



## **SPECIAL TOWN MEETING NOVEMBER 12, 2025-PROCEEDINGS**

**Miscoe Hill School  
148 North Ave**

The Moderator, Tom Merolli, called the meeting to order at 7:01 pm. He dispensed with the reading of the warrant. The Moderator went over the rules and procedures for the meeting. A brief overview of the use of electronic voting was presented. Cub Scout Pack 1 led the Town Meeting in the Pledge of Allegiance.

The voters allowed the following non-voting persons into the meeting:

Jeremy Stull - Town Administrator

Joe Proctor-Town Counsel

Kate Connolly – Town Counsel

Dylan Lindholm –Town Planner

Tyler James – ABMI

Katie Moxam – Executive Assistant to the Select Board and Town Administrator

Sherrie Bates – Principal Assessor

Jennifer O'Neill – Human Resources

Jennifer Welch – Pack 1 parent

Erin Montequin – Pack 1 parent

Barray Vallan – Pack 1 parent

11 minors from Cub Scout Pack 1

### **CONSENT AGENDA CREATE**

Voted to take out of order and place Articles 15-25, 28, 30-33 on the Consent Agenda.

Yes 56 No 12

Passed majority

### **CONSENT AGENDA VOTE**

Voted to approve the following articles in the Consent Agenda:

**Article 15** – Voted to close the account associated with a multipurpose trackless and dump truck lease and return \$75,000 to the Stabilization Fund.

**Article 16** – Voted to transfer from Free Cash the sum of \$75,000.00 to purchase replacement a new multi-purpose dump truck for the Highway, Grounds, and Facilities Department.

**Article 17** – Voted to transfer from Free Cash the sum of \$22,000.00 to fund necessary repairs to the existing well structure at the Old Mendon Landfill (28 Bellingham Street), including constructing new wells, and implement increased monitoring).

**Article 18** – Voted to transfer from Free Cash the sum of \$35,000.00 to purchase and install climate control equipment on the upper floor of Town Hall and fund repairs to the climate control system in the former Taft Library (Town Hall Annex).

**Article 19** – Voted to transfer from Free Cash the sum of \$11,000 to fund emergency well repair at the Mendon Senior Center and associated testing costs.

**Article 20** – Voted to transfer from Free Cash the sum of \$10,000 to purchase mapping software for the Assessor and other Town departments.

**Article 21** – Voted to transfer from Free Cash the sum of \$47,000.00 to fund a local cash match for a state Stormwater Asset Management Grant.

**Article 22** – Voted to transfer from Free Cash the sum of \$100,000 to fund Providence Street Culvert replacement work.

**Article 23** – Voted to transfer from Free Cash the sum of \$40,000 to fund the purchase of Fire Department turn out gear.

**Article 24** – Voted to transfer from Free Cash the sum of \$90,000 to fund the purchase of Fire Department Utility Terrain Vehicle with associated trailer and motorized boat with associated trailer.

**Article 25** – Voted to transfer from Free Cash the sum of \$150,000.00 to purchase a Highway Department backhoe.

**Article 28** – Voted to transfer from Free Cash the sum of \$45,000.00 to fund deck and egress repair and replacement at the Mendon Senior Center.

**Article 30** – Voted to close the account associated with Town Beach Engineering and return the \$2,514.82 balance to Community Preservation Act Undesignated Fund Balance.

**Article 31** – Voted to transfer \$4,700 from the Mendon Land Bank to fund the purchase of an 81X Boundary Plan for 17 Pleasant Street.

**Article 32** – Voted to close the accounts associated with Morrison Drive Survey, Electric Vehicle Purchase, Town Meeting Room Equipment, Speed Limit Signs, Street Sweeper, Highway Salt Shed, Highway Wireless Fire Alarm, Senior Center Architectural and Site Engineering Study, Senior Center Engineering and Design, and Library Electrical Service Improvements, and return the \$52,030.94 to Undesignated Fund Balance.

**Article 33** – Voted to transfer from free cash \$250,000 to fund supplemental road repair.

Yes 60 No 7  
Passed majority

## **ARTICLE 1**

Voted to transfer from Free Cash the sum of \$16,355.33 to pay a bill of a prior year in the same amount from National Grid.

Yes 58 No 6  
Passed 9/10ths majority

## **ARTICLE 2**

Voted to transfer from Free Cash the sum of \$225,000. into the Stabilization Account.

Yes 59 No 7  
Passed majority

## **ARTICLE 3**

Voted to transfer from Free Cash the sum of \$100,000 into the Capital Expenditure Account.

Yes 55 No 10  
Passed majority

#### **ARTICLE 4**

Voted to transfer from Free Cash the sum of \$60,000. to be added to the Other Post Employment Benefits (“OPEB”) Liability Trust Fund.

Yes 53 No 11

Passed majority

#### **ARTICLE 5**

Voted to raise and appropriate \$75,577.17 to fund Fiscal Year 2026 Fire Department Vehicle leases.

Yes 53 No 10

Passed majority

#### **ARTICLE 6**

Voted to accept MA General Law Chapter 138, Section 12D.

Yes 44 No 19

Passed majority

#### **ARTICLE 7**

Voted to amend Mendon Zoning By-laws Article V Section 5.03 (Flood Hazard Overlay District) by adding Subsection C, Definitions, as attached.

Yes 52 No 7

Passed 2/3rds majority

#### **ARTICLE 8**

Voted to amend Mendon Zoning By-laws Article III Section 3.01, Table of Uses, Section 3.02, and Section 3.03 (Use Regulations)

Yes 41 No 10

Passed 2/3rds majority

#### **ARTICLE 9**

Voted to pass over this article.

Yes 55 No 7

Passed majority

#### **ARTICLE 10**

Voted to amend the Town of Mendon Zoning By-Laws by adopting the revisions to Section 3.04 Open Space Communities and 4.02 Site Plan Review as attached

Yes 50 No 11

Passed 2/3rds majority

#### **ARTICLE 11**

Voted to amend the Town of Mendon Zoning By-Laws by adopting the revisions to 2.06 Sign Bylaw and 6.03 Marijuana Establishments and Medical Marijuana Treatment Centers as attached.

Yes 54 No 9

Passed 2/3rds majority

## **ARTICLE 12**

Voted to amend the Town of Mendon Zoning By-Laws by amending the Accessory Dwelling Unit by-law as attached.

Yes 44 No 12

Passed 2/3rds majority

## **ARTICLE 13**

Voted to pass over this article.

Yes 43 No 5

Passed majority

## **ARTICLE 14**

Voted to amend the Town of Mendon Zoning By-laws by removing annotations from the main text to the footer and reformatting numbered lists as attached.

Yes 48 No 7

Passed 2/3rds majority

## **ARTICLE 26**

Voted to transfer from Free Cash the sum of \$10,000.00 to fund design and engineering costs related to the Mendon Town Beach bathrooms and Memorial Park septic system.

Yes 41 No 16

Passed majority

## **ARTICLE 27**

Voted to pass over this article.

Yes 51 No 3

Passed majority

## **ARTICLE 34**

Voted to amend Mendon General By-Law Chapter XXI (Community Preservation Act) as attached.

Yes 55 No 4

Passed majority

## **ARTICLE 35**

Voted to amend Mendon General By-laws to include gender neutral language changes throughout.

Yes 41 No 16

Passed majority

## **ARTICLE 36**

Voted to amend Mendon General By-laws Chapter XI Section 7 (Animal Control) by deleting the entire contents and replacing with the language attached.

Yes 51 No 5

Passed majority

Note: There was no Article 29 for this warrant.

A motion to dissolve the warrant was made at 8:14 pm. The tellers for the meeting were Kathy Rich Nancy Fleury. Sgt. Guy Kloczkowski was the officer on duty. There were 73 voters in attendance.

A true copy. Attest:

*Ellen A. Agro*

Ellen Agro  
Town Clerk

**Section 5.03 Flood Hazard Overlay District<sup>46</sup>****(a) Purpose and Administration**

The Flood Hazard Overlay District is herein established as an overlay district to:

- (i) Ensure public safety through reducing the threats to life and personal injury
- (ii) Eliminate new hazards to emergency response officials
- (iii) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
- (iv) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding
- (v) Eliminate costs associated with the response and cleanup of flooding conditions
- (vi) Reduce damage to public and private property resulting from flooding waters
- (vii) Establish uses that are compatible with areas prone to flooding.

The Town of Mendon hereby designates the position of Conservation Agent to be the official floodplain administrator for the Town.

**(b) Flood Hazard Overlay District Delineation**

The Flood Hazard Overlay District includes all special flood hazard areas within the Town of Mendon designated as Zones A and AE, on the Worcester County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Worcester County FIRM that are wholly or partially within the Town of Mendon are panel numbers 25027C0864E, 25027C1030E, 25027C1031E, 25027C1033E, and 25027C1034E, dated July 4, 2011 and 25027C0868F, 25027C1032F, and 25027C1055F, dated July 8, 2025. The exact boundaries of the Flood Plain District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 8, 2025. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk and Building Inspector.

**(c) Definitions**

The following definitions apply only to Section 5.03, Flood Hazard Overlay District:

- (i) **Development:** Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling,

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<sup>46</sup> Voted 5/7/1982; AG Approved 9/8/1982; Effective 5/7/1982  
Voted 5/1/2009; AG Approved 8/11/2009; Effective 5/1/2009  
Voted 6/28/2011; AG Approved 10/6/2011; Effective 6/28/2011  
Voted 5/2/2025; AG Approved 7/30/2025; Effective 5/2/2025

grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

- (ii) **Flood Insurance Rate Map (FIRM):** An official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk-premium zones applicable to the community.
- (iii) **Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation. [Base Code, Chapter 2, Section 202]
- (iv) **Functionally Dependent Use:** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]
- (v) **Highest Adjacent Grade:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]
- (vi) **Historic Structure:** Any structure that is:
  - (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - (5) By an approved state program as determined by the Secretary of the Interior or
    - (6) Directly by the Secretary of the Interior in states without approved programs.[US Code of Federal Regulations, Title 44, Part 59]
- (vii) **Manufactured Home:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a

permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

- (viii) **Manufactured Home Park or Subdivision:** A parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.
- (ix) **New Construction:** Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement. [Referenced Standard ASCE 24-14]
- (x) **One-Hundred Year Flood:** See "base flood."
- (xi) **Recreational Vehicle:** A vehicle which is:
  - (1) Built on a single chassis;
  - (2) 400 square feet or less when measured at the largest horizontal projection;
  - (3) Designed to be self-propelled or permanently towable by a light duty truck; and
  - (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.[US Code of Federal Regulations, Title 44, Part 59]
- (xii) **Regulatory Floodway:** See "floodway."
- (xiii) **Special Flood Hazard Area:** The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE, or V1-30. [Base Code, Chapter 2, Section 202]
- (xiv) **Start of Construction:** The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

- (xv) **Structure:** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]
- (xvi) **Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.
- (xvii) **Substantial Improvement:** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- (xviii) **Substantial Repair of a Foundation:** When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]
- (xix) **Variance:** means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]
- (xx) **Violation:** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3 is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

(d) Special Permits

A Special Permit is required for all proposed construction or other development in the Flood Hazard Overlay District, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving, and any other development that might increase flooding or adversely impact flood risks to other properties. All development, as

well as the permitted uses and requirements of the underlying district, must comply with all requirements and laws relevant to uses allowed in the Flood Hazard Overlay District.

(i) Requirements

(1) The Town of Mendon requires a Special Permit to be issued by the Planning Board for all proposed use, construction, or other development as defined by FEMA in the Flood Hazard Overlay District including, but not limited to,

- a) new construction or changes to existing buildings,
- b) placement of manufactured homes,
- c) temporary or permanent structures including fences, sheds, storage facilities, agricultural facilities, or play areas,
- d) storage of vehicles, including agricultural and recreational vehicles
- e) and/or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

(2) Special considerations.

- a) In A and AE zones, storage of all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway-ready.
- b) In the case of a use not included above, the floodplain administrator will determine whether a special permit is required.

(3) No special permit may be issued unless the proposed use or structure is in compliance with MGL c. 131, § 40, and with demonstrated evidence of acquisition of and compliance with all other necessary permits as outlined below. Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

- a) The section of the Massachusetts State Building Code which addresses floodplain and coastal high-hazard areas (currently 780 CMR 115G, Flood Resistant Construction and Construction in Coastal Dunes), as may be amended.
- b) Wetlands Protection Regulations, Department of Environmental Protection (DEP), currently 310 CMR 10.00, as may be amended.
- c) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP, currently 310 CMR 15, Title 5, as may be amended.
- d) The Mendon Wetlands Protection By-law and accompanying regulations, as may be amended.
- e) Any regulations or by-laws adopted by the Board of Health.

- f) All other state and federal permits as required by the Massachusetts Department of Conservation and Recreation, Massachusetts Department of Environmental Protection, Environmental Protection Agency, Federal Emergency Management Agency, and/or other departments and agencies as may be amended.

(ii) Special Permit Determination

In addition to the foregoing requirements, the Planning Board shall consider the following in determining whether to issue a special permit:

- (1) In Zone AE along watercourses that have a regulatory floodway designated within the Town of Mendon on the Worcester County Flood Insurance Rate Maps, encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) All development proposals, including subdivision proposals, in the Flood Hazard Overlay District shall be reviewed to assure that:
  - a) Such proposals minimize flood damage;
  - b) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
  - c) Adequate drainage is provided.
- (3) When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.
- (4) All applications for special permits shall include a site and development plan. Said plans shall, at a minimum, show existing contour intervals of site and elevations of existing structures.
- (5) There shall be established a "routing procedure" which will circulate or transmit one copy of the site and development plan to the Conservation Commission, Planning Board, Board of Health, Building Inspector, Town Engineer, Highway Surveyor, Town Clerk, Select Board, and Board of Assessors for comments which will be considered by the Planning Board prior to issuing applicable permits.

(e) Variances

- (i) Granting Authority. Any variances from the provisions and requirements of the above-referenced state regulations may only be granted in accordance with the required variance procedures of the State Building Code Appeals Board.
  - (1) The applicant will provide the Town of Mendon, from the State Building Code Appeals Board, a written and/or audible copy of the portion of the hearing related to the variance, and the Town will maintain this record in the community's files.
  - (2) The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.
  - (3) Such notification shall be maintained with the record of all variance actions for the referenced development in the Flood Hazard Overlay District.
- (ii) Requirements. A variance from these Flood Hazard by-laws must meet the requirements set out by State law, and may only be granted if:
  - (1) good and sufficient cause and exceptional non-financial hardship exist;
  - (2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
  - (3) the variance is the minimum action necessary to afford relief.
- (f) Floodway Data and Base Flood Elevation
  - (i) Floodway Data & Floodway Encroachment
    - (1) In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
    - (2) In Zone AE, along watercourses that have a regulatory floodway designated on the Town's FIRM or Flood Boundary & Floodway Map, encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(ii) Base Flood Elevation Data

- (1) In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review, and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A and as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

(g) Notification of Watercourse Alteration & Submittal of New Technical Data

- (i) In a riverine situation, the Conservation Commission shall notify the following of any alteration or relocation of a watercourse:

- (1) Adjacent communities
- (2) Bordering states, if affected
- (3) NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation
- (4) NFIP Program Specialist  
Federal Emergency Management Agency, Region I

- (ii) If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:

- (1) NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation
- (2) NFIP Program Specialist  
Federal Emergency Management Agency, Region I

(h) Abrogation and Greater Restriction

The floodplain management regulations found in this Flood Hazard Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances, or codes.

(i) Disclaimer of Liability

The degree of flood protection required by this by-law is considered reasonable but does not imply total flood protection.

(j) Severability

If any section, provision or portion of this by-law is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

## ARTICLE III. USE REGULATIONS<sup>23</sup>

### Section 3.01 Allowable Land Uses

- (a) No land shall be used and no structure shall be constructed, reconstructed, altered, expanded, erected or used for any purpose except as set forth and in accordance with the Table of Uses, Table A, including the notes to Table A, the provisions of the Town of Mendon Zoning By-Laws and Town of Mendon By-Laws, and all other applicable federal, state, and local rules, laws, statutes, and regulations.
- (b) Prohibited Uses. Any use not specifically or generally listed in the Table of Uses, Table A, shall be deemed prohibited. No use that is prohibited shall be allowed as a principal or an accessory use. In addition, the following uses are specifically prohibited as principal and/or accessory uses in all districts:
- (i) Airports, heliports, landing strips, and similar uses;
  - (ii) Mobile home, recreational vehicle (RV), camper, or trailer camps or parks. No mobile homes, trailer, RV, or camper shall be used as a permanent residence;
  - (iii) Junk yard, landfills, transfer stations, dumps, and auto graveyards;
  - (iv) Slaughterhouses except if, and only to the extent that, the use constitutes an exempt agricultural use under M.G.L. c. 40A, sec. 3;
  - (v) Race tracks;
  - (vi) Fur Farms, except if, and only to the extent that, the use constitutes an exempt agricultural use under M.G.L. c. 40A, sec. 3;
  - (vii) Piggeries, except if, and only to the extent that the use constitutes an exempt agricultural use under M.G.L. c. 40A, sec. 3; and
  - (viii) Power Plants, except for Large Scale Ground Mounted Solar Photovoltaic Facilities.
- (c) General Regulations Applicable to All Allowed Uses:
- (i) Site Plan Review may be required under Section 4.02 of this Zoning By-Law whether or not specifically stated in the Table of Uses.
  - (ii) Any requirements established by this Section shall be in addition to, and not in place of, other permitting procedures.
  - (iii) Uses legally existing in accordance with the Mendon Zoning By-Laws prior to the enactment of this Section may be allowed in accordance with Section 3.01 (d) and Section 3.02 of this Zoning By-Law.
  - (iv) No land or structure shall be used in a manner that is detrimental or offensive, or creates a nuisance by reason of noise, dirt, odor, fumes, waste, sewage, refuse, smoke, gas, chemical contamination, excessive vibration or danger of fire or

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<sup>23</sup> Voted 5/11/1979; AG Approved 9/10/1979; Effective 5/11/1979  
Voted 5/10/2002; AG Approved 8/26/2002; Effective 5/10/2002  
Voted 2/24/2014; AG Approved 5/1/2014; Effective 2/24/2014  
Voted 6/24/2015; AG Approved 2/1/2016; Effective 6/24/2015  
Voted 11/27/18; AG Approved 3/14/2019; Effective 11/27/2018

explosion, except to the extent allowed by M.G.L. Chapter 111, Section 125A and M.G.L. Chapter 243, Section 6.

- (v) Only one principal use shall be permitted on a lot in a residential district, except for exempt agricultural uses which may be permitted on the same lot as a residential dwelling. In non-residential districts, more than one allowed principal use may be permitted by Special Permit issued by the Planning Board.
- (vi) Only one principal building shall be permitted on a lot. In non-residential districts, the Planning Board may grant a special permit authorizing more than one building on a lot if such use customarily requires more than one building and the applicant provides sufficient justification for such necessity.
- (vii) The following buffer and screening requirements shall apply in the Highway Business District in addition to those requirements that may be imposed elsewhere in the Zoning By-Laws:
  - (1) Wherever a non-residential district abuts a residential district for a single or two-family dwelling, a 100 foot buffer from the lot lines and a 200 foot buffer from any residential dwelling shall be maintained. Natural vegetation shall be maintained in these buffer zones, and, in the absence of natural vegetation, the addition of dense, hardy evergreens, deciduous trees, and shrubs, native varieties wherever possible, will be required. The buffer zones shall not be used in any other manner, or for any other purpose, except for natural or required vegetation.
  - (2) An effort should be made to provide a variety of sizes and species. Sizes for deciduous trees should range from a minimum of 1-inch to 3-inch caliper as specified by American Standards for Nursery Stock. Multi-stemmed deciduous trees such as *Betula nigra* (River birch) should be of a comparable height (8' to 10') to a 1"-3" caliper tree. Evergreen trees should be planted at varying heights from five to ten feet at the time of planting.
  - (3) Vegetated landscaped buffer strips at least 15 feet wide shall be installed and maintained between lots. Trees and shrubs for landscaped areas shall be of native and non-invasive varieties. These areas shall be properly maintained by the lot owner. Any trees, shrubs or other vegetation which dies shall be replaced within one growing season.
  - (4) Compost or other organic amendments should be mixed into the back-fill soil to increase water-holding capacity where appropriate.
  - (5) Large trees may be staked for stability for one growing season.
  - (6) All plant materials should conform to American Standards for Nursery Stock, latest edition. Trees and plants species should be selected on the basis of having similar climatic, water, soil, and maintenance requirements.

