

AVON ZONING ORDINANCE

CHAPTER 13. REVISION HISTORY

CHAPTER 13. SPECIFIC USE REQUIREMENTS

Ordinance #	Plan Commission Approval Date	Town Council Adoption Date	Description
2002-14	09-24-02	11-14-02	Adoption of Chapter 13.
2008-21	07-28-08	08-14-08	Section 13-5 – Fences and Walls
2009-18	07-27-09	08-06-09-TC 09-21-09-PC	Section 13-5 – Requirements for fencing in drainage easements
2012-23	10-29-12	11-15-12	Section 13-3 – Requirements for Accessory Uses and Structures in easements
2012-23	10-29-12	11-15-12	Section 13-6(2)(E) – Firearm and ammunition sales
2013-04	02-25-13	03-14-13	Section 13-5 – Requirements for fences within agricultural districts

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CHAPTER 13. SPECIFIC USE REQUIREMENTS

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- Section 13-1. Lots
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 - Section 13-3. Accessory Uses and Structure
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 - Section 13-13. Temporary Uses
 - Section 13-14. Sexually Oriented Businesses
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Section 13-1. Lots

1. Number of Buildings on a Lot

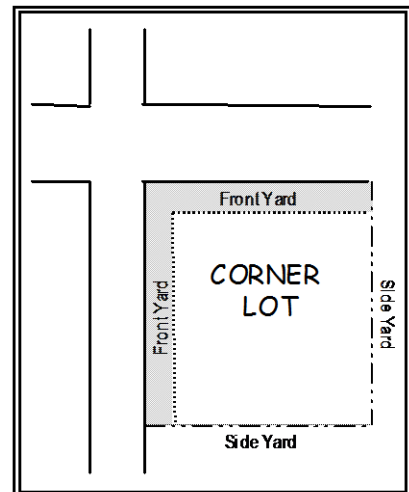
Except in the case of a unified development located in a C-4 Office District, I-4 Industrial Park District, or SC Shopping Center District, no more than one principal use and no more than one principal building may be located on a single lot of record or a single zoning lot.

2. Division of Lots

No lot shall hereafter be divided into two or more lots for the purpose of transfer of ownership, unless the division shall conform to the applicable regulations of the Subdivision Control Ordinance and this Ordinance.

3. Corner Lots

On a corner lot, both lot lines abutting on a street shall be considered front lot lines, and the required front yard setback on corner lots shall apply to each side of the lot facing a street. The remaining sides of the lot shall be considered side lot lines, and the required side yard setback on corner lots shall apply to each side of the lot not facing a street.



4. Street Frontage and Access

A. Every lot must have frontage on a public street or permitted private access drive and must be provided with facilities (traffic access points) for ingress and egress to and from such street or drive. The number of facilities for ingress and egress for lots having one hundred (100) feet or less of frontage shall not exceed one (1), provided that each multi-family development, regardless of size, shall have an additional point of ingress and egress for emergency access. For lots having more than one hundred (100) feet of frontage, the number of facilities for ingress and egress shall be at the determination of the Plan Commission. Any request for more than one point of ingress and egress onto any public street shall require the submittal of a traffic study.

B. Private access drives shall only be permitted where, because of unusual site conditions, full

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compliance with the requirement for frontage on a public street would prevent reasonable access to the area. As used in this section, “unusual site conditions” shall include, but not be limited to, lots with acreage sufficient for development but with limited road frontage, and lots which currently do not have frontage on a public street. As used in this section, a lot shall be considered to not have “reasonable access” if access through a dedicated public street would result in a physical or financial hardship, thereby making the site prohibitive for development.

C. Private access drives shall meet the following requirements.

- (a) Private access drives shall provide access only to commercial and industrial lots.
- (b) Private access drives shall provide access only to abutting lots and shall be allowed only for such drives that have no public interest for traffic circulation.
- (c) Private access drives shall not be created to provide access to more than three lots.
- (d) The design and improvement of private access drives shall be to the same standards as those for public roads providing access to similar development and shall adhere to all provisions of the Subdivision Control Ordinance of the Town of Avon for public roads.

5. Lot Area Exclusions

Any portion of a lot located within the 100-year floodplain or floodway, within wetlands, lakes, ponds, areas used for storm water detention, or areas used for floodplain compensatory storage, may not be counted towards the minimum lot area.

6. Yards, Courts, and other Open Spaces on Lots

A. Open Spaces

The provisions of yards, courts, and other open spaces and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or property on which it is located, as long as the building or property is in existence. Furthermore, no legally required yards, courts, or other open space, or minimum lot area allocated to any building, shall by virtue of change of ownership, or for any other reason, be used to satisfy yard, court, or other open space or minimum lot area requirements for any other building.

B. Location of Required Yards, Courts, and other Open Space

All yards, courts, and other open space allocated to a building or group of buildings shall be located on the same zoning lots as such building or group of buildings.

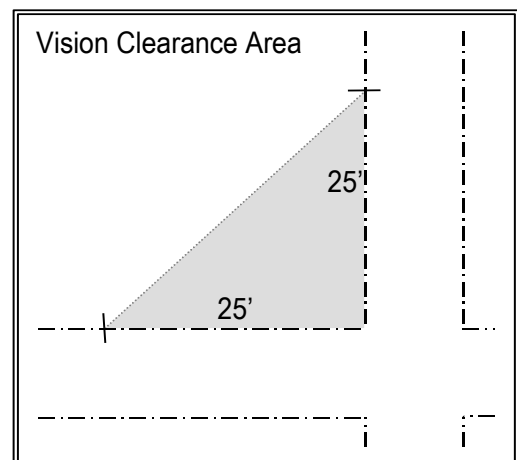
C. Yards for Existing Buildings

No yard now or hereafter provided for a building existing on the effective date of this Ordinance shall subsequently be reduced below, or further reduced if already less than, the minimum yard requirement of this Ordinance for equivalent new construction.

7. Vision Clearance Areas

No building, structure or improvement, including landscaping, shall be erected, placed, planted or maintained so as to interfere with a vision clearance area located between the heights of two and one half (2 ½) feet and nine (9) feet above the crown of a street, driveway or alley. A vision clearance area shall be established for all streets whether public or private, in one of the following manners:

- A. on a corner lot, the clear sight triangular area is formed by the street right-of-way lines and the



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- diagonal line connecting points measured twenty-five (25) feet along the right-of-way lines from the intersection of such streets' right-of-way lines, or in case of a round or cut property corner, from the intersection of the street right-of-way lines extended; or
- B. on a lot adjacent to an at-grade railroad crossing, the clear sight triangular area is formed by the side lot line sharing a boundary with the railroad right-of-way, the street right-of-way line, and the diagonal line connecting points measured twenty-five (25) feet from the intersection of such lines, or
 - C. on a lot which has a driveway, abuts an alley or which is next to a lot which has a driveway, the two clear sight triangular areas are formed by the street right-of-way line, both sides of either the alley right-of-way or of the surface edge of the driveway, and the diagonal line connecting points measured (10) feet from the intersection of the street right-of-way line and driveway or alley lines extended.
 - D. Where no right-of-way line has been determined, a line parallel to the property line, drawn at a distance of thirty (30) feet from the edge of pavement, shall be used in place of the right-of-way line in the equations above.

Section 13-2. Permitted Obstruction in Required Yards

The following shall not be considered to be obstructions when located in the required yards specified.

1. All Yards

- A. Open porches, patios, terraces, and decks not over eighteen (18) inches above the average grade, but not including permanently roof-over porches, patios, terraces, and decks, provided, however, such porches, patios, terraces, and decks shall not extend more than two (2) feet into the required yards.
- B. Residential window awnings attached to the principal dwelling, but not projecting more than three (3) feet out, and at least seven (7) feet above the average level of the adjoining ground.
- C. Steps, four (4) feet or less above grade which are necessary for access to a permitted building.
- D. Chimneys projecting eighteen (18) inches or less into the yard;
- E. Arbors, trellises, flag poles, fountains, sculptures, plant boxes, and other similar ornamental objects.
- F. Overhanging eaves and gutters projecting three (3) feet or less into the yard.

2. Front Yards

- A. One-story bay windows projecting three (3) feet or less into the yard.
- B. Down spouts projecting not more than six (6) feet into the yard.

3. Side and Rear Yards

- A. Air conditioning units and compressors.
- B. One-story bay windows projecting three (3) feet or less into the yard.

4. Rear Yards

- A. Enclosed, attached or detached off-street parking spaces in non-residential districts.
- B. Balconies and breezeways.

Section 13-3. Accessory Uses and Structures

- 1. Accessory uses and structures are allowed in the various districts, subject to any particular limitations therein, and provided they shall be:

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- A. incidental to the principal use or structure;
- B. operated and maintained on the same lot as the principal use or structure;
- C. subordinate in height, area, purpose, and location to the principal use or structure;
- D. located at least ten (10) feet away from the principal use or structure; and
- E. compatible in style and materials with the principal use or structure.

Where authorized by this Ordinance, wireless communication service facilities may be considered an accessory use.

- 2. Except as provided elsewhere in this Ordinance, no accessory use, building, or structure or portion thereof, shall be located in front of the rear building line of the principal building. Furthermore, each accessory use, building, or structure or portion thereof, shall adhere to the side or rear yard requirements of the district in which it is located.
- 3. No accessory use, building, or structure shall be permitted prior to the construction and operation of the principal building.
- 4. No accessory use, building, or structure shall be permitted within any drainage, utility, landscape, maintenance, access easement or additional easements as provided by the Avon Zoning Administrator. This restriction shall apply to porches, patios and decks as defined herein.
- 5. Porches, patios or decks eighteen (18) inches above grade shall comply with all yard setback requirements of the district in which it is located except for stairs, which may encroach into the required yards. Such porches, patios or decks shall require an Improvement Location Permit.

Section 13-4. Swimming Pools and Hot Tubs

In addition to conforming to the regulations for accessory uses and structures set forth above, all swimming pools and hot tubs shall meet the following requirements.

- 1. No swimming pool shall be installed in the Town without first being issued an Improvement Location Permit pursuant to Chapter, 4, Section 4-1 (Improvement Location Permit).
- 2. No accessory swimming pool or hot tub shall be located in any required front yard or in front of the front building line of a principal use.
- 3. No accessory swimming pool or hot tub shall be located in any required side or rear yard.
- 4. No pools or hot tubs shall be erected or constructed unless adequate distance from overhead electrical wires is provided in accordance with the most current additions of the National Safety Code and the National Electrical Code.
- 5. All swimming pools and hot tubs shall be included in the calculation of maximum lot coverage.
- 6. All swimming pool construction, including associated decking, fencing and means of access shall conform with the regulations set forth in Indiana Administrative Code Title 675, Article 20: Swimming Pool Code. (675 IAC 20-4)

Section 13-5. Fences and Walls

In addition to conforming to the regulations for accessory uses and structures set forth above, all fences, walls, and like structural barriers shall meet the following requirements.

1. Improvement Location Permit

A fence, wall, or like structural barrier shall require an Improvement Location Permit pursuant to Chapter, 4, Section 4-1 (Improvement Location Permit) and further are subject to the regulations of this Section.

2. Fences Permitted Generally

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A. Residential and Agricultural Districts

The following fence materials are permitted in the residential districts:

- (a) Wood.
- (b) Wrought iron.
- (c) Masonry or stucco wall.
- (d) Live continuous dense hedge of a non-hazardous nature.
- (e) PVC/Vinyl.
- (f) Vinyl coated chain link.
- (g) Barbed wire, subject to Section 13-5[6].
- (h) Chain link, chicken wire, wire mesh, agricultural wire (typical farm field fence) shall only be permitted in agricultural districts for the containment of livestock or to surround agricultural fields.

B. Non-residential Districts

- (a) Wood.
- (b) Wrought iron.
- (c) Chain-link of conventional construction utilizing metal piping or tubing for fence post.
- (d) Masonry or stucco wall.
- (e) Live continuous dense hedge of a non-hazardous nature.
- (f) Barbed wire, subject to Section 13-5(2)(A)(g) and 13-5[6].
- (g) PVC/Vinyl

C. Safety Fencing

The Zoning Administrator may require safety fencing for all construction sites that present an immediate danger to the public health, safety and welfare.

3. Location and Height Limitations

A. Agricultural Districts

- (a) Fences, walls, or like structural barriers located in a front yard shall not exceed four (4) feet, except containment fences and agricultural field fences shall not exceed six (6) feet in height within a front yard.
- (b) Fences, walls, or like structural barriers located in a side or rear yard shall not exceed eight (8) feet in height.
- (c) Fence posts or support framework may exceed these height limitations by six (6) inches

B. Residential Districts

- (a) Fences, walls, or like structural barriers located in a front yard shall be ornamental in nature, at least sixty percent (60%) open, and limited to a maximum height of four (4) feet. Live continuous dense hedges shall be limited to a maximum height of three (3) feet.
- (b) Fences, walls, or like structural barriers located in a side or rear yard shall be limited to a maximum height of six (6) feet.
- (c) Fence posts or support framework may exceed these height limitations by four (4) inches.

