditorium, church, or similar place of public assembly with seating facilities	One for each four seats of total seating capacity
5. New and used car sales and automotive service establishments utilizing extensive display areas, either indoor or outdoor which are unusually extensive in relation to customer traffic.	One per 1,000 square feet of gross floor space, in the case of out-door display areas, one for each 1,000 square feet of lot area in such use.
6. Other retail, service, finance insurance or real estate establishment	One per each 300 square feet of gross floor space
7. Hotel, Motel, tourist court	One for each sleeping room plus one for each 400 square feet of public meeting room and restaurant space.
8. Wholesale establishment, warehouse or storage establishment	One per 1,000 square feet of gross floor space
9. Manufacturing or industrial establishment	One per each 600 square feet of gross floor space or 0.75 per each employee of the combined employment of the two largest successive shifts, whichever is larger
10. Hospital	Two per bed at design capacity
11. Nursing Home	One per bed at design capacity
12. Business, trade or industrial school or college	One for each 200 square feet of gross floor area in classrooms.
13. Other school	Two per classroom in an elementary and junior high school; four per classroom in a senior high school plus one space for every ten seats of total seating capacity in auditorium or gymnasium, whichever has the larger capacity.
14. Community facility (Town building, recreation, etc.)	One per each 400 square feet of gross floor space.
15. Dormitory, fraternity, sorority, YMCA or similar use	One for each sleeping room
16. Public utility	One for each 400 square feet of gross floor area devoted to official use
17. Transportation terminal establishment	One for each 600 square feet of gross floor area
18. Mixed use	Minimum of 2 spaces per dwelling unit and 1 space per 300 square feet of gross business space.*(amended 2010 ATM)*
19. Any use permitted by this By-Law not interpreted to be covered by this schedule	Closest similar use as shall be determined by the Zoning Officer

8-7 Table of Off-Street Loading Regulations	
1. Retail trade, manufacturing and hospital establishment with over 5,000 square feet of gross floor area	One per 20,000 square feet or fraction thereof of gross floor area up to two spaces; one additional space for each 60,000 square feet or fraction thereof of gross floor area over 40,000 square feet. Space used for ambulance receiving at a hospital is not be used to meet these loading requirements.
2. Business services, other services, community facility (school, church town building, recreation, etc.) or public utility establishment with over 5,000 square feet of gross floor area	One per 75,00 square feet or fraction thereof of gross floor area up to two spaces; one additional space for each 200,000 square feet or fraction thereof of gross floor area over 150,000 square feet.

8-9 PARKING AND LOADING SPACE STANDARDS

All parking and loading areas containing over five spaces, including automotive and drive-in establishments of all types, shall be either contained within structures, or subject to the following:

1. The area shall be effectively screened on each side which adjoins or faces the front, side or rear lot line of a lot situated in any "R" district.
   (a) Where the line of General Business or Mixed Use Zone abuts a residential zone the parking, loading or delivery area must be screened from the abutting residential zone by an opaque fence or barrier of a minimum height of 10' feet above the average grade at the demarcation line of the zoning districts. *(added 2010 ATM)*

2. The area and access driveways thereto shall be surfaced with bituminous or Portland cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation.

3. A substantial bumper of masonry, steel or heavy timber, or a concrete curb or berm curb which is backed shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks.

4. Any fixture used to illuminate any area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes.
5. There shall not be any vehicle repair for profit or gasoline or oil service facilities or any repair made to any motor vehicle, except on a lot occupied by a permitted automotive use. Any gasoline or oil facilities shall be at least 25 feet from any lot line.

6. There shall not be any storage of materials or equipment or display of merchandise within required parking area except as part of the approved building operations.

7. Parking spaces shall not be located within the required front yard area except in residential districts.

8. Parking and loading spaces shall be so arranged as not to permit backing of vehicles onto any street, except in residential districts.

9. Any portion of any entrance or exit driveway shall not be closer than 50 feet to the curb line of an intersecting street.

10. Any two driveways leading to or from a street, to or from a single lot shall not be within 30 feet of each other at their intersections with the front lot line for an interior lot and 40 feet for a corner lot.

11. Any entrance or exit driveway shall not exceed 24 feet in width at its intersection with the front lot line. Curb cuts shall not exceed 25 feet in width.

12. Any open air parking space in districts “GB” and “I” shall be at least 5 feet from any sidewalk or street line.

13. In districts “GB” and “O” all off-street parking and loading spaces, access ways and maneuvering area shall be laid out so as to provide for adequate drainage, snow removal, maneuverability, and curb cuts.

14. Entrance to parking or loading area must be within the same zoning district. *(added 2010 ATM)*

SECTION IX
Nonconforming Uses, Structure Lots

9-1 IN GENERAL

The provisions of this section apply to nonconforming uses, structure and lots as created by the initial enactment of this By-Law or by any subsequent amendment.

9-2 EXTENSION AND ALTERATION

Any lawful use of any structure or land or both may be continued although not conforming with the provisions of this By-Law, but no such lawfully nonconforming use shall be changed, intensified, extended or enlarged in any manner except with the approval of the Board of Appeals. Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the Board of Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming structure or use to the neighborhood. This section shall not apply to billboards, signs or other advertising devices, subject to the provisions of sections 29-33, of Chapter 93, and to Chapter 39D, of the General Laws.

9-3 ABANDONMENT

A pre-existing nonconforming structure or use which is abandoned or not used for a period of two years or more, shall be deemed to have been abandoned and thereafter such nonconforming structure or lot may only be developed or used in accordance with the applicable provisions of this By-Law.

9-4 LIMITATION ON REPAIR OR RESTORATION

No building or other structure which has been damaged or destroyed by fire, or by other natural or accidental cause, to the extent of seventy-five percent or more of its replacement cost shall be repaired or rebuilt except in conformity with the applicable provisions of the By-Law.

9-5 REDUCTION OR INCREASE

1. Any non-conforming lot or open space on the lot (yards, setbacks, courts, or building area) if already smaller or greater, as the case may be, than that required, shall not be further reduced or increased so as to be in greater nonconformity.

2. Any off-street parking or loading spaces, if already equal to or less than the number required to serve their intended use, shall not be further reduced in number.

9-6 CHANGE

Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the Board of Appeals, that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming structure or use to the neighborhood.
Any change, extension, alteration, or reconstruction to a pre-existing, nonconforming single or two-family residential structure shall not be considered an increase in the nonconforming nature of the structure and shall be permitted by right under the following circumstances:

a. For the normal repair or replacement of parts of said structure;

b. When the change, extension, alteration, or reconstruction, will comply with all applicable sections of the Zoning By-Laws, in effect , at the time of this application for a Building Permit and the structure is located on a lot which is nonconforming as a result of a previous zoning change.

c. When the change, extension, alteration, or reconstruction, will comply with all applicable sections of the Zoning By-Laws, in effect , at the time of this application for a Building Permit, including, but not limited to, setbacks, yard and building coverage, and height requirements.

If any encroachment, on any setbacks, yard and building coverage, or height requirements occurs, then there shall be no change, extension, alteration, or reconstruction as of right under this section, and Section 9-2 shall apply.

9-7 MOVING

Any nonconforming structure shall not be removed to any other location on the lot or any other lot unless every portion of such structure, the use thereof, and the lot shall be conforming.

9-8 UNSAFE STRUCTURE

Any structure determined to be unsafe may be restored to a safe condition. Such work on any nonconforming structure shall not place it in greater nonconformity.

SECTION X
SIGNS

10-1 In General

No signs or advertising devices of any kind or nature shall be erected on any premises or affixed to the outside of any structure or be visible from the outside of any structure except as specifically permitted in this section.

10-2 In Residence Districts

In Residence districts, signs or advertising devices are permitted only as follows:

1. One non-electric sign displaying the street number, or name of the occupant of the premises, or both, not exceeding three (3) square feet in area. Such sign may be attached to a building or may be on a rod or post not more than six (6) feet high and not less than three (3) feet from the street line. Such sign may include identification of any accessory studio or professional office in the dwelling or on the premises, or may identify other permitted accessory uses, including customary home occupations.

2. One bulletin or announcement board or identification sign for a permitted nonresidential building or use, not more than six (6) square feet sign board area. For churches and institutions, two bulletin or announcement boards or identification signs are permitted on each building. Each such church or institution sign shall not be more than ten (10) feet signboard area. No such sign shall be located nearer a street than one-half the required front yard depth.

3. On the premises with a lawfully nonconforming use, one sign not more than six (6) square feet.

4. One “For Sale” or “For Rent” sign, not more than six (6) square feet and advertising only the premises on which the sign is located. It shall be set back at least ten (10) feet from the street lot line.

5. One building contractor’s sign on a building while actually under construction, not exceeding six (6) square feet.

6. In residence districts all signs or advertising devices shall be stationary and shall not contain any visible moving or moveable parts. No sign or advertising device in such districts shall be of neon or illuminated tube type. Lighting of any sign or advertising device shall be continuous (not intermittent nor flashing nor changing) and shall be so placed or hooded as to prevent direct light from shining onto any street or adjacent property. No sign or advertising device shall be illuminated after 11 p.m.

10-3 IN GENERAL BUSINESS, COMMERCIAL, AND INDUSTRIAL DISTRICTS *(amended 2010 ATM)*

In Business and Industrial districts, signs or advertising devices are permitted only as follows:

1. Signs shall relate to the premises on which they are located and shall only identify the occupant of such premises or advertise the articles or services available within said premises.
2. On each lot, there are permitted two signs affixed to the exterior of a building and not to the roof for each occupant. The top edge of each such sign shall not be higher than ten (10) feet above the roof ridge of the building, and providing that this is permissible ten(10) feet does not exceed the permitted 40 feet building height noted in Section 6-4 of this By-Law.

3. The total sign area affixed to the wall of any building shall not exceed five percent of that wall area.

4. In Mixed Use districts where businesses are set back greater than 15' from the street, 1 double sided "monument type" sign of overall size 16 square feet or less and a maximum height above street level of 42" and 1 single faced sign of 12 square feet at a minimum height of 8' mounted to the building structure in a plane parallel to the adjacent street. Where businesses are set back 15' or less from the street, 1 "knife" sign up to 12 square feet per face at a minimum height of 10 feet and subject to approval of the Planning Board. *(amended 2010 ATM)*

   (a) In General Business districts free standing signs are limited to 20 square feet of total area per side and total signage per occupant may not exceed 40 square feet and subject to approval of the Planning Board.

5. In industrial and commercial districts where buildings are set back forty (40) feet or more, one free-standing sign per lot is permitted. The top edge of any such free-standing sign shall be not higher than twenty-five (25) feet vertical measure above the average level of the ground between the supports of each sign for traffic safety, the whole of the signboard or display elements of any free-standing sign shall be either below three (3) feet or ten (10) feet above average ground level. Any such free-standing sign may be located within the front yard space, of any such lot, but not nearer than twelve (12) feet to any lot line.*(amended 2010 ATM)*

6. No free-standing sign (or display area, if no signboard) shall exceed one hundred and fifty (150) square feet, measured from the tops of the topmost display elements to the bottom of the lowest display elements, and from exterior side to exterior side of display elements, and including in such measurements any blank space between display elements. No display or signboard dimension shall exceed sixteen (16) feet for a free-standing sign.

7. Illuminated signs are permitted, subject to the following conditions:

   a. No sign shall be intermittently illuminated, nor of a traveling light, animated or flashing light type.

   b. Each illuminated sign shall not exceed one hundred (100) square feet gross display areas as measured in paragraph 6 above.

   c. Sign illumination is permitted only between the hours of seven (7:00) o'clock in the morning and eleven (11:00) o'clock in the evening except that signs of retail establishments may be illuminated during any hours these establishments are open to the public.

   d. Sign illumination for 24 hours daily is permitted only where such illumination does not infringe upon residential property and shall only be permitted with the approval of the Board of Selectmen.

   e. Signs with changeable message areas may not change messages at a frequency greater than once in 60 minutes. *(added 2010 ATM)*

f. Changeable message signs in the General Business and Mixed Use districts may be mounted to the building structure only. *(added 2010 ATM)*

10-4 Additional Sign Regulations

1. Specifically excluded from these regulations are temporary interior window displays or temporary banners for drive-in establishments or automotive establishments.

2. In all zoning districts any traffic or directional signs owned and installed by a government agency shall be permitted.

3. Specifically excluded from these regulations are the displaying of national and state flags.

4. In all zoning districts, for safety reasons, any private outdoor lighting fixture, whether temporary or permanent, other than gaseous tube letters in signs, shall be so placed or hooded that the light source itself shall not be directly visible at any point beyond the lot lines of the premises illuminated. A sign (including temporary interior window displays or banners) or its illuminator shall not by reason of its location, shape, size or color interfere with traffic or be confused with or obstruct the view or effectiveness of any official traffic sign, traffic signal or traffic marking. Therefore, flashing or animated signs of red, yellow or green colored lights are not permitted.

5. The Board of Selectmen may issue a temporary permit authorizing the temporary erection of special promotional signs, banners, streamers or placards in connection with a political campaign, for the advertisement and promotion of yard sales, flea markets, bazaars, and similar special events or for special sales by regular business firms located in the town.

10-5

(added ATM 5/12/87)
Effective September 1, 1987, there shall be a Uniform Building, Numbering System in effect at all time for each tenant and/or occupant of every building in the Avon Industrial Zones. Each such tenant and/or occupant shall purchase, erect and maintain at its own expense a sign that is three feet in length and twelve inches high on its face side. The face side of the sign shall have a white back-ground and be black lettered in the letter style known as Helvetica Medium font. The lettering shall be ten inches in height. Each such sign shall conform to

the Street Numbering System assigned by the Avon Town Clerk in that the lettering on each such sign shall set forth the first initial of the street name, then followed by the number of that street at which the tenant and/or occupant is located in the Park. Multiple tenants and/or occupants at the identical address in the Park shall be further distinguished by the addition of a sequential letter (ie., A, B, B, etc.) appearing at the end of the street number. The sign(s) shall at all times be displayed prominently in the upper corner of each building that is most readily and easily visible from the nearest major road in the Park. The Town shall not issue and occupancy and/or building permit to any tenant and/or occupant of the Park who is not incompliance with this Bylaw.

Failure to comply with the terms of the Bylaw shall be punishable by a fine in the amount of $25.00 per day for each day or portion of a day which violation occurs and/or continues to occur until such time as compliance is bad.

SECTION XI
Environmental Standards

11-1 GREENBELT IN AN INDUSTRIAL DISTRICT

Any use permitted by right or special permit in any district shall not be conducted in a manner as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactive or other hazard; noise or vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare, liquid or solid, refuse or wastes; conditions conducive to the breeding of insects, rodents, or other substance, conditions or element in an amount as to affect adversely the surrounding environment. The following standards shall apply:

1. Emissions shall be completely and effectively confined within the building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located.

2. All activities and all storage of flammable and explosive materials at any point, shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment.

3. No activities that emit dangerous radioactivity, at any point; no electrical disturbance adversely affecting the operation at any point, of any equipment, other than that of the creator of such disturbance, shall be permitted.

4. No emission of visible smoke of a shade darker than No. 1 on the Ringlemann Smoke Chart as published by the U.S. Bureau of Mines shall be permitted.

5. No emission which can cause any damage to health of animals or vegetation or which can cause excessive soiling, at any point, and in no event any emission of any solid or liquid particles in concentrations exceeding 0.3 grains per cubic foot of conveying gas or air shall be permitted.

6. No discharge, at any point, into a private sewage system, stream, the ground, or a municipal sewage disposal system of any material in such a way, or of such a nature or temperature as can contaminate any running stream, water supply or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects shall be permitted.

7. No vibration which is discernible to the human sense of feeling for three minutes or more in any hour between 7 A.M. and 7 P.M., or for 30 seconds or more in any one hour between 7 P.M. and 7 A.M. shall be permitted. No vibration at any time shall produce an acceleration of more than 0.1 gram shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7, U.S. Bureau of Mines Bulletin No. 442.

8. Maximum permissible sound pressure levels measured at the property line for noise radiated continuously from a facility between 10 P.M. and 7 A.M. shall be as follows:

Frequency Band (Cycles per second)	**Sound Pressure Level (Decibel ret 0.002 dyne/cm2)**
20-75	69
75-100	54
150-300	47
300-600	41
600-1200	37
1,200-2,400	34
2,400-4,800	31
4,800-10,000	28

If this sound is not smooth and continuous, the following corrections should be added to each of the actual decibel levels given:

a. Daytime operations only +5
b. Noise source operates less than 20 percent of any hour period +5

Only one of the above corrections may be applied.

9. No emission of odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process which may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system. No objectionable odor greater than that caused by 0.001202 per thousand cubic feet of hydrogen sulfide or any "odor threshold" as defined in Table III in Chapter 5 of Air Pollution Abatement

Manual, copyrighted 1951, by Manufacturing Chemists Association, Inc., of Washington, D.C., shall be permitted.

10. No direct sky-reflected glare, whether from floodlights or from high temperature processes such as welding shall be permitted.

11-2 GREENBELT IN AN INDUSTRIAL DISTRICT

1. In an Industrial District, where a lot used for a purpose not permitted in any Residential District abuts or extends into a Residential District, or abuts another lot which has frontage only in such district or which extends from such district into an Industrial District by less than (50) feet.

There shall be provided a permanently maintained "greenbelt" along the particular portions of the lot which are next to such district or abutting lot such "greenbelt" shall consist of an area of not less than (100) feet in width containing a dense planting of evergreens, as described below, to provide within such area a natural barrier which is sight impervious between the lot and the adjacent premises having an effective height of not less than seven (7) feet and such plantings shall commence ten (10) feet from the property line of the adjacent premises. Evergreens shall be planted in a staggered pattern with a minimum of two (2) rows of plantings.

Evergreens are:

White Spruce	Australian Pine	Carolina Hemlock
White Pine	Japanese Black Pine	Winter Green Pyramidal
Canadian Hemlock	Norway Spruce	Eastern Red Cedar
Douglas Fir	Colorado Blue Spruce	

11-3 FLOOD PLAIN DISTRICT

ARTICLE I. STATEMENT OF PURPOSE

The purposes of the Floodplain District are to:

1) Ensure public safety through reducing the threats to life and personal injury;
2) Eliminate new hazards to emergency response officials;
3) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
4) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
5) Eliminate costs associated with the response and cleanup of flooding conditions;
6) Reduce damage to public and private property resulting from flooding waters.

ARTICLE II.

SECTION A. FLOODPLAIN DISTRICT BOUNDARIES AND BASE FLOOD ELEVATION AND FLOODWAY DATA

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the **TOWN OF AVON** designated as Zone A, AE, A99, V, or VE on the **NORFOLK COUNTY** Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the **NORFOLK COUNTY** FIRM that are wholly or partially within the **TOWN OF AVON** are panel **numbers 25021C 214E, 218E, 219E, 377E, 381E, 382E** dated **July 17, 2012**. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the **NORFOLK COUNTY** Flood Insurance Study (FIS) report dated **July 17, 2012.** The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and Board of Health.

SECTION B BASE FLOOD ELEVATION AND FLOODWAY DATA

1. **Floodway Data**. In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. **Base Flood Elevation Data**. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

ARTICLE III. NOTIFICATION OF WATERCOURSE ALTERATION

In a riverine situation, the Board of Selectmen shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities

- NFIP State Coordinator
  Massachusetts Department of Conservation and Recreation
  251 Causeway Street, Suite 600-700
  Boston, MA 02114-2104

- NFIP Program Specialist
  Federal Emergency Management Agency, Region I
  99 High Street, 6th Floor
  Boston, MA 02110

ARTICLE IV USE REGULATIONS

SECTION A REFERENCE TO EXISTING REGULATIONS

The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas;

- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);

- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);

- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

SECTION B. OTHER USE REGULATIONS

1) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the **NORFOK COUNTY** FIRM or Flood Boundary & Floodway Map encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2) All subdivision proposals must be designed to assure that:
   a) such proposals minimize flood damage;
   b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
   c) adequate drainage is provided to reduce exposure to flood hazards.

3) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

4) There shall be established a "routing procedure" which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Town Engineer, Building Commissioner and Board of Health for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

ARTICLE V. PERMITTED USES

The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

1) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
2) Forestry and nursery uses.
3) Outdoor recreational uses, including fishing, boating, play areas, etc.
4) Conservation of water, plants, wildlife.
5) Wildlife management areas, foot, bicycle, and/or horse paths.
6) Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
7) Buildings lawfully existing prior to the adoption of these provisions.

ARTICLE VI. DEFINITIONS

AREA OF SPECIAL FLOOD HAZARD is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99, V1-30, VE, or V.

BASE FLOOD means the flood having a one percent chance of being equaled or exceeded in any given year.

COASTAL HIGH HAZARD AREA means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V, V1-30, VE.

DEVELOPMENT means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DISTRICT means floodplain district.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

FLOOD BOUNDARY AND FLOODWAY MAP means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500 year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

FLOOD HAZARD BOUNDARY MAP (FHBM) means an official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.

FLOOD INSURANCE RATE MAP (FIRM) means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY means an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOODWAY means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MANUFACTURED HOME PARK OR SUBDIVISION means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, NEW CONSTRUCTION means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

ONE-HUNDRED-YEAR FLOOD - see BASE FLOOD.

REGULATORY FLOODWAY - see FLOODWAY

SPECIAL FLOOD HAZARD AREA means an area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, VE.

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. STRUCTURE, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

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

SUBSTANTIAL IMPROVEMENT means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

ZONE A means the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

ZONE A1-30 and **ZONE AE** (for new and revised maps) means the 100-year floodplain where the base flood elevation has been determined.

ZONE AH and **ZONE AO** means the 100-year floodplain with flood depths of 1 to 3 feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

ZONE A99 means areas to be protected from the 100-year flood by federal flood protection system under construction. Base flood elevations have not been determined.

ZONES B, C, AND X are areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

ZONE V means a special flood hazard area along a coast subject to inundation by the 100-year flood with the additional hazards associated with storm waves. Base flood elevations have not been determined.

ZONE V1-30 and **ZONE VE** (for new and revised maps) means a special flood hazard area along a coast subject to inundation by the 100-year flood with additional hazards due to velocity (wave action). Base flood elevations have been determined.

SECTION XII
Administration and Law Enforcement

12-1 ENFORCEMENT

A. The provisions of this By-Law shall be enforced by the Building Inspector of the Town of Avon

B. It shall be the prerogative of the Avon Planning Board to determine and assess “Impact Fees” for any development within the town in collaboration with any and all boards, commissions, departments or other town entities. *(added 2010 ATM)*

12-2 PERMITS

A. It shall be unlawful for any person to erect, construct, reconstruct, or alter a structure without applying for and receiving from the Building Inspector a building permit. It shall be unlawful for any person to change the use or lot coverage, or extend or displace the use of any building, structure, or lot without applying for and receiving from the Building Inspector a use permit.

B. Permits shall be applied for by filing an application in writing with the Building Inspector. The Building Inspector shall not issue any permit unless the plans for the building, and the intended use thereof, in all respects fulfill the provisions of this By-Law, except as may have been specifically permitted otherwise by the Board of Appeals, or the Planning Board, under powers available to them, and provided a copy of such authorization is attached to the application and to the resulting permit which may be issued. In order to assure that a sufficient supply of water is available for the intended use for which the permit is requested, the Building Inspector shall secure the endorsement of the Water Department to that effect. In order to assure that the sewage disposal system is sufficient to service the requirements of the use for which the building permit is requested, and to assure the public health needs of the Town of Avon and its inhabitants are safeguarded, prior to the issuance of a building permit shall secure the endorsement of the Avon Board of Health to that effect.

C. Each application for a permit to build, alter, or move a building shall be accompanied by a plot plan in such number of copies and drawn to such a scale as is required by the Building Inspector. Each such plot plan shall show dimensions and areas of lots and of structures and sewage disposal systems, to be erected, altered, or moved, and adjacent streets or ways. Such plot plans shall accurately indicate dimensions and angles of all lot lines shown thereon, also any streets or ways. Such plot plans shall indicate approved street grades and proposed elevations of the tops of foundations. Also such plot plans shall show the locations of existing sanitary sewers, storm drains, and water pipes in any street shown and the locations of all existing buildings and structures within the application area.

D. **Site Plan Requirement** *(the following amendment was added at ATM 5/5/92)*

No building or structure except one or two family dwellings and their accessory buildings shall be erected, enlarged or changes in use, except in conformity with a site plan bearing an endorsement of approval by the Planning Board. Said site plan shall show the owner of record, location, zone boundary lines, easements, or other legal restrictions, exact location of building(s) on the lot with side, front and rear dimensions, lot dimensions, topography, adjacent public ways, location of off-street parking, lighting, utility systems, surface drainage, traffic flow, location and nature of open spaces with specific notations as to landscaping, locus plan, and other details deemed necessary by the Planning Board. Upon written request of the applicant, the Planning Board may waive or substantially reduce the site plan submission requirements for projects having limited or minor impacts consistent with the purposes of this by-law.

<u>Site Plan Review Requirements</u>

1. Applicants shall submit an original and seven (7) copies of their site plan to the Town Clerk, who shall give the applicant a dated receipt. Within four (4) days, the Town Clerk shall transmit one(1) copy each to Planning Board, the Board of Health, the Building Inspector, the Highway

Superintendent, the Water Commissioners, the Board of Appeals and the Conservation Commission and shall transmit written notice of the availability of the plans to the Fire and Police Departments, Within ninety (90) days of filing such application, the review boards and officers shall evaluate the application and the site plan with regard to the conditions and standards set forth in this chapter and related agency regulations and policies and shall submit comments to the Planning Board. Within ninety (90) days of the receipt by the town clerk of the site plan, the Planning Board shall conduct a site plan review at a properly posted open meeting and shall notify the applicant of the date, time and place of the meeting.

2. The Planning Board shall not act without considering the reports of the review boards and officers unless ninety (90) days from the date of filing have passed without receipt of such reports.

3. The Planning Board shall note major recommendations of the review boards and officers in its decision and shall explain any major divergence from such recommendations.

4. Failure of the Planning Board to act within ninety (90) days of the filing of the application shall be deemed approval of the application and site plan.
Where a proposed development also falls under subdivision control, the applicant shall include information required for a definitive plan according to the current rules and regulations for the subdivision of land. However, Planning Board endorsement under this chapter shall not constitute approval under the Subdivision Control Law.

5. The board, with ultimate jurisdiction in a given case (i.e. the Planning Board or the Zoning Board of Appeals which is the designated special permit granting authority for specific specially permitted uses), shall consider any advisory site plan review report in its decision and shall explain any major divergence from that report's recommendations.

6. Site Plan Specifications:

a. The plan submitted at the same scale of at least one (1) inch equals twenty (20) feet or, in large plots, one (1) inch equals forty (40) feet.

b. There shall be submitted, at the same scale as the site plan, a surveyed plan of existing site features, including the size of the property, the topography at two-foot contour intervals and any bedrock outcroppings; general soil-types as indicated on soil maps from the United States Soil Conservation Service; vegetation, including accurate locations of wooded areas and major trees, and any existing roadways, structures or other significant man-made and natural features.

c. In order to allow adequate consideration of the surroundings, a plan of adjacent properties shall be presented at a scale of one (1) inch equals one hundred (100) feet or at the same scale as and combined with the site plan or surveyed plan, if practical. This plan will show the general characteristics of all lands within at least three hundred (300) feet of the proposed site, including structures and their use, parking areas, driveways, pedestrian ways and other significant features, the zoning districts for the area and the location of the property within the town.

d. Required information; waivers. The site plan and any other drawings necessary shall precisely indicate the following:

i. Area of the site, boundary lines, dimensions of the lot(s), plot and lot numbers from assessors' records, zoning districts, the names of the owner(s) of record and

of all abutting owners of record and the North point. Two perspective renderings and plan(s) of all buildings and structures.

ii. Existing and proposed topography, using two-foot contours, and bedrock outcroppings, if any.

iii. Location of any existing structures, access roads, driveways, driveway openings, parking spaces, hydrants and service and loading areas located on or within one hundred (100) feet of the development site.

iv. Proposed vehicular circulation system, including pavement widths, location and dimensions of driveway entrances and exits, fire lanes, pedestrian ways, bicycle ways and other transportation routes, parking areas and signs.

v. All proposed structures, including their area, dimensions, exact location, if known, relation to topography and proposed use.

vi. Number and type of dwelling units and unit mix, if known.

vii. Service access and facilities for all structures or uses, including garbage and trash disposal facilities.

viii. Location of water supply and wastewater disposal facilities

ix. Existing and proposed site drainage, including the general location of any drainage swales, wetlands, streams, ponds, Housing and Urban Development/Federal Emergency Management Agency or other designated floodplain areas, kettleholes, wells and any mapped water supply protection, conservancy or floodplain protection zoning districts within two hundred (200) feet the site, along with a note summarizing the drainage calculations and explaining any design not providing a zero (0) increase in runoff for a twenty-five year storm.

x. The location of all open space, including its intended use, existing trees and other vegetation to be retained, specific new plantings by size and location and the entity intended to own and maintain them.

xi. Final contours and measures and structures to minimize erosion and siltation during construction.

xii. Significant site appurtenances such as walls, light poles showing the direction of outside lighting, recreation areas and any fencing, screening or signs.

xiii. All rights-of-way and easements, existing and proposed.

xiv. Names and stamps of the responsible registered land surveyor, landscape architect or civil engineer.

xv. Indication of the meeting of any specific requirements established in the Zoning Bylaw not already provided for.

The Planning Board may waive specific requirements when they are inappropriate to a given proposal.

8. Site plan review:
   In considering a site plan, the Planning Board shall seek to assure reasonable use of the site according to the following criteria:
   a. Protection of adjoining premises against detrimental uses of the site during and after construction.

b. The convenience and safety of vehicular and pedestrian traffic movement within the site and movement to and from the site, considering adjacent streets, property and improvements and alternate routes between the site and nearby destinations.
c. Adequacy of the methods for controlling surface water during and after construction, particularly the potential for minimal or zero (0) increase in storm runoff for storms of up to the twenty-five year interval.
d. Provision for the off-street loading and operation of vehicles incidental to the normal operation of the establishment.
e. Functional and aesthetic compatibility of the development with uses existing or allowed on adjacent properties.
f. Residential privacy provided by site and unit layout.
g. Adequacy of the site for any expansion allowed by applicable density standards.
h. Landscaping: An area designed and developed using a combination of trees, shrubs, ground covers, grass and other elements such as natural features of the site, walks and terraces for the purpose of enhancing the natural, scenic and aesthetic qualities of a site.

E. **Site Plan Review Fee**
Applicants requiring site plan review shall make available to the Planning Board funds sufficient to cover any expenses connected with the review of plans, including but not limited to the costs of any engineering or planning consulting services necessary for technical review purposes.

12-3 PREVIOUSLY APPROVED PERMIT

Construction or operations under a building or special permit issued prior to the adoption of this By-Law, or any subsequent amendment of it, shall conform to any subsequent amendments unless the use or construction is commenced within a period of not less than six months after the issuance of the permit and in cases involving construction is continued through to completion as continuously and expeditiously as is reasonable.

12-4 CERTIFICATE OF OCCUPANCY

A. It shall be unlawful to occupy any structure or lot for which a building or use permit is required herein without the owner applying for and receiving from the Building Inspector a certificate of occupancy.

B. The certificate of occupancy shall state that the building and use comply with the provisions of the By-Law and of the State Building Code, as it is applicable in Avon, in effect at the time of issuance. No such certificate shall be issued unless the building and its use and its accessory uses and the uses of all premises are in conformance with the provisions of this By-Law and the Building Code at the time of issuance. A certificate of occupancy shall be conditional' on prior approval of the Board of Health where applicable; on the adequacy of parking space and other facilities as required by this By-Law, and shall lapse if such areas and facilities are used for other purposes.

C. A certificate of occupancy shall be required for any of the following in conformity with the Building Code and this By-Law:
1. Occupancy and use of a building hereafter erected or structurally altered.
2. Change in use of an existing building or the use of land to a use of a different classification.
3. Any change in use of a nonconforming structure or use.

D. The certificate of occupancy shall be applied for coincidentally with the application for a building permit and shall be issued within ten (10) days of written notice that the lawful erection or alteration of the building is complete. Such notice shall be accompanied by an "As Built" plan. (The erection or alteration as it was actually constructed). Failure of the Building Inspector to act within ten (10) days shall be considered approval. Such certificates of occupancy shall be posted by the owner of the property in a conspicuous place for a period of not less than ten days after issuance. A temporary certificate of occupancy may be issued where a bond or similar means is used to secure the construction for a designated period of time.

12-5 PERMIT AND CERTIFICATE FEES

Fees shall be established by the Building Inspector unless the Town, by a Town Meeting vote, has established another schedule.

12-6 ENFORCEMENT

A. The Building Inspector shall enforce the provisions of this By-Law, as provided in this section.

1. If written complaint is made to the Building Inspector, or if he has reason to believe that any provision of this By-Law is being or is about to be violated, he shall make or cause an investigation to be made of the facts. Where complaint is made to the Building Inspector or he shall take action upon such complaint within 14 days or receipt thereof and shall report such action in writing to the complainant.
2. If the Building Inspector finds no violation or prospective violation, any person aggrieved by his decision, or any officer or Board of the town, may, within 30 days appeal to the Board of Appeals.
3. If the Building Inspector finds a violation or prospective violation, he shall give immediate notice in writing to the owner and to the occupant of the premises and shall order him to cease and desist and refrain from such violation. Any person aggrieved by his decision, or any officer or Board of the Town, may within 30 days appeal to the Board of Appeals.
4. If, after such order, such violation continues and no appeal to the Board of Appeals is taken within 30 days, the Building Inspector shall forthwith make application to the Superior Court for an injunction or order restraining the violation and shall take such other action as is necessary to enforce the provisions of the By-Law.
5. If, after action by the Building Inspector appeal is taken to the Board of Appeals, and after a public hearing, the Board of Appeals finds that there has been a violation or prospective violation, the Building Inspector shall issue an order to cease and desist and refrain from such violation unless such order has previously been issued under Section 12-6, A, 3.
6. If such violation then continues, the Building Inspector shall forthwith make application to Superior Court for an injunction or order restraining the violation and shall take such other action as may be necessary to enforce this By-Law.

12-7 VIOLATIONS AND PENALTIES

Penalties for violations of any provision of this By-Law may upon conviction, be affixed in an amount not to exceed one hundred dollars for each offense. Each day portion of a day, that any violation is continued shall constitute a separate offense.

12-8 BOARD OF APPEALS

A. Composition, Term of Office
The Board of Appeals shall consist of five members. The term of office of each member shall be for five years, so arranged that the term of office of one member shall expire each year.

B. Associate Members
In addition to the regular members, there shall be two associate members of the Board of Appeals. The term of office of an associate member shall be for two years, so arranged that the term of office of one associate shall expire each year.

C. Appointment
Members, and associate members, of the Board of Appeals shall be appointed by the Board of Selectmen. The five regular members shall include a member from the Planning Board, a member from the Board of Health, and a member of the Fire Department. Any vacancy in the office of a member or associate member shall be filled by the Board of Selectmen for the balance of the un-expired term, if any.

D. Removal
Any member or associate member of the Board of Appeals may be removed by the Board of Selectmen, upon written charges and after a public hearing.

E. Organization
The Board of Appeals shall annually elect a chairman from its own number and a clerk. Subject to appropriation, the Board of Appeals may employ experts, clerical, and other assistants.

F. Power and Duties
The Board of Appeals shall have the following powers and duties:

1. To hear and decide appeals taken by any person aggrieved by a decision or order of the Building Inspector, or other administrative official, as provided in Chapter 40A, Section 8.
2. To hear and decide applications for Special Permits upon which the Board is empowered to act under this By-Law.
3. To hear and decide petitions for variances, as set forth in Section 12-9.
4. To hear and decide appeals taken from the decisions of the Zoning Administrator, as provided in Section 12-10. In exercising the powers granted to it by this By-Law, and under the provisions of Chapter 40A, (MGL), the Board of Appeals may make orders or decisions, reverse or affirm, in whole or in part, or modify any order or decision, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

G. Rules
The Board of Appeals shall adopt rules, not inconsistent with the provisions of this By-Law, for the conduct of its business and for the purposes of Chapter 40A of the General Laws. An up-to-date copy of such rules shall be kept on file in the office of the Town Clerk.

H. Voting

The concurring votes of four members of the Board of Appeals shall be necessary to reverse any order or decision of any administrative official or to effect any variance in the application of this By-Law.

I. Substitution of Associate Members

In case of the absence, inability to act, or conflict of interest on the part of any regular member of the Board of Appeals, the chairman, or if such absence, inability or conflict is in the chairman, then the clerk of the Board of Appeals, may designate an associate member to sit on the Board of Appeals until such absence, inability, or conflict is removed; or the vacancy filled.

12-9 VARIANCES

The Board of Appeals may grant a variance from the terms of the applicable provisions of this By-Law , but only in conformity with the provisions of this Section.

A. Notice

Notice of the filing of a petition for a variance from the applicable provisions of this By-Law shall be given by publication and posting as required by Chapter 40A, Section 11, of the General Laws, and by mailing to all parties in interest, as therein defined.

B. Public Hearing

The Board of Appeals shall hold a public hearing concerning each such petition for a variance from the applicable provisions of this By-Law as is received by it. The petitioner and any interested party may present evidence or testimony designed to assist the Board of Appeals in reaching a decision.

C. Findings

Based upon evidence produced at the public hearing, the Board of Appeals must make the following specific findings in order to grant a variance:

1. That there exists special circumstances relating to soil conditions, shape, or topography of the specific land or structures;
2. That the said circumstances do not generally affect the zoning district in which the land or structure is situated;
3. That a literal enforcement of the provisions of this By-Law would involve substantial hardship, financial, or otherwise, to the petitioner (or appellant);
4. That desirable relief might be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purposes generally of this By-Law.

D. Use Variance

The Board of Appeals may not grant a variance to authorize a use or an activity not otherwise permitted in the district in which the land or the structure is located.

E. Conditions

In granting a variance under this section, the Board of Appeals ma impose conditions, and safeguards, both of time and use, including the continued existence of any particular structures;

F. Lapse
If the rights granted by a variance under this Section are not exercised within one year of the date of grant of such variance, they shall lapse. A variance which has lapsed, may be re-established only after notice and a new hearing, as provided above.

12-10 ZONING ADMINISTRATOR

A. Appointment
The Board of Appeals may appoint a Zoning Administrator, to serve at their pleasure. The appointment shall be subject to confirmation by the Board of Selectmen.

B. Qualifications
The Board of Selectmen may establish qualifications for the office of Zoning Administrator by the concurring vote of at least four of its members.

C. Powers and Duties
The Board of Appeals may delegate some of its powers and duties to the Zoning Administrator by the concurring vote of at least four of its members.

D. Time Limitation
Any appeal, application, or petition filed with the Zoning Administrator, shall be deemed denied if no decision has been issued within thirty-five days from the date of the appeal, application, or petition was filed. A denial based on such inaction shall be subject to an appeal to the Board of Appeals, in accordance with the provisions of Section 8 and Section 15 of Chapter 40A.

E. Appeal of Decisions
Any person aggrieved by a decision or order of the Zoning Administrator, may, within thirty days following the date the decision is filed in the office of the Town Clerk, appeal the decision or order to the Board of Appeals in accordance with the provisions of Sections 13 and 14 of Chapter 40A.

12-11 APPEAL TO SUPERIOR OR LAND COURT

Any person aggrieved by a decision of the Board of Appeals, or any Special Permit Granting Authority, whether or not previously a party to the proceeding, or any municipal officer or board may appeal to the Superior Court, or to the Land Court under Section 14A of Chapter 240, for Norfolk County, by bringing an action within twenty days after the decision has bee filed in the office of the Town Clerk. The procedures for such appeal are to be found in Section 17 of Chapter 40A.

SECTION XIII
Amendment, Non-Interference, and Severability

13-1 AMENDMENT

This By-Law may be amended from time to time in accordance with the provisions of Chapter 40A, Section 5 of the General Laws.

A. A proposal to amend this By-Law may be submitted, in writing, to the Board of Selectmen by the Board of Selectmen, the Board of Appeals, by an individual owning land to be affected by the proposed change or addition, by request of registered voters (as provided in Chapter 30, Section 10, of the General Laws), by the Planning Board, or by the Old Colony Planning Council. All proposals shall include a brief written description of the intent and the purpose of the proposed amendment.

B. A proposal to amend this By-Law which affects the Zoning Map shall include words of boundary description together with three black line prints of the area to be affected showing existing lines and proposed lines, stating all pertinent dimensions in feet. All such proposals shall also include a brief written description of the purpose and intent of the proposed amendment.

C. Within fourteen days following the receipt of any proposal to amend the Zoning By-Law, the Board of Selectmen shall submit the same to the Planning Board for its review.

D. Within sixty-five days following receipt by the Planning Board of a proposed amendment to this By-Law, it shall hold a public hearing concerning the same. Notice of the said public hearing including the time and place of the public hearing, the subject matter, sufficient for identification and of the place where texts and maps thereof may be examined, shall be published in a newspaper of general circulation in the Town once in each of two successive weeks; the first publication to be not less than fourteen days before the day of the hearing. The same notice shall be posted not less than fourteen days prior to the public hearing in a conspicuous place in the Town Hall.

E. Notice of any such hearings shall also be sent, postage prepaid, to the Department of Community Affairs, the Old Colony Planning Council and to the Planning Boards of Randolph, Holbrook, Brockton, and Stoughton.

F. No vote to adopt any proposed amendment to the Zoning By-Law shall be taken until a report, with recommendations, has been submitted to the Town Meeting, or twenty-one days have elapsed following the public hearing by the Planning Board, without the submission of such report.

G. Upon the submission of a report by the Planning Board, or at the expiration of twenty-one days following the public hearing by the Planning Board without the submission of a report, the Town Meeting may adopt, amend, or reject any such proposed amendment to the Zoning By-Law.

H. If the Town Meeting fails to act with respect to any such proposed amendment to the Zoning By-Law within six months following the date of the public hearing by the Planning Board, no action shall be then taken unless another public hearing is held with notice and report as provided herein.

I. A two-thirds vote of those present and voting shall be necessary to adopt any proposed amendment to the Zoning By-Law.

J. No proposed amendment which has been unfavorably acted upon by a Town Meeting shall be considered again by the Town within two years following the date of such unfavorable action unless adoption of the proposed amendment is recommended in the final report of the Planning Board.

K. Following adoption by the Town Meeting, proposed amendments to the Zoning By-Law shall be forwarded to the Department of the Attorney General for approval, as required by Section 32 of Chapter 40. A statement prepared by the Planning Board, which explains the proposed amendment, shall accompany such submissions.

13-2 NONINTERFERENCE

This By-Law shall not interfere with or annul any other Town By-Law, rule, regulation, or permit, provided that unless specifically excepted, where this By-Law is more stringent, it shall control.

13-3 SEVERABILITY

The provisions of this By-Law are severable. If any provision of this By-Law is held to be invalid, the other provisions of the By-Law shall not be affected thereby.

SECTION XIV
Interim Regulations for Medical Marijuana Uses

14-1 PURPOSE

This Section is intended to provide restrictions that will allow the Town adequate time to consider whether to allow facilities associated with the medical use of marijuana, to the extent that such facilities are permitted under state law and regulations, and, if so, where and under what conditions. Given that a law permitting the medical use of marijuana in the Commonwealth of Massachusetts shall be in effect beginning January 1, 2013, and that the Massachusetts Department of Public Health has yet to promulgate the regulations by which facilities that produce or dispense medical marijuana shall be registered and administered, a restriction on the establishment of such facilities in Avon shall provide the opportunity to study their potential impacts on adjacent uses and on the general public health, safety and welfare, and to develop zoning and other applicable regulations that appropriately address these considerations consistent with statewide regulations and permitting procedures.

14-2 DEFINITION

A Medical Marijuana Treatment Center shall mean any medical marijuana treatment center, as defined under state law as a Massachusetts not-for-profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations.

14-3 EXCLUSION OF OTHER MARIJUANA USES

Any establishment that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers shall not be permitted if such establishment has not been properly registered and licensed in accordance with applicable state and local laws and regulations, or is not operating as a not-for-profit entity, or otherwise fails to meet the definition of a Medical Marijuana Treatment Center.

14-4 EXCLUSION OF ACCESSORY USES

In no case shall the acquisition, cultivation, possession, processing, transference, transportation, sale, distribution, dispensing, or administration or marijuana, products containing or derived from marijuana, or related products be considered accessory to any use.

14-5 INTERIM RESTRICTION

1. Medical Marijuana Treatment Centers shall not be permitted in any zoning district in Avon as long as this Section 14 is effective, as set forth in Section 14.6 below.

2. The cultivation, processing, sale, and distribution of marijuana, products containing or derived from marijuana or related products shall not be permitted in any zoning district in Avon as long as this Section 14 is effective, as set forth in Section 14.6 below.

14-6 EXPIRATION

This Section 14 shall be effective through May 15, 2014.

These bylaws were approved at Annual Town Meeting on 5/6/14 and is subject to the approval of the Attorney General.

Section II Definitions

STORAGE UNIT:
Any object designed to be transportable, with wheels or without, used primarily for storage of building materials, personal materials or other materials for use on a limited basis, such as but not limited to trailers, containers, temporary or membrane structures. , whether on wheels or have no wheels, transportable units designed and used primarily for temporary storage of building materials, personal materials or other materials for use on a limited basis.

MEDICAL MARIJUANA TREATMENT AND DISPENSING FACILITIES:
Shall mean a not-for-profit entity, as defined by Massachusetts Law as a "Medical Marijuana Treatment Center", registered under this law, that acquires, cultivates, possess, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, material to qualifying patients or their personal caregivers. It shall also include any establishment having as any portion of its stock in trade marijuana or non-FDA approved marijuana based products or its active ingredient, THC (tetrahydrocannabinol); or paraphernalia for the consumption or delivery of marijuana or products containing marijuana as allowed for medical uses under Massachusetts Law, including but not limited to retail distribution, wholesale distribution or growth and/or cultivation of marijuana; production or sale of marijuana (cannabis) seeds; or the refinement or manufacturing or sale of marijuana infused products.

MARIJUANA:
In addition to the Commonwealth's definition under Chapter 94C of Mass General Laws, or definition shall include: Marijuana, Marihuana, Cannabis, Hashish, Cannabis seeds, THC (tetrahydrocannabinol) and its derivatives and extracts as well as any substances containing THC whether in plant, including its flowers, oil, resin, solid, liquid or aerosol form.

MARIJUANA CULTIVATION:
The process of propagation, including germination, using soil, hydroponics, or other mediums to generate growth and maturity. The intended process of bringing a plant or grown product to maturity for harvesting, sale, refining or use as an ingredient in further manufacturing or processing. This definition encompasses marijuana cultivation related to Medical Marijuana Treatment and Dispensing Facilities.

Section 5-3, H "Use Regulations, Table of Use Regulations, Principal Uses"

H. Other Principal Uses		RES R-25	RES R-40	GEN. BUS.	IND.	COM	MU LOW D	RES HD
4	**Establish medical marijuana treatment dispensing and cultivation facilities.**	**N**	**N**	**N**	**N**	**SP**	**N**	**N**

Section 5-3, I "Use Regulations, Table of Use Regulations, Accessory Uses"

I. Accessory Uses		**RES R-25**	**RES R-40**	**GEN. BUS.**	**IND.**	**COM**	**MU LOW D**	**RES HD**
8	**Trailer use for temporary storage**	**N**	**N**	**SP**	**SP**	**SP**	**SP**	**SP**

Section 7-5, L "Specific Requirements for Particular Uses by Special Permit, for Storage Units

1. **Residential**
   The Building Inspector may issue a Temporary Zoning Permit authorizing temporary storage units. Such permit shall specify the number of units authorized and the period of time of such authorization.
2. **Commercial / Industrial / Business**
   The Planning Board, as Special Permit Granting Authority, may issue a Special Permit authorizing the temporary storage of one or more unregistered trailers, shipping containers, mobile storage units or temporary structures. Permit Application shall include a Site Plan Drawing, showing the proposed location and specify the number of storage units. The issued Special Permit shall state the period of time of such authorization.

SECTION XIV –

MEDICAL MARIJUANA TREATMENT AND DISPENSING FACILITIES and MARIJUANA CULTIVATION

The zoning of Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation uses in the Town of Avon shall be governed in accordance with this Section 14.

14-1 PURPOSE

A. The intent of this bylaw is to address possible adverse public health and safety consequences related to passage of Question 3 on the November 6, 2012 State Referendum. It is the purpose of this section titled "Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation" to minimize any potential adverse impacts on the quality of life in the Town. It is the intent of this bylaw to establish specific zoning standards and regulations for medical marijuana centers (treatment and dispensing facilities), medical marijuana growing and cultivation operations either related to Medical Marijuana Treatment Facilities and Dispensaries or the personal cultivation by qualified patients or cultivation by personal caregivers on the behalf of qualified patients or other users:

B. To provide for the limited establishment of Medical Marijuana Treatment and Dispensing Facilities in appropriate places and under strict conditions in acknowledgment of passage of Initiative Petition 11-11 (Questions #2 on the November 2012 state ballot).

C. To minimize the adverse impacts of Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said Facilities;

D. To regulate the siting, design, placement, safety, security, monitoring, modification, and removal of Medical Marijuana Treatment and Dispensing Facilities; and Marijuana Cultivation; and

E. To limit the overall number of Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation in the Town to what is essential to serve the public necessity.

14-2 APPLICABILITY

A. The cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use is prohibited unless permitted as a Medical Marijuana Treatment and Dispensing Facility under this Section.

B. No Medical Marijuana Treatment and Dispensing Facility or any Marijuana Cultivation use shall be established except in compliance with the provisions of this Section.

C. Nothing in the Bylaw shall be construed to supersede federal and state laws governing the sale of narcotic drugs.

D. If any provisions of this Section or the application of any such provisions to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected there by, and to this end the provisions of this Section are severable.

14-3 GENERAL

Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation shall be authorized by Special Permit only in District(s) provided, as setforth in Section 5-3, Use Regulation Schedule of the Zoning Bylaws. Any such Special Permit issued by the Special Permit Granting Authority shall comply with all relevant local, state, and federal laws.

14-4 DISALLOWANCE

No Medical Marijuana Treatment and Dispensing Facilities or Marijuana Cultivation Special Permit shall be issued to any person convicted of violating the provisions of Mass General Law, Chapter 119, Section 63, or General Law, Chapter 94C, or similar laws in other jurisdictions. Any applicant for special permit under this Bylaw must allow for a criminal background check which includes jurisdictions beyond Massachusetts.

14-5 ELIGIBLE LOCATIONS

A. Any Medical Marijuana Treatment and Dispensing Facility and Marijuana Cultivation activities permitted under this Section shall be located only in a zoning district that is designated for its

use within this Zoning Bylaw and shall be subject to Special Permit by Avon Planning Board and Site Plan review under Section 12 of the Town of Avon Zoning Bylaws.

No Medical Marijuana Treatment and Dispensing Facilities use or Marijuana Cultivation activities shall be located within five hundred (500) linear feet of a property line where the following Districts or activity or uses occur:

1. Any Residential District as defined in these Zoning Bylaws;
2. Any school or child care establishment; or place where minors frequent (e.g. a library, ball field, sports or family recreation facility, religious facility or the like);
3. Any other Medical Marijuana Treatment and Dispensing Facility or Marijuana Cultivation site;
4. Any drug or alcohol rehabilitation facility;
5. Any correctional facility, half-way house or similar facility; or
6. Any establishment licensed under the provision of General Law, Chapter 138, Section 12.

B. No marijuana or marijuana based product shall be sold or grown or cultivated, interior or exterior, of a residential dwelling unit or residential district. Growing and related cultivation activities shall occur only in districts as permitted in this Bylaw.

C. Separation. Distances shall be calculated by direct measurement from the nearest property line of the land used for school or child care purposes or places where minors frequent or any other use listed above in Section 14-5A to the nearest portion of the building in which the medical marijuana dispensary is located.

D. No Entitlement or vested rights to permitting: No person shall be deemed to have any entitlement or vested rights to permitting under this Bylaw by virtue of having received any prior permit from the Town including, by way of example only, any zoning permit or any wholesale food manufacturer's license. In order to lawfully engage in the business of selling, cultivating marijuana, or manufacturing medical marijuana, or products containing marijuana, cannabis, or THC, in the Town of Avon on and after the date of passage of this Bylaw, any person must qualify for and obtain a special permit in accordance with the requirements of this Bylaw.

E. All sales of medical marijuana by a licensed Medical Marijuana Treatment and Dispensing Facility shall occur only upon the permitted premises.

F. Signage: Any permitted Medical Marijuana Treatment and Dispensing Facilities site shall comply with the requirements of the Town Sign Bylaws at all times. In addition, upon penalty of special permit revocation, no permitted Medical Marijuana Treatment and Dispensing Facility or Marijuana Cultivation Facility shall use any advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors. Offsite signage or advertising in any form, including billboards shall not be allowed.

G. Visibility: There shall be no visibility of activities, products or treatment occurring within or on the premises of a Medical Marijuana Treatment or Dispensing Facility or Marijuana Cultivation Facility from the exterior of such or premises.

H. Manufacturing: A local special permit for medical marijuana infused product manufacturing may be issued only in locations where Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation activities are permitted.

I. Cultivation Activities: Cultivation, as defined in this Bylaw, by an Medical Marijuana Treatment and Dispensing Facility in any location other than where specifically permitted shall be disallowed. This disallowance shall include cultivation, even where proposed as an accessory use, by any Medical Marijuana Treatment and Dispensing Facility.

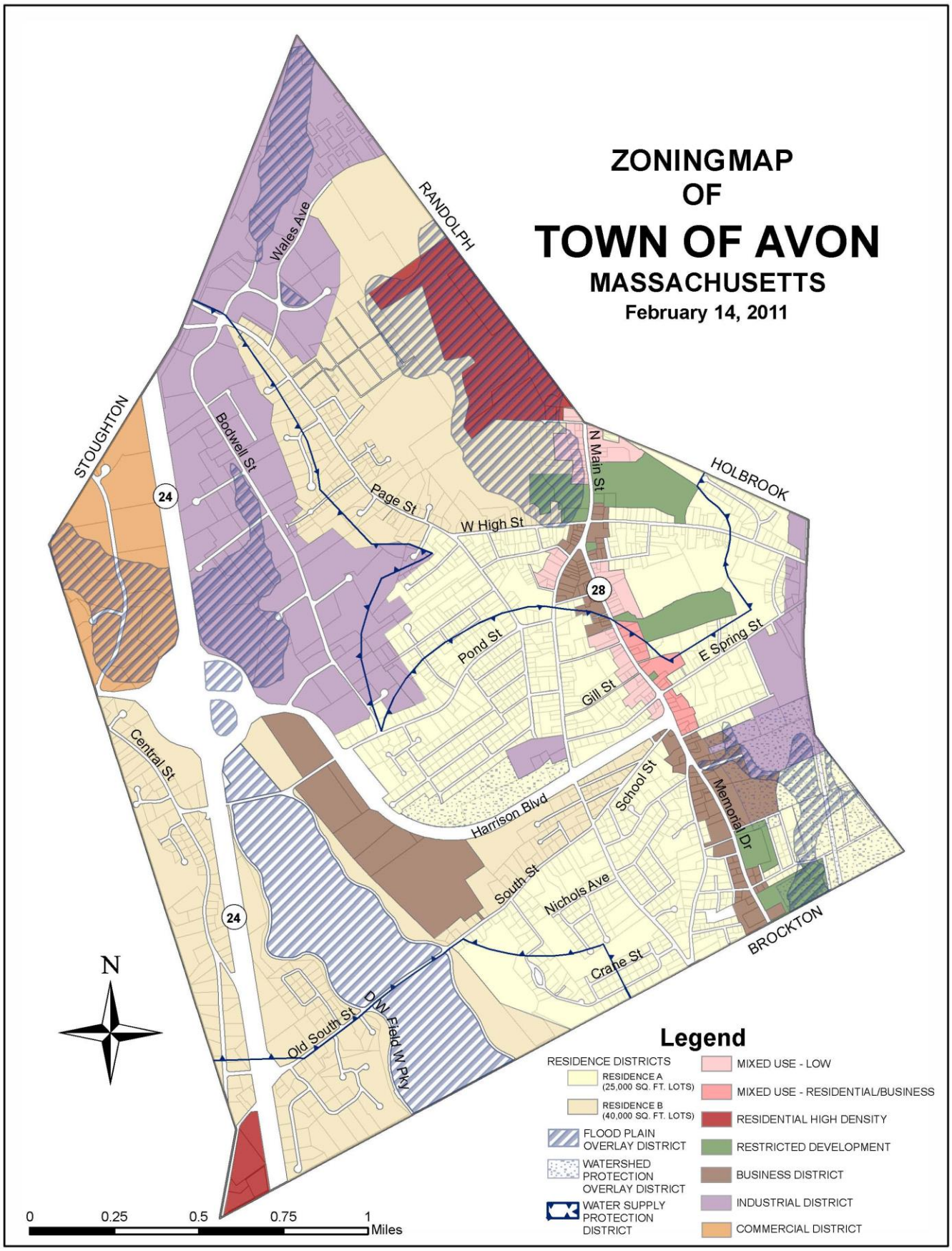
14-6 TERM OF SPECIAL PERMIT

Any local special permit issued pursuant to this Section shall be valid for two years from the date of issuance. Any renewal of the special permit shall be governed by the standards and procedures set forth in this Section and any regulations adopted pursuant thereto by the Planning Board/Zoning Enforcement Officer and/or Licensing Board.

Notification: Any new applications sought under this Section must be publically advertised for a period of no less than fourteen (14) days, not including the date of the required special permit public hearing. Abutters within three hundred (300) feet shall be notified in writing of said application, and include any and all dates and locations of public hearings on said application.

14-7 CONFLICT OF LAWS

In the event of any conflict between the provisions of this Bylaw and any other applicable state or local law, the stricter provision, as deemed by the Zoning Enforcement Officer, shall control.


ZONINGMAP
OF
TOWN OF AVON
MASSACHUSETTS
February 14, 2011
RANDOLPH
HOLBROOK
STOUGHTON
BROCKTON
Wales Ave
Bodwell St
Page St
W High St
N Main St
Pond St
E Spring St
Gill St
Central St
Harrison Blvd
School St
Memorial Dr
South St
Nichols Ave
Crane St
Old South St
D W Field W Pky
24
28
N
0
0.25
0.5
0.75
1
Miles
Legend
RESIDENCE DISTRICTS
RESIDENCE A (25,000 SQ. FT. LOTS)
RESIDENCE B (40,000 SQ. FT. LOTS)
FLOOD PLAIN OVERLAY DISTRICT
WATERSHED PROTECTION OVERLAY DISTRICT
WATER SUPPLY PROTECTION DISTRICT
MIXED USE - LOW
MIXED USE - RESIDENTIAL/BUSINESS
RESIDENTIAL HIGH DENSITY
RESTRICTED DEVELOPMENT
BUSINESS DISTRICT
INDUSTRIAL DISTRICT
COMMERCIAL DISTRICT