
ARTICLE VI SPECIAL USE REGULATIONS

§ 30.61 PURPOSE & INTENT

- A.** The purpose of this Article is to provide for the review and approval of certain uses that are generally considered to be uses with a higher potential for incompatibility with adjacent uses of a lesser intensity, such as single-family residential dwellings.
- B.** The individual review of certain uses is intended to determine the appropriateness of a use in its proposed location and any requirements necessary to ensure compatibility with adjacent uses.
- C.** The application of these regulations in connection with the review of a special use permit is intended to prohibit any use which by reason of its nature or manner of operation, is or may become hazardous, obnoxious, or offensive owing to emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter, or water-carried waste.
- D.** It is the intent of the Village of Avon to promote the public health, general safety, and neighborhood character of the immediate neighborhood and the larger community with the administration and implementation of these standards.

§ 30.62 APPLICABILITY

- A.** The requirements of this Article are applicable to all uses, permitted (P) and specially permitted (SP), as noted in the district use tables of this Chapter.
- B.** Specially permitted uses (SP) must obtain a special use permit from the Planning Board as provided for in this Article.
- C.** Uses permitted by-right (P) shall not require the issuance of a special use permit, but must obtain site plan review approval where noted and meet all requirements of the proposed use as set forth in Section 30.68.
- D.** Any use requiring a special use permit may also be subject to site plan review as provided for by Article XII of this Chapter. Such applications may be processed concurrently. However, no building permit shall be issued for a specially permitted use until a special use permit and site plan approval have been obtained.

§ 30.63 SPECIAL USE PERMIT APPLICATION SUBMITTAL

- A.** Applications must be filed by the property or building owner, their agent, or lessee, purchaser or tenant, with legally binding and written permission of the owner.
- B.** All applications shall be submitted to the Secretary of the Planning Board at least two weeks prior to the scheduled board meeting at which the application is intended to be considered.
- C.** The Secretary of the Planning Board shall indicate that an application is considered accepted and ready for processing only if it is submitted in the required number and form, includes all required materials, and is accompanied by the required filing fee.
- D.** The acceptance of an application by the Secretary of the Planning Board shall in no way be interpreted to include a determination of the completeness, adequacy, or accuracy of materials, but rather serve as an acknowledgement to the receipt of all initially required materials. The Secretary may consult with other Village departments or divisions, officials, or review boards in making such a determination.
- E.** If an application is determined to be unacceptable, the Secretary must provide paper or electronic written notice to the applicant along with an explanation of all known deficiencies in the application that will prevent competent review. No further processing of the application will occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within 30 days, the application will be considered withdrawn.
- F.** No processing of unacceptable applications will occur. Any incomplete applications will be pulled from the processing cycle. When the deficiencies are corrected, the application will be placed in the next available processing cycle.

§ 30.64 SPECIAL USE PERMIT APPLICATION REQUIREMENTS

- A.** The Planning Board may seek the opinion of any legal, engineer, design, or other professional to aid in the review of an application. Any such costs incurred as a result of seeking professional aid shall be reimbursed by the applicant and paid within 30 days of written request by the Village Clerk or their designee.
- B.** The following materials shall be required of all special use permit applications:
 - 1.** A special use permit application form, including the name, address, and signature of the applicant, owner of record, and developer; and seal(s) of the engineer, architect, or landscape architect who prepared the site plan materials, if applicable.
 - 2.** A description or narrative of all proposed uses and structures, including but not limited to hours of operation, number of employees, maximum seat capacity, and proposed number of off-street vehicle and bicycle parking spaces.
 - 3.** A certified land survey showing the boundaries of the applicant's property under consideration in its current state plotted to scale with the north point, scale, and date clearly indicated, or other document deemed acceptable by the Code Enforcement Officer.

4. A narrative report describing how the proposed use will satisfy the criteria set forth in the special use permit review criteria of this Chapter, as well as any other applicable requirements relating to the specific use proposed.
5. A detailed traffic study, upon request of the Planning Board, to include:
 - (a) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
 - (b) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and
 - (c) The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels and road capacity levels shall also be given.
6. All SEQR Documentation as required by NYS Law.
7. All application fees as established by the Village Board.
- C. The Planning Board may request additional information beyond what is listed in this section and may ask that be presented in graphic form accompanied by a written text, and/or prepared by a licensed professional if such additional materials are deemed necessary for a complete assessment of the special use.
- D. The Planning Board may waive special use permit application requirements, as it deems appropriate. Prior to issuing a decision, all waived requirements shall be noted by the Planning Board in a resolution determining the application to be complete.

§ 30.65

SPECIAL USE PERMIT REVIEW PROCEDURES

A. Public Hearing & Notice Required.

1. A public hearing shall be held by the Planning Board prior to issuing a decision on any special use permit application.
2. Such hearing shall be duly noticed by the Village of Avon as provided for by NYS Village Law.
3. The applicant shall serve all owners of real property within 200 feet of the subject property with a copy of the notice of public hearing and shall file an affidavit of service to all such owners with the Planning Board.
4. All public notices shall be made at least 10 days prior to the date of public hearing.