C. Non-residential Districts

- (a) In all Commercial Districts, fences, walls, or like structural barriers shall be prohibited in any front yard. For side and rear yards in the Commercial Districts, fences, walls, or like structural barriers shall be limited to a maximum height of six (6) feet.
- (b) In all Industrial Districts, fences, walls, or like structural barriers shall be limited to a

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maximum height of eight (8) feet.

(c) Fence posts or support framework may exceed these height limitations by six (6) inches

D. Highways, Streets and Public Right of Ways, Drainage Easements

No fence, wall, or like structural barrier shall be erected or allowed on a public street, highway, alley or other public right-of-way. Fences, walls, or like structural barriers erected or placed in such areas shall be a violation of this Ordinance, subject to the provisions of Chapter 19 (Enforcement), and may be summarily removed by the Town of Avon.

E. Utility Easements

Fences, walls, or like structural barriers may be placed in public utility easements, subject to the following:

(a) Prohibitions

- (1) No fence, wall, or like structural barrier shall be allowed within a drainage easement prior to the recording of an Easement Encroachment Agreement with the title of the property.
- (2) No fence, wall or like structural barrier shall be erected in such a manner as to leave Town staff without means of access to a connected or abutting easement.
- (3) No fence, wall or like structure shall be erected above the known location of a buried storm water drainage conveyance.
- (4) No fence, wall or like structure shall be located within five (5) feet of any storm water inlet.
- (5) No impervious fence, wall or like structural barrier shall be allowed within a drainage easement.

(b) Permissions

- (1) A fence, wall, or like structural barrier may be permitted within a drainage easement, subject to the following:
 - i. Easement Encroachment Agreement
 - a. Prior to the issuance of a permit for the location of a fence, wall or like structural barrier within a drainage agreement, an Easement Encroachment Agreement shall be recorded with the title to the property.
 - b. The Easement Encroachment Agreement shall be on a form acceptable to the Town.
 - c. Any cost associated with the recording of an Easement Encroachment Agreement shall be borne by the property owner or their designee.
 - ii. Access
 - a. Any fence, wall or like structure within a drainage easement shall be erected in such a manner as to allow access to connected or abutting drainage easements.
 - b. If, in the sole determination of the Town, additional gates or removable sections are necessary to provide access to connected or abutting drainage easements, the Town may require such improvements as a condition of approving the proposed fence, wall or like structural barrier.
 1. Failure to agree to the provision of any such required gate or removable section will result in the denial of the requested permit.
 2. The elimination or disabling of a required gate or removable section shall constitute a violation of this ordinance, and be

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subject to enforcement as per the provisions of Chapter 19 of this ordinance.

- iii. Buried Storm Water Conveyance
 - a. A registered utility location service shall identify and verify the location of any buried storm water conveyance prior to the issuance of a permit for any fence, wall or like structural barrier.
 - b. The location of any buried storm water conveyance shall be noted on the submitted plot plan accompanying the requested permit.
 - c. Any fence, wall or like structural barrier shall be offset a minimum of five feet (5') from the location of any buried storm water conveyance.
- iv. Permeability
 - a. A minimum unobstructed gap of twenty-five percent (25%) of the width of any vertical fence slat or plank shall be provided between abutting slats or planks within any portion of the fence within the swale.
 - b. Slats or planks may be allowed to be mounted in a flush or touching manner if the proposed fence design provides an equivalent unobstructed pervious area (20%) within the portion of the area within the swale
 - 1. The proposed unobstructed pervious area shall begin in contact with grade level.
 - 2. The proposed unobstructed pervious area shall continue to an elevation one (1) foot below the top of the swale.
 - c. Any proposed wall or like structural barrier shall meet the same 20% permeability standard as any slat fence for the portion of the wall or like structural barrier within the swale.
 - 1. A plan depicting the means of meeting the 20% permeability standard shall be submitted with any application for any wall or like structural barrier.

(c) Review

- (1) Fence permit requests shall be reviewed and approved by the Avon Public Works Director or the Director's designee prior to issuance.

4. Construction and Maintenance Requirements

A. Construction

- (a) All fences shall be designed and constructed in conformity with the wind, stress, foundation, structural, and other requirements of the Building Code and other ordinances of the Town of Avon.
- (b) All fences, walls, and like structural barriers shall meet the vision clearance requirements set forth in Section 13-1(7) above.
- (c) All fence posts and support framework shall be located on the side of the fence facing the fence owner's property, and the fence's finished side shall face the exterior of the lot.
- (d) All chain link fences must be a minimum of nine (9) gauge.
- (e) All fences that completely enclose a lot or portion thereof shall have at least one gate access.
- (f) No fence shall be constructed of a material or in a manner obviously intended to inflict great bodily harm should a person or animal attempt to climb or scale it. Such material includes, but is not limited to, electrically charged wires or other electrical conduit, broken glass, razor blades, and sharp or ragged metal spikes or spears. Barbed wire may be permitted pursuant to Paragraph 6 of this Section and Paragraph 2(A)(g).

B. Maintenance

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Every fence shall be maintained in a structurally sound and safe condition at all times. Every fence shall be maintained in a good and presentable condition, free of clutter, debris, damage or missing elements. Every damaged or missing element of any fence shall be repaired or replaced immediately.

5. Enforcement

- A. Any fence, wall, or like structural barrier erected, enlarged, expanded, altered, relocated, maintained, or repaired contrary to this Section shall be deemed a violation of this Ordinance and shall be subject to the provisions of Chapter 19 (Enforcement).
- B. Subject to the requirements of Chapter 6 (Nonconforming Lots, Uses and Structures), any fence lawfully existing at the time this Ordinance is adopted that does not conform with this Section may be continued so long as it otherwise remains lawful. Notwithstanding the foregoing, the following fences, due to the public safety risk they pose, shall be immediately removed or immediately brought in full compliance with this Section upon adoption of this Ordinance:
 - (a) Nonconforming barbed wire or electrically charged fences, and
 - (b) Dilapidated or deteriorated fences.

6. Special Regulations for Barbed Wire Fences

- A. Barbed wire fences may be permitted in industrial districts, and then only where the Zoning Administrator first makes a finding that such a fence is necessary to protect the safety of persons or for security of the property, and issues a permit accordingly. In making his determination the Zoning Administrator may consider the type of use involved, the property's security needs or its inherent danger to the public safety.
 - (a) Where the Zoning Administrator determines that a barbed wire fence is appropriate, the barbed wire shall be installed at least six (6) feet above ground level, and be either:
 - (b) in a gable configuration having five strands or less, or
 - (c) attached to an angled arm supported approximately forty-five (45) degrees to the vertical and having three strands or less.
- B. Barbed wire fences may be used in districts where agricultural activities are permitted subject to the following limitations:
 - (a) Barbed wire fences shall only be permitted in agricultural districts for the containment of livestock or to surround agricultural fields and may not otherwise be used as a property fence, boarder fence or security/privacy fence.
 - (b) Barbed wire shall be placed a minimum of 4' above grade level.

7. Conflicts with Other Provisions

Nothing in this Section shall be interpreted as requiring permits for ordinary landscaping, flowers or the like. Furthermore, nothing in this Section shall modify any requirements of Chapter 16 (Landscaping and Screening). Should any provision of this Section be in conflict with any other provision of this Ordinance, the provision most restrictive shall control.

Section 13-6. Home Occupations

- 1. In addition to conforming to the general regulations for accessory uses and structures set forth in this Chapter, all home occupations shall comply with each of the following requirements.
 - A. The operator of every home occupation shall reside in the dwelling unit in which the home occupation operates.
 - B. The home occupation shall be conducted entirely within the principal residential structure and

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- shall be incidental and subordinate to the principal residential use of the structure. No work shall be conducted within any attached or detached garage. Limited storage may be allowed in any attached or detached garage provided, such storage does not create a nuisance or prevent the utilization of the garage for parking motor vehicles.
- C. The home occupation shall not interfere with the delivery of utilities or other services to the neighborhood in which the principal residential structure is located.
 - D. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and the need for off-street parking shall be accommodated on site.
 - E. The activity shall not generate any noise, vibrations, smoke, dust, odors, heat, glare, or interfere with radio or television reception in the area that would exceed that normally produced by a dwelling unit used solely for residential purposes.
 - F. No toxic, explosive, flammable, radioactive, or other hazardous materials shall be used, sold, or stored on the site. However, materials common to ordinary household use are permitted, provided the quantity of such materials does not exceed that found in an ordinary household.
 - G. Alteration of the residential appearance of the principal residential structure designed to promote or draw attention to the home occupation shall not be permitted. Furthermore, no displays or other indications of a home occupation in the yard, on the exterior of the dwelling unit, or visible from anywhere outside of the dwelling unit shall be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name of the occupation and the address of the resident. Such plate shall be attached flat against the wall of the residence and shall not exceed one (1) square foot in total surface area.
 - H. No visitors in conjunction with the home occupation (clients, patrons, pupils, sales persons, etc.) shall be permitted between the hours of 9:00 p.m. and 6:00 a.m., and the home occupation shall not cause a significant increase in the amount of traffic or parking on any residential street. Furthermore, deliveries for the home occupation shall not restrict traffic circulation and may only occur between 9:00 a.m. and 5:00 p.m. Monday through Friday.
 - I. No outdoor display or storage of materials, goods, supplies, or equipment shall be permitted on the premises.
 - J. The home occupation shall, at all times, comply with all other applicable laws and ordinances.
 - K. The total interior floor area used for the home occupation shall not exceed twenty-five percent (25%) of the total interior floor area of the dwelling, provided that in no case shall the area of a home occupation exceed six hundred (600) square feet.
 - L. No more than one (1) person who is not an actual resident of the dwelling unit may be employed on the site in connection with the home occupation.
 - M. More than one home occupation may be permitted within an individual dwelling unit, provided all other standards and criteria applicable to home occupations are complied with. Such criteria shall be applied cumulatively to both uses as opposed to singularly to each use.
2. Certain uses by their very nature of investment or operation have a pronounced tendency, once commenced, to expand beyond the scope of activity permitted for home occupations, and thereby impair the integrity of the residential district in which they are located. For this reason, the following uses, regardless of their possible compliance with the standards set for accessory use or home occupations are strictly prohibited:
- A. Animal hospitals, kennels, or exotic bird or wildlife retailing;
 - B. Barber Shops or beauty parlors;
 - C. Clubs, including fraternities and sororities;

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- D. Funeral parlors;
- E. Medical or dental clinics;
- F. Nursing homes;
- G. Restaurants;
- H. Vehicle or machine repair;
- I. Welding or machine shops;
- J. Other similar uses as determined by the Zoning Administrator pursuant to Chapter 4, Section 4-7 (Interpretations).

3. Any violation of this Section 13-6 shall be deemed to be a violation of this Ordinance and subject to the provisions of Chapter 19 (Enforcement).

Section 13-7. Bed and Breakfast Establishments

Bed and breakfast establishments, where allowed, shall adhere to the following requirements.

1. Bed and breakfast establishments shall only be located within and accessory to an owner-occupied single-family detached home.
2. Bed and breakfast establishments shall comply with all local, county and state fire and health regulations.
3. No ancillary commercial use shall be operated in connection with an approved bed and breakfast establishment.
4. The operation of a bed and breakfast establishment shall not be considered or classified as a Home Occupation.
5. A bed and breakfast establishment shall include no more than five (5) guestrooms for rent.
6. Accommodations shall not be provided to a particular guest for more than fourteen (14) consecutive days.

Section 13-8. Residential Facility for the Mentally Ill

A residential facility for the mentally ill as defined in this Ordinance and by Indiana Code 12-7-2-167 may not be located within three thousand (3,000) feet of another residential facility for the mentally ill, as measured between lot lines.

Section 13-9. Manufactured Homes Standards

Manufactured homes as scattered-site residences shall, in addition to the requirements for all residential uses in such districts, meet each of the following requirements and limitations.

1. The home shall meet all requirements of this Ordinance, possess all necessary improvement location, building and occupancy permits and other certification required by this Ordinance.
2. The home shall be attached and anchored to a permanent foundation in conformance with the regulations of the Indiana Residential Code and the manufacturer's installation specifications.
3. The home shall comply with the provisions of the Town Building Code, pertaining to the exterior covering material, the roofing cover material, and roof pitch and customarily used on site-built residential dwellings. All exterior covering material shall extend over the top of the foundation.
4. The home shall meet the minimum square footage requirements for the appropriate zoning district.
5. The home shall be oriented such that its longest side is the side that faces the street frontage.

Section 13-10. Satellite Dish Antenna

These regulations shall apply to satellite dish antenna and other satellite reception devices greater than

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two (2) feet in diameter.

1. General Purposes

- A. These regulations contained herein are designed to promote the public health and safety by providing criteria for the placement of these antenna than ensures that all such installations are performed in a manner that limits endangerment of life and property on the site and on surrounding properties due to collapse or destruction.
- B. These regulations are also designed to decrease the potential for urban blight in residential neighborhoods generated by guy wires, poles, cables, and other appurtenances.
- C. These regulations are, however, intended to allow satellite dish antenna and other satellite reception devices to be located in a manner that: (1) does not unreasonably delay or prevent the installation, maintenance or use of the antenna; (2) does not unreasonably increase the cost of installation, maintenance or use of the antenna; or (3) preclude reception of an acceptable quality signal.

2. General Requirements

- A. No person shall install a satellite dish antenna greater than two (2) feet in diameter without first obtaining an improvement location permit.
- B. Satellite dish antenna may be erected in the R4 and R5 residential zoning districts, provided the following criteria are met.
 - (a) The satellite dish antenna shall be ground mounted.
 - (b) The diameter shall not exceed ten (10) feet.
 - (c) The height shall not exceed twelve (12) feet.
 - (d) It shall be located between the rear building line of the principal structure and the required rear yard set back line. In case of a corner lot, such antenna shall not be located within the exterior side yard set back line.
- C. In the R-5 residential district, a satellite dish antenna may be roof mounted provided the diameter does not exceed ten (10) feet, and the height of the antenna does not exceed twelve (12) feet. A roof mounted satellite dish antenna shall be located at least ten (10) feet behind the front roofline of the structure. Notwithstanding the foregoing, a roof-mounted antenna shall not exceed the maximum height requirement of the zoning district within which it is located.
- D. Satellite dish antenna may be erected in any non-residential zoning district provided the following criteria are met.
 - (a) The diameter shall not exceed twelve (12) feet.
 - (b) The height of a ground-mounted antenna shall not exceed twenty-five (25) feet.
 - (c) The height of a roof-mounted antenna shall not exceed fifteen (15) feet. Notwithstanding the foregoing, a roof-mounted antenna shall not exceed the maximum height requirement of the zoning district within which it is located. Furthermore, A roof mounted satellite dish antenna shall be located at least ten (10) feet behind the front roofline of the structure.
 - (d) A ground-mounted antenna shall comply with the yard setback requirements of the district within which it is located however, no antenna shall be located in any front yard or open space.
- E. Satellite dish antennas shall be installed and maintained in compliance with all applicable building and electrical codes, and shall be subject to the following standards.
 - (a) Satellite dish antennae shall be solid in color.
 - (b) Not more than one (1) antenna greater than two (2) feet in diameter shall be allowed on any lot unless shown on an approved site plan.

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- (c) No advertising, logos, or corporate symbols shall be permitted on any satellite dish antenna greater than two (2) feet in diameter.

Section 13-11. Amateur Radio Antenna

Amateur radio serves the community by providing emergency communications that benefit both the Town of Avon, and central Indiana generally. The Town of Avon supports these valuable community services and therefore, individual amateur transmitting and receiving antennae and associated support structures owned or operated by licensed amateur radio operators shall be permitted as accessory structures in accordance with these provisions.

- 1. Amateur Radio Club and repeater station antennae and support structures are permitted to such a height as necessary to maintain reliable communications.
- 2. Antenna structures of amateur radio operators licensed by the Federal Communication Commission may, as of right, have a height not exceeding seventy-five (75) feet above grade. The height shall be measured vertically and shall include the height of any building upon which the antenna support structure is mounted.
- 3. Antennae may be located above the antenna support structure as reasonably necessary for effective radio communications.
- 4. Upon the Federal Communication Commission licensed operator’s cessation of ownership or leasehold rights in the subject antenna support structure, or on loss of his or her federal amateur radio license (whichever occurs first), the operator shall forthwith (but in no case more than thirty (30) days) safely remove all antenna support structures at no expense to the Town. In the event that the operator fails or refuses to remove the antenna support structure, then the owner of the subject lot shall be responsible for the removal of all such structures.
- 5. On residential lots, any antenna support structure shall be located in an area between the rear building line of the principal structure and the required rear yard setback line. In case of a corner lot, such antenna shall not be located within the exterior side yard setback.
- 6. Nothing in this Section shall effect any existing antenna support structure utilized by any federally licensed amateur radio operator which has been constructed and is in place prior to the passage of this Ordinance.

Section 13-12. Wireless Communication Service Facilities

1. Purpose

The purpose of this Section is to regulate the placement, construction, and modification of wireless communication service facilities in order to protect the health, safety, and general welfare of the public while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace within the corporate limits of the Town of Avon.

2. District Requirements

Wireless communication service facilities may be allowed in the following districts. (Subject to the limitations set forth herein, wireless communication service facilities shall be exempt from the maximum height limitations established in each zoning district.) Wireless communication service facilities requiring a special exception shall be subject to Chapter 4, Section 4-4 (Special Exceptions). Wireless communication service facilities permitted as of right shall be subject to the requirements of Chapter 4, Section 4-1 (Improvement Location Permit) and Chapter 4, Section 4-8 (Development Plans). A Wireless Communications Facility may be located on a lot occupied by another principal structure.

DISTRICTS	USE STATUS	HEIGHT LIMITATIONS
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C-1	Special Exception	Not to exceed 150 feet
C-2	Permitted	Not to exceed 150 feet
	Special Exception	Not to exceed 250 feet
C-3	Permitted	Not to exceed 150 feet
	Special Exception	Not to exceed 250 feet
C-4	Permitted	Not to exceed 150 feet
	Special Exception	Not to exceed 250 feet
SC	Permitted	Not to exceed 150 feet
	Special Exception	Not to exceed 250 feet
I-1	Permitted	Not to exceed 200 feet
	Special Exception	Not to exceed 250 feet
I-2	Permitted	Not to exceed 200 feet
	Special Exception	Not to exceed 250 feet
I-3	Permitted	Not to exceed 200 feet
	Special Exception	Not to exceed 250 feet
I-4	Permitted	Not to exceed 200 feet
	Special Exception	Not to exceed 250 feet

- A. For the purpose of determining compliance with the requirements of this Section, measurement of a facility's height shall include the structure itself (for roof or building mounted facilities), the base pad, and any other equipment attached thereto that extends more than twenty (20) feet over the top of the structure itself. The structure height shall be measured from grade.
- B. Notwithstanding the forgoing height requirements, building or roof mounted wireless communication service facilities shall not exceed a height in excess of one hundred percent (100%) of the host building.
- C. The Town of Avon encourages the collocation of commercial wireless telecommunications service facility antennae on existing or planned commercial wireless telecommunications service facilities in order to minimize the proliferation of antenna support structures and to achieve the most efficient use of land within the community. Therefore, the collocation of subsequent commercial wireless telecommunications service facility antennae on existing facilities, whether such facilities were originally permitted as of right or through the special exception process, will only require obtaining a Improvement Location Permit. (Chapter 4, Section 4-2)

3. Applications

In addition to requirements of Chapter 4, Section 4-4 (Special Exceptions), Chapter 4, Section 4-1 (Improvement Location Permit) or any other requirement prescribed by this zoning ordinance as the case may be, applications for the establishment of a commercial wireless telecommunications service facility shall include at least the following information.

- A. The name, address, and telephone number of the owner and lessee of the parcel of land upon which the commercial wireless telecommunications service facility is to be situated. If the applicant is not the owner of the property, documentation that the owner of the property has granted, by agreement, use of the property for the proposed facility.
- B. The name, address, and telephone number of all owners of other wireless communication service facilities within the service area of the proposed facility, including municipally owned property.
- C. Documentation, signed by an Engineer licensed in the State of Indiana, that the facility is designed in accordance with the Town's Building Code and with national standards for steel towers, in addition to all other state and federal laws and regulations applicable thereto.
- D. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to

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receive permission to install or co-locate the applicant's facility on another service provider's facility within the service area desired by the applicant and that the proposed site is therefore, of practical necessity for the applicant. A diligent effort shall require that all owners of potentially suitable structures within a one-quarter (1/4) mile radius of the proposed Wireless Communications Tower site be contacted and that one (1) or more of the following reasons for not selecting such structure apply:

- (a) The proposed antennas and related equipment would exceed the structural capacity of the existing structure and its reinforcement could not be accomplished at a reasonable cost.
- (b) The proposed antennas and related equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference could not be prevented at a reasonable cost.
- (c) Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
- (d) Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- (e) A commercially reasonable agreement could not be reached with the owners of such structures.

4. General Requirements

In addition to any other requirement prescribed by this zoning ordinance, a wireless communication service facility shall be required to meet the following requirements.

- A. No wireless communication service facility shall be established or used within the Town of Avon until all necessary approvals and permits, whether local, state, or federal have been secured.
- B. No wireless communication service facility shall be located in any required yard setback, nor shall a free standing or guy anchored wireless communication service facility be located within fifty (50) feet of any property boundary line.
- C. A free standing or guy anchored wireless communication service facility shall be located no closer than fifteen hundred (1,500) feet from a residential district, residential use, or Planned Unit Development district containing residential structures.
- D. All guy wires must be situated on the same lot as the commercial wireless telecommunications service facility, and shall not be located within the required yard areas (setbacks) dictated by the zoning district in which it is located.
- E. Free standing or guy anchored wireless communication service facilities and their related accessory structures when located on a site as an accessory use shall be located behind the rear building line of the structure housing the principal use. Vehicle access to the tower and related accessory structure shall not interfere with the parking or vehicular circulation provided for the principal use.
- F. Wireless communication service facilities shall be designed to be compatible with neighboring buildings and uses. Efforts shall be taken when locating wireless communication service facilities to preserve or enhance the existing character of a site's topography and vegetation.
- G. Wireless communication service facilities shall be designed to accommodate three or more wireless communication providers in order to facilitate the co-location of other service provider's facilities.
- H. Wireless communication service facilities shall be painted to blend or match with a host

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- building or the environment. The facility shall be of a single color, having a flat, matte, non-gloss, non-florescent finish. The color scheme for the facility shall be subject to the approval of the Plan Commission as a part of the development plan review process.
- I. Free standing or guy anchored commercial wireless communication service facilities, including any associated accessory building or structure, shall be enclosed by a fence or wall at least six (6) feet in height. All fences and walls shall be screened with appropriate landscaping and screening techniques, so that no more than two-thirds (2/3) of the surface of the fence or wall is visible within three (3) years after erection of facility from a public street or from any adjoining residential lot.
 - J. No advertising, logos, or corporate symbols shall be permitted on any wireless communication service facility or any building or structure accessory thereto.
 - K. Every wireless communication service facility shall be fully automated. No employee of the communication provider shall be stationed at the site, except for the completion of periodic maintenance.
 - L. Equipment storage shelters associated with a wireless communication service facility shall be compatible with the surrounding built or natural environment and shall not exceed a height of fifteen (15) feet, nor exceed a size of four hundred and fifty (450) square feet.
 - M. No signals or lights or other illumination shall be permitted on the wireless communication service facilities unless required by the Federal Communication Commission, the Federal Aviation Administration, or by the Town of Avon.
 - N. Every wireless communication service facility shall be separated from all other wireless communication service facilities a minimum of fifteen hundred (1,500) feet.
 - O. No wireless communication service facility may be established as an accessory use on a property prior to the establishment of a principal use.
 - P. No wireless communication service facility may disturb or diminish the radio or television or similar reception for any adjoining property.
 - Q. Where a wireless communication service facility becomes abandoned, obsolescent, or ceases to be used, except in relation to acts of God, it shall be taken down and removed from the premises by the owner of the facility, or its agents, or the person having control of the premises on which the facility is located within six (6) months of a finding by the Zoning Administrator of its abandonment, obsolescence, or cessation of use.
 - R. Wireless communication facilities shall be accessible from a public street by means of an easement or private drive at least twenty (20) feet in width and covered with a dust-free, all-weather surface.

Section 13-13. Temporary Uses

1. Authorization

Subject to the general and specific regulations set forth herein and all other applicable regulations of the district in which a temporary use may be located, the temporary uses set forth below may be allowed provided, a temporary use permit is first obtained, pursuant to Section 4-9 (Temporary Uses) of this Ordinance.

2. General Regulations

- A. No temporary use shall be permitted in a district if it would have a significant negative impact, including aesthetic impact, on any adjacent property or on the area, as a whole, in which it is located.
- B. No temporary use shall be permitted that causes or threatens to cause an on-site or off-site

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threat to the public safety.

- C. No temporary use shall be permitted if the additional vehicular traffic reasonably expected to be generated by such temporary use would have undue detrimental effects on surrounding streets and uses.
- D. No temporary use shall be permitted if such use would conflict with another previously authorized temporary use.
- E. Temporary signs shall be permitted only in accordance with the provisions of Chapter 18 (Signs).
- F. Except as expressly provided otherwise, every temporary use shall comply with the regulations applicable in the district in which such temporary use is located.
- G. Every temporary use shall comply with any such other conditions as may be imposed by the Zoning Administrator designed to be reasonably necessary to achieve the purposes of this Ordinance or to protect the public health, safety, and general welfare.

3. Temporary Uses Permitted

- A. Seasonal Sales of merchandise or the display of merchandise may be allowed in any commercial district, provided however, that:
 - (a) No required front yard shall be used for the sale or display of merchandise,
 - (b) Where more than one commercial establishment shares a parking lot, the sale or display of merchandise shall not encroach into parking areas.
 - (c) Such use shall be limited to thirty (30) consecutive days, and no more than four (4) such sales may be held each year.
 - (d) Where free standing tents or tent-like structures are used, such structures shall not cover more than 800 square feet in surface area and shall be inspected by the Fire Marshall.
- B. House, Apartment, Garage, and Yard sales may be allowed in any residential district subject to the following conditions.
 - (a) Sale merchandise shall be limited to the personal possessions of the owner-occupant of the dwelling unit at which such sale is being conducted.
 - (b) Such use shall be limited to a period not to exceed three (3) consecutive days,
 - (c) No more than two (2) such sales shall be conducted from the same residence in any twelve-month period.
 - (d) The hours of operation shall be limited to 8 a.m. to 8 p.m.
 - (e) One sign, not to exceed six (6) square feet in area, may be permitted in connection with the sale provided such sign shall be placed only in the yard of the premises conducting the sale.
- C. Christmas tree sales may be allowed in any district other than a residential district subject to the following conditions.
 - (a) Such use shall be limited to a period not to exceed forty-five (45) days.
 - (b) Trees remaining on hand after December 25th shall be removed from the premises no later than December 31st of the same year.
 - (c) Such use shall provide adequate customer parking, traffic access, and the absence of an adverse impact on other properties.
 - (d) Christmas trees for sale shall not be stored or displayed within fifteen (15) feet of any building.
 - (e) One sign, not to exceed sixteen (16) square feet in area, may be permitted in connection with the sale provided such sign shall be placed only on the lot on which the sale is located.

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- D.** Fireworks sales may be permitted in any industrial district subject to the following conditions.
- (a) Such use shall be limited to a period not to exceed forty-five (45) days.
 - (b) Such use shall provide adequate customer parking, traffic access, and the absence of an adverse impact on other properties.
 - (c) No more than one temporary use permit for the sale of fireworks shall be issued per site within any twelve (12) month period.
 - (d) No such uses shall be permitted when visible from anywhere along US 36 or from State Route 267 or Dan Jones Road between 100 N and 100 S.
 - (e) Such use shall be inspected and approved by the Fire Marshall before any sales may begin.
- E.** Contractors' offices and equipment sheds may be allowed in any district subject to the following conditions.
- (a) the use shall be accessory to an active construction project and shall be located on the same lot or within the same phase of the subdivision under construction.
 - (b) The use shall contain no sleeping or cooking accommodations.
 - (c) Such use shall be limited to a period not to exceed the duration of the active construction phase of such project.
- F.** Real Estate offices, including model units, may be allowed in any district subject to the following conditions.
- (a) The use shall be accessory to an active new development and shall not be constructed prior to secondary approval of the development by the Plan Commission.
 - (b) The use shall contain no sleeping or cooking accommodations unless located in a model dwelling unit. However, a model dwelling unit may not be used as residence or sleeping quarters during the period of the active selling or leasing of units or space in such development.
 - (c) Such use shall be limited to the period of the active selling or leasing of units or space in such development or phase of a subdivision, and to activities related to the development in which such office is located.
 - (d) No such office shall be used as the general office or headquarters of any firm, corporation, partnership, or other business entity form.
 - (e) Model units/homes shall not be located within 100 feet of the entrance to the subdivision unless off street parking is provided for the unit/home.
- G.** Indoor and outdoor art, craft, and plant shows, outdoor exhibits and display of merchandise and outdoor sales may be allowed in any district other than a residential district, subject to following conditions.
- (a) Such use shall provide adequate customer parking, traffic access, and the absence of an adverse impact on other properties.
 - (b) Every such sale shall be limited to a period not to exceed three consecutive (3) days, and no more than two (2) sales shall be permitted in the same location in any twelve (12) month period.
 - (c) Notwithstanding Section 13-13(3)(L) below, no such uses shall be permitted when visible from anywhere along US 36 or from State Route 267 or Dan Jones Road between 100 N and 100 S.
 - (d) Permanent outdoor sales of merchandise or any temporary outdoor sales not defined as a temporary use in Section 13-13 shall not be permitted in any district unless express permission is granted by the Plan Commission through the development plan process for an approved permitted use or special exception.
- H.** Farm Product Sales may be allowed in any non-residential district subject to the following

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conditions.

- (a) Such farm product sale shall use no permanent structures.
 - (b) The sale of products or merchandise shall be limited to fresh (never having been frozen or packaged) dairy goods, fruits, vegetables, juices, flowers, plants, herbs, and spices produced or grown by the vendor; and baked goods made by the vendor.
- I. Civic and religious carnivals may be allowed in any district, but only when sponsored by a not-for-profit religious, philanthropic, or civic group or organization and subject to the following conditions.
 - (a) Such use shall provide adequate customer parking, traffic access, and the absence of an adverse impact on other properties.
 - (b) Such use shall be limited to a period not to exceed four (4) consecutive days when located within a Residential District or on any lot abutting a Residential District or ten (10) days when located within any other district.
 - (c) No such use shall be permitted to operate after 11:00 p.m.
 - (d) The concessionaire responsible for the operation of any such use shall submit to the Zoning Administrator, Fire Department and Police Department, along with its application for a Temporary Use Permit, the following:
 - (1) a site layout displaying adequate ingress and egress routes for emergency vehicles with no dead-end aisles;
 - (2) a plan for parking of vehicles, including handicapped parking;
 - (3) a plan for fire extinguishers or fire safety equipment showing the location and number of such equipment;
 - (4) a plan for a first aid station;
 - (5) a plan for refuse containers and service pickup showing the location and number of such equipment;
 - (6) a plan for restroom facilities; and
 - (7) a plan for site clean-up upon termination of the event.
- J. Sidewalk Sales may be allowed in any commercial district subject to the following conditions.
 - (a) Such sales shall be organized as an area-wide sidewalk sale with all merchants on all abutting lots in the same retail center.
 - (b) No more than four (4) such sales shall be permitted in any twelve (12) month period.
 - (c) No such sale shall be permitted for a period in excess of three (3) consecutive days.
 - (d) Items for sale shall be displayed so that there remains a clear walking path of at least five (5) feet in width.
- K. Tents may be permitted in any district when in connection with a permitted, accessory, temporary, or special event or use and subject to the following conditions.
 - (a) All tents shall be constructed of fire-retardant material and erected securely. Guy wires, stakes, or other supports shall be clearly marked and secured.
 - (b) No tent shall be allowed to remain for a period of more than two (2) days longer than the period during which the use with which it is associated is allowed to remain or, in the absence of any such period, ten (10) days.
 - (c) Every tent shall comply with the bulk, yard, and space requirements applicable to the district in which it is located.
 - (d) Every tent shall be inspected by the Fire Marshall prior to the beginning of any activity within the tent.
- L. Civic uses of public places may be permitted in any district when authorized by the governmental entity owning or controlling such property, provided, however, that no such use or activity imposes an undue adverse effect on neighboring streets or property.

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- M.** Charity Drop Boxes may be permitted in any commercial or industrial district subject to the following conditions.
- (a) Such use shall be limited to a period not to exceed forty-five (45) days.
 - (b) The location of drop boxes shall not interfere with either pedestrian or vehicular movement within the site.
 - (c) No more than four (4) temporary use permits for such use shall be issued per site within any twelve (12) month period.
 - (d) The placement of charity drop boxes on the lot shall be subject to approval by the Zoning Administrator at the time of the issuance of the temporary use permit.
- N.** Other similar temporary uses may be permitted in any district provided in the opinion of the Zoning Administrator the use is consistent with the purpose and intent of this Section and for the district in which it is proposed to be located.

Section 13-14. Sexually Oriented Businesses

1. Purpose.

It is the purpose of this ordinance to regulate sexually oriented businesses to promote the health, safety morals and general welfare of the citizens of the Town of Avon, and to establish reasonable and uniform regulations to prevent continued injurious location and concentration of sexually oriented businesses within the Town of Avon.

The provisions of this ordinance have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of the ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

2. Classification.

Principal Uses: The following sexually oriented businesses, as further defined in Section 20-3 (Definitions), shall be permitted in accordance with Table 12-1, the specific limitations of this Section and local licensing requirements.

- A.** Adult Media Stores;
- B.** Adult cabarets;
- C.** Adult Entertainment facilities;
- D.** Adult motels;
- E.** Adult motion picture theaters;
- F.** Adult theaters;
- G.** Escort agencies;
- H.** Lingerie modeling studio;
- I.** Nude modeling studios;
- J.** Sexual encounter centers; and
- K.** Sex shops

Any sexually oriented business not clearly defined by this ordinance shall require a special exception from the Board of Zoning Appeals prior to location in a district which permits a sexually oriented business.

Accessory Uses: No use defined in this ordinance as a sexually oriented business shall be considered an accessory use to any other use, whether or not the principal use is a sexually oriented business.

Prohibited Uses: The following sexually oriented businesses shall not be permitted within any

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district in the Town of Avon:

- A. Adult arcades;
- B. Video viewing booths; and
- C. Unlicensed and/or sex-oriented massage establishments

3. Location of Sexually Oriented Businesses

Sexually Oriented Businesses shall be permitted in accordance with the use matrices of the individual zoning districts, in addition to the location requirements set forth below.

Non-Conforming Sexually Oriented Businesses: Any sexually oriented business lawfully operating on or before the effective date of this ordinance shall be deemed a non-conforming use and shall be subject to Chapter 6 of this Ordinance, with the following modifications:

- A. When the non-conforming sexually oriented business is discontinued or abandoned for a period of ninety (90) days, such use shall not thereafter be reestablished or resumed.
- B. Non-conforming sexually oriented businesses shall not be increased, enlarged, extended or altered in any way, except that the use may be changed to a conforming use.
- C. If two (2) or more sexually oriented businesses which do not meet the separation requirements between sexually oriented uses, as set forth in subsection [C] below, but are otherwise within a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business is non-conforming.

Separation Requirements

- A. For the purpose of this ordinance, distance shall be measured as a straight line from the nearest portion of the building or structure in which a sexually oriented business is conducted, to the nearest property line of the use for which separation is required. Measurements shall be made in a straight line, without regard to intervening structures or objects. No sexually oriented use shall be permitted adjacent to or within the same building as any of the uses set forth in this subsection, regardless of the total distance between the uses.
- B. Sexually Oriented Businesses shall not be established within one thousand (1,000) feet of the following uses:
 - (a) Another sexually oriented business
 - (b) A religious institution or place of worship;
 - (c) A public or private elementary or secondary school;
 - (d) A public or private park or recreational area; or
 - (e) The property line of a lot devoted to a residential use.
- C. Sexually Oriented Businesses shall not be established within one thousand five hundred (1,500) feet of the boundary of any residential district.
- D. Sexually Oriented Businesses shall not be established adjacent to or within the same block as the following uses:
- E. A library
- F. A day care center
- G. A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the establishment of any of the aforementioned uses subsequent to the granting of the approval for the sexually orientated business.

4. Special Regulations for Media and Adult Media Stores

- A. Adult media in a shop where adult media constitutes more than 10 percent, but less than 40

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percent, of the gross floor area, gross shelf area, or stock in trade, shall be kept in a separate room or section of the shop, which room or section shall:

- B.** not be open to any person under the age of 18;
- C.** be physically and visually separated from the rest of the store by an opaque wall of durable material, reaching at least eight feet high or to the ceiling, whichever is less;
- D.** have access controlled by electronic or other means to provide assurance that persons under age 18 will not easily gain admission and that the general public will not accidentally enter such room or section; or continuous video or window surveillance of the room shall be conducted by store personnel; and
- E.** provide signage at the entrance stipulating that persons under 18 are not permitted inside.
 - (a)** A media store where adult media constitutes no more than 10 percent of the gross floor area or gross shelf area, and no more than 10 percent of the stock in trade, shall be the same for zoning purposes as any other retail goods establishment.
 - (1)** A media store where adult media constitutes more than forty percent of the gross floor area or gross shelf area, or more than 40 percent of the stock in trade, shall be regulated as an adult retail facility in accordance with the terms and conditions of this Ordinance.

5. Special Regulations for Adult Cabarets and Nude Dancing

All adult cabaret and nude dancing performances shall take place in rooms or sections greater than 750 square feet in area, on a raised stage at least 18 inches above the floor, and in a location visible to other patrons and employees.

6. Signs and Display of Materials

- A.** Signs for a sexually oriented business shall conform with the sign requirements of Chapter 18 for the district in which the use is located, provided that no sign for a sexually oriented business shall be permitted to contain sexually explicit messages or drawings.
- B.** No sexually oriented business shall be permitted to display publicly any adult products.

7. Exemptions

- A.** A person appearing in a state of nudity shall not be considered a sexually oriented business provided the person appearing in a state of nudity did so in a modeling class operated:
 - (a)** By a school, college, junior college, or university supported entirely or partly by taxation which is licensed by the State of Indiana;
 - (b)** By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 - (c)** In a structure:
 - (1)** which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;
 - (2)** where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
 - (3)** where no more than one (1) nude model is on the premises at any one time.