- (7) A coordinated landscape design for the entire project shall be reviewed by the Planning Board and approved in accordance with Section 4.02, Site Plan Review.<sup>24</sup>
- (viii) Any references to Massachusetts General Law (MGL) shall mean and include any and all amendments thereto.
- (ix) When a proposed use may fall under multiple use categories, the more specific use category shall apply.
- (x) Total impervious area on any given site shall be minimized as possible through the use of natural plantings and construction of Low Impact Development best management practices as described in the Massachusetts Stormwater Handbook.<sup>25</sup>
- (d) Non-Conforming Uses and Structures
- (i) Non-conforming uses and structures shall be regulated as provided in Massachusetts General Laws Chapter 40A, Section 6, as may be amended, and as provided in this Zoning By-Law.
- (ii) Any lawful building or structure, or use of a building, structure or land, existing at the time of adoption of this Zoning By-Law, or any amendment thereto, which does not conform to the regulations thereof may be continued. However, except as hereinafter set forth, a non-conforming building or structure, or use thereof, shall not be structurally changed, altered, enlarged, extended, or reconstructed.
- (iii) The Board of Appeals may authorize, under a special permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally changed, altered, enlarged or reconstructed; provided that such extension, structural change, alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming structure.
- (iv) No building or structure shall be added to, enlarged, or reconstructed to an extent greater than 50% of its area at the time of adoption of this By-Law or such amendment.
- (v) Any change, reconstruction, extension, alteration, or enlargement of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, shall require the issuance of a variance.
- (vi) A nonconforming building or structure damaged or destroyed by fire or other natural disaster, may be repaired or reconstructed within the same portion of the lot, and used in the same manner and to the same extent as used as before, provided that such repair or reconstruction is substantially completed within

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<sup>24</sup> Amended 6/29/20; AG approved 9/3/20; Effective 6/29/20

<sup>25</sup> Amended 6/29/20; AG approved 9/3/20; Effective 6/29/20

twenty-four (24) consecutive months of the date of the damage or destruction. The Building Inspector may grant an extension upon a showing of good cause.

- (vii) For the purposes of this section a non-conforming building or structure, or use of a building, structure or land, which has been discontinued or abandoned for twenty-four (24) consecutive months shall not be re-established. Any future building, structure, and/or use shall conform to the regulations of this Zoning By-Law.
- (viii) No non-conforming use shall, if changed to a conforming use, revert to a non-conforming use.

(e) Symbols. Symbols used in the Table of Uses shall have the following meanings:

RR = Rural Residential

GR = General Residential

GB = General Business District

HB = Highway Business District

ARMUD = Age Restricted Multi-Use District (see section 5.05)

Y = Permitted by right (site plan review approval may be required as defined and regulated by Mendon Zoning Bylaws Article IV)

BOS = Special Permit from the Select Board

PB = Special Permit from Planning Board

ZBA= Special Permit from the Zoning Board of Appeals

SPR= Site Plan Review (see Section 3.01(c) (i))

N = Prohibited

\* Indicates an explanatory note located at the end of the Table. The number associated with the use will correspond to the number of the explanatory note

**Table A: Table of Uses**

		Districts				
Residential Uses		RR	GR	GB	HB	ARMUD
1	Single family dwelling	Y	Y	N	N	PB
2	Two family dwelling	Y	Y	N	N	PB
3	Multi-family dwelling	N	N	N	N	PB
4a	Protected Use Accessory Dwelling Unit	Y	Y	N	N	Y
4b	Special Permit Accessory Dwelling Unit	PB	PB	N	N	PB
5	Open Space Communities as defined and in accordance with Mendon Zoning By-Laws, Section 3.04	Y	Y	N	N	N
6	Convalescent or nursing home as defined and in accordance with M.G.L. c. 111, sec. 71 *	PB	PB	Y	Y	PB
Accessory Uses - Residential		RR	GR	GB	HB	ARMUD
7	Customary accessory uses such as private garages for not more than 3 vehicles, storage sheds, private tennis courts, and swimming pools *	Y	Y	PB	PB	PB
8	The keeping of domestic livestock, principally for personal enjoyment or household use <sup>26</sup>	Y	Y	Y	N	N
9	Home occupations *	Y / PB	Y / PB	PB	PB	PB
10	Bed and Breakfast *	PB	PB	PB	N	PB
11	Non-exempt radio towers, and similar structures *	N	N	N	N	N
12	Portable storage containers*	Y	Y	Y	Y	N
Agricultural Uses		RR	GR	GB	HB	ARMUD
13	Exempt commercial agriculture, aquaculture, silviculture, horticulture, floriculture, or	Y	Y	Y	Y	PB

<sup>26</sup> Requirements revised by town meeting vote 2/24/14

	viticulture on parcels of 5 acres or more that are either revenue producing or non-revenue producing, all as defined in and subject to the qualifications for exemption set forth in					
14	Exempt commercial agricultural, aquaculture, silviculture, horticulture, floriculture, or viticulture uses on parcels that are 2 acres or more that generate at least \$1,000 per acre annually in revenue, all as defined in and subject to the qualifications for exemption set forth in M.G.L. c. 40A, sec. 3	Y	Y	Y	Y	PB
15	Exempt commercial facilities for the sale of produce, wine and dairy products, including greenhouses and/or farm stands on parcels 5 acres or more with retail sales June thru September, all as defined in and subject to the qualifications for exemption set forth in M.G.L. c. 40A, sec. 3	Y	Y	Y	Y	PB
16	Exempt commercial facilities for the sale of produce, wine and dairy products, including greenhouses and/or farm stands on parcels 2 acres or more that generates at least \$1,000 per acre annually in revenue and with retail sales June thru September, all as defined in and subject to the qualifications for exemption set forth in M.G.L. c. 40A, sec. 3	Y	Y	Y	Y	PB
17	Non-exempt greenhouse or nursery, year round, with retail sales	N	PB	Y	Y	PB
18	Farmer's Market *	Y	Y	Y	Y	PB
19	Farm Stand, non-exempt	PB	PB	Y	Y	PB
20	Exempt commercial riding stable on parcels more than 5 acres pursuant to, and subject to the qualifications for exemption set forth in M.G.L. c. 40A, sec. 3; also subject and pursuant to	Y	Y	Y	Y	PB

21	Exempt commercial riding stable for commercial purposes on parcels 2 acres or more that generates at least \$1,000 per acre annually in revenue, pursuant to and subject to the qualifications for exemption set forth in M.G.L. c. 40A, sec. 3; also subject and	Y	Y	Y	Y	PB
22	Kennel, owner lives on premises	N	PB	PB	N	N
23	Kennel, owner does not live on premises	N	N	PB	PB	N
24	Exempt commercial kennel on parcels five acres or more or two acres or more if the parcel generates at least \$1,000 per acre annually in revenue, pursuant to and subject to the qualifications for exemption set forth in M.G.L. c.40A, sec. 3	Y	Y	Y	Y	PB
Institutional, Educational, and Municipal		RR	GR	GB	HB	ARMUD
25	Municipal administration	PB	Y	Y	Y	PB
26	Exempt religious or educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation as defined and subject to the	Y	Y	Y	Y	PB
27	Exempt child care facility, as defined, and subject to the qualifications for exemption set forth in M.G.L. c. 40A,	Y	Y	Y	Y	PB
28	Family child care home as defined and in accordance with M.G.L. c. 15D, sec. 1A *	PB	PB	PB	PB	PB
29	Large family child care home as defined and in accordance with M.G.L. c. 15D, sec. 1A*	N	PB	PB	PB	PB
30	Cemetery	PB	PB	N	N	N
31	Non-profit civic organizations, clubs, library, or museums	PB	PB	PB	N	PB
Business and Retail		RR	GR	GB	HB	ARMUD
32	Retail stores, indoor sales only	N	N	Y	Y	PB

33	Retail stores which include outdoor sales	N	N	PB	PB	PB
34	Wholesale business and storage	N	N	Y	Y	N
35	Shopping center consisting of at least three buildings, provided that the building(s) are designed as an architectural unit	N	N	PB	PB	PB
36	Craft shop, excluding home occupations	N	PB	Y	N	PB
37	Business and professional offices	N	PB	Y	Y	PB
38	Bank or financial institution	N	N	Y	Y	PB
39	Trade, professional or other school conducted as a private business	N	PB	Y	Y	PB
40	Personal care services such as barber shops, beauty parlors and nail salons	N	N	Y	Y	PB
41	Dry cleaning establishments limited to pick-up service	N	N	Y	Y	PB
42	Restaurant or other establishment providing food and/or beverages on the premises	N	N	Y	Y	PB
43	Catering establishment	N	N	Y	Y	PB
44	Motor vehicle service stations as defined and in accordance with Mendon Zoning By-Laws, Section 6.01	N	N	PB	PB	N
45	Motor vehicle repair, provided that all work is conducted within a completely enclosed building	N	N	PB	PB	N
46	Auto body shop, provided that all work is conducted within a completely enclosed building	N	N	PB	PB	N
47	Automobile dealership for sale, leasing and servicing of new and used automobiles	N	N	PB	PB	N
48	Automobile dealership, Class II License, as defined and in accordance with the Town of Mendon By-Laws, Chapter XI Section 10	N	N	PB	PB	N
49	Sale and rental of recreational vehicles	N	N	PB	PB	N

50	Boat sales and rental including storage, maintenance and repair of boats	N	N	PB	PB	N
51	Heating oil sales and service	N	N	PB	PB	N
52	Funeral or undertaking establishment	N	N	PB	PB	N
53	Large Animal Hospital, minimum five acres	PB	PB	PB	PB	N
54	Veterinary hospital	PB	PB	PB	PB	PB
55	Hotel	N	N	PB	PB	N
56	Medical center for medical, dental, or clinical	N	N	PB	PB	PB
57	Marina, only on land having direct access to open water	PB	PB	PB	PB	N
58	Marijuana establishments, and medical marijuana treatment centers as defined and in accordance with Section 6.03 <sup>1</sup> Use 56-1 inserted PB in HB zone 11/27/18 A21, <sup>2</sup> amended from N to PB in GB zone 11/20/19 A19	N	N	PB <sup>2</sup>	PB <sup>1</sup>	PB
59	Any business and/or retail use permitted above by right in excess of 10,000 square feet of building area	N	N	PB	PB	PB
<b>Industrial</b>		<b>RR</b>	<b>GR</b>	<b>GB</b>	<b>HB</b>	<b>ARMUD</b>
60	Industrial or manufacturing, light	N	N	Y	Y	N
61	Industrial or manufacturing, heavy	N	N	N	N	N
62	Hazardous Waste Facility *	N	N	N	N	N
63	Self-Storage Facility	N	N	PB	PB	N
64	Any industrial use permitted above by right in excess of 10,000 square feet building area	N	N	PB	PB	N
<b>Recreational</b>		<b>RR</b>	<b>GR</b>	<b>GB</b>	<b>HB</b>	<b>ARMUD</b>
65	Indoor commercial entertainment	N	N	PB	Y	PB
66	Drive-in theater	N	N	Y	N	N
67	Golf course and /or country club	PB	PB	N	N	PB

68	Golf driving range not accessory to golf course or country club					
69	Commercial or municipal outdoor recreation	PB	PB	PB	PB	PB
70	Adult Entertainment, as defined and in accordance with Mendon Zoning By-Laws Section 5.01; in the Adult Entertainment District Only	N	See Section 5.01 for permissible locations for this use, and permits required			
71	Any recreational use permitted above by right in excess of 10,000 square feet building area	N	PB	PB	PB	PB
Utility		RR	GR	GB	HB	ARMUD
72	Roof-mounted Accessory Residential and Accessory Non-Residential Solar Photovoltaic Facilities as defined and in accordance with the Mendon Zoning By-Laws, Section 6.02	Y	Y	Y	Y	PB
73	Ground-mounted Accessory Non-Residential and Accessory Residential Solar Photovoltaic Facilities as defined and in accordance with the Mendon Zoning By-Laws, Section 6.02	SPR	SPR	SPR	SPR	SPR
74	Non-Accessory Solar Photovoltaic Facilities as defined and in accordance with the Mendon Zoning By-Laws, Section 6.02	SPR / PB	SPR / PB	SPR / PB	SPR / PB	SPR / PB
Communication, Transportation		RR	GR	GB	HB	ARMUD
75	Wireless Communications Facilities as defined and in accordance with Mendon Zoning By-Laws, Section 2.07	PB	PB	PB	PB	N
76	Exempt amateur radio towers as defined and in accordance with M.G.L. c.40A, sec.3 and Mendon Zoning By-Laws, Section 2.07 (d) (i) 4)	SPR	SPR	SPR	SPR	N
Accessory Uses - Non-Residential		RR	GR	GB	HB	ARMUD
77	Activities necessary in connection with scientific research or scientific development or related production accessory to activities	N	N	PB	PB	N

	permitted as a matter of right as specified in M.G.L. c. 40A, sec. 9					
78	Drive thru windows	N	N	PB	PB	PB
Miscellaneous Uses		RR	GR	GB	HB	ARMUD
79	Earth removal as defined and in accordance with the Town of Mendon By-Laws, Chapter XIV	BOS	BOS	BOS	BOS	N

**Table of Uses - Notes<sup>27</sup>**

- 6 In the Rural Residential and General Residential Districts, convalescent or nursing homes shall be limited to 10 beds.
- 7 Any lighting used in connection with such accessory uses shall be directed away from abutting properties.
- 9 Home occupations are permitted only if conforming to the following:
  - (i) No more than twenty-five percent (25%) of the floor area to a maximum of four hundred (400) square feet of the principal residence shall be used for the purpose of the home occupation.
  - (ii) Not more than one person who is not a member of the household shall be employed on the premises in the home occupation.
  - (iii) There shall be no display, no exterior storage of material and no other variation from the residential character other than an unlighted sign not to exceed two (2) square feet in area.
  - (iv) Traffic generated shall not exceed volumes normally expected in a residential neighborhood.
  - (v) The parking generated shall be accommodated off street, other than in a required front yard, and shall not have more than 5 parking spaces.

The following home occupations, and no other, are permitted in the residential districts without the necessity of a special permit: The profession of medicine, dentistry, law, architecture, accounting and engineering, real estate and insurance offices, Metals and Wood Working, art and photo shop, domestic work, such as dressmaking, teaching of music, dramatics, arts and crafts, and academic pursuits. Home occupations other than the above specified, but having similar attributes, may be allowed on a special permit granted by the Planning Board.<sup>28</sup>

<sup>27</sup> Amended 11/20/19; AG approved 3/2/20; effective 11/20/19

<sup>28</sup> Old citation, pre 2013 revisions, Section 2, paragraph B Clause 5  
Voted 11/8/1977; AG Approved 2/2/1978; Effective 11/8/1978

- 10 Bed and Breakfast; Private, owner occupied building with no more than 5 guest rooms which includes a breakfast in the room rate and which serves meals to overnight guests only. The use must not change the single family character of the dwelling.
- 11 This category is not intended to include Wireless Telecommunication Facilities as defined in Section 2.07 of the Town of Mendon Zoning By-Laws.
- 12 Portable storage containers are allowed as a temporary emergency solution during construction, reconstruction, or renovation of a residential or commercial property or for moving purposes for 90 consecutive days. In the case where a temporary use exceeds 90 days, the Building Inspector may authorize the use of portable storage containers by a building permit. In no event shall the temporary use exceed 12 consecutive months after the issuance of the permit. The Planning Board may grant a waiver from this requirement if the storage container is not within public view. Any storage container in excess of 120 square feet shall require a building permit. No portable storage container shall be located closer than 20 feet to any property line. To the extent possible, a portable storage container shall be placed to the side or rear of the property.
- 18 Farmer's Market: A Farmer's Market consists of a group of local farmers who have come together collectively to market products, grown and raised by participating farmers, directly to the consumer. The Massachusetts Department of Public Health Food Protection Program interpretation of farm products that do not currently require a food permit includes:
- Fresh Produce (fresh uncut fruits and vegetables)
  - Unprocessed honey (Raw honey as defined by the National Honey Board: Honey as it exists in the beehive or as obtained by extraction, settling or straining without added heat.)
  - Maple syrup
  - Farm fresh eggs (must be stored and maintained at a maximum of 45°F (7.2°C).
- Farmer's Market Vendors that Require a Retail Food Permit: Farmer's Market vendors that sell food products and processed foods other than those farm products listed above, shall be licensed as a retail food operation and inspected by the Mendon Board of Health in accordance with Massachusetts Regulation 105 CMR 590.000, Minimum Sanitation Standards for Food Establishments - Chapter X. A Farmer's Market in the Rural Residential District shall be limited to 5 hours a week, one day a week, during the months of June through October. All signs, trash and debris shall be removed from the site upon the termination of the activity. Farmer's Markets must be located on a site with adequate
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ingress and egress and sufficient off street parking as determined by the Zoning Enforcement Officer.

- 28-29 Family child care and large family child care homes: a private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, children under 7 years of age, or children under 16 years of age if those children have special needs. The total number of children in a family child care home shall not exceed 6 and the total number of children in a large family child care home shall not exceed 10, including participating children living in the residence.
- 59 To the extent permitted by law, no new building or facility or part thereof shall be constructed or used, and no premises shall be used, and no building or facility or part thereof shall be altered, enlarged, reconstructed or used for any purpose to include processing, storing or staging of solid waste, hazardous waste, or infectious waste as defined by the Department of Environmental Protection or the Commonwealth of Massachusetts or as defined herein. If at any point the Town is required by law to permit these facilities in any manner, the Town shall be permitted to perform the highest level of review (which shall include associated permits) on such facilities as is allowed by law, and may impose such conditions and restrictions as are also permissible.
- 77 Provided, in addition to the special permit requirements set forth in Section 1.06, the Planning Board finds that the proposed accessory use does not substantially derogate from the public good.

### **Section 3.02 Alterations to Single and Two Family Structures**

- (a) In the following circumstances, alteration, reconstruction, extension or structural change (collectively “alteration”) to a single or two family residential structure shall not be considered an increase in the nonconforming nature of the structure and shall be permitted as of right:
- (i) Alteration to a structure which complies with all current setbacks, open space, lot coverage and building height requirements but is located on a lot with insufficient area. Where the alteration will also comply with all of said current requirements.
  - (ii) Alteration to a structure which complies with all current setbacks, open space, lot coverage and building height requirements but is located on a lot with insufficient frontage. Where the alteration will also comply with all of said current requirements.
  - (iii) Alteration to a structure which encroaches upon one or more required setbacks, where the alteration will comply with all current setbacks, open space, lot coverage and building height requirements (the provisions of this clause (iii))



[REDACTED]

**Section 3.04 Open Space Communities By-Law<sup>30</sup>**

(a) Purpose and Intent

- (i) To provide for the public interest by encouraging the permanent preservation of open land for its scenic beauty and to enhance agriculture, forestry, and recreation.
- (ii) To perpetuate the appearance of Mendon’s rural character and traditional New England landscape.
- (iii) To protect the natural environment, including but not limited to aquifers, wetlands, farmland and Priority Habitats.
- (iv) To protect and increase property values that are reflected in the high value that homeowners place on the amenities of open space.
- (v) To promote the reduction of street construction, town maintenance, site development costs, and to provide public services more efficiently and economically.
- (vi) To promote Low Impact Development practices: smaller lawns to minimize use of pesticides, herbicides, fertilizers and excessive water consumption, and far fewer impervious surfaces to minimize storm water runoff so as to preserve the natural hydrology of the land.

[REDACTED]

[REDACTED]

<sup>30</sup> *Added 5/2/2008; AG Approved 9/23/2008; Effective 5/2/2008*  
*Amended 4/10/2012; AG Approved 7/30/2012; Effective 4/10/2012*  
*Amended 6/24/2015; AG Approved 2/1/2016; Effective 6/24/2015*  
*Amended 5/8/2021; AG Approved 8/11/2021; Effective 5/8/2021*

- (vii) To promote development that is in line with goals and objectives as defined by Town of Mendon's Open Space and Recreation Plan.<sup>31</sup>
  - (viii) To protect sensitive lands and existing landscape features including forests, farmland, meadows, wetlands, riverfront areas, water bodies, archeological and historic structures or points of interest, rock outcrops, stone walls, cliffs, high points, major land views, major tree groupings, noteworthy tree specimens, and habitats of endangered or threatened wildlife.
- (b) Definitions
- (i) Common Driveway: A driveway or curb cut share by not more than two (2) lots, such that each lot has approved frontage on an existing public way, and has access obtained through the common use of a private driveway designed according to the standards for construction of shared driveways in Mendon. All common driveways serve only as access to the building site and cannot be considered as streets under these Zoning By-Laws.
  - (ii) Flag Lot: A flag lot shall be defined as a lot having less than the required frontage to meet the zoning bylaw requirements but having adequate frontage on a street to allow driveway access to the lot and having additional acreage, as set forth in this bylaw. Also known as a back lot, rear lot, pork chop lot, retreat lot, or panhandle lot.
  - (iii) Low Impact Development: A technique that incorporates environmentally friendly land use planning through a range of techniques that preserve the natural hydrology of the land. Examples would be rain gardens, swales, shared driveways, driveways constructed of permeable paving, bioretention, and alternative landscaping.<sup>32</sup>
  - (iv) Open Space Community (OSC): A method of planning residential development that permanently conserves open space while allowing the same number of homes as would be permissible in a conventionally zoned subdivision.
  - (v) Priority Habitat: The geographic extent of Habitat for State-listed Endangered Species as delineated by the Massachusetts Division of Fisheries and Wildlife. If the proposed project falls in any area so designated, the applicant must file directly with the Natural Heritage and Endangered Species Program pursuant to 321 CMR 10.12.
  - (vi) Nature-Based Stormwater Management: Non-structural stormwater management techniques that use passive pre-treatment of stormwater in conjunction with decentralized recharge to achieve a low impact design that attempts to mimic pre-development hydrologic conditions to the greatest practicable extent.