B. Planning Board Decision.

1. Upon review of an application, the Planning Board shall issue a decision of approval, approval with conditions, or denial.
2. Applications shall be reviewed based on all applicable criteria within this Chapter as well as all other applicable local, county, state, or federal laws and regulations.

3. All decisions shall contain written findings explaining the rationale for the decision with respect to the standards contained in this Chapter. The minutes of the Planning Board meeting(s) may satisfy this requirement.
4. The decision and findings shall be filed with the Village Clerk and provided to the applicant within five days of the date of decision.
5. In all cases, the burden is on the applicant to show that an application complies with all applicable review or approval criteria of this Chapter.

C. Referrals.

1. The Village shall refer all materials to the Livingston County Planning Board pursuant to NYS General Municipal Law.
2. The Planning Board may refer any application to another Village board, committee, department, or official for review and comment. Within 30 days of referral the receiving board shall issue its recommendations in writing to the Planning Board.

§ 30.66

SPECIAL USE PERMIT REVIEW CRITERIA

- A. In reaching a decision, the Planning Board shall consider and determine, either from its own knowledge and investigation or from testimony or other information submitted to it, written findings on whether or not the proposed use:
 1. Will be generally consistent with the goals of the Village Comprehensive Plan;
 2. Will meet all relevant standards, guidelines, and requirements set forth in this Chapter, including any applicable requirements of Section 30.68;
 3. Will not cause there to be any significant decrease in the future economic viability of the property;
 4. Will provide adequate measures (such as landscaping and screening) to mitigate potential adverse impacts on surrounding property and preserve or enhance the traditional character of the Village;
 5. Will not have an undue burden or effect on the orderly development and character of the neighborhood or upon the development and conduct of other lawful uses in the vicinity;
 6. Will not be a nuisance to adjacent residents and property in terms of the production of obnoxious or objectionable noise, dust, glare, odor, refuse, fumes, vibrations, traffic, crowds, parking of automobiles, unsightliness, contamination or other similar conditions;
 7. Will not cause undue harm to or destroy existing sensitive natural features on the site or in the surrounding area or cause adverse environmental impacts such as significant erosion and/or sedimentation, slope destruction, flooding or ponding of water, or degradation of water quality;
 8. Will not destroy or adversely impact significant historic and/or cultural resource sites; and

- 9. Will not otherwise be detrimental to the convenience and general health, safety, or welfare of the public.
- B. Failure to meet one or more of the above criteria may result in denial of an application.

§ 30.67 SPECIAL USE PERMIT EXPIRATION, AMENDMENTS, OR REVOCATION

- A. A special use permit shall authorize only one special use and shall expire if the special use ceases operation for more than six consecutive months for any reason.
- B. Proposed amendments or revisions to an approved special use permit shall be subject to review and approval in accordance with this Article. The issuance of a new, updated special use permit shall be required.
- C. The Code Enforcement Officer may revoke a special use permit in the applicant violates the conditions of the approval or engages in any construction, operation, or alteration not authorized by the approval.
- D. The violation of the conditions of an approval shall be deemed a violation of this Chapter and shall be subject to enforcement action as provided herein.

§ 30.68 REGULATIONS BY USE

The following requirements shall be applicable to each use as noted, regardless of whether or not a special use permit is required. During the review of a special use permit application, it shall be the responsibility of the applicant to demonstrate conformance with all applicable requirements contained herein.

A. Accessory Dwelling Units.

- 1. The purpose of regulating accessory dwelling units is to:
 - (a) Create new housing units while respecting the look and scale of single-family residential development;
 - (b) Increase the housing stock of existing neighborhoods in a manner that is less intense than alternatives;
 - (c) Allow more efficient use of existing housing stock, and public infrastructure;
 - (d) Provide a broader range of affordable housing opportunities and mix of housing options that respond to changing family needs and smaller households; and
 - (e) Offer a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship, and services.
- 2. General Requirements.
 - (a) Site plan review shall be required for the establishment of an accessory dwelling unit.

- (b) No more than one accessory dwelling unit may be established ancillary to a single-family residential dwelling, located either in the principal dwelling structure (attached) or in an accessory structure (detached).
- (c) An accessory dwelling unit may include no more than two bedrooms.
- (d) Any new separate outdoor entrance serving an accessory dwelling unit shall be located on the side or in the rear of the building lot for an accessory dwelling unit that is in or attached to the primary residential dwelling.
- (e) Detached accessory dwelling units shall comply with all accessory structure requirements of this Chapter, including, but not limited to size, setback, lot coverage, and height restrictions. An accessory dwelling unit shall not be permitted in a nonconforming accessory structure.
- (f) Under no circumstances may a detached accessory dwelling unit be separated from or subdivided from the parcel containing the primary residential unit.
- (g) An accessory dwelling unit shall be designed to maintain the architectural design, style, appearance, and character of the primary residential unit. Any addition must be consistent with the existing façade, roof pitch, siding and windows of the primary residential unit. Any addition shall not exceed the height of the primary structure.

3. Owner-Occupancy Requirements.

- (a) One of the dwelling units on the parcel shall be occupied by one or more owners of the property as a permanent residence for at least nine months out of the year and at no time may receive rent for more than one unit on the parcel.
- (b) The property owner(s) shall sign an affidavit before a notary public affirming that the owner occupies either the principal residential unit or the accessory dwelling unit and submit it to the Code Enforcement Officer.
- (c) When a parcel containing an accessory dwelling unit is sold or ownership transferred, the new owner(s), if they wish to continue to rent or lease one of the units, must within 30 days of the sale, submit a notarized letter to the Code Enforcement Officer stating that they will occupy one of the dwelling units on the parcel as their primary residence except as provided for in the provisions of this Chapter.
- (d) The individual sale of any accessory dwelling unit apart from the principal use is strictly prohibited.

B. Accessory Structures & Uses. Accessory structures and uses are permitted in any zoning district in connection with any principal use lawfully existing within such district.

1. General Standards. Accessory uses and structures shall:

- (a) Not be established or constructed until the primary use or structure is constructed.
- (b) Be clearly incidental and subordinate to the principal structure or use by height, area, extent, and purpose.

- (c) Not be located in any required front yard area.
 - (d) Be in conformance with the height and setback restrictions of the applicable zoning district and shall not cause the rate of overall lot coverage to exceed the maximum rate permitted.
 - (e) Be finished with materials and/or siding that is consistent and compatible with the existing character of the principal structure and surrounding residential neighborhood.
 - (f) Maintain a separation of at least 10 feet from the principal building, in the case of a detached accessory structure or use.
 - (g) Not obstruct, block, or force the enclosure of any structural opening (windows, doors, etc.), porch, deck, or terrace, or vehicular or pedestrian access.
2. Residential Accessory Uses and Structures. The following shall be considered permissible residential accessory uses or structures for the purposes of this Chapter.
- (a) Decks, patios, or terraces.
 - (b) Residential garages or carports and enclosed storage structures, such as sheds.
 - (c) Playgrounds or playhouses.
 - (d) Noncommercial nurseries, gardens, or greenhouses.
 - (e) Fire escapes or other such structures intended to maintain the health, safety, and welfare of residents within the dwelling and the general public.
 - (f) Ramps, lifts, or other such structures intended to provide an increased level of accessibility to the structure or use.
 - (g) Radio or dish antennae limited to one meter or less in diameter.
 - (h) Home solar energy systems or green infrastructure installations, such as rain barrels, rain gardens, or bioswales.
 - (i) Personal or home electric vehicle charging stations.
 - (j) Off-street parking areas for two-family or multi-family dwelling developments.
 - (k) Other uses and structures deemed to be similar in nature by the Code Enforcement Officer.
3. Nonresidential Accessory Uses and Structures. The following shall be considered permissible nonresidential accessory uses or structures for the purposes of this Chapter.
- (a) Commercial vending machines, screened from adjacent residential property.
 - (b) Decks, patios, and terraces associated with a permitted outdoor seating or assembly area.

- (c) Garages or carports, and enclosed storage structures, such as sheds.
 - (d) Playgrounds or playhouses.
 - (e) Nurseries, gardens, or greenhouses.
 - (f) Fire escapes or other such structures intended to maintain the health, safety, and welfare of employees, patrons, and the general public.
 - (g) Ramps, lifts, or other such structures intended to provide an increased level of accessibility to the structure or use.
 - (h) Dish or radio antennae limited to two meters or less in diameter when screened from public view and adjacent residential property.
 - (i) Noncommercial solar energy systems or green infrastructure installations, such as rain barrels, rain gardens, or bioswales.
 - (j) Wind energy conversion systems located in the rear yard.
 - (k) Off-street parking and loading areas, including electric vehicle charging stations.
 - (l) Walkup service windows.
 - (m) Other uses and structures deemed to be similar in nature by the Code Enforcement Officer.
- C. Adult Uses.** The purpose of this section is to provide standards for the safe provision of adult uses and to minimize any potential adverse effects which may result from the siting of such businesses within the Village. No adult use shall be established until it has been issued a special use permit and has proven compliance with the following:
1. No adult use shall be permitted in a building or any part of which is used for residential purposes.
 2. No adult use shall be within 500 linear feet of the following, as measured in a straight line from the nearest property line of the existing use to that of the adult use.
 - (a) Any residential dwelling or building containing residential units;
 - (b) Any residential or day care facility;
 - (c) Any place of worship;
 - (d) Any public or private school;
 - (e) Any school or public bus stop or shelter; and
 - (f) Any place of public assembly, including but not limited to public parks, recreational facilities, health facilities, or community centers.
 3. Once an adult use has been established in a location, and it lawfully remains in continuous operation at that location, the subsequent placement of any use or business set forth in Subsection 2 above within the distances set forth in these

subsections shall not operate to impair, restrict or terminate the adult use special use permit or any renewals thereof.

4. The exterior of any adult use shall be consistent with the character of surrounding structures and shall not detract from the appearance of the district in which it is located.
5. All adult uses shall be conducted within enclosed buildings. No specific anatomical area or any specified sexual activity, nor any display, decoration, sign or similar depiction of specified sexual activities or specified anatomical areas, shall be visible from the outside of any building containing an adult use.
6. Sound and noise shall be kept at a level so that it cannot be discerned by the public from any public areas.
7. Landscaping and screening of adult use property shall be provided to the satisfaction of the Planning Board.
8. No adult use shall exceed 5,000 square feet in total floor area.
9. The Code Enforcement Officer or their designee shall have the right to inspect the premises of adult uses for the purpose of ensuring compliance with any section of this Chapter or any other applicable law, rule, or regulation at any time said use is open for business or with at least 24 hours of notification.

D. Bed & Breakfasts (B&Bs).

1. A B&B shall only be permitted in an owner-occupied single-family, detached dwelling of at least 1,600 square feet. A B&B shall not be permitted in a nonconforming single-family dwelling.
2. No more than one nonresident of the premises may be an employee of the operation.
3. There shall be no more than eight adult guests at any one time.
4. The maximum stay of guests shall be no more than 14 consecutive days.
5. Parking areas may not be located in the front yard. Such parking shall be screened from adjacent properties and the public right-of-way to the satisfaction of the Planning Board.
6. There shall be no change in the outside appearance of the building or premises that detracts from the residential character of the residence or from the residential character of the neighborhood, or other visible evidence of the conduct of such B&B.

E. Car Washes.

1. The site area traveled by vehicles shall be hard surfaced with pervious or impervious paving material that does not release dust or debris.
2. Landscaping and screening shall be provided to the satisfaction of the Planning Board. In no case shall the perimeter landscaping be less than 10 feet in width along street frontages or where adjacent to a residential district or use.

3. Lanes or parking areas for vehicles waiting for service shall be provided on site and shall not occur on a public street or highway.
4. The shall not be used for the sale, rent, or display of automobiles, trailers, mobile homes, boats or other vehicles.

F. Day Care Facilities.

1. No daycare shall be permitted without completion of the proper license and/or registration requirements, where required by NYS or Livingston County Law.
2. In a nonresidential district, all buildings, structures and areas of organized activity, such as play areas, swimming pools, etc., shall maintain a setback of at least 15 feet from all property lines.
3. In a residential district, all buildings, structures and areas of organized activity, such as play areas, swimming pools, etc., are prohibited in the front yard. Such uses shall maintain a setback of at least 30 feet from side or rear property lines.
4. Outdoor floodlighting or public-address systems are prohibited.
5. Daycare centers may be conducted as a home occupation, provided the conditions of Subsection I are also met.

G. Drive-Throughs.

1. Drive-throughs shall be located in such a way as to minimize the impact on pedestrian circulation routes and on adjoining residential districts or uses to the greatest extent practicable.
2. Drive-throughs shall be designed in such a way as to be visually unobtrusive and shall be lighted in such a way as to minimize the impact on adjoining properties.
3. No use shall have more than one drive-through facility.
4. Drive-throughs shall be prohibited in the front yard and shall not be located to prevent direct pedestrian access from the public right- of-way to the principal building.
5. When adjacent to residential districts or uses, drive-throughs, including both the facility and queuing lanes, shall be screened from the adjacent residential properties.

H. Gasoline Service Stations.

1. No part of any building and no filling pump, lift, or other service appliance shall be erected within 25 feet of any residential district.
2. No gasoline or oil pump, oiling or greasing mechanism, or other service appliance shall be installed in connection with any gasoline service station within 15 feet of any street line unless contained within a completely enclosed building.
3. Where a gasoline station abuts a residential district or use, it shall be screened by a buffer area no less than 10 feet in depth composed of densely planted evergreen shrubbery, solid fencing, or a combination of both to the satisfaction of the Planning

Board. Such buffer screen shall have a minimum height of five feet above finished grade. If such vegetative buffer becomes decayed and fails to provide the adequate screen, the Code Enforcement Officer may direct the property owner to replace said vegetation.

4. Entrance or exit driveways shall be located at least five feet from any side or rear property line. Such driveways shall be so laid out as to avoid the necessity of any vehicle backing across any right-of-way.
5. Premises shall not be used for the sale, rent, or display of automobiles, trailers, mobile homes, boats or other vehicles.

I. Home Occupations.

1. Permitted home occupations include, but shall not be limited to, a lawyer, accountant, author, doctor, engineer, dentist, architect, consultant, realtor, insurance agent/broker, counselor, artist, photographer, teacher, tutor, beautician, barber, tailor, dressmaker, and repairperson.
 2. Prohibited home occupations include those that would generate adverse impacts to or be incompatible with the existing character of a residential neighborhood. These uses include, but are not limited to, ambulance services, animal care services, and vehicle sales or repair.
 3. The home occupation shall be owned and operated by a full-time resident of the dwelling and shall operate wholly within an enclosed structure. A home occupation may not be conducted in any accessory structure.
 4. Employees of the home occupation shall be limited to residents of the premises.
 5. A home occupation must be clearly incidental and secondary to the use of the dwelling and shall be permitted to occupy no more than 30% of the residence.
 6. The operation of a home occupation shall in no way change or alter the residential appearance or character of the premise or neighborhood in which it is located.
 7. There shall be no exterior display or storage of materials, good, supplies, or equipment related to the operation of the home occupation.
 8. No home occupation shall be conducted in such a manner as to produce noise, dust, vibration, glare, smoke, or smell, electrical, magnetic or other interference, fire hazard, or any other nuisance not typically found in a residential neighborhood.
 9. On-site retail sales shall be prohibited.
 10. Deliveries on residential streets shall be permitted by two-axle vehicles only.
- J. Mobile Home Parks.** Mobile homes shall be permitted only in licensed mobile home parks which are operated by a duly licensed mobile home park operator. Mobile home parks shall be subject to the following regulations and licensing provisions.

1. License Required.

- (a) A mobile home park license must be obtained from and filed with the Code Enforcement Officer on such forms provided by the Village. All license applications shall be accompanied by the required application fee as determined by the Village Board.
 - (b) No mobile home park operator shall be issued a license until a site plan application has been filed and approved in accordance with Article XII of this Chapter.
 - (c) Any violation of this chapter and any section or part thereof may, in addition to other penalties herein provided, result in the suspension or revocation of the license by the Code Enforcement Officer.
2. Minimum Park Area. A mobile home park site shall be at least 25 acres.
 3. Individual Lot Requirements. Every lot and structure proposed within a mobile home park shall meet the requirements of the table below.

TABLE 30.68 (J)

| DIMENSION | REQUIREMENT |
|----------------------------------|-------------|
| Individual Lot | |
| Minimum Area | 6,000 sf |
| Minimum Width | 50 ft |
| Minimum Front Yard | 15 ft |
| Minimum Side Yard | 10 ft |
| Minimum Rear Yard | 15 ft |
| Mobile Home Unit | |
| Minimum Floor Area | 500 ft |
| Maximum Height | 25 ft |
| Accessory Structure | |
| Maximum Floor Area | 100 sf |
| Maximum Height | 10 ft |
| Minimum Side/Rear Setback | 5 ft |

4. Development Standards.
 - (a) Each mobile home shall be provided with an entrance platform of concrete, asphalt or equivalent at least eight feet by 20 feet and four inches in depth. This platform will be located at the main entrance to the mobile home and may act as base for railings and steps for mobile homes. This platform may also be called the patio area.
 - (b) Each mobile home owner shall be required to enclose the bottom portion of the mobile home with either a metal or wood skirt or enclosure within 30 days of arrival in the park.
 - (c) Sidewalks shall be required from the street to the entrance of a mobile home. Said sidewalk must be of concrete, macadam, or hard surface.

- (d) Fences, walls, and screening shall be required throughout a mobile home park to the satisfaction of the Planning Board.
 - (e) Proper landscaping including trees and shrubs shall be by mutual agreement with Planning Board and Park Developer. As a minimum there shall be one tree per lot.
 - (f) Access entrance road connecting the mobile home park streets with a public road shall have a minimum road width and right-of-way as established in the street regulations of the Village. It is recommended that a separate access and egress be provided where appropriate. The road shall be constructed of blacktop or equivalent.
 - (g) The width of all internal streets must be at least 20 feet, with an additional five foot right-of-way provided for on each side.
 - (h) All streets shall be constructed of blacktop or equivalent of same and shall be designed, graded and leveled as to permit the safe passage of emergency and other vehicles at a speed of 15 miles per hour.
 - (i) Streets and parking areas should be illuminated from dusk to dawn with such lighting meeting the recommendations of the utility company.
 - (j) Service buildings shall be consolidated so that essential services and management operations are located in one building.
 - (k) Each mobile home park shall provide evenly distributed and centrally located sanitary disposal centers preventing litter of ground and premises with rubbish, garbage and refuse. Each mobile home shall deliver to these disposal centers all rubbish, garbage and refuse in disposable containers.
- 5. Parking Requirements.**
- (a) Each mobile home lot must have two parking spaces, preferably off-street.
 - (b) Parking facilities may be provided so that each mobile home lot would have one off-street parking area. A common parking area may be utilized for second vehicle parking area and guest parking and for delivery and service vehicles.
 - (c) Each parking space must be at least 160 square feet in area.
 - (d) No boats, camp haulers, trailers, or motor vehicles not designed for passengers shall be parked or stored at any place within the mobile home park or parts thereof or junks of any nature or description shall be parked or stored within the mobile home park.
- 6. Recreation Areas and Open Space.**
- (a) Every mobile home park shall have a minimum of 5,000 square feet of recreation area for the public use of persons living in the park and no less than 200 square feet per mobile home.

2. No conversion shall be permitted which results in a dwelling unit having less than the minimum habitable floor area required by the table below.

TABLE 30.68 (K)

| NUMBER OF BEDROOMS PER UNIT | MINIMUM UNIT SIZE |
|-----------------------------|-------------------|
| Zero (Studio) to One | 500 sf |
| Two | 750 sf |
| Three | 950 sf |

3. Any alterations made to the exterior of the building due to the unit conversion shall be completed in such a way to preserve the single-family residential character of said building and neighborhood.
 4. No conversion shall be permitted unless the property is able to comply, after such conversion, with all off-street parking requirements of this Chapter. No off-street parking spaces shall be provided in a front yard area, except for the use of existing driveways.
- L. Outdoor Sales & Display.** The following requirements shall only apply to nonresidential use outdoor sales or display areas:
1. Such areas shall not exceed 10% of the gross floor area of the primary structure.
 2. Such areas shall not block automotive traffic, sidewalks, fire lanes, or other travel lanes.
 3. Such areas shall be allowed adjacent to a principal building wall and extending to a distance no greater than 10 feet from the wall.
 4. Such areas shall not be permitted to block windows, entrances, or exits and shall not impair the use the building.
 5. Such areas shall be used for the sale of merchandise and not for storage purposes.
- M. Outdoor Storage.** The following requirements shall only apply to nonresidential use outdoor storage areas:
1. Such areas are not permitted in residential districts.
 2. Such areas shall not occupy more than 15% of the lot if located within a business district.
 3. Such areas shall be fully screened to ensure the area is not visible from the public right-of-way and adjacent residential uses or districts.
 4. Such areas shall not be allowed in the front yard setback.
 5. The storage of contractor material and equipment must maintain a setback of at least 50 feet from any adjacent residential use or district.
- N. Public Utilities.** No special use permit shall be issued unless the Planning Board determines that:

1. The proposed installation in specific location is necessary and convenient for the efficiency of the public utility system or the satisfactory and convenient provision of service by the utility to the neighborhood or area in which the particular use is to be located.
2. The design of any building in connection with such facility conforms to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights of the district in which it is located.
3. Adequate and attractive fences and other safety devices will be provided.
4. A buffer strip 10 feet in width shall be provided around the perimeter of the property to the satisfaction of the Planning Board.
5. All of the area, yard and building coverage requirements of the respective district will be met.

O. Vehicle Sales.

1. The sales area shall be suitably graded and drained, and maintained in a neat and orderly manner. The use of pervious paving materials is encouraged.
2. The number of vehicles that may be for sale on the premises must be specified on the special use permit. An increase in the number of vehicles to be sold shall require a new permit.
3. Sufficient screening shall be provided along all lot lines abutting or adjacent to a residential use or district to block any view of operations from such residential property when viewed from ground level.
4. No repairs, other than minor repairs, shall be performed on the premises. All maintenance, service, and repairs of motor vehicles shall be performed within an enclosed structure. No motor vehicle parts or partially dismantled motor vehicles shall be stored outside of an enclosed structure or screened area.
5. No vehicles shall be displayed for sale within 10 feet of any property line that abuts a residential district or use. Such 10 foot buffer area shall be landscaped with evergreen trees, shrubbery, solid fence, or combination thereof to the satisfaction of the Planning Board.
6. A gasoline service station or vehicle service shop on site shall require compliance with Subsections H and N and be so noted on the special use permit.

P. Vehicle Service or Repair Shops.

1. No service or repair shop shall be located within 500 feet of any public entrance to a church, school, library, hospital, charitable institution, or public place of assembly. Such distance shall be measured in a straight line from said public entrance to the lot line nearest said entrance along the street line.
2. No repair work may be performed outside of an enclosed structure, unless such activity is performed in a paved rear yard and fully screened from adjacent residential properties and public view.

3. No vehicle parts or supplies, or dismantled or disabled vehicles may be stored outside a building, unless such storage is located in a paved rear yard and fully screened from adjacent residential properties and public view.
4. Where a service or repair shop abuts a residential district or use, it shall be screened by a buffer area no less than 10 feet in depth composed of densely planted evergreen shrubbery, solid fencing, or a combination of both to the satisfaction of the Planning Board. Such buffer screen shall have a minimum height of five feet above finished grade. If such vegetative buffer becomes decayed and fails to provide the adequate screen, the Code Enforcement Officer may direct the property owner to replace said vegetation.
5. Storage areas for vehicles shall be provided on site and shall not occur on a public street or highway. Not more than five vehicles shall be stored outdoors overnight.
6. A gasoline service station on site shall require compliance with Subsection H and be so noted on the special use permit.

Q. Telecommunications Towers.

1. The purpose of these standards is to provide for the safe provision of telecommunications consistent with applicable federal and state regulations; to minimize the total number of telecommunications towers in the community by encouraging shared use of existing and future towers, and the use of existing tall towers by requiring careful siting, visual impact assessment, and appropriate landscaping.
2. As used in this section, a telecommunications tower shall be considered any structure greater than 35 feet in height, which is capable of receiving and/or transmitting wireless signals for the purpose of communication.
3. No telecommunications tower, except those approved prior to the effective date of this section, shall be used unless in conformity with these regulations. No telecommunications tower shall hereafter be erected, moved, reconstructed, changed or altered unless in conformity with these regulations. No existing structure shall be modified to serve as a telecommunications tower unless in conformity with these regulations.
4. Applicants proposing to collocate on a previously approved telecommunications tower do not require a special permit. They are, however, subject to site plan review. The Board of Trustees may require the applicant to submit any of the items in Subsection 5 as part of the review process.
5. At all times, shared use of existing tall structures (for example multistory buildings, farm silos, etc.), and existing or approved towers, shall be preferred to the construction of new towers.
 - (a) An applicant proposing to share use of an existing tall structure shall be required to submit:
 - i. A completed application for a special permit.
 - ii. Documentation of intent from the owner of the existing facility to allow shared use.

- iii. A site plan. The site plan shall show all existing and proposed structures and improvements, including antennas, roads, buildings, guy wires and anchors, parking and landscaping, and shall include grading plans for new facilities and roads. Any methods used to conceal the modification of the existing facility shall be indicated on the site plan.
 - iv. An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing tall structure, and explaining what modifications, if any, will be required in order to certify to the above.
 - v. A completed short EAF and a completed visual EAF addendum.
 - vi. A copy of its Federal Communications Commission (FCC) license.
 - (b) If an applicant proposing to share use of an existing tall structure submits complete and satisfactory documentation and if modifications indicated are deemed insignificant by the Planning Board the special use permit process may be completed.
 - (c) If the Planning Board determines that any modifications are significant, it may require further review according to Subsections 9 through 24 below.
- 6. The Planning Board may consider a new telecommunications tower when the applicant demonstrates that shared use of existing tall structures and existing or approved towers is impractical. An applicant shall be required to present an adequate report inventorying all existing tall structures and existing or approved towers within a reasonable distance of the proposed site. This distance shall be determined by the Planning Board in consultation with the applicant. The report shall outline opportunities for shared use of these existing facilities as an alternative to a proposed new tower. The report shall demonstrate good faith efforts to secure shared use from the owner of each existing tall structure and existing or approved tower as well as documentation of the physical, technical and/or financial reasons why shared usage is not practical in each case. Written requests and responses for shared use shall be provided.
- 7. Where shared use of existing tall structures, and existing or approved towers, is found to be impractical, the applicant shall investigate shared usage of an existing tower site for its ability to accommodate a new tower and accessory uses. Documentation and conditions shall be in accordance with Subsection 5 above. Any proposals for a new telecommunications tower on an existing tower site shall also be subject to the requirements of Subsections 9 through 24 below.
- 8. The Planning Board may consider a new telecommunications tower on a site not previously developed with an existing tower when the applicant demonstrates that shared use of existing tall structures, and existing or approved towers, is impractical, and submits a report as described in Subsection 5 above; and when the Planning Board determines that shared use of an existing tower site for a new tower is undesirable based upon the applicant's investigation in accordance with Subsection 7. Any proposal for a new telecommunications tower shall also be subject to the requirements of Subsections 9 through 24 below.
- 9. New Towers: Future Shared Use.

- (a)** The applicant shall design a proposed new telecommunications tower to accommodate future demand for reception and transmitting facilities.
- (b)** The applicant shall submit to the Planning Board a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the Building Inspector prior to issuance of a building permit. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special permit.
- (c)** The letter shall commit the new tower owner and his/her successors in interest to:
 - i.** Respond within 90 days to a request for information from a potential shared use applicant.
 - ii.** Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers.
 - iii.** Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include but are not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
 - iv.** Allow for shared use for all municipal emergency services without charge.

10. Site Plan Review Submission Requirements.

- (a)** An applicant shall be required to submit a site plan in accordance with Article XII of this chapter. The site plan shall show all existing and proposed structures and improvements, including roads, buildings, tower, guy wire and anchors, anticlimb devices, antennas, parking and landscaping, grading plans for new facilities and roads, manufacturer's design data and installation instructions, and proposed maintenance procedures.
- (b)** The applicant shall submit a complete short EAF, a complete visual environmental assessment form (visual EAF addendum), and documentation on the proposed intent and capacity of use as well as a justification for the height of any tower and justification for any clearing required. The applicant shall also submit a copy of its Federal Communications Commission (FCC) license.

11. Lot Size & Setbacks.

- (a)** All proposed telecommunications towers and accessory structures shall be located on a single parcel and shall be set back from abutting parcels and street lines a distance sufficient to substantially contain on-site all ice-fall or debris from tower failure and preserve the privacy of any adjoining residential properties.
- (b)** Lot size of parcels containing a tower shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased, the entire

area required shall be leased from a single parcel unless the Planning Board determines that this provision may be waived.

- (c) Telecommunications towers shall comply with all existing setback requirements of the underlying zoning district, or shall be located with a minimum setback from any property line equal to one half (1/2) of the height of the tower, whichever is greater.
- (d) Accessory structures shall comply with the minimum setback requirements in the underlying zoning district.

12. Visual Impact Assessment. The Planning Board may require the applicant to undertake a visual impact assessment which may include:

- (a) A "Zone of Visibility Map" shall be provided in order to determine locations where the tower may be seen.
- (b) Pictorial representations of "before" and "after" views from key viewpoints both inside and outside of the Village, including but not limited to: state highways and other major roads, and from any other location where the site is visible to a large number of visitors or travelers. The Planning Board shall determine the appropriate key sites at a pre-submission conference with the applicant.
- (c) Assessment of alternative tower designs and color schemes, as described in Subsection 13 below.
- (d) Assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.

13. New Tower Design. Alternative designs shall be considered for new towers, including lattice and single-pole structures. The design of a proposed new tower shall comply with the following:

- (a) Any new tower shall be designed to accommodate future shared use by other telecommunications providers and municipal emergency services.
- (b) Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.
- (c) The maximum height of any new tower shall not exceed that which shall permit operation without artificial lighting of any kind or nature, in accordance with municipal, state, and/or federal law and/or regulation. The Planning Board, at its discretion, may modify this requirement if the applicant can justify the need to exceed this height limitation.
- (d) The Planning Board may request a review of the application by a qualified engineer in order to evaluate the need for, and the design of, any new tower.
- (e) Accessory structures shall maximize the use of building materials, colors and textures designed to blend with the natural surroundings.
- (f) No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to, company name, phone numbers, banners, and streamers.

14. Existing Vegetation.

- (a) Existing on-site vegetation shall be preserved to the maximum extent possible.
- (b) No cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place prior to the approval of the special use permit.

15. Screening.

- (a) Deciduous or evergreen tree plantings may be required to screen portions of the tower and accessory structures from nearby residential property as well as from public sites.
- (b) Where a site abuts a residential property or public property, including streets, screening shall be required.

16. Access.

- (a) Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made.
- (b) Road construction shall, at all times, minimize ground disturbance and vegetation cutting.
- (c) Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

17. Parking. Parking shall be available to assure adequate emergency and service access.

18. Fencing. The tower and any accessory structures shall be adequately enclosed by a security fence, design of which shall be approved by the Planning Board. This requirement may be waived by the Planning Board if the applicant demonstrates that such measures are unnecessary to ensure the security of the facility.

19. Removal.

- (a) The applicant shall submit to the Planning Board a letter of intent committing the tower owner, and his/her successors in interest, to notify the Building Inspector within 30 days of the discontinuance of use of the tower. This letter shall be filed with the Building Inspector prior to issuance of a building permit (assuming the telecommunications tower is approved according to this section).
- (b) Obsolete or unused towers and accessory structures shall be removed from any site within four months of such notification.
- (c) Failure to notify and/or to remove the obsolete or unused tower in accordance with these regulations shall be a violation of this chapter and shall be punishable according to Article XI of this chapter.

20. Intermunicipal Notification for New Towers. In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that an existing tall structure or existing telecommunications tower in a neighboring municipality be

considered for shared use, and to assist in the continued development of County 911 services, the Planning Board shall require that:

- (a) An applicant who proposes a new telecommunications tower shall notify in writing the legislative body of each municipality that borders the Village of Avon and the Livingston County Planning Board.
- (b) Notification shall include the exact location of the proposed tower, and a general description of the project, including, but not limited to, the height of the tower and its capacity for future shared use.
- (c) Documentation of this notification shall be submitted to the Planning Board at the time of application.

21. Notification of Nearby Landowners.

- (a) The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within 500 feet of the property line of the parcel on which a new tower is proposed.
- (b) Notification, in all cases, shall be made by certified mail.
- (c) Documentation of this notification shall be submitted to the Planning Board prior to the public hearing.

22. Emergency Services. Adequate provision shall be made such that all municipal emergency services may be located upon the tower and used without charge.

23. Review fees. In addition to the application fee, the applicant shall be responsible for any and all expert fees incurred by the Village in the review of the application, including engineering fees. No certificate of occupancy or certification of completion or compliance shall be issued until all fees are paid.

24. Emissions. Any signals or emissions from any tower or wireless telecommunications facilities attached thereto shall conform to all Federal Communications Commission standards on emissions.