(c) Applicability

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<sup>31</sup> Amended 6/26/20; AG approved 9/3/20; Effective 6/29/20

<sup>32</sup> Amended 6/29/20; AG approved 9/3/20; Effective 6/29/20

- (i) As an alternative to conventional development, Open Space Community projects are the preferred form of residential development in the Town of Mendon. To encourage this type of development, Open Space Communities are allowed by right within residential zoning districts after Major Site Plan Review and approval by the Planning Board. An open space plan that meets the requirements of this by-law, the additional requirements of any other definitive subdivision requirements specified herein, and the Subdivision Control Law shall go through the same permit and approval process as a conventional subdivision.
- (ii) All other Town of Mendon Zoning By-Laws and Town of Mendon Rules and Regulations for Subdivision of Land apply to applications under this bylaw.
- (iii) The Planning Board shall grant or deny an Open Space Community application based upon the information contained in the Sketch Plan or Conceptual Preliminary Plan, as outlined in below.

(d) Preliminary Submission

(i) Pre-Application

- (i) A pre-application review meeting between the applicant, the site designer, and the Planning Board is strongly encouraged. Participants may include consultants, members of the Board of Health and the Conservation Commission. This meeting is intended to commence discussions with the Planning Board at the earliest possible stage, to introduce the applicant to the standards and procedures of the bylaw, and to schedule site visits and meetings.
  - (ii) At the pre-application review meeting, the applicant may outline the proposed development, seek preliminary feedback from the Planning Board, and set a timetable for submittal of a formal application. The Planning Board may engage technical experts, at the applicant's expense, to review the informal plans of the applicant and to facilitate submittal of a formal application.
- (ii) Preliminary Submission Requirements: In order to obtain preliminary approval before heavy engineering costs are incurred, the following submittal materials will be required. These will be in addition to the submittal requirements of the Mendon Planning Board Rules and Regulations. The Planning Board reserves the right to require such further documentation or other evidence, as it deems necessary. The Planning Board may waive any requirements in order to achieve the purpose and intent of this bylaw and to enable a better design.
- (i) Site Context Map. This map shall illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it shall show various kinds of major resource areas or features that cross parcel lines or that are located on adjoining lands.

This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.

- (ii) Existing Resources/Site Analysis Map. This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, the base map shall locate and describe noteworthy resources that could be protected through sensitive subdivision layouts. These resources include wetlands, riverfront areas, flood plains, and steep slopes, but may also include mature woodlands, hedgerows, farmland, priority wildlife habitats, historic or architectural features (such as old structures or stone walls), unusual geologic formations and scenic views into and out from the property. Where appropriate, photographs of these resources should accompany the map. By overlaying this plan with a development plan, the parties involved can clearly see where conservation priorities and desired development overlap or conflict. This map is perhaps the single most important document in the design process because it provides the information base on which every major design decision turns.
- (iii) Yield Plan/Number of Dwelling Units: The applicant shall submit a yield plan to demonstrate the density potential that would be permitted under a conventional (“grid”) subdivision. The number of OSC dwelling units permitted shall not exceed the number that would be permitted under the conventional subdivision plan. The required documentation shall include, without limitation, the following:
  - (i) Soil Analysis: The purpose of the soil analysis is to demonstrate that lots shown in the conventional subdivision layout are suitable for subsurface sewage disposal. The soil analysis shall include an analysis of soil maps and other existing information, a site specific soil survey by a qualified soil scientist and may include some soil testing. The identified lots shall conform to the regulations of the Town of Mendon Board of Health and applicable laws of the Commonwealth of Massachusetts. It is not the intent of this Bylaw to normally require soil testing for each proposed lot shown on a conventional layout. The Planning Board may, however, require testing, at the applicant’s expense, of a subset of lots to verify the soil analysis.
  - (ii) A layout for each conventional lot and supporting technical documentation to clearly demonstrate that each conventional lot can also fully comply with all the applicable laws and regulations pertaining to zoning and subdivision requirements for sewage

- disposal, water supply, wetlands protection, storm water management, and roadway construction.
- (iii) Each conventional lot shall also fully comply with the regulations of the Natural Heritage Endangered Species Program. (NHESP) Should any part of a lot included in the Yield Plan contain Priority Habitat for Rare and Endangered Species as identified in the latest edition of the Natural Heritage Atlas, the applicant shall include the Letter of Determination from NHESP. This is independent of the requirement to submit a copy of a required Notice of Intent to NHESP for a project located within an Estimated Habitat for Rare Wildlife under Mass. Wetlands Protection Act Regulations.
  - (iv) Conceptual Preliminary Plan (Sketch Plan): These drawings should be prepared by a team that includes a landscape architect and a civil engineer and should be based closely on the Existing Resources Site Analysis Map. The Conceptual Preliminary Plan shall follow a four step design process as described below in Section 3.04(e). The Sketch Plan shall contain the following information:
    - (i) The existing and proposed topography of the land.
    - (ii) The location of existing landscape features, including forests, farm fields, meadows, wetlands, riverfront areas, water bodies, archeological and historic structures or points of interest, rock out crops, stone walls, cliffs, high points, major land views, major tree groupings, noteworthy tree specimens, and habitats of endangered or threatened wildlife, as identified in primary and secondary resources according to Section 3.04(e)(i) below. Proposals for all features to be preserved, demolished or altered shall be noted on the Sketch Plan.
    - (iii) The existing and proposed lines of streets, ways, common driveways, easements and any parcel of land intended for public use or to be reserved by deed covenant for use of all property owners in the subdivision, or parcels of land to be used for any purpose, other than private residential, shall be so designated within the subdivision in a general manner.
    - (iv) Proposed roadway grades.
    - (v) Official soil percolation tests for the purpose of siting wastewater treatment shall be required as determined by the Planning Board, Board of Health, and Conservation Commission.
    - (vi) A narrative prepared by a Massachusetts Certified Professional Engineer proposing systems for storm water drainage and likely impacts on site and to any abutting parcels of land. For example,

the narrative will specify whether Nature-Based Stormwater Management Techniques will be used and the number of detention/retention basins or infiltrating catch basins. It is not intended to include specific pipe sizes. Any information needed to justify this proposal should be included in the narrative. The approximate location of any storm-water management structures (detention and retention basins, water quality swales, for example) shall be shown on the plan and accompanied by a conceptual plan. The Planning Board shall encourage the use of non-structural, Low Impact Development Storm-water management techniques where appropriate. Use of best management practices for Low Impact Development as defined by the Massachusetts Stormwater Handbook are strongly encouraged.<sup>33</sup>

- (vii) A narrative explanation of the proposed quality, quantity, use and ownership of the open space. Open space parcels shall be clearly shown on the plan. All proposed landscape and buffer areas should be noted on the plan and generally explained in a narrative.
  - (viii) A list of all legal documents necessary for implementation of the proposed development, including any Conservation Restrictions, land transfers, or condominium documents with an accompanying narrative explaining their general purpose.
- (iii) Definitive Submission Requirements
- (i) An Open Space Community Development falls under Major Site Plan Review as outlined in Article IV of these bylaws. See 4.01(g) for additional requirements.
  - (ii) In addition to the requirements listed for a Preliminary Submission, the Definitive Submission may require additional documentation as determined by the Planning Board.
- (e) Design Process
- Applicants are required to demonstrate to the Planning Board that the following design process was performed by a multidisciplinary team of which one member must be a certified Landscape Architect:
- (i) Identifying Conservation Areas: First, identify and delineate Primary Conservation Areas such as wetlands, stream and riverfront areas, priority wildlife habitat, and flood plains regulated by state or federal law. Second, identify Secondary Conservation Areas including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats, and

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<sup>33</sup> Amended 6/26/20; AG approved 9/3/20; Effective 6/29/20

- cultural features such as historic and archeological sites and scenic views. The Potentially Developable Area should consist of land outside of these identified Primary and Secondary Conservation Areas.
- (ii) Locating House Sites: Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community. House sites should be located in accordance with the regulations of the Massachusetts Department of Environmental Protection Wetlands Protection Act, Rivers Protection Act, and any additional Town of Mendon regulations.
  - (iii) Aligning the Streets and Trails. Align streets in order to access the house lots or units. Additionally, new trails should be laid out to create internal and external connections to existing streets, sidewalks, and trails. Wetland crossings on land that is officially designated in the latest edition of the Massachusetts Natural Heritage Atlas as Priority Habitat for Rare Species and Estimated Habitat for Rare Wildlife and streets traversing existing slopes over 15% shall be strongly discouraged.
  - (iv) Lot Lines: Draw in the lot lines.
  - (v) Lot Yard and Coverage Regulations: See Section 3.04(g) for lot size and density requirements for Open Space Communities.
- (ii) Requirements and Standards
- (i) Design Standards. In addition to the design standards found in the Mendon Planning Board Subdivision Rules and Regulations, the following generic and site-specific design standards shall apply to all sketch plans for OSC's and shall govern the development and design process:
    - (i) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, surface water buffers, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a development scheme.
    - (ii) Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.

- (iii) All open space shall be designed to add to the visual and ecosystem amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties, for stormwater mitigation, and enhancing ecological integrity.
  - (iv) The removal or disruption of historic, traditional or significant uses, structures or architectural elements shall be minimized insofar as practicable whether these exist on site or on adjacent properties.
  - (v) Designs shall include Low Impact Development techniques when feasible.<sup>34</sup>
- (ii) Standards and Dimensional Requirements. The Planning Board encourages applicants to modify lot size, shape and other dimensional requirements for lots within an Open Space Community subject to the following limitations:
- (i) Minimum lot size: Single family: 20,000 square feet
  - (ii) Lot Lines and Frontage
    - a. Front and rear lot lines shall not be less than one hundred (100) feet. Driveways shall be wholly contained within said lot frontage. The Planning Board may waive these requirements where it is determined that a lesser amount, as in the case of retreat lots, common driveways, and lots fronting on a cul-de-sac, furthers the purpose and intent of this bylaw. Where retreat-lots and common driveways do further the purpose and intent of this bylaw, they may be utilized, where appropriate, on a limited basis.
    - b. Driveways shall be wholly contained within said lot frontage.
    - c. Lots shall not have frontage on a street other than a street created by the Open Space Community
- (iii) Open Space Requirements
- (i) Quantity: A minimum of 55% of the site shall be open space. Since wetlands deserve the highest protection possible, large contiguous wetland areas shall be preserved as open space. Wetlands may count toward the minimum open space area requirement provided, however, that no more than 40% of the calculated minimum area required for open space may be wetland, as defined in M.G.L. Chapter 131, Section 40, and the Resource Areas under Section 3a. and c. of Chapter 28 of the Mendon General By-Laws.

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<sup>34</sup> Amended 6/29/20; AG approved 9/3/20; Effective 6/29/20

- (ii) The open space shall be planned as large contiguous areas whenever possible. Long thin strips should be avoided unless necessary to connect other significant areas. Such open space may be separated by roads constructed within the conservation area.
  - (iii) A functional relationship shall exist between the common open space areas and the proposed residential clusters. Such common open space shall be restricted to open space, agricultural uses, recreational uses such as tot-lot, park, playground, playfield, or conservation area. Such common open space shall have suitable access to and from the development's street(s), and shall conform to the requirements of Mendon's Subdivision Rules and Regulations, in effect at the time of application.
  - (iv) The access to the open space must be included in the open space land covered by the conservation restriction. An easement not under the conservation restriction is not acceptable.
  - (v) Parking must be made by available the access to the open space, made of a permeable cover, such as crushed stone, for at least three cars, location approved by the Planning Board, and the area must be included in the open space and covered by the conservation restriction.<sup>35</sup>
- (iv) **Permissible Uses of Open Space.**
- Open space shall be used solely for recreation, conservation, outdoor education, and/or agriculture purposes by the public. Where appropriate, multiple use of open space is encouraged. If several uses are proposed, the plans shall specify what uses will occur in what areas. The proposed use of open space shall be specified in the application. The Planning Board shall have the authority to approve or disapprove particular uses of open space.
- (i) **Accessory Structures:** Up to 5% of the open space may be set aside for construction of structures and facilities accessory to the proposed use of the open space including parking. Non-paved surfaces should be used where possible.
  - (ii) **Natural State:** Use of open space shall be determined by the priorities of the bylaw. For example, if open space land contains Priority Habitat for Rare and Endangered Species, it is not suitable for a baseball field and should be allowed to remain undisturbed. In some cases no use is the best use.
  - (iii) **Recreation Lands:** Where appropriate to the topography and natural features of the site, the Planning Board may allow that at least 10% of the open space or three acres (whichever is less) shall be of a shape, slope,

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<sup>35</sup> Amended 6/29/20; AG approved 9/3/20; Effective 6/29/20

location, and condition to provide an informal field for group recreation or community gardens.

(v) Monumentation.

Before the first lot release, the boundaries of the entire open space areas shall be surveyed and clearly marked by a qualified surveyor with all cost of the survey and monumentation borne by the developer. The Planning Board shall determine the materials used for the monumentation, location and placement of the monumentation.

(vi) Ownership Options.<sup>36</sup>

The tract for which an open space residential development is proposed shall be in a single ownership or control at the time of the first lot release and have a clear title. The Planning Board may require that all areas to be protected open space be transferred before the first lot release. All open space areas shall have a conservation restriction as specified below in Section 3.04(m).

(i) Conveyance. The open space shall be:

(i) Conveyed to the Town:

- a. Land left in its natural state or used for passive recreation or outdoor education shall be placed under the care, custody and control of the Conservation Commission.
- b. Land used for a park, playing field, or other active recreational use shall be placed under the control of the Parks Department, or other appropriate town entity in accordance to Article 97, Land Disposition Policy, of the Massachusetts Constitution, or

(ii) Conveyed to a non--profit organization, the principal purpose of which is conservation or preservation of open space. Such organization shall be acceptable to the town as a bona fide conservation organization, and/or

(iii) Conveyed to a corporation, homeowners association or trust owned or to be owned jointly or in common by the owners of lots or units within the Open Space Community. If such corporation or trust is utilized, ownership thereof shall pass with the conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot and unit. Each individual deed, and the deed of trust or articles of incorporation, shall include provisions designed to affect these provisions. Documents creating such homeowners

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<sup>36</sup> Amended 6/29/20; AG approved 9/3/20; Effective 6/29/20

association, trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

- (ii) Encumbrances: All areas to be set aside as open space shall be conveyed free of any mortgage interest, security interest, liens, or other encumbrances.
- (vii) Maintenance of Open Space
  - (i) In the case of a homeowner's association, corporation or trust, maintenance shall be permanently guaranteed. The corporation or trust shall provide for mandatory assessments for maintenance expenses to each lot. Each such corporation or trust shall be deemed to have assented to allow the Town to perform maintenance of the open space and facilities, if the trust or corporation fails to complete such maintenance.
  - (ii) The owner of each lot shall be deemed to have assented to the Town filing a lien against each lot in the development for the full cost of such maintenance, which lien shall be released upon payment of same.
  - (iii) Any proposed open space shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes, and shall be maintained in a manner which will ensure its suitability for its intended purposes.
  - (iv) In any case where open space is not conveyed to the Town, the Town shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance.
  - (v) Open space protected in perpetuity shall be monitored to ensure that land designated as open space continues to meet requirements. Cost of developing the conservation restriction and monitoring shall be borne by the developer; this includes, but is not limited to legal fees, development of the conservation restriction, baseline survey, stewardship defense and maintenance funding, and permanent marking of boundaries of the open space.<sup>37</sup>
- (viii) Permanent Restriction.

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<sup>37</sup> Amended 6/29/20; AG approved 9/3/20; Effective 6/29/20

All open space shall have a permanent conservation restriction or agricultural preservation restriction in accordance with M.G.L. c 184 Section 31, approved by the Planning Board and Select Board. Depending upon the ownership of the open space, these restrictions shall be enforceable by the Town or an outside non-profit organization, the principal purpose of which is conservation or preservation of open space. In all cases of ownership, these restrictions shall also conform to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services; shall be recorded to ensure that such land shall be kept in an open and natural state and not be built for residential use, or developed for accessory uses such as parking or roadways except as permitted by this bylaw and approved by the Planning board. Restrictions shall provide for periodic inspection of the open space by the Town. Such restrictions shall be submitted to the Planning Board prior to approval of the project and recorded at the Registry of Deeds/Land Court simultaneously with recording of the definitive subdivision plan. If conservation restriction is not complete at the recording of the definitive plan, the Planning Board can allow the developer to submit a check to the town (amount determined by the Planning Board) to cover the costs of developing the conservation restriction, monitoring and related costs. Before any lots are released, the open space needs to be deeded to the town or other entity as described in Section 3.04 (k) And the developer must mark the open space boundaries with signs, approved by the Planning Board as described in Section 3.04 (j).<sup>38</sup>

(ix) Severability.

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of this by-law shall not affect the validity of the remainder of the town's zoning by-law.

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<sup>38</sup> Amended 6/29/20; AG approved 9/3/20; Effective 6/29/20

  
  
**4.02 Site Plan Review<sup>39</sup>****(a) Purpose.**

To protect the health, safety, convenience and general welfare of the inhabitants of the Town of Mendon by providing for a review of plans for uses, activities, and structures which may impact the community including public health and safety, traffic, municipal services, visual and natural environment, economics, and community values in the Town. Site plan review shall not be used to prohibit uses or structures exempt under M.G.L. c. 40A, §3. However, these uses or structures may be subject to reasonable regulations concerning bulk and height of structures, yard sizes, lot area, setbacks, open space, parking, and building coverage requirements, and other requirements to the extent permitted by law.

**(b) Site Plan Classification.****(i) Minor Site Plan Review.** The Town of Mendon requires a Minor Site Plan Review for the following:

(1) Any use of property listed in the Mendon Zoning Bylaws, Table A: Table of Uses, allowed by right, unless the Planning Board determines that Major Site Plan Review is required in accordance with 4.02(b)(ii) below, except the following:

- (a) single or two-family residential dwellings, or
- (b) by-right uses or structures accessory to single or two-family residential dwellings.

**(ii) Major Site Plan Review.** The Town of Mendon requires a Major Site Plan Review for any project that includes, in whole or in part, the following types of activities, structures, and/or uses, except to the extent that they are used for, or a by-right accessory use to, a residential one- or two-family dwelling:

- (1) Any use or structure that requires a Special Permit.
- (2) Any project under Minor Site Plan Review that the Planning Board deems to have a significant impact on the community, requiring further analysis and consideration.
- (3) Open Space Communities as defined and in accordance with Mendon Zoning By-Laws, Section 3.04.

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<sup>39</sup> Added 5/9/1986; AG Approved 6/26/1986; Effective 5/9/1986  
Amended 6/6/2011; AG Approved 10/26/2011; Effective 6/6/2011  
Amended 2/24/2014; AG Approved 5/1/2014; Effective 2/24/2014

- (4) Any addition or alteration to an existing building or structure which results in an increase of five hundred (500) square feet or more gross floor area.
- (5) Any addition or alteration that results in one thousand (1000) square feet or more of impervious surface.
- (6) Any land disturbance of more than 1 acre, in conjunction with a Stormwater Permit. Land disturbance shall include vegetation clearing or trimming, earth removal or relocation, and grading.
- (7) Any change in the existing use of land, building, or structure from a residential use to a non-residential use.
- (8) Any addition of ten (10) or more parking spaces.
- (9) Any change as may be required elsewhere in these Zoning By-Laws or the Mendon General By-Laws.

(c) Application and Review Procedure.

- (i) Submission of Site Plan Review Application. The applicant shall file with the Planning Board the completed site plan review application form, along with eight (8) copies each of the submission materials specified below (collectively, “Site Plan Review Application”).
- (ii) Reasonable fees. Any fees required, in the amounts set forth in the Planning Board Rules and Regulations, as may be amended from time to time (“Planning Board Rules and Regulations”), shall be included with the Site Plan Review Application. The Board shall also require a deposit of money sufficient to cover any additional expenses associated with the public hearing and review of the Site Plan Review Application. The Planning Board is authorized, at the expense of the applicant, to retain a registered professional engineer, architect, landscape architect, attorney, or other professional consultants to review the Site Plan Review Application and to advise the Board on any or all matters pertaining thereto.
- (iii) Application Completeness. No Site Plan Review Application shall be considered by the Planning Board until all information necessary for such review, as described herein, is fully provided, unless waivers are requested by the applicant and granted in writing by the Planning Board in accordance with paragraph Section 4.02 (i) Waiver of Technical Compliance. The Planning Board or its designated agent shall make a determination as to whether the Site Plan Review Application is complete within seven (7) business days of filing. If the Site Plan Review Application has been determined to be incomplete, the application shall be returned to the applicant either in person or by certified mail with a letter indicating that insufficient information has been provided making it impossible for the Planning Board to adequately review the application. An incomplete Site

Plan Review Application shall not constitute a submittal and shall not be considered the start of any time limits within which the Board is required to act under this bylaw or M.G.L. c. 40A.

- (iv) If the submission has been determined to be complete, the applicant shall file the Site Plan Review Application with the Town Clerk. The Town Clerk shall time and date stamp said application to fix the date of submission (“Submission Date”).

(d) Review by Other Boards.

Upon receiving a complete Site Plan Review Application and reasonable fees, the Planning Board shall transmit a complete set of plans each to the Select Board, Highway Department, Building Department, Police and Fire Departments, the Town Engineer, Board of Health, and such other departments, agencies, committees, boards, and town officials (collectively “Town Officials”) as the Planning Board may determine necessary. The Town Officials shall, within twenty one (21) business days of receiving said copy, report to the Planning Board on:

- (i) The adequacy of the data and procedures used by the applicant to determine the impacts of the proposed development
- (ii) The effects of the projected impacts of the proposed development on the surrounding neighborhood and the Town.
- (iii) Recommended conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development.

The Planning Board shall not render a decision on the Site Plan Review Application until it has received and considered all reports from the Town Officials, or until the twenty-one (21) day period has expired, whichever is earlier.

- (e) Waiver of Technical Compliance. Upon a written request from the applicant, the Planning Board, where such action is in the public interest and not inconsistent with the intent and purpose of this bylaw and the Planning Board Rules and Regulations, may waive any of the submission requirements set forth in paragraph (h) above. Such determination may be made by an affirmative vote of not less than a majority of the members of the Planning Board.

(f) Minor Site Plan Review

- (i) Submission Materials. The applicant shall submit the following materials for review as part of the Minor Site Plan Review Application. The Planning Board may at any time request, at the expense of the applicant, additional plans, studies, reports and documentation necessary to review and analyze the project and determine whether the submittal meets the criteria and intent of a Minor Site Plan Review and does not require further review as a Major Site Plan Review.

- (1) A written description of the current use and proposed use of the property, and any proposed changes to the current physical conditions of the property, including existing and proposed structures.
- (2) Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing materials or representing the owner and/or applicant. If the applicant is not the owner, a notarized statement authorizing the applicant to act on the owner's behalf and disclosing the applicant's interest shall be submitted.
- (3) A site plan at a scale of one inch equals twenty feet (1" = 20'), or such other scales as may be approved by the Planning Board. The site plan shall contain the following items and information:
  - (a) Name of the project, property address, assessor's map and lot number, North arrow, datum, scale of the plan, lot lines, and zoning district boundaries.
  - (b) All existing and proposed lot lines, easements, rights-of-way (including area in acres or square feet), and other encumbrances.
  - (c) All minimum dimensional requirements in the underlying district and setback distances.
  - (d) The location, dimensions, and uses of all existing and proposed buildings and structures on the property, including height and floor area.
  - (e) The location and width of all existing and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, and paths.
  - (f) Information on the location, size, and type of existing and proposed parking, loading, storage, on-site snow storage, and service areas; parking calculations based on the requirements of Section 2.03 of the Mendon Zoning By-Laws.
  - (g) Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on site and within 100 feet of the site.
  - (h) The location, height, intensity, and bulb type (e.g. fluorescent, sodium, incandescent) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
  - (i) The location, height, size, materials, content, and design of all proposed signage.
  - (j) Indicate areas where ground removal or filling is proposed and give its approximate volume in cubic yards.

- (k) Information on the location, size and capacity of existing and proposed utility systems, including sewage or septic system; water supply system; telephone, cable and electrical systems; and storm drainage system, including existing and proposed drain lines, culverts, catch basins, headwalls, end walls, hydrants, manholes, best management practices (BMP's), and drainage swales. The Planning Board may also request soil logs, percolation tests and storm runoff calculations for large or environmentally sensitive developments. Location, type and screening details for all waste disposal containers shall also be shown. A landscape plan showing the limits of work, existing natural land features, trees, forest cover and water sources and all proposed changes to these features, including size and type of plant material.<sup>40</sup>
- (4) A copy of all permits, approvals, variances, and applications applied for and obtained for the project and property, including applications for utility connection permits.<sup>41</sup>
- (ii) Review and Procedure.
- (1) Minor site plan review for uses and structures that are permitted in the Town as of right without the need for any zoning relief shall be reviewed and acted upon at any regular meeting of the Planning Board. A public hearing shall not be required, however the Planning Board shall notify the applicant of the time and place when the Site Plan Review Application will be reviewed.
- (2) The Planning Board may deem that the project requires a Major Site Plan Review, requiring a public hearing and any additional submission materials as required by the Major Site Plan Review procedure.
- (3) The Planning Board shall render a decision on the Site Plan Review Application within forty-five (45) 45 days of the Submission Date. A written decision shall be sent to the applicant with a copy to the Building Inspector.
- (4) The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.
- (5) The appeal of any minor site plan review decision of the Planning Board shall be in appeal to the Zoning Board of Appeals in accordance with Massachusetts General Law.
- (iii) Final Action. In reviewing the impacts of a proposed project, the Planning Board shall consider the information presented in the Site Plan Approval Application, all reports of the Town Officials, or acquired by the Planning Board on its own

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<sup>40</sup> Amended 5/8/21; AG approved 8/11/21; Effective 5/8/21

<sup>41</sup> Amended 6/29/20; AG approved 9/3/20; Effective 6/29/20

initiative or research. The Planning Board's final action, rendered in writing, shall consist of one of the following:

- (1) For Minor Site Plan review for a by-right use, the Planning Board has two options to approve: approve the site plan or approve with conditions. According to the Massachusetts Constitution, amend. art. 2, § 6, uses identified as by-right may not be denied by a Planning Board.

(g) Major Site Plan Review.

- (i) Submission Materials. The applicant shall submit the following materials for review as part of the Site Plan Review Application. The Planning Board may at any time request, at the expense of the applicant, additional plans, studies, reports and documentation necessary to review and analyze the project impacts and compliance with the performance criteria set forth below. Any plans required hereunder shall be prepared by qualified professionals, including a registered professional engineer and, where required by state law, a registered architect, and/or registered landscape architect.
  - (1) A written description of the current use and proposed use of the property, and any proposed changes to the current physical conditions of the property, including existing and proposed structures.
  - (2) Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan. If the applicant is not the owner, a notarized statement authorizing the applicant to act on the owner's behalf and disclosing the applicant's interest shall be submitted.
  - (3) A site plan at a scale of one inch equals twenty feet (1"=20'), or such other scales as may be approved by the Planning Board. The site plan shall contain the following items and information:
    - (a) Name of the project, property address, assessor's map and lot number, North arrow, datum, scale of the plan, lot lines, and zoning district boundaries.
    - (b) All existing and proposed lot lines, easements, rights-of-way (including area in acres or square feet), and other encumbrances.
    - (c) All minimum dimensional requirements in the underlying district and setback distances. The location, dimensions, and uses of all existing and proposed buildings and structures on the property, including height and floor area.
    - (d) The location and width of all existing and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, and paths.
    - (e) Information on the location, size, and type of existing and proposed parking, loading, storage, on-site snow storage, and

- service areas; parking calculations based on the requirements of Section 2.03 of the Mendon Zoning By-Laws, Provision of Parking.
- (f) Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on site and within 100 feet of the site.
  - (g) The location, height, intensity, and bulb type (e.g. fluorescent, sodium, incandescent) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
  - (h) The location, height, size, materials, content, and design of all proposed signage.
  - (i) Indicate areas where ground removal or filling is proposed and give its approximate volume in cubic yards.
  - (j) Information on the location, size and capacity of existing and proposed utility systems, including: sewage or septic system; water supply system; telephone, cable and electrical systems; and storm drainage system, including existing and proposed drain lines, culverts, catch basins, headwalls, end walls, hydrants, manholes, best management practices (BMP's), and drainage swales. The Planning Board may also request soil logs, percolation tests and storm runoff calculations for large or environmentally sensitive developments. Location, type and screening details for all waste disposal containers shall also be shown. A landscape plan showing the limits of work, existing natural land features, trees, forest cover and water sources and all proposed changes to these features, including size and type of plant material.<sup>42</sup>
- (4) Elevation plans prepared at a scale of 1/4 inch equals one foot showing all elevations, exterior facades, and design features (such as scale, setbacks, roof and cornice lines, and other major design elements) for all proposed structure(s) and any additions or alterations to existing structures, and indicating the type and color of materials to be used.
  - (5) An isometric line drawing (projection) at the same scale as the site plan, showing the entire project and its relation to existing areas, buildings and roads for a distance of 200 feet from the property line. The isometric line drawing shall include names and addresses of all owners of record, lot lines, land uses, zoning districts, and the location of all structures within 200 feet of the property line. The location and name of all streets

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<sup>42</sup> Amended 5/8/21; AG approved 8/11/21; Effective 5/8/21

shall be shown and labeled to indicate whether the street is a public or private way.

- (6) Plans to prevent pollution of surface or ground water, erosion of soil, both during and after construction, excessive runoff, excessive raising or lowering of the water table and flooding of properties, and any other information necessary to determine compliance with the Town of Mendon General By-Laws.
- (7) Grading Plan depicting existing and proposed topography at a two foot contour interval. All elevations shall refer to the nearest United States Geodetic Bench Mark. The extent and location of all water sources, including ponds, lakes, brooks, streams, wetlands, flood plains and drainage retention areas. If any portion of the parcel is within a floodplain, the area will be shown and base flood elevations given.
- (8) A copy of all permits, approvals, variances and applications applied for and obtained for the project and property, including applications for utility connection permits.<sup>5</sup>
- (9) For large developments, those exceeding 10,000 square feet of gross floor area in total existing and new construction, or requiring more than fifteen (15) parking spaces, or for smaller developments located in high density areas, the Planning Board may also require a development impact assessment which shall include the following:
  - (a) Traffic impact assessment. The assessment shall document existing traffic conditions in the vicinity of the proposed project, describe the volume and effect of projected traffic generated by the proposed project and identify measures proposed to mitigate any adverse impacts on traffic. The assessment shall include at a minimum:
    - (b) Existing traffic conditions; average daily and peak hour volumes, average and peak speeds, sight distance, accident data and levels of service (LOS) of intersections and streets likely to be affected by the proposed development. Generally, such data shall be presented for all streets and intersections adjacent to or within 1,000 feet of the project property boundaries.
    - (c) Projected impact of proposed development: project peak hour and daily traffic generated by the proposed project on roads and ways in the vicinity of the development; sight lines at the intersections, driveways and streets; existing and proposed traffic controls in the vicinity of the proposed development.
    - (d) The projected traffic flow pattern, including vehicular movements at all streets and intersections likely to be affected by the project.

- (e) The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities.
  - (f) Traffic assessment data shall be no more than 2 years earlier than the Submission date unless, in the Planning Board's determination, an updated study is required due to substantial development in the area.
- (10) Environmental impact assessment. Describe the impacts of the proposed project with respect to on- site and off-site environmental quality. This assessment shall include at a minimum:
- (a) Description and evaluation of potential quality of air, surface water and groundwater adjacent to or directly affected by the proposed development; on-site or off-site flooding, erosion and/or sedimentation resulting from alterations to the project site, including grading changes and increases in impervious areas; on-site or off-site hazards, radiological emissions or other hazardous materials; adverse impacts on temperature and wind conditions on the site and adjacent properties; impacts on solar access of adjacent properties; and off-site noise or light impacts.
  - (b) Soil logs, percolation tests and storm runoff calculations.
  - (c) Evaluation of the adequacy of existing or proposed systems and services for water supply and disposal of liquid and solid wastes.
  - (d) Description of proposed measures for mitigation of any potential adverse impacts identified above.
- (11) Fiscal impact assessment. Describe the fiscal and economic impacts of the proposed project to the Town. This assessment shall include at a minimum:
- (a) Projections of costs arising from increased demands on public services and infrastructure.
  - (b) Projections of the impacts from increased tax revenue, employment (construction and permanent), and value of the public infrastructure to be provided.
  - (c) Projections of the impacts of the proposed development on the values of adjoining properties.
  - (d) Five-year projections of Town revenues and costs resulting from the proposed development.
- (12) Community impact assessment. Describe the proposed project's consistency and compatibility with the surrounding neighborhood, the character of the Town, and existing local and regional plans. This assessment shall include at a minimum:

- (a) Evaluation of the relation of the proposed new or altered structure to the surrounding community in terms of character and intensity of the use (e.g., scale, materials, colors, setbacks, roof and cornice lines and other major design elements); and the location and configuration of proposed structures, parking areas and open space with respect to neighboring properties.
  - (b) Identification of impacts on significant historical properties, and districts or areas of archaeological resources (if any) in the vicinity of the proposed development.
  - (c) Evaluation of the proposed project's compatibility with existing local and regional plans.
  - (d) In large developments with buildings over 10,000 sq ft or for smaller developments in dense areas also include a development impact assessment to determine applicability of LID to site.<sup>43</sup>
- (ii) Performance Criteria. All projects brought for a Major Site Plan Review shall conform to the following standards:
  - (1) Nuisances. The project shall not create any undue disturbance to the abutting properties or neighbors including excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, or glare. Without limitation, the following standards shall apply: no fire and explosion hazards shall exist such as to produce dangerous exposure to adjacent property; no objectionable odors shall be observable beyond the property line to a greater degree than those generally existing in the community; no noxious, toxic or corrosive fumes or gases shall be emitted; no residue of dust or smoke shall be detectable beyond the property line; no dangerous radiation shall be detectable at the property line; no persistent noise shall be detectable beyond the property line in excess of the average level of street and traffic noise generally heard at the point of observation, and no noise below such level shall be objectionable with respect to intermittence, beat frequency or shrillness; and no inherent or recurrently generated vibration shall be perceptible beyond the property line. The Planning Board may exempt temporary construction activities required for the proposed project from the above criteria.
  - (2) All exterior lighting shall be designed and installed in the following manner:
    - (a) General. Light fixtures shall be shielded so that light is directed onto the parking area and directed away from adjacent property and traffic. Lighting plans shall be designed to maintain safe light

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<sup>43</sup> Amended 6/29/20; AG approved 9/3/20; Effective 6/29/20

- levels while avoiding off-site lighting and night sky pollution. Site lighting photometric plans shall be submitted that document light levels as measured at ground level. Light levels shall not exceed 0.5 foot-candle at property lines.
- (b) **Fixture Style.** The design and style of fixtures shall be reviewed and approved by the Planning Board. Design, color, shape, style, and materials shall match or complement the style and materials of the buildings served. All exterior lighting fixtures shall be “dark sky compliant” unless otherwise approved by the Planning Board.
  - (c) All exterior lighting, shall be on a time-clock or photo-sensor system and shall be set so that lights are on no earlier than one hour before the start of business and turned off no later than one hour after close-of business, unless needed for safety or security purposes as specifically demonstrated by the applicant to the satisfaction of the Planning Board, in which case the lighting shall be reduced to the minimum level necessary.
  - (d) **Lighting Requirements.** The lighting system shall provide not less than one foot-candle overall average illumination with a minimum of .5 foot-candle on the parking surface, except lots in business zones, which may provide not less than 0.75 foot-candles overall average illumination. Higher minimum standards may be required in response to unique circumstances as determined by the Planning Board.
  - (e) **Height.** No lighting located on property abutting the residence district or a lot used for residential purposes shall exceed twenty feet in height. In all other locations not covered by the above, lighting shall not exceed the zoning district standard for the height of structures established by the Town’s by-laws.
- (3) Electric, telephone, and other utility lines shall be placed underground where physically and environmentally feasible.
  - (4) Exposed storage areas, exposed machinery installations, service areas, loading areas, utility equipment, and similar accessory areas and structures shall be designed with such setbacks, screen plantings, or other screening methods, to prevent there being a hazard or being incongruous with the existing or contemplated environment and surrounding properties.
  - (5) Stormwater management systems shall be designed and maintained to discharge drainage from a site at a rate of flow equal to or less than pre-development conditions for all storm events. There shall be no adverse impacts to abutting properties from any change in runoff including

- erosion, silting, flooding, sedimentation or impacts to wetlands, ground water levels or wells.
- (6) Insofar as possible, low impact development best management practice shall be utilized such that the sites natural features and environmentally sensitive areas, such as wetlands, native vegetation, mature trees, slopes, natural drainage courses, permeable soils, floodplains, woodlands and soils, are preserved.
  - (7) Groundwater recharge shall be maximized and ground water quality shall be protected. Adequate methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater shall be provided. This includes minimizing soil erosion both during and after construction.
  - (8) Snow storage areas shall not interfere with sight distances at points of ingress/egress to the site or pedestrian/vehicle circulation, nor shall it adversely impact surrounding water bodies streams, wetlands, or other resource areas as defined in M.G.L. c.131, §40, as amended.
  - (9) Proposed development shall be related harmoniously to the natural landscape and terrain, the surrounding townscape, and to the use, scale and siting of existing structures in the vicinity. The Planning Board may request use of similar building scale or mass, consistent use of façade materials, similar ground level detailing, color or signage, functional systems such as driveway or pedestrian way surfaces, signage, or landscaping, framing of outdoor open space and linkages, and the recognition of the importance of various buildings and features on the site. If the surrounding townscape is undeveloped or does not reflect the character of the Town, the Planning Board may direct the applicant to incorporate specific design and siting features as determined by the Planning Board to be appropriate. If the surrounding townscape is undeveloped or does not reflect the character of the Town, the Planning Board may direct the applicant to incorporate specific design and siting features as determined by the Planning Board to be appropriate. The proposed project shall be integrated into the existing landscape through design features, such as vegetative buffers, roadside planting and the retention of open space and agricultural land.
  - (10) The landscape shall be preserved in its natural state, insofar as practicable by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of the neighboring developed areas. Where tree coverage does not exist or has been removed, new planting may be required.

- (11) Upland Areas. In areas of greater than fifteen percent (15%) slope or upon hilltops and ridgelines, the following objectives should be met, to the greatest extent feasible:
    - (a) Potential building sites are located so the tops of structures will be below the ridgeline or hilltop or, if the site is heavily wooded, the tops of structures will be lower than the existing canopy height of trees on the ridge or hilltop.
    - (b) The removal of native vegetation is minimized.
    - (c) Grading or earth-moving is planned and executed in such a manner that the final contours are consistent with the existing terrain, both on and adjacent to the site.
  - (12) A landscaped strip of land shall be provided along the length of each property line bordering a street or way, or bordering a lot used for residential purposes, for a depth of six feet. The Planning Board, after careful review of the physical characteristics of the land involved, and the impacts of the proposed project, may require an increase in the width of said landscaped strip. The applicant shall specifically note the removal of any tree in excess of six inches in diameter (as measured four feet from the ground) on its plans, and any such proposed removal shall require the Planning Board's approval, which may be withheld. At least 5% of the interior area of that portion of the lot used for parking and loading shall be landscaped.
  - (13) With respect to vehicular and pedestrian circulation, including entrances, ramps, walkways, driveways, and parking, special attention shall be given to location and number of access points to the public streets (especially in relation to existing traffic controls), width of interior drives, and access points, general interior circulation, separation of pedestrian and vehicular traffic, access to community facilities, and arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the use and enjoyment of the proposed buildings and structures and the neighboring properties.
  - (14) The proposed project shall conform with the provisions of the bylaws and any rules and regulations of the Town, the general laws of Massachusetts and all applicable rules and regulations of local, state and federal agencies.
- (iii) Review and Procedure.
- (1) The Planning Board shall hold a public hearing on the Major Site Plan Review Application within sixty-five (65) days of the Submission Date.
  - (2) In instances where the proposal requires both a Special Permit and Site Plan Review, and the Planning Board is the Special Permit Granting

Authority, the applicant may submit a single application for review provided it meets both the Special Permit application requirements of Section 1.06 and the Site Plan Review submission requirements set forth herein. If the joint application is complete, the Planning Board shall hold concurrent hearings on the Special Permit and Site Plan review. In such cases, M.G.L c. 40A, §§ 9 & 11 shall govern the time frames and manner in which the Board is required to act.

- (3) The Planning Board shall render its decision on the Site Plan Review Application within ninety (90) 90 days of the close of the public hearing. A written decision shall be sent to the applicant with a copy to the Building Inspector.
  - (4) The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.
  - (5) The appeal of any Major Site Plan Review decision of the Planning Board hereunder shall be made in accordance with the provisions of M.G.L. c. 40A, §17.
- (iv) Final Action. In reviewing the impacts of a proposed project, the Planning Board shall consider the information presented in the Site Plan Approval Application, all reports of the Town Officials, or acquired by the Planning Board on its own initiative or research. The Planning Board's final action, rendered in writing, shall consist of one of the following:
- (1) Approval of the site plan based upon a finding that the proposed site plan constitutes a suitable development and is in compliance with the site plan review criteria set forth herein;
  - (2) Approval of the site plan, subject to any conditions, modifications and restrictions as required by the Board at the expense of the applicant to promote the objectives of site plan review, mitigate impacts associated with the proposed project, and to ensure compliance with the performance criteria set forth herein;
  - (3) Disapproval based on a finding that the site plan fails to meet the performance criteria set forth herein; or
  - (4) Disapproval based on a finding that the site plan is so intrusive on the needs of the public in one regulated aspect and no form of reasonable conditions can be devised to satisfy the problem with the plan.

(h) Conditions, limitations and safeguards.

In granting approval of an application, the Planning Board may impose conditions, limitations and safeguards which shall be in writing and shall be a part of such approval. Such conditions may include, among other matters and subjects:

- (i) Controls on the location and type of access to the site.

- (ii) Requirements for off-site improvements to improve the capacity and safety of roads, intersections, pedestrian ways, water, sewer, drainage and other public facilities which are likely to be affected by the proposed development.
- (iii) Requirements of donation and/or dedication of land for right-of-way to provide for future roadway and/or intersection widening or improvements.
- (iv) Requirements for securing the performance of all work, including proposed off-site improvements, and stated conditions of approval, by either or both of the following methods:
  - (1) A performance bond, a deposit of money, negotiable securities or pass book in an amount determined by the Planning Board to be sufficient; and/or
  - (2) A covenant running with the land, executed and duly recorded by the owner of record, whereby the required improvements shall be completed before the property may be conveyed by other than a mortgage deed.
- (v) Reductions in the scale of the proposed development, including reductions in height, floor area or lot coverage.
- (vi) Conditions to promote the objectives of site plan review, mitigate impacts associated with the proposed project, and to ensure compliance with the performance criteria set forth herein.
- (vii) Building Permits.
  - (1) No building permit can be issued for the proposed project that is subject to Site Plan Review unless an application for site plan review has been prepared in accordance with the requirements of this section and unless such application has been approved by the Planning Board.
  - (2) A temporary occupancy permit may be granted with the approval of the Planning Board subject to conditions for completion of work which shall include a requirement for surety, in an amount and form to be determined and imposed by the Planning Board.
- (i) Modification of approved site plans.

Any changes to an approved site plan must be submitted to the Planning Board with a written description of the proposed modifications and reasons for such modification. No changes to an approved site plan shall be authorized unless (i) the Planning Board makes a written determination that the changes are minor and do not require a public hearing or (2) the changes are approved at a public hearing held in accordance with and subject to the requirements of this section. A copy of the Planning Board's determination and revised plans shall be filed with the Town Clerk and the Building Inspector.
- (j) Inspection

The Planning Board is authorized to conduct inspections and enforce pre-construction erosion control measures, as well as conduct inspections of best management practices (BMP's) at the following stages:

- (i) Initial Site Inspection: prior to approval of any Permit;
- (ii) Erosion Control Inspection: prior to earth disturbing activities but after installation of all approved erosion and sedimentation controls.
- (iii) Stormwater Management System Inspection: prior to backfilling of any portion of a stormwater management system, including underground drainage or stormwater conveyance structures.
- (iv) Periodic Inspections: throughout land disturbing activities, until as-builts are received.
- (v) Final Inspection: to confirm effectiveness in an actual storm event that creates runoff. If the inspector finds the system is not functioning properly, the applicant shall repair or modify the system to be in conformance with these by-laws.

(k) Enforcement.

- (i) It shall be the duty of the Building Inspector to enforce the conditions of the site plan approval. However, the Planning Board may require, as a condition of approval, that its consulting engineer oversee construction of certain aspects of the development to ensure compliance with the approved site plan and decision.
- (ii) The Planning Board may suspend any permit or license when work is not performed as required.
- (iii) Any approval issued under this section shall lapse within eighteen months if a substantial use or construction thereof has not commenced and continued through to completion expeditiously, except for good cause; provided, however, that the Planning Board in its discretion and upon written application by the applicant of such rights may extend the time for an additional period not to exceed eighteen months; and provided, further, that the application for such extension is filed with the Planning Board prior to the expiration of the initial eighteen month period. If the permit granting authority does not grant such extension within thirty days of the date of application therefor, and upon the expiration of the initial eighteen month period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section. The time required to pursue and await determination of a judicial appeal pursuant to M.G.L. c. 40A shall not be included within the initial eighteen month time limit.
- (iv) Planning Board Rules and Regulations. The Planning Board may periodically adopt and from time to time amend the Planning Board Rules and Regulations to include reasonable rules and regulations for the administration of site plan review. The Planning Board may also adopt reasonable administrative fees and technical review fees for site plan review.

- (v) Severability. If any section or portion of this bylaw is ruled invalid, such ruling shall not affect the validity of the remainder of the bylaw, which provisions shall remain in full force and effect.

[REDACTED]

[REDACTED]

**Section 2.06 Sign Bylaw<sup>20</sup>**

(a) Purpose. The purpose of this section is to regulate and control signs within the Town of Mendon for the safety, convenience, and welfare of the residents; to provide businesses in the Town with precise and reasonable guidelines for identifying themselves; to protect and enhance the visual environment of the Town; and to avoid signs which, individually or collectively, are confusing, distracting, or impair visibility along public ways, or other traffic areas. This section is not intended to infringe upon protected noncommercial speech or a property owner’s right to freedom of speech.

(b) Definitions.

- (i) Banner: A sign of lightweight fabric or similar material that is affixed at one or more edges or corners to any surface including, but not limited to, a building, pole, tree, or fence.
- (ii) Billboard: Any object, structure, design, or device, portable or stationary, permanent or temporary, placed or located outside, intended for public view, used to advertise, announce, or direct attention to any off-premises business, organization, product, activity, service, or event, excluding municipal, state, and other government agency signs.
- (iii) Clear View Triangle: An area of unobstructed vision at intersections and where driveways intersect with streets or in medians of a divided driveway. The clear view triangle extends thirty (30) feet from the point of intersection along the street, the drive aisle, and the median.
- (iv) Free Standing Sign: Free Standing Sign: A sign not affixed to any building but constructed on a fixed location with its own support structure.
- (v) Municipal Sign: Any sign used by the municipality as part of statutory requirements for the purpose of traffic direction, public safety, and/or emergency notifications, and approved by the Department of Public Safety or Highway

[REDACTED]

<sup>20</sup> Voted 5/7/2010; AG Approved 8/19/2010; Effective 5/7/2010  
Voted 6/26/2012; AG Approved 8/3/2012; Effective 6/26/2012

Department, or for purposes of identifying municipal offices, properties, or events. Municipal Signs do not require permits.

- (vi) Sign: Any object, design, or device that is intended for public view from outside a building, and is used to identify, advertise, or direct attention to any business, organization, product, activity, service, or event and is not a Municipal Sign.
- (vii) Sign Area: Sign Area: The sign area shall be computed by multiplying the overall width by the overall height, including the letter area, frames, and background.
- (viii) Building Sign: Building Sign: A sign that is affixed to the façade or roof of a building or structure, including window areas.

(c) Administration.

- (i) Applicability: Except as specifically stated in this Sign By-Law, no sign shall be erected, constructed, enlarged, redesigned, or replaced without a permit from the Building Inspector. Regular maintenance and repair shall not require a permit.
- (ii) Procedure:
  - 1) The applicant must be the owner or have the written permission of the owner of the property.
  - 2) The completed application shall be accompanied by such scale drawings, photographs, and other information as the Building Inspector may require.
  - 3) Fees for sign permits shall be paid in accordance with a schedule of fees established by the Building Inspector and approved by the Select Board.

(iii) Enforcement:

- 1) Owners of signs found to be in violation of this Sign By-Law shall be subject to a fine as specified in the General Bylaws and municipal regulations until such sign is in conformity with this Sign By-law. Such fines shall be imposed in accordance with the noncriminal disposition procedures set forth in M.G.L. c. 40, s. 21D. The Town may also enforce this Sign By-Law by seeking equitable relief from a court of competent jurisdiction.
- 2) It is the duty of the Building Inspector to administer and enforce the provisions of this Sign By-Law.

(d) Business District: Permanent Signs

(i) Category, Number, Area, and Location

1) Free Standing Signs:

- a) One freestanding sign, not to exceed twenty (20) feet in height from the ground, may be erected.
- b) Such sign shall not be within ten (10) feet of the right of way.
- c) The total sign area may not exceed one (1) square foot for each linear foot of the front face of the building displaying such sign

and, in no case, shall the total sign area exceed fifty (50) square feet.

- d) Where freestanding signs are located within one hundred (100) feet of a Residential District line, the total sign area shall not exceed twenty (20) square feet.
- e) There shall be one freestanding sign per parcel regardless of how many businesses or buildings reside on the parcel.
- f) Freestanding signs shall not be located in a Clear View Triangle unless below two (2) feet tall or above eight (8) feet tall and mounted on a pole and approved by special permit of the Zoning Board of Appeals.

2) Building Signs:

- a) Each occupant within a building may have building signs attached to the sides of the building facing a public street.
- b) The total sign area of all signs on a building may not exceed one (1) square foot for each linear foot of building frontage displaying such sign.
- c) The areas of connecting businesses, walls, or fences may not be included in this calculation. A wall sign must be secured to the wall of the building and may not extend beyond the eaves of the building.
- d) A roof sign must be secured to the roof of the building and may not extend higher than the ridgeline of the roof.
- e) No wall sign may be erected closer than five (5) feet to the ground.

3) Illuminated Signs:

- a) Sign illumination is permitted only in the Business District.
- b) Businesses in the Business District without frontage along Routes 16, 140, or the Business Zoned District on Hartford Avenue East may be permitted to use sign illumination by Special Permit from the Zoning Board of Appeals (“ZBA”).
- c) Exterior illumination shall be by a stationary, shielded, white light directed downward or horizontally (but not upward) and solely at the sign.
- d) Internally illuminated signs shall use soft white light with a Kelvin rating of 4,500 or below and shall have semi-opaque surfaces so that the light source is not directly visible.
- e) Sign illumination shall have a Kelvin rating of 3,000 or lower if illuminated after sunset.
- f) Signs may be illuminated until 10:00 P.M. or end of daily operating hours, whichever occurs later.



- 3) Any sign displayed for more than one hundred (100) days in a calendar year must meet applicable permanent sign requirements.
  - 4) Temporary signs shall be properly secured and placed so as not to become a safety hazard.
  - 5) Repetitive temporary signs shall be spaced at least one hundred (100) feet apart.
  - 6) Signs on Town owned property for any reason require the prior approval of the Select Board, except temporary signs permitted alongside the public right of way.
- (ii) Banner Signs may be no larger than sixteen (16) square feet in total area.

(h) Prohibitions.

- (i) No sign may be affixed upon a utility pole, tree, rock, fence, structure, or other object within the limits of a right of way. Any such sign within the limits of a right of way may be removed by any person.
- (ii) No sign will be a billboard. An exception will be allowed in the case of sponsor signs located on the existing inside area of municipal properties that are used for the benefit of local non-profit youth organizations.
- (iii) No sign or any part thereof may move, flash, or otherwise change information, provided however, that clocks, temperature, and gas pump price indicators that have been approved in accordance with this Sign By-Law may contain information that changes solely to reflect the accurate time, temperature and gas prices, as the case may be. No sign may have traveling lights, animation, beacons, or flashing devices, whether or not these devices are part of a sign or attached to a sign.
- (iv) Except as specifically allowed in this Sign By-Law, no off premises commercial signs promoting any business or activity will be allowed.
- (v) No sign will be constructed or erected which will, in any way, interfere with the protection of property by the Department of Public Safety.
- (vi) No sign will be constructed or erected in such a manner as to prohibit the emergency egress of a building.
- (vii) Any sign not specifically permitted is not allowed. The Planning Board may issue special permits authorizing signs not specifically allowed under this Sign By-Law provided that such signs are not specifically prohibited, and provided further that the applicant demonstrates and the board specifically finds that such signs are essential to the use, are not detrimental to the surrounding property nor injurious to the public welfare, and comply with the number and size limitations, and required setbacks contained in this Sign By-Law.



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**Section 6.03 Marijuana Establishments, and Medical Marijuana Treatment Centers<sup>52</sup>**

(a) Definitions

- (i) Consumer – a person who is at least 21 years of age.
- (ii) Host community – The Town of Mendon.

<sup>52</sup> Amended 11/27/18; AG approved 3/4/19; Effective 11/27/18  
Voted 11/21/17; AG Approved 5/23/2018; Effective 11/21/2018

- (iii) Host community agreement – an agreement setting forth the conditions to have a marijuana establishment or medical marijuana treatment center located within the host community which shall include, but not be limited to, all stipulations of responsibilities between the host community and the marijuana establishment or a medical marijuana treatment center.
- (iv) Marijuana - all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in Massachusetts General Laws Chapter 94C §1; provided that Marijuana shall not include:
  - (1) The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;
  - (2) Hemp; or The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products;
  - (3) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.
- (v) Marijuana cultivator - an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.
- (vi) Marijuana establishment - a marijuana cultivator, marijuana testing facility, marijuana research facility, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business.
- (vii) Marijuana testing facility - an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.
- (viii) Medical marijuana treatment center - shall mean an entity, as defined by Massachusetts law only, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.
- (ix) Marijuana research facility – an entity licensed to cultivate, purchase, or acquire marijuana to conduct research regarding marijuana and marijuana products.
- (x) Marijuana products - products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils, and tinctures.
- (xi) Marijuana product manufacturer - an entity licensed to obtain, manufacture, process, and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments, and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

- (xii) Marijuana retailer - an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell, or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.
  - (xiii) Medical marijuana treatment center - shall mean an entity, as defined by Massachusetts law only, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.
- (b) Number of Marijuana Establishments and Medical Marijuana Treatment Centers
- (i) The maximum number of marijuana retailers shall be no more than twenty (20) percent the total number of licenses which have been issued within Mendon for the retail of alcoholic beverages not to be drunk on the premises for the preceding fiscal year, or three (3) in total, whichever the greater.
  - (ii) The maximum number of marijuana cultivators, marijuana testing facilities, research facilities, marijuana product manufacturer or any other type of licensed marijuana-related business (exclusive of marijuana retailers or marijuana treatment centers) shall be no more than three (3) in total.
  - (iii) The maximum number of medical marijuana treatment centers shall be no more than three (3).
- (c) Location and Uses
- Marijuana establishments or medical marijuana treatment centers are prohibited in all zoning districts, except as otherwise permitted by these By-Laws, following the standards herein:
- (i) The Select Board shall negotiate and execute a Host Community Agreement (HCA) with the proposed marijuana establishment or medical marijuana treatment center.
  - (ii) Any marijuana establishment or medical marijuana treatment center must be located within whichever district permissible under Section 3.01 Table A "Table of Use Regulations."
  - (iii) Said uses shall additionally not be located within five hundred (500) feet from the nearest school providing education for grades K-12. The distances specified above shall measure by straight line from the nearest corner of the building on which the proposed said use is to be located, to the nearest boundary line to the nearest property line of the school.
    - (1) The distance requirement may be reduced by the Planning Board provided that the applicant demonstrates, by clear and convincing evidence, that 1) the marijuana establishment will employ adequate measures to prevent product diversion to minors, and 2) the marijuana establishment is adequately buffered and screened and 3) that the Planning Board determines that a shorter distance will suffice to ensure public health, safety, well-being, and reduce undue impacts to the natural environment.

- (iv) Except during transportation, marijuana or marijuana products held at any marijuana establishment or medical marijuana facility shall be located within a secure indoor facility.
- (v) No use covered herein shall be allowed to disseminate or offer to disseminate marijuana products or product advertising to minors or to allow minors to view displays or linger on the premises, except for medical marijuana treatment centers.

(d) Enforcement and Violations

The Select Board, or its designee, shall enforce these regulations and may pursue all available remedies for violations, or take any other action relative thereto.

Violations of any provision of this Bylaw may be addressed administratively; by non-criminal disposition as provided in MGL Chapter 40 §21D with fine of three hundred dollars (\$300) per violation; or prosecuted through criminal complaint procedure.

Each day a violation occurs shall be considered a separate violation hereunder.

(e) Municipal Charges Lien

If any fine remains unpaid after six (6) months from its due date, it shall become a municipal charge lien pursuant to the provisions of MGL Chapter 40, Section 58. If the bill(s) remains unpaid when the Assessors are preparing a real estate tax list and warrant to be committee under MGL Chapter 59, §53, the Board or officer in charge of the collection of the municipal fee or charge shall certify such charge or fee to the Assessors, who shall add such to the tax bill on the property to which it relates and commit it with their warrant to the Tax Collector as part of such tax bill.

(f) Validity and Severability

The invalidity of one or more sections, subsections, clauses or provisions of this bylaw shall not invalidate or impair the bylaw as a whole or any other part thereof.



## **ARTICLE VII. Accessory Dwelling Unit**

### **7.01 Purpose and Intent:**

The intent of permitting Accessory Dwelling Units (ADUs) is to:

1. Encourage a more balanced and diverse population and income mix;
2. Provide older homeowners with a means of obtaining, through tenants in Accessory Dwelling Units, rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
3. Add moderately priced rental units to the housing stock to meet the needs of smaller households, and make housing units available to moderate income households who might otherwise have difficulty finding housing within the Town;
4. Develop housing units that are appropriate for households at a variety of stages in their life cycle;
5. Provide housing units for persons with disabilities;
6. Protect stability, property values, and the residential character of a neighborhood.

### **7.02 Definitions:**

**Accessory Dwelling Unit, Protected Use (Protected Use ADU):** A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a Principal Dwelling, subject to otherwise applicable dimensional and parking requirements, that:

- (1) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress;
- (2) is not larger in gross floor area than 1/2 the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller; and
- (3) is subject to such additional restrictions as may be imposed by a municipality, including, but not limited to, additional size restrictions and restrictions or prohibitions on short-term rental, as defined in section 1 of chapter 64G; provided, however, that no municipality shall unreasonably restrict the creation or rental of an accessory dwelling unit that is not a short-term rental.

**Accessory Dwelling Unit, Special Permit (Special Permit ADU):** An accessory dwelling unit that meets the requirements of a Protected Use ADU except for the requirement of Gross Floor Area, being over 1/2 the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller. A Special Permit ADU is no larger than 1200 square feet in Gross Floor Area.

**Principal Dwelling:** A structure, regardless of whether it, or the Lot it is situated on, conforms to Zoning, including use requirements and dimensional requirements, such as setbacks, bulk, and height, that contains at least one Dwelling Unit and is, or will be, located on the same Lot as a Protected Use ADU.

**Lot (ADU):** An area of land with definite boundaries that is used, or available for use, as the site of a structure, or structures, regardless of whether the site conforms to the requirements of zoning.

Transit Station: A subway station, commuter rail station, ferry terminal, bus station, or similar designated location for the boarding and alighting of a vehicle or craft for the purpose of public transportation

Gross Floor Area: The sum of the areas of all stories of the building of compliant ceiling height pursuant to the Building Code, including basements, lofts, and intermediate floored tiers, measured from the interior faces of exterior walls or from the centerline of walls separating buildings or dwelling units but excluding crawl spaces, garage parking areas, attics, enclosed porches and similar spaces.

### **7.03 Use and Dimensional Regulations:**

1. The Building Commissioner may issue a Building Permit authorizing the installation and use of an Accessory Dwelling Unit within an existing or new Principal Dwelling, or in a detached structure on a Housing Lot only when the following conditions are met:
  - a. The unit will be a complete, separate housekeeping unit containing both kitchen and bath.
  - b. Only one (1) Accessory Dwelling Unit may be created within a Principal Dwelling or on a Housing Lot by right.
  - c. The minimum floor area of an Accessory Dwelling Unit shall be in accordance with the State Building Code.
  - d. The Gross Floor Area of an Accessory Dwelling Unit, including any additions, shall not exceed the area or height of the main residence but shall be clearly subordinate to the main residence. The new dwelling unit shall not exceed 900 square feet or  $\frac{1}{2}$  the area of the primary dwelling unit, whichever is smaller. Where there are multiple Principal Dwellings on the Lot, the Gross Floor Area of the largest Principal Dwelling shall be used for determining the maximum size of a Protected Use ADU.
  - e. The construction of any Accessory Dwelling Unit must be in conformity with the State Building Code, Title V of the State Sanitary Code, and other local by-laws and regulations.
  - f. There is no minimum lot size for an Accessory Dwelling Unit provided that all dimensional regulations are met, provided that the dimensional regulations are not in conflict with the State regulations for ADUs, and there is sufficient space to provide for adequate and safe water supply and sewage disposal.
  - g. One (1) off-street parking space shall be available for use by the occupants with adequate access and egress from the site. If the Accessory Dwelling Unit is within a 0.5 mile radius of a Transit Station, no off-street parking is required. To limit the development of additional curb cuts, occupant parking spaces should be accessible using existing driveways on the lot.
  - h. Accessory Dwelling Units built after the acceptance of this by-law may not be used as Short Term Rentals and if rented must have a minimum rental period of at least thirty-one (31) consecutive calendar days. .
2. If the area of the proposed Accessory Dwelling Unit exceeds 900 square feet or  $\frac{1}{2}$  the area of the primary dwelling unit, whichever is smaller, a Special Permit must be obtained from the Planning Board. Accessory Dwelling Units may be built up to 1200

square feet in area by Special Permit. A Special Permit ADU may not be built on the same property as a Protected Use ADU.

3. In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the Building Commissioner may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.
4. Prior to issuance of a building permit, a floor plan must be submitted to the Building Commissioner showing the proposed interior and exterior changes to the building.

#### **7.04 Procedural Requirements for Special Permit ADUs:**

1. The Special Permit Granting Authority for Special Permit ADUs shall be the Planning Board.
2. For the purposes of Special Permit ADUs, this section shall supercede the requirements of Section 1.06, governing all other Special Permits.
3. Application Materials:
  - a. An application form completed by the applicant and signed by the property owner.
  - b. A site plan of the proposed ADU prepared by a registered professional engineer or architect. Such site plan shall show, at a minimum, all existing and proposed buildings, setbacks, lot area, lot line dimensions, structures, parking spaces, driveway openings, driveways, service areas, waste disposal locations, fences, and walks. Seven copies of the site plan shall be filed with the application.
  - c. A floor plan of the proposed Special Permit ADU, including proposed interior and exterior changes to the building, all points of access and egress, and the location and use of space within the area designated for the ADU.
4. Application Procedure:
  - a. Application Submittal. All applications for a Special Permit ADU must be filed by the petitioner with the Planning Department who shall forthwith transmit a copy thereof to the Town Clerk, the Building Commissioner, the Assessor, the Conservation Agent, the Health Agent, the Fire Department, the Police Department, and any other relevant departments, boards, or committees.
  - b. Public Hearing. A public hearing must be held by the Planning Board within sixty-five (65) days after the application is deemed complete and filed with the Planning Department.
  - c. Consideration. The Planning Board shall review the site plan and consider the following in making their decision:
    - i. Compliance with the regulations for parking, lot size, frontage, setbacks, yards, heights, and coverage of buildings and all other applicable provisions of this by-law.
    - ii. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties, or improvements.
    - iii. Arrangement and appearances of proposed buildings, structures, signs, screening, and landscaping.
    - iv. Adequacy of methods for waste disposal, surface and subsurface drainage, and lighting.
    - v. Protection of adjoining premises and the general neighborhood from any detrimental use of the lot or tract.

- d. Decision. The Planning Board must reach a decision within ninety (90) days of the close of the public hearing with a required vote of four (4) members of a five (5) member board.
  - i. A decision in the affirmative shall be duly followed by a written decision within fourteen (14) days of the vote. After a twenty (20) day appeal period, if no appeal has been made, the written decision must be filed with the Worcester Registry of Deeds by the applicant, and receipt of filing must be submitted to the Planning Department.
  - ii. A decision in the negative shall be duly followed by a written decision within fourteen (14) days of the vote. The Planning Board may not restrict the applicant from pursuing an as-of-right Protected Use ADU, provided all applicable regulations are met.
- e. Withdrawal. The applicant is free to withdraw from the special permit process at any time and construct a Protected Use ADU as-of-right as authorized by M.G.L. c.40A Section 3 if the applicant so chooses.
- f. Appeal. As provided for in Section 17, Chapter 40A of M.G.L., any person aggrieved by a decision of the Planning Board, whether or not previously a party to the proceeding, or any municipal officer or board, may appeal to the Superior Court for the County in which the land concerned is situated, by filing a Bill in Equity within twenty (20) days after the decision has been filed in the Office of the Town Clerk.

#### **7.05 Administration and Enforcement:**

1. It shall be the duty of the Building Commissioner and Planning Board to administer and enforce the provisions of this by-law.
2. No building shall be constructed or changed in use or configuration until the Building Commissioner has issued a permit. No permit shall be issued until a sewage disposal works permit, when applicable, has first been obtained from the Board of Health and the proposed building and location thereof conform with the town's laws and by-laws. Any new building or structure shall conform to all adopted state and town laws, by-laws, codes and regulations. No building shall be occupied until a certificate of occupancy has been issued by the Building Commissioner where required.
3. The Building Commissioner shall refuse to issue any permit which would result in a violation of any provision of this chapter or in a violation of the conditions or terms of any special permit or variance granted by the Zoning Board of Appeals or its agent.
4. The Building Commissioner shall issue a cease-and-desist order on any work in progress or on the use of any premises, either of which are in violation of the provisions of this chapter.
5. Construction of use according to a building permit or special permit shall conform to any subsequent amendment of this chapter unless the construction or use is begun before the effective date of the amendment. To qualify for this exemption, construction must be completed in a continuous and expeditious manner.

# TOWN OF MENDON MASSACHUSETTS ZONING BY-LAWS



**Adopted March 10, 1961**  
**As amended through November 18<sup>th</sup>, 2024**  
**MENDON, MASSACHUSETTS**  
**\$10.00**  
**REVISED: 8/6/25**

<b>Major Revisions:</b>
Voted 3/10/1961; AG Approved 5/26/1961; Effective 3/10/1961 Multiple Changes Voted 6/22/1970; AG Approved 1/21/1971; Effective 6/22/1970 Voted 11/16/2009; AG Approved 12/21/2009; 11/16/2009 Multiple Changes Voted 2/24/14; AG Approved 5/1/2014; Effective 2/24/2014 Annotations/Citations added 3/16/2023

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**ARTICLE I. GENERAL**

**Section 1.01 Purpose and Authority<sup>1</sup>**

This Zoning By-law is enacted for the purpose of regulating the use of land, buildings, and structures and to protect and promote the health, safety, convenience, morals and general welfare of present and future inhabitants. This includes, but is not limited to, encouraging the most appropriate use of land through a balance of residential, business, and commercial designations; securing safety from flooding and other dangers; lessening congestion in the streets; preventing the overcrowding of land; conserving the value of land and buildings; facilitating the adequate provision of transportation, water supply, drainage, sewage disposal, schools, parks, and other public requirements; preserving the environmental resources of the Town; maintaining open spaces by recognizing the concern for the irretrievable loss of farm, wetlands, and woodlands while respecting the rights of landowners; and all other appropriate purposes; all pursuant to the authority conferred by Massachusetts General Laws Chapter 40A, Section 1-17 inclusive and all acts in Amendments thereof.

**Section 1.02 Definitions<sup>2</sup>**

Terms not defined herein shall have those meanings ascribed to them in the most recent edition of the State Building Code. Where terms are not specifically defined in this Zoning By-Law or in the Code, such terms shall have the ordinarily accepted meanings such as the context implies.

Wherever referred to in these By-Laws the terms listed below are defined as follows:

- (a) Accessory Use or Structure.<sup>3</sup> An accessory use or structure is a subordinate to the principal use of land and/or structure:
  - (i) whose use is customary in connection with the principal use of land and/or structure, and
  - (ii) whose use is clearly incidental to the principal use of land and/or structure, and
  - (iii) which is located on the same lot with the principal use of land and/or structure, and
  - (iv) which does not constitute a conversion of the principal use of land and/or structure to one that is not permitted
  - (v) No use that is prohibited shall be allowed as an accessory use.

<sup>1</sup> Voted 5/7/2010; AG Approved 8/19/2010; Effective 5/7/2010

<sup>2</sup> Voted 5/7/2010; AG Approved 8/19/10; Effective 5/7/2010  
Voted 6/26/2012; Ag Approved 8/3/2012; Effective 6/26/2012  
Voted 3/19/2013; AG Approved 5/2/2013; Effective 3/19/2013  
Voted 2/24/2014; AG Approved 5/1/2014; Effective 2/24/2014  
Amended 5/8/21; AG approved 8/11/21; Effective 5/8/21

<sup>3</sup> Voted 2/24/2014; AG Approved 5/1/2014; Effective 2/24/2014

- (b) Dog Kennel: The keeping of more than three (3) dogs that are more than six (6) months old, for sale or boarding purposes.
- (c) Drive-In Establishment:<sup>4</sup> A commercial or mercantile establishment, whose business is transacted solely by window service and does not require entrance thereto.
- (d) Drive-Through Window:<sup>5</sup> A drive-through window is any use, whether referred to as a drive-through, drive-up, or take out which provides services directly to customers in an automobile or other vehicle from any window, counter or other appurtenance from the principal or an accessory building. Prior to service, the engine of the automobile or other vehicle customarily remains in operation. This term shall not include drive-in establishments as defined in Section 1.02(c).
- (e) Dwelling: Any structure or building used in whole or in part for human habitation.
- (f) Family: Any number of persons living together as a single housekeeping unit.
- (g) Frontage:<sup>6</sup> A continuous line measured along the front line and between the points of intersection of the side lot lines with the front lot line.
- (h) Fur Farm: The keeping of carnivorous fur-bearing animals for commercial purposes.
- (i) Junk Yards: Land or structure used primarily for the collecting, storage and sale of waste paper, rags, scrap metal or discarded material, or for collecting, dismantling, storage and salvaging of machinery or vehicles and for the sale of parts thereof.
- (j) Lot: A single tract of land held in identical ownership throughout and defined by metes and bounds, or lot lines in a deed or conveyance or shown on a duly recorded plan.
- (k) Low Impact Development:<sup>7</sup> Systems and practices that use or mimic natural processes that result in the infiltration, evapotranspiration or use of stormwater in order to protect water quality and associated aquatic habitat.
- (l) Multi-unit Dwelling: Any structure or building used in whole or in part to contain three or more housekeeping units.
- (m) Non-conforming Use: A legally existing use, which does not conform to the zoning regulations for the district in which it is located.
- (n) One-Family House: A detached dwelling intended and designed to be occupied by a single family.
- (o) ~~Piggeries: The keeping of any number of pigs which are fed collected garbage.~~ Deleted; see footnote.<sup>8</sup>
- (p) Race Track: A tract of land which is used for the purpose of auto racing, horse racing, or dog racing.

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<sup>4</sup> Voted 5/10/2002; AG Approved 8/26/2002; Effective 5/10/2002

<sup>5</sup> Voted 5/10/2002; AG Approved 8/26/2002; Effective 5/10/2002

<sup>6</sup> Voted 5/10/2002; AG Approved 8/26/2002 Effective 5/10/2002  
Deleted 2/24/2014; AG Approved 5/1/2014; Effective 2/24/2014

<sup>7</sup> Added 6/29/20; AG Approved 9/3/2020; Effective 6/29/2022

<sup>8</sup> Deleted 2/24/2014; AG Approved 5/1/2014; Effective 2/24/2014

- (q) Power Plants:<sup>9</sup> Any building, structure, machinery, and associated equipment and facilities for the purpose of producing or generating electricity or power.
- (r) Streets: Any public way laid out for vehicular traffic or any private way laid out for and used as a public way for such traffic.
- (s) Structure: Anything constructed or erected which requires location on the ground or attachment to something having location on the ground, but excluding asphalt pavement and fences six (6) feet in height or less.
- (t) Subdivision: A tract of land divided into two or more lots and shall include re-subdivision when appropriate to the context, shall relate to the process of subdivision of the land or territory subdivided, provided however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the subdivision control law if, at the time when it is made, every lot within the tract so divided has frontage on:
  - (i) A public way, or
  - (ii) A way shown on a plan theretofore approved in accordance with the subdivision control law, or
  - (iii) A way in existence when the subdivision control law became effective in the Town which in the opinion of the Planning Board adequately provided the vehicular traffic needs, and as further defined in Section 81L of Chapter 41, of the General Laws.
- (u) Trailer: Any vehicle used for living or sleeping purposes and standing on wheels or on rigid supports.
- (v) Trailer Park: The existence of more than one inhabited trailer at a given time on a lot.

### **Section 1.03 Delineation of Districts<sup>10</sup>**

- (a) The following districts are illustrated, defined and bounded on the map entitled Town of Mendon, MA Zoning Map on file with the Town Clerk. The Zoning Map, all amendments thereto, and all explanatory matter thereon is hereby made a part of this Zoning By-law.
  - (i) Rural Residential District - The purpose of the Rural Residential District is to preserve and protect the rural character of the Town; to provide for low density single and two family residential uses; and to promote agricultural activities.
  - (ii) General Residential District - The purpose of the General Residential District is to provide for a mix of Rural Residential District uses with recreational uses and compatible small-scale, low intensity and impact, municipal and business uses. It is

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<sup>9</sup> Voted 2/24/2014; Ag Approved 5/1/2014; Effective 2/24/2014

<sup>10</sup> Voted 5/10/2002; AG Approved 8/26/2002; Effective 5/10/2002  
Voted 5/7/2010; AG Approved 8/19/2010; Effective 5/7/2010  
Voted 3/19/2013; AG Approved 5/2/2013; Effective 3/19/2013  
Amended 5/3/2019; AG approved 7/12/2019; Effective 5/3/2019

the intent of this district to provide a broad range of low density uses while also limiting the potential negative impact of mixed uses on abutting residential properties. Uses should be developed on one or more lots in a carefully planned manner to meet the residential and small- scale business needs of the Town.

- (iii) General Business District - To provide for the business and retail needs of the residents of the Town in areas where access is acceptable, and where adequate off-street parking can be provided.
  - (iv) Highway Business District - The purpose of the Highway Business District is to provide for uses of a business nature which require adequate highway exposure and access. Such uses are likely to generate a significant amount of vehicular traffic in conjunction with their operation and therefore would be inappropriately located along the majority of the Town's streets. A further objective is to provide adequate and appropriate separation and/or buffering of business use and residential areas.
- (b) The following provisions shall govern the interpretation of the Zoning Map:
- (i) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
  - (ii) Where a boundary is indicated as following approximately parallel to a street, water course, or other body of water, it shall be construed as parallel thereto. When dimensions are shown on the map indicating that the district boundary runs parallel to the street, the depth of the district boundary shall be measured from the nearest edge of the right way of line of such street.
  - (iii) Where a district boundary is indicated as generally coinciding with a Town property line, it shall coincide.
- (c) Lots in Two Districts
- (i) Where a district boundary divides a lot, and the major portion of said lot is in the less restricted district, the regulations applicable to the less restricted portion of such lot may extend not more than 30 feet into the more

#### **Section 1.04 Administration<sup>11</sup>**

- (a) Applicability: Where the application of this Zoning By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants or agreements, the provisions of this by-law shall control.
- (b) Enforcement: This Zoning By-law shall be enforced by the Building Inspector as provided in Section 7 of Chapter 40A of the General Laws. Henceforth, no building, structure, or part thereof shall be constructed, altered, or moved until the Building Inspector shall have issued a building permit certifying that the plans and intended use of the land, buildings and structures are in conformity with this Zoning By-law.

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<sup>11</sup> Voted 5/7/2010; AG Approved 8/19/2010; Effective 5/7/2010

- (c) When the Building Inspector receives a written request to enforce this Zoning By-law against any alleged violator, the Inspector shall reply in writing within 14 days, stating his action, or non-action, and the reasons therefore.
- (d) Penalty: Any person violating the provision of this Zoning By-Law shall be fined not more than one hundred dollars for each offense. Each day that such violation continues shall constitute a separate offense.
- (e) Amendments: This Zoning By-Law or any part thereof may be amended or repealed as provided by law at the Town Meeting duly called.
- (f) Construction or operations under a building or special permit shall conform to any subsequent amendment of the Zoning By-Law, unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.
- (g) A special permit granted under this Zoning By-Law shall lapse within two (2) years from the grant thereof if substantial use thereof has not sooner commenced or, in the case of permit for construction, if construction has not begun, except for good cause.
- (h) Effective Date: This Zoning By-Law shall take effect as provided by law.
- (i) Severability: The invalidity of any section of this Zoning By-Law shall not invalidate any other section or provision thereof.

### **Section 1.05 Board of Appeals<sup>12</sup>**

- (a) Board of Appeals.
  - (i) There shall be a Board of Appeals of three and two alternate members as approved in Chapter 40A of the General Laws, as amended, which shall act on all matters (as prescribed in Chapter 40A of the General Laws) and as indicated below. The members shall be appointed by the Select Board for a term of three years, provided that only one term shall expire each year. Where a permit or authorization by the Board of Appeals is required under this by-law, the Building Commissioner shall withhold the Zoning Permit until written approval of the Board of Appeals is received.
  - (ii) The Board of Appeals may grant variances for exceptional uses provided, the Board of Appeals specifically finds that owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance of by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant and that desired relief may be granted without substantial detriment to the public

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<sup>12</sup> Voted 2/24/2014; AG Approved 5/1/2014; Effective 2/24/2014

good and without nullifying or substantially derogating from the intent or purpose of such ordinance or bylaw.

- (iii) Any person including an officer or board of the Town aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of Chapter 40A of the General Laws may appeal in writing to the Board of Appeals.
- (iv) The Board of Appeals shall hold public hearings as may be necessary to carry out the purpose of the by-law as provided in Section 15 of Chapter 40A of the General Law.

### **Section 1.06 Provisions for Applying for A Special Permit<sup>13</sup>**

- (a) Size of lots and location of building in Application for Special Permit: In considering applications for special permits, each lot used in part or in whole for a business shall have a minimum frontage on the street of two hundred feet and minimum depth from the street sideline of three hundred feet. No building shall cover an area in excess of one-third of the total area of the lot. No building or structure shall be situated less than twenty feet from the boundary abutting a residence and less than 85 feet from the street center line. No dwelling solely for residence purposes shall be erected on any lot unless the dwelling and lot conform to the requirements set forth in the table of Section 2.01 (b).G
- (b) All applications for Special Permits or Petitions for Variance over which the Board of Appeals exercises original jurisdiction shall be filed by the petitioner with the Town Clerk who shall forthwith transmit a copy thereof to the Board of Appeals. With each application for permission of the Board of Appeals under Section 2.05(c) of this by-law, there shall be submitted to said Board a site plan of the proposed use prepared by a registered professional engineer, architect or landscape architect. Such site plan shall show among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas, and other waste disposal and for surface water drainage and landscape features such as fences, planting areas and walks on the lot. Six copies of the site plan shall be filed with the application, two of which shall be forwarded to the Planning Board for its review recommendations. In reviewing a site plan, the Planning Board and Board of Appeals shall consider among other things, the following:
  - (i) Compliance with the requirements for parking, lot size, frontage, yards, and heights and coverage of buildings and all other provisions of this by-law.
  - (ii) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements.
  - (iii) Adequacy of arrangement and the number of parking and loading spaces in relation to the proposed use of the premises.

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<sup>13</sup> Voted 2/24/2014; AG Approved 5/1/2014; Effective 2/24/2014

- (iv) Provisions for off-street loading and unloading of vehicles incidental to the servicing of the buildings, and related uses on the lot or tract.
- (v) Arrangement and appearances of proposed buildings, structures, signs, screening and landscaping.
- (vi) Adequacy of methods for waste disposal, surface and subsurface drainage and lighting.
- (vii) Protection of adjoining premises and the general neighborhood from any detrimental use of the lot or tract. A public hearing must be held by the Board of Appeals within sixty-five (65) days after the application is filed with the Town Clerk.

The Planning Board shall make its report and recommendations on the site plan in writing to the Board of Appeals within thirty (30) days after the hearing before the Board of Appeals, and if it should fail to do so, the Board of Appeals may act without such report and recommendations.

- (c) **Harmony:** For the purpose of promoting and preserving harmony in architectural treatment and avoidance of incongruous or inappropriate character of architectural appearance and arrangement of buildings detrimental to the property values of adjoining owners or the community, no building permit shall be issued for any new buildings or structure or for any addition or alteration to the exterior of any existing structure until plans showing proposed location and exterior appearance shall have been submitted to the Building Commissioner for review, comment, and suggestions, with the advice of the Planning Board, and the Building Commissioner shall have made such comment and suggestions or allowed five (5) weeks to elapse after such submission without action.
- (d) **Appeal:** As provided for in Section 17, Chapter 40A of General Laws: Any person aggrieved by a decision of the Board of Appeals, whether or not previously a party to the proceeding, or any municipal officer or board, may appeal to the Superior Court for the County in which the land concerned is situated, by filing a Bill in Equity within twenty (20) days after the decision has been filed in the Office of the City or Town Clerk.

## ARTICLE II. ALL DISTRICTS

### Section 2.01 Dimensional Regulations<sup>14</sup>

- (a) No lot shall be used or occupied and no structure or building shall hereafter be erected, constructed, altered, changed, moved, used, or occupied unless it complies with the Table of Dimensional Regulations set forth at the end of this Section below as Table 1 (which shall include all endnotes).
- (b) Any driveway shall be wholly contained within said lot being serviced and the access shall be contained within the limits of said lot's frontage on an accepted public way in the Town of Mendon. No driveway shall be located closer than 10 feet to any side lot line.
- (c) Any increase in area, frontage, width, yard, or depth requirements of this Zoning By-Law shall not apply to a lot for single and two-family residential use which at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but at least five thousand square feet of area and fifty feet of frontage. The minimum setback for said residential lots shall be at least 10 feet and the maximum building coverage shall not exceed 30 of the lot area.
- (d) All building permit applications shall be accompanied by a plot plan drawn to a prescribed scale evidencing compliance with the dimensional regulations, and no permit shall be issued without the Building Inspector's approval of said plan.

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<sup>14</sup> Voted 5/7/2010; AG Approved 8/19/2010; Effective 5/7/2010  
Voted 6/26/2012; AG Approved 8/3/2012; Effective 6/26/2012

**TABLE I**  
Dimensional Regulations

District	Use	Min. Lot Size (sq. ft.)	Min. Lot Frontage (feet)	Min. Yard Setback (feet)			Min. Lot Depth (feet)	Min. Lot Width at Leaching Area Location	Min. Lot Width	Max. Building Coverage (%)	Max. Structure and Building Height
				Front	Side	Rear					
Residential	One Family Dwelling	60,000	200	50	20	20	200	125	200		2 ½ stories or 35 ft.
	Two Family Dwelling	90,000	300	50	20	20	200	125	300		2 ½ stories or 35 ft.
	All other permitted uses	60,000	200	50	20	20	200	125	200	30%	2 ½ stories or 35 ft.
Business	All permitted uses	40,000	200	50	20	20	200	125	200	30%	2 ½ stories or 35 ft.
All districts	Detached Accessory Buildings, not exceeding 200 sq. ft.			50	15	15					35 ft.

*Voted 6/29/1987; Ag Approved 10/26/1987; Effective 6/29/1987*

*Voted 5/11/2001; AG Approved 8/29/2001; Effective 5/11/2001*

*Voted 5/10/2002; AG Approved 8/26/2002; Effective 5/10/2002*

- i. No part of any pond, stream, river, swamp, or wetlands shall be included as part of a lot for the purpose of determining the minimum lot size.
- ii. Frontage shall be measured as a continuous line along one street only. Frontage on cul-de-sacs or along the curvature of a road shall be established by measuring along the arc of the curve establish by the street layout (which may or may not coincide with the paved way) between the points of intersection created by the side lot lines and the street.
- iii. The minimum depth or width of a yard shall consist of the horizontal distance between the lot line and the nearest point of any structure. A “yard” shall be an open space, unoccupied and unobstructed from the ground up, except as specifically permitted in this By-law. Parking facilities for non-residential uses shall be set back a minimum of 10 feet from all lot lines, and, in cases where a non-residential use abuts a residential use, no parking facilities shall be permitted in the side setbacks.
- iv. Measured perpendicularly to the front lot line.
- v. Measured perpendicularly to the front lot line. The minimum lot width is the width required from the front lot line to the required front set back.
- vi. No structure shall exceed 35 ft. unless a greater amount is specifically provided for in this By-law. In the instance of a building, the height in each case shall be measured vertically from the highest point of the roof beams in the case of a flat roof, or from the top of the rafters at the ridge in the case of a sloping roof, measured from the mean grade of the natural ground contiguous to the building. For all other structures the height shall be measured vertically from the mean grade of the natural ground around the structure to the highest point of the structures.
- vii. A corner lot shall have two front yards, one on each street. The required frontage for the lot must be provided on only one street, however, the front yard setback applies to both streets. *Voted 5/11/1979; AG Approved 9/10/1979; Effective 5/11/1979*

**Section 2.02 Sewage Regulations**

- (a) A subsurface sewage disposal permit will be granted by the Board of Health only when the Board is presented an approved septic system plan determined by percolation and deep hole testing taken by an authorized civil engineer during the testing season December 1 – April 30 at the discretion of the Board of Health.
- (b) No sewage disposal works the effluent from which will discharge into any lake, pond, stream, tidal waters, or any tributary thereof, shall be installed unless plans for such disposal works are first approved by the Mass. Department of Environmental Protection.
- (c) No dwelling place or other building shall be constructed until the Board of Health has approved the proposed lot as suitable from a sanitary point of view. No building on an unsewered street shall be constructed until a permit for sewage disposal installation has been obtained from the Board of Health.
- (d) A permit to build will be issued only when an adequate water supply is assured to provide for the occupancy of the proposed structure.
- (e) All sewage disposal works hereafter constructed shall be in conformance with Title V of State Sanitary Code and Rules and Regulations of Mendon Board of Health.
- (f) No sewage disposal works shall be established within 100 feet of any well used as a source of water supply.
- (g) Should any section, paragraph, sentence, clause or phrase of these rules and regulations be declared unconstitutional or invalid for any reason, the remainder of said rules and regulations shall not be affected hereby.
- (h) All permits must be obtained from the Board of Health before any new or old cesspool is installed and approved.

**Section 2.03 Off Street Parking and Loading****(a) Purpose**

It is the intent of this section to assure that off-street parking and loading spaces are provided to accommodate the motor vehicles of all persons normally using or visiting a use or structure at any one time. For any permitted use hereafter established, such spaces shall be provided in accordance with standards hereinafter specified. All spaces required to provided by this Section shall be permanently maintained and made available for occupancy in connection with and for the full duration of the use of land or structures for which such spaces are herein required. If any existing use of land or structure is changed to a use requiring additional spaces to comply with this Section, such additional spaces shall be provided for the new use in accordance with the standards hereinafter specified.

**(b) Applicability**

Notwithstanding other requirements of these regulations, off-street parking facilities shall satisfy the following minimum requirements with regard to number of spaces and location. Where parking is located on a lot separate from that of the facility, such lot shall also be owned by the applicant or shall be under a lease sufficiently long in term to assure that adequate parking will be available for the probable duration of the use. All parking for an intended use shall be located within 300 feet of the main building entrance and not separated by any streets or ways. The Planning Board may grant a waiver of up to 20% of the parking required provided the applicant can prove that suitable parking will be present for the intended use of the property.

## (c) Design Standards

## (i) Loading space standards.

Every non-residential use or addition thereto must maintain at least one paved off-street loading space of not less than 15 feet in width, 40 feet in length and 14 feet vertical clearance. For every nonresidential building there shall be one such off-street loading space for every 40,000 square feet of gross floor area or portion thereof, excluding basements. No such loading space shall be less than 20 feet from any property line or street line.

(ii) Parking Lot (space) Standards:<sup>15</sup>

- (1) No parking lot area shall be located within twenty (20) feet of any property line, street, or road, if abutting property is zoned or used residentially. The parking lot area may be located within ten (10) feet of the property line if the abutting lots are not zoned and/or used for residential purposes.
- (2) No parking lot shall be located less than five (5) feet from any wall of any building to allow for pedestrian walks and/or landscaping.
- (3) Dead-end parking aisle interior drives shall be extended five (5) feet further than the last space to allow movement of a vehicle in and out of a parking space
- (4) Where reasonable alternate access is available, the vehicular access to the lot shall be arranged to avoid traffic use of local residential streets situated in or bordered by residential districts.
- (5) Where a lot has frontage on two (2) or more streets, the access to the lot shall be provided from the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.
- (6) The street giving access to the lot shall have traffic carrying capacity and be suitably improved to accommodate the amount and types of traffic generated by the proposed use.
- (7) Where the lot has frontage on an existing street, proper provisions shall be made for grading and improvement of shoulder and sidewalk areas within the right-of-way of the street and for the provision of curbs and sidewalks, as approved by the Board and in accordance with the pattern of development along the street.
- (8) Appropriate provisions shall be made to prevent vehicles from overhanging walkways and from damaging trees or other landscaping materials.
- (9) Adequate lighting shall be provided as required in the Mendon Zoning By-laws, Section 4.02, Site Plan Review.
- (10) Each parking space for every use, with the exception of single or two family residential dwellings, a minimum of twenty (20) square feet of landscaped area shall be provided within the parking area or along the periphery of the parking area. For the purposes of this section, the parking area shall be defined as that area used for parking, backup space and driveways associated with the parking lot. For those parking lots

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<sup>15</sup> Amended 6/29/20; AG approved 9/3/20; Effective 6/29/20

containing in excess of twenty spaces, a minimum of fifty percent of the required landscaping must be provided within the parking area.

- (11) Parking areas shall be strongly encouraged to be designed to include landscaping to include low impact development techniques.
- (12) Surface parking lots with over 15 parking spaces serving uses located in Highway Business or General Business Districts must have at least one shade tree (minimum two-inch caliper) for every 15 provided parking spaces. The number of trees per 15 parking spaces shall be tabulated for all spaces unless the Planning Board finds that, for the spaces covered by photovoltaic canopies, there is no adequate location on site to meet the requirement for those covered spaces.
- (13) In surface parking lots with more than 75 parking spaces, the expanse of pavement shall be interrupted by separating rows of parking spaces from each other and from driveways by using planting strips which may also contain pedestrian sidewalks at least six feet in width. Provision of these planting strips shall take into account the need to store snow, to locate light poles, to allow safe pedestrian movement, to maximize emergency access, and to separate different traffic movements. In addition, if an existing parking lot is expanded to over 75 spaces, planting strips shall be required for the entire lot. All proposals to construct or modify such parking lots shall be reviewed by the Planning Board in light of the requirements of this section. The Planning Board may waive planting strips if it deems appropriate only for the portion and number of parking spaces that are covered by one or more photovoltaic canopies.
- (14) Each required parking space, exclusive of driveways and aisles, shall be at least 9 feet wide and 18 feet long. The dimensions for parking spaces and drive aisles shall conform to the following table

	90 deg	60 deg	45 deg
<b>A. Double Parking Bay</b>	60 feet	58 feet	53 feet
<b>B. Depth of Bay</b>	18 feet	20 feet	19 feet
<b>C. Width of Aisle</b>	24 feet	18 feet *	15 feet *
<b>D. Width of Space</b>	9 feet	9 feet	9 feet
<b>E. Depth of Space</b>	18 feet	18 feet	18 feet

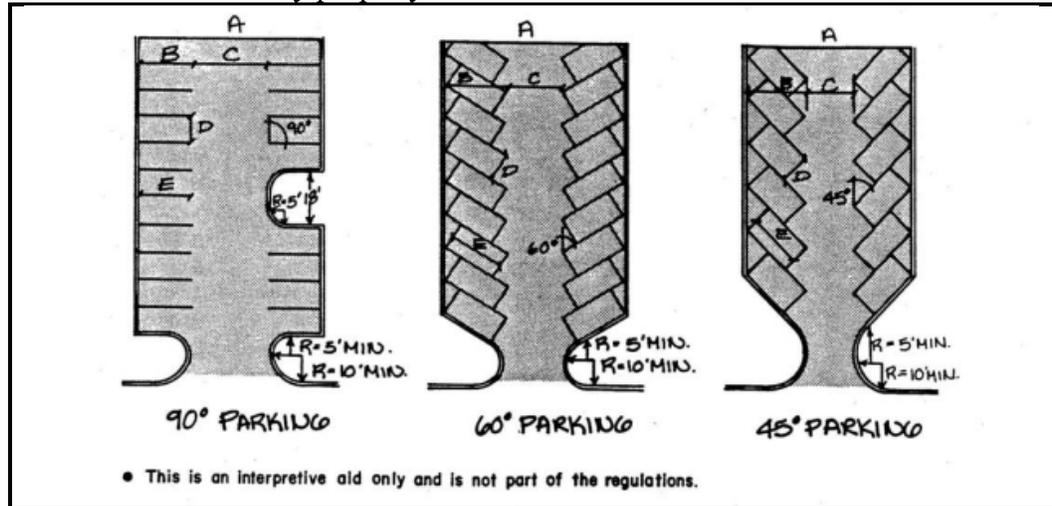
*\*provided that if the aisle is a fire lane the width shall be 20 ft.*

Drive Aisles with two-way circulation shall contain 90 deg parking spaces. Drive Aisles with one-way circulation may contain 60 deg or 45 deg parking.

In addition to the requirements set forth in the above table, the Board may require collector drive aisles to be 30 feet in width and may require major entry and exit drive aisles to be of such a width and to contain sufficient lanes as may be necessary.

- (iii) Entrances and exits.

Each parking or loading space shall be provided with adequate area for approach, turning and exit of the vehicle for which it was designed without need to use any part of a public street right-of-way. Points of entrance and exit for driveways onto the street shall not be less than 12 feet in width for each lane of traffic using the driveway, but the total width of such entrance or exit shall not exceed 30 feet. No such driveway shall be within 10 feet of any other driveway on the same property or within 10 feet of any property line.



(d) Maintenance of parking facility

Lots shall be maintained in good condition and repair and shall be kept clean and free from rubbish and debris.

(e) Construction<sup>16</sup>

All off-street parking and loading areas shall be suitably improved, graded, stabilized and maintained so as to cause no nuisance or danger from dust or from surface water flow and shall be in compliance with the Town of Mendon By-laws, Chapter XVI, Stormwater Management Bylaw. All such areas shall have a slope of no less than one percent and should in general not exceed a slope of three percent. However, the maximum allowed slope for all such areas shall be five (5) percent. All parking areas, with the exception of single or two family residential uses, shall be constructed of durable materials that will not allow for erosion or the transport of sediment. Parking stalls may be constructed with pervious materials.

(f) Joint use

The Planning Board may permit joint parking areas and loading spaces to be established by the owners of separate contiguous lots in order to provide the total number of off-street parking and loading spaces required for all the users located thereon. In such case the setback requirement may be waived for the common property line.

<sup>16</sup> Amended 6/29/21; AG approved 9/3/20; Effective 6/29/20

(g) Hybrid parking<sup>17</sup>

The Planning Board may allow conventional paving for driveways and aisles with permeable paving for stalls. Permeable pavement may also be allowed in other areas where appropriate.

## (h) Phased parking development

The Planning Board may, depending on the specific parking needs of a particular use, approve a phased development of the off-street parking area for a proposed or an existing development, in accordance with the following conditions:

- (i) The total number of spaces required to be shown on the site plan shall be determined in accordance with the standards for that particular use, as specified in these regulations.
  - (ii) The construction of the parking area and the installation of the spaces may be phased according to term requirements, except that no less than fifty (50) percent of the total spaces required shall be constructed as part of the initial term requirement. If this results in a fractional number, the requirement shall be the next highest whole number.
  - (iii) The balance of the spaces not constructed shall be designated as “reserve spaces” on the site plan, laid out as an integral part of the overall parking layout, must be located on land suitable for parking area development and either left in its natural state or suitably landscaped.
  - (iv) Under any circumstances, the applicant may construct the total number of parking spaces required as per these regulations; or if the commission determines that additional spaces, identified as reserve spaces on the site plan, may be required, the commission shall notify the owner of the property concerning its findings and the owner shall, construct the required spaces within ninety (90) days of such notification.
- (i) Interpretation of off-street parking requirements
- (i) Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
  - (ii) In the case of mixed uses, uses with different parking requirement occupying the same building or premises, the parking spaces required shall equal the sum of the requirement of the various uses computed separately.

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<sup>17</sup> Voted 3/19/2013; AG Approved 5/2/2013; Effective 3/19/2013

**Table of Off-Street Parking Regulations<sup>18</sup>**

Principal Use	Minimum Number of Parking Spaces
Single Family Home	2 spaces per dwelling unit
Two Family Dwelling	2 spaces per dwelling unit
Church, Place of Worship	1 space per 4 seats
Convalescent or Nursing Home	3 spaces per 1000 square feet of gross floor area
Bed and Breakfast	1 space per guest room unit plus 2 spaces for family
Hotel	1.5 space per guest unit plus required parking for any restaurant or places of assembly located within the premises
Restaurants and other places serving food or beverages	1 space for each 5 seats plus 1 space for each 5 employees
Motor Vehicle Service Station	1 space per 200 square feet of gross floor area
Retail store, service establishment, financial institution, shopping center	1 space per 250 square feet of gross floor area
Furniture, floor covering or appliance Store	1 space per 500 square feet of gross floor area
Automobile Repair, Sales or other workshop	1 space per 300 square feet of gross floor area plus requirements for outdoor sales if applicable
Professional office, clinics	1 space per 300 square feet of gross floor area
Home Occupations	3 spaces plus required residential parking with a maximum of 5 spaces
Private Club, Country Club including golf course or other similar recreation facility	1 space per 1000 square feet of fully enclosed area plus required parking for accessory uses such as a restaurant and meeting rooms. Golf Course shall require a minimum of 100 spaces; tennis, racquetball or the like shall require 2 spaces per court in addition to above mentioned requirements.
Funeral or undertaking establishment	40 spaces plus 10 spaces per chapel or parlor in excess of one.
Wholesale, Manufacturing, Contractors Yards, Warehousing	1 space per 1000 square feet of gross floor area
Child Care	1 space per 500 square feet of gross floor area
Schools	4 spaces per classroom plus 1 space per 5 seats of dedicated public assembly space
Library, Museums	1 space per 600 square feet of gross floor area
Theaters and places of assembly	One space per every five seats
Other uses not listed	As determined by the Planning Board

<sup>18</sup> Voted 5/11/1979; AG Approved 9/10/1979; Effective 5/11/1979

**Section 2.04 Non-Conforming Uses (Deleted 2/24/2014)<sup>19</sup>**

*This section has been deleted by Town Meeting vote (see footnote).*

**Section 2.05 Prohibited Uses (Deleted 2/24/2014)<sup>20</sup>**

*This section has been deleted by Town Meeting vote (see footnote).*

COVERED IN SEPARATE WARRANT ARTICLE

[REDACTED]

[REDACTED]

<sup>19</sup> Voted 5/1/2000; AG Approved 7/24/2000; Effective 5/1/2000; Deleted 2/24/2014

<sup>20</sup> Voted 3/17/1998; AG Approved 5/14/1998; Effective 3/17/1998

Voted 6/6/2011; AG Approved 10/26/2011; Effective 6/6/2011; Deleted 2/24/2014

COVERED IN SEPARATE WARRANT ARTICLE

[REDACTED]

COVERED

EXEMPT WARRANT ARTICLE

[Redacted text block]

[Redacted text block]

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COVERED IN SEPARATE WARRANT ARTICLE

[REDACTED]

COVERED IN SEPARATE WARRANT ARTICLE

COVERED IN SEPARATE WARRANT ARTICLE

[REDACTED]



COVERED IN SEPARATE WARRANT ARTICLE

[REDACTED]

[REDACTED]

COVERED IN SEPARATE WARRANT ARTICLE

**Section 2.07 Wireless Communications Facilities<sup>22</sup>**

(a) Purpose and Intent. Purpose and Intent. The purpose of this Section is to regulate wireless communications facilities such that these services may be provided with the minimum harm to the public health, safety, and general welfare by:

- (i) Protecting the general public from hazards associated with wireless communications facilities.
- (ii) Minimizing visual impact, including views from scenic roads as designated in Mendon By-Laws, Chapter XVI, Section 7, from wireless communications facilities.
- (iii) Minimizing adverse impact on local property values.
- (iv) Improving the ability of the carriers to maximize coverage while minimizing adverse impact on the community.

(b) Definitions.

- (i) Wireless Communications Facility: All equipment, devices, buildings, structures, fixtures, and appurtenances with which a wireless communications service carrier broadcasts, transmits, and/or receives the radio-frequency waves which carry their services, including any accessory facilities such as sheds, which are related to the operation, maintenance, and use of the wireless communications facility, and all locations of said facilities or any part thereof.
- (ii) Carrier: Any individual or entity that provides wireless service.
- (iii) Antenna: A device by which electromagnetic waves are sent and/or received.
- (iv) Repeater: A small receiver/relay transmitter designed to provide service to areas which are not able to receive adequate coverage from the primary sending and receiving site in a wireless communications network.
- (v) Tower: A structure, framework, or monopole, that is designed to support wireless communications transmitting, receiving, and/or relaying, antennas and/or equipment.

<sup>22</sup> Voted 4/10/2012; AG Approved 7/30/2012; Effective 4/10/2012

- (vi) Co-location: The practice of installing the antennas of more than one communications carrier on one structure.
  - (vii) Setback: The area on the ground within a prescribed radius from the base of the tower
  - (viii) Radio Frequency Emissions: The electromagnetic emissions from wireless communications facilities.
- (c) Special Permit. A wireless communications facility may be allowed by a special permit in all zoning districts in accordance with, and subject to, the requirements and regulations of Sections 1.06 and 2.07 of the Town of Mendon Zoning By-Law. The Planning Board shall act as the Special Permit Granting Authority for wireless communications facilities in the Town of Mendon.
- (d) Applicability and Exemptions. This Section applies to any wireless communications facility.
- (i) The following specific uses are exempt from this Wireless Communication Facilities By-Law:
    - (1) Satellite dishes or antennas used exclusively for residential use;
    - (2) Police, fire, ambulance, and other public emergency dispatch;
    - (3) Citizen band radio; and
    - (4) Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the FCC provided that the tower is not used or licensed for any other purpose and the tower is removed upon loss or termination of said FCC license. Notwithstanding the foregoing, any structure for federally licensed amateur radio operators in excess of the height limitations set forth in Section 2.01 of this Zoning Bylaw may be permitted subject to site plan review by the Planning Board and must be set back from all property lines a distance no less than one and a quarter times the height of the structure. No such structure may exceed seventy (70) feet in height.
  - (ii) A non-exempt wireless communications facility or repeater facility that shares a tower or other structure with any exempt facility listed above shall not be considered exempt from this by-law for any reason.
  - (iii) Legally pre-existing wireless communications facilities may be reconstructed, expanded and/or altered in all zoning districts subject to a special permit granted by the Planning Board, provided that they conform to all of the requirements set forth in Section 2.07 of this Zoning By-Law.
- (e) Consistency with Federal Law. These regulations are intended to be consistent with the Telecommunications Act of 1996 in that:
- (i) They do not prohibit or have the effect of prohibiting the provision of personal wireless services

- (ii) They are not intended to be used to discriminate unreasonably among providers of functionally equivalent services.
  - (iii) They do not regulate personal wireless services on the basis of environmental effect of radio frequency emissions to the extent that the regulated services and facilities comply with the FCC's regulations concerning emissions.
- (f) Design Requirements and Performance Standards. All wireless communication facilities erected, installed and/or used shall comply with the following design requirements and performance standards:
- (i) Shared Use: Shared use of towers by wireless communication carriers is required unless such shared use is shown by substantial evidence to not be feasible
  - (ii) Height: The maximum allowed height of a tower shall be 150 feet.
  - (iii) Wireless communication facilities located on a structure shall not exceed ten feet in height above the roof-line of the structure, unless the Planning Board finds that a greater height is essential to the proper functioning of the wireless communication services to be provided by the applicant at such location. For structures where it is difficult to determine the roof line, such as water tanks, the height of the wireless communication facilities shall not exceed ten feet above the highest point of the structure.
  - (iv) Co-Location: In the event that the Planning Board finds that co-location is preferable in order to conform to the intent and purpose of this By-Law, then towers shall be designed to accommodate the maximum number of presently interested users that is technologically practical. In addition, if the number of proposed users is less than four, the applicant shall provide a plan showing how the proposed tower can be expanded to accommodate up to four users. In the event that the Planning Board finds that co-location is preferable, the applicant must agree to allow co-location pursuant to commercially reasonable terms to additional users.
  - (v) Proximity to Existing Residence: Towers shall be located a minimum of five hundred (500) feet from all existing residential dwellings and any proposed dwelling for which a building permit or subdivision approval has issued. This regulation is not intended to prohibit the later development of residential dwellings within 500 feet of a tower, provided that no such development shall be permitted within the setback.
  - (vi) Setback: A tower shall be set back from the property lines of the lot on which it is located by a distance equal to one and a half times the overall vertical height of the tower and any attachments. With the exception of wireless communications facilities related to the operation, maintenance, or use of said tower, no construction shall be permitted within the setback. In the case of any questions concerning lot lines, the Planning Board may make the setback determinations.

- (vii) Screening Requirements: All exterior wireless communication facilities shall be painted, colored, molded, installed or otherwise screened to minimize their visibility to abutters, adjacent streets, views from scenic roads, and residential neighborhoods. Wireless communications facilities visible against a building or structure shall be colored to blend with such building or structure. Wireless communications facilities visible against the sky or other background shall be colored or screened to minimize visibility against such background. A different coloring scheme shall be used to blend the structure with the landscape below and above the tree or *building line*. Existing on-site vegetation shall be preserved to the maximum extent feasible.
  - (viii) Fencing: The area around the base of the Tower shall be enclosed within a fence with a locked gate, and a key to such gate shall be provided to emergency response personnel. Fencing shall be compatible with the scenic character of the Town and shall not be of razor wire and shall be subject to the approval of the Planning Board.
  - (ix) Lighting: Lighting shall be limited to that required by the Federal Aviation Administration.
  - (x) Parking: There shall be a minimum of one parking space provided for each wireless communication facility, to be used for parking in connection with the maintenance of the site, and not for the permanent storage of vehicles or other equipment, or any other purpose. To the extent said wireless communication facility includes any building(s) then, in addition to the parking required above, parking shall be required in accordance with Section 2.03 of the Zoning By-Law
  - (xi) Access: For proposed tower sites, the width, grade, and construction of the access road shall be designed so that emergency response vehicles can get to the tower and wireless communications facility accessory buildings, and shall be designed to provide proper storm drainage.
- (g) General Requirements
- (i) No wireless communications facility may be erected, installed, used, reconstructed, altered and/or expanded except upon the issuance of a special permit by the Planning Board and approval under Site Plan Review as set forth in Section 4.02 of the Zoning By-Law and subject to all of the provisions of this Zoning By-Law. It is recommended to the applicant to undertake both the Special Permit and Site Plan Review procedures concurrently in order to expedite the permitting process. Multiple applicants for the same site/facility are also encouraged provided there is one lead applicant responsible for all submissions and further provided that no application shall be considered complete and filed until all the applicants have complied with all of the submission requirements.
  - (ii) All owners and operators of land used in whole or in part for a wireless communications facility and all owners and operators of such wireless

communications facility shall, as a continuing condition of installing, constructing, erecting and using a wireless communications facility, permit other Federal Communications Commission licensed entities seeking to operate a wireless communications facility, to install, erect, mount and use compatible wireless communication equipment and fixtures on the equipment mounting structure on reasonable commercial terms provided that such co-location does not materially interfere with the transmission and/or reception of communication signals to or from the existing wireless communication facility, and provided that there are no structural or other physical limitations that make it impractical to accommodate the proposed additional wireless communication equipment or fixtures.

- (iii) New facilities shall be considered by the Planning Board only upon a finding by the Planning Board that:
    - (1) The use of repeaters to provide adequate coverage without requiring new towers is not feasible;
    - (2) The applicant has used reasonable efforts to locate or co-locate its proposed wireless communication facilities on existing or approved facilities; and
    - (3) That the applicant either was unable to negotiate commercially reasonable lease terms with the owner of any existing or approved facility that could accommodate the proposed facilities from both structural engineering (i.e. the height, structural integrity, weight bearing and wind-resistant capacity of the existing or approved facility), and radio frequency engineering (i.e. height, coverage area etc.) perspectives; or there neither exists nor is there currently proposed any facility that could accommodate the proposed facilities from structural and radio frequency engineering perspectives. A report discussing this information entitled “New Wireless Data Transfer Feasibility Study” is to be submitted to the Planning Board as part of any special permit submission.
  - (iv) The Planning Board may require the applicant to pay reasonable fees for professional review of the applicant’s proposal by a professional or radio frequency engineer, attorney and/or other qualified professional to assist the Board in its deliberations.
  - (v) A wireless communications facility may be located on the same lot by special permit with any other structures or uses lawfully in existence and/or lawfully undertaken pursuant to this By-Law.
- (h) Criteria for Granting Special Permit: Applications for special permits may be denied if the Planning Board finds that the petitioner does not meet or address the requirements of this Zoning By-Law, including Section 2.07 and Section 1.06, and M.G.L. c.40A, §9.

- (i) When considering an application for a wireless communications facility, the Planning Board shall take into consideration the proximity of the facility to residential dwellings and its impact on these residences.
- (ii) Conditions: The Planning Board shall impose, in addition to any reasonable conditions supporting the objectives of Section 1.06 of the Zoning By-Law, such applicable conditions as it finds appropriate to safeguard the neighborhood or otherwise serve the purpose of Section 2.07 herein, including, but not limited to screening, buffering, lighting, fencing, modification of the external appearance of the structures, limitation upon the size, method of access or traffic features, parking, removal or cessation of use, or other requirements. Such conditions shall be imposed in writing with the granting of a special permit. As a minimum, the following conditions shall apply to all grants of special permit issued pursuant to this Section:
  - (1) The WCF's and the site shall be designed compatible with the surrounding area, and, without limitation, shall be subject to the provisions of Section 4.02, Site Plan Review. The WCF's and the site (which shall include without limitation all driveways and access roads) shall be maintained in good condition and repair at all times, and in compliance with all applicable local, state, and federal rules, standards, bylaws, regulations and laws, including those promulgated by the Federal Communications Commission and Federal Aviation Administration. The Planning Board and/or Building Inspector may require evidence of such compliance, at the applicants/owner's sole cost and expense, at any time.
  - (2) Removal of Abandoned Towers and Facilities. Any wireless communications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such tower and facility shall remove same within ninety (90) days of receipt of notice from the Planning Board notifying the owner of such abandonment. If such tower or facility is not removed within said ninety (90) days, the Planning Board may cause such tower or facility to be removed at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
  - (3) For all towers, the applicant shall provide a performance bond or other security from a surety authorized to do business in Massachusetts and satisfactory to the Planning Board, in an amount equal to the cost of removal of any and all wireless communications facilities from the premises and for the repair of such premises and restoration to the condition that the premises were in at the onset of the lease, said amount to be determined at the discretion of the Planning Board by either the applicant's engineer or professional hired by the Planning Board at the

applicant's expense. The amount of the bond shall be the total estimate of restoration costs and anticipated fees (in today's dollars) by the applicant's engineer, plus an annual increase of three percent for the term of the lease. The term of the bond shall be for the full term of any lease plus twelve months. The Town must be notified of any cancellation or change in the terms or conditions in the bond.

- (4) For all towers, an Agreement must be executed whereby the user will allow the installation of the Town of Mendon wireless communications devices, equipment, fixtures, and related appurtenances, on the tower at the most advantageous location reasonably necessary to promote public health, safety or welfare, as determined by the Town, at no cost to the Town, and which will allow other carriers to lease space on the tower so long as such use does not interfere with the user's use of the tower, or with any Town controlled wireless communications facilities.
  - (5) For all towers located on non-municipal property, a clause must be inserted in any lease that unconditionally permits the Town or contractors hired by the Town to enter the premises, at any time, where upon towers are located, if any Town-wide or Town-controlled wireless communications are located thereon.
  - (6) For all towers located on municipal property, a Certificate of Insurance for liability coverage in amounts determined by the Select Board must be provided naming the Town as an additional insured.
  - (7) For all towers located on municipal property, an agreement must be executed whereby the user indemnifies and holds the Town harmless against all claims for injury or damage resulting from or arising out of the use or occupancy of the Town owned property by the user.
  - (8) All applicants shall be required to file annually on or before February 1st with the Mendon Planning Board a complete list of all wireless communication facility locations in the Town then used by the applicant, including any facilities mounted on the interior of a building or structure.
- (iii) The special permit shall lapse in two years unless substantial use or construction has commenced by such date, unless for good cause shown a written request for an extension of time is made to the Planning Board before the two years has expired. Such construction, once begun, shall be actively and continuously pursued to completion within a reasonable time. This two-year period does not include such time as required to pursue or await the determination of an appeal from the granting of this special permit.
  - (iv) Any extension, replacement, addition, erection, installation, reconstruction, alteration and/or expansion of a wireless communications facility, or any portion thereof, or any change, extension, or expansion of use, shall be subject to an

amendment of the existing special permit, following the same review and procedure, and subject to the same conditions and requirements, as for an original grant of a special permit.

- (v) Prior to the commencement of any construction, or construction related activities such as clearing, the applicant shall provide a recorded copy of a restrictive covenant in form satisfactory to and approved by the Planning Board, prohibiting any construction (with the exception of construction related to the approved wireless communications facilities) within or on any area of land contained in the setback for so long as the lot continues to be used for wireless communications facilities.
- (vi) Severability: If any Section of this by-law is ruled invalid by any authority or a court of competent jurisdiction, such ruling will not affect the validity of the remainder of the By-Law.

### **Section 2.08 Marijuana Establishments (Deleted 5/3/2019)<sup>23</sup>**

*This section has been deleted by Town Meeting vote (see footnote). Regulations on marijuana establishments and medical marijuana treatment centers can be found in Section 6.03.*

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<sup>23</sup> *Moratorium Added 5/4/18; AG approved 8/1/18; Effective 5/4/18  
Deleted 5/3/2019; AG Approved 7/12/2019; Effective 5/3/2019*



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## ARTICLE V. OVERLAY DISTRICTS

### Section 5.01 Adult Entertainment Overlay District<sup>45</sup>

(a) AUTHORITY.

This section is enacted pursuant to M.G.L. Chapter 40A, Section 9A and pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution.

(b) PURPOSE AND INTENT.

The purpose of this Adult Entertainment Overlay District section of the Town of Mendon Zoning Bylaws is to address and mitigate the secondary effects of adult entertainment establishments. Secondary effects impact the health, safety and general welfare of the Town of Mendon and its inhabitants. These effects include increased crime, and adverse impacts on public health, the business climate, the property values of residential and commercial property and the quality of life.

The provisions of this section have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this Section (Overlay District) to restrict or deny access to adult entertainment establishments or to sexually oriented matter or materials that is protected by the Constitutions of the United States and the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this Section to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials, as described in M.G.L. Chapter 272, inclusive, and Chapter 119, Section 63.

(c) DEFINITIONS.

Adult Entertainment Establishment shall include any of the following: an Adult Bookstore, an Adult Motion Picture Theater, an Adult Video Store, and an Establishment which displays live nudity for its patrons.

For the purposes of this By-Law, the terms Adult Bookstore, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store and Establishment which displays live nudity are as defined in M.G.L. Chapter 40A, Section 9A.

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<sup>45</sup> Voted 5/2/2008; AG Approved 9/23/2008; Effective 5/2/2008  
Amended 10/7/2008; AG Approved 1/20/2009; Effective 10/7/2008  
Amended 6/24/2015; AG Approved 2/1/2016; Effective 6/24/2015

*Substantial or significant portion of its stock:* Greater than 10% of the subject establishments' inventory stock, or 10% of the subject premise's gross floor area, or 300 square feet, whichever is less.

(d) APPLICABILITY.

This Overlay District zoning applies to all Adult Entertainment Establishments, as defined in this section. Any existing Adult Entertainment Establishment located outside of the overlay district, as described in this Section, may continue to operate in the same location until the next expiration of their license/permit. Existing Adult Entertainment Establishments located within the overlay district, as defined in this Section, shall apply for a special permit within 90 days of the effect of this section.

(e) ESTABLISHMENT OF ADULT ENTERTAINMENT OVERLAY DISTRICT & RELATIONSHIP TO UNDERLYING DISTRICTS.

The Adult Entertainment Overlay District is described as follows: Lots number 41, 43, 47 and 49 Milford Street, as shown on the Assessors Tax Map, Town of Mendon, Map 9, revised January 2008. The Adult Entertainment Overlay District is established as a district that overlays the underlying districts, so that any parcel of land lying in an Adult Entertainment Overlay District shall also lie in one or more of the other zoning districts. All requirements of the underlying zoning districts remain in full force and effect, except as superseded by the specific overlay district regulations.

(f) SPECIAL PERMIT STANDARDS FOR ADULT USES

Adult entertainment enterprises may be allowed in the Overlay District only by Special Permit granted by the Board of Appeals. No Special Permit may be granted by the Board of Appeals for an Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater, or Adult Live Entertainment Establishment unless the following conditions and limitations are satisfied in addition to all other zoning conditions:

- (i) No Adult Entertainment Establishment shall be located less than 500 feet from a child care facility, park, playground, recreational areas, another Adult Use, or any establishment licensed under the provisions of M.G.L. Chapter 138, Section 12, nor less than 300 feet from any residential building. The distances shall be measured by a straight line from the closest exterior wall of the building or establishment premises on which the Adult Use is to be located to the nearest exterior wall of any residence building.
- (ii) A minimum 50 foot vegetated buffer containing adequate screening shall be provided between an adult entertainment establishment and other abutters of any designation, including public and private ways. Structures associated with the proposed use shall be located a minimum of 100 feet from any street line.

- (iii) No material depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G. L. Chapter 272, Section 31, shall be displayed in the windows of, or on the building of, any Adult Entertainment Establishment, or be visible to the public from the pedestrian sidewalks or walkways or from other areas outside such establishments.
- (iv) In addition to complying with any Mendon by-laws concerning signs, sign content shall identify the name of the establishment only and shall contain no advertisement in addition to the identification of the use. Only one identification sign to be mounted on the building wall face shall be allowed for an adult use, with maximum 16 square feet of sign area. All other signs, whether on the exterior of the building, or visible from the exterior of the building are prohibited.
- (v) No merchandise or services prohibited as obscene or indecent under any federal or Massachusetts law or regulation or found to be obscene by any superior or higher federal or state court shall be disseminated or available therein.
- (vi) Appearance of buildings for adult entertainment shall be consistent with the appearance of buildings in similar (but not specifically "adult") use in Mendon, not employing unusual color or building design, which would attract attention to the premises. All building openings, entries, and windows shall be screened in such a way as to prevent visual access of the public to the business area of the Adult Entertainment Establishment. A six (6) foot high solid fence or a landscaped buffer of evergreen trees or shrubs six (6) feet high at the time of planting shall be provided and maintained along the side and rear property lines.
- (vii) No more than one structure to be used for adult entertainment shall be located on any one lot.
- (viii) No Adult Entertainment special permit shall be issued to any person convicted of violating the provisions of M.G.L. Chapter 119, Section 63 or Chapter 272, Section 28.

(g) SPECIAL PERMIT SUBMISSIONS AND APPROVAL

In addition to any requirements as required by the Town of Mendon by-laws, zoning by-laws, building regulations or licensing requirements, Special Permit applications for approval in the overlay district shall contain the following information:

- (i) A site plan showing appropriate distances between the proposed or existing Adult Entertainment Establishment and any residential zoning district, public or private school, public park or recreation area, group day care center, family day-care center, or any other Adult Entertainment Establishment(s). The site plan shall also show locations and sizes of buildings, setbacks, signage, landscape design and buffers.
- (ii) In addition to the site plan requirements, all applicants for a Special Permit for Adult Entertainment shall submit the following additional information:

- (1) Name and address of all legal owners of the establishment and the property, as well as the manager of the proposed establishment.
  - (2) In the event a corporation, partnership, trust or other entity is listed, the names and addresses of all persons having a fee, equity and/or security interest, ownership interest and/or beneficial interest in such establishment must be listed. The applicant/owner must disclose if they have been convicted of violating the provisions of M.G.L. Chapter 119, Section 63 or Chapter 272, Section 28.
  - (3) The total number of employees, or proposed number of employees.
  - (4) Proposed security precautions.
  - (5) Full description of the intended nature of the business.
  - (6) In the case of live adult entertainment, submission and approval of the nature of the live entertainment, proximity of entertainers to patrons, behavioral restrictions, and security plans must be obtained.
- (iii) *Section iii has been deleted as it was disapproved by the Attorney General's Office on 2/1/16.*

(h) EXPIRATION OR LAPSE OF SPECIAL PERMIT:

- (i) A Special Permit issued under this section shall lapse upon any one of the following occurrences:
  - (1) There is a change in the location of the adult use.
  - (2) There is a sale, transfer or assignment of the business or the license.
  - (3) There is any change in legal or beneficial ownership or management of the applicant.
  - (4) Special permit granted under this section shall lapse within two years, and including such time required to pursue or await the determination of an appeal referred to in M.G.L. Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.
- (i) The following provisions apply to all Adult Entertainment Establishments located within the Town of Mendon:
  - (i) No Adult Entertainment or Use facility shall exceed 2,000 square feet in footprint in keeping with the historically rural atmosphere of the town and in consideration of traffic safety.
  - (ii) No Adult Entertainment or Use facility shall not exceed 14' in structural height. Basement areas shall not be accessed by patrons for any purpose and shall not be furnished for retail or entertainment purposes.

- (iii) Any pre-existing Adult Entertainment of Use facility exceeding 2,000 square feet must comply with clauses (i) and (ii) above, upon re-issuance of the annual adult entertainment license to operate in accordance with Section 5(G) of the Town of Mendon Regulations Governing Adult Entertainment Establishments Pursuant to M.G.L. Chapter 140, Section 183A. In order to comply, the pre-existing Adult Entertainment or Use facility shall either erect fully opaque interior partitioning walls to reduce the size of the Adult Entertainment or Use facility (including ancillary supporting areas such as storage, kitchens, restrooms, meeting rooms, office rooms, and dressing rooms) to an area measuring not to exceed 2,000 square feet or shall demolish any portion of the facility exceeding 2,000 square feet in area. In determining compliance, the Building Department of the Town of Mendon shall conduct an inspection of the premises to determine that the Adult Entertainment and Use area does not exceed 2,000 square feet prior to the re-issuance of the adult entertainment license.
- (iv) No Adult Entertainment or use facility shall open for business prior to 4:30pm in on days in which school is in session in order to provide an opportunity for all elementary school buses to finish student bus routes.

(j) SEVERABILITY

If any section or portion of this by-law is ruled invalid, such ruling shall not affect the validity of the remainder of the by-law, which provisions shall remain in full force and effect.

**Section 5.02 Affordable Housing Overlay District (deleted 4/10/12)<sup>46</sup>**

*This section has been deleted by Town Meeting vote (see footnote).*

COVERED IN SEPARATE WARRANT ARTICLE



<sup>46</sup> Added 5/7/2004; AG Approved 6/9/2004; Effective 5/7/2004  
Deleted 4/10/2012; AG Approved 8/6/2012; Effective 5/7/2004



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**Section 5.04 Large-Scale Ground-Mounted Solar Photovoltaic Facilities Overlay District (deleted 6/24/15)<sup>48</sup>**

*This section was deleted by Town Meeting vote (see footnote).*

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<sup>48</sup> Voted 6/6/2011; AG Approved 10/26/2011; Effective 6/6/2011  
Deleted 6/24/2015; AG Approved 2/1/2016; Effective 6/24/2015

**Section 5.05 Age Restricted Mixed Use Overlay District (ARMUD)<sup>49</sup>****(a) Purpose.**

The purpose of this Age Restricted Mixed Use Overlay District (ARMUD) By-Law is to promote mixed-use development in order to:

- (i) Increase the availability of “Over 55” housing to meet local needs;
- (ii) Promote walkable neighborhoods by taking advantage of compact design, fostering distinctive and attractive village settings, and encouraging vibrant public and publicly-oriented private Open Space that enhances the district by reinforcing pedestrian activity;
- (iii) Preserve critical environmental assets including clean air and drinking water, accessible groundwater, and thoughtful wetlands preservation;
- (iv) Provide additional planning flexibility regarding density and site design, while remaining consistent with the Mendon Design Guidelines where possible, as well as environmental and public health regulations;
- (v) Encourage a diverse mix of commercial, office, and residential uses for residents, workers, and visitors at an appropriate scale for the Town;
- (vi) Permit uses that promote expansion and conversion of existing buildings in a manner that maintains the prevailing development patterns, scale, architectural character, pedestrian orientation, and visual attributes of historic buildings and sites within the Town;
- (vii) Minimize functional conflicts between residential and non-residential uses within the district and with abutting districts;
- (viii) Permit the use of new development standards which will promote economic revitalization while preserving the character of the Town of Mendon; and
- (ix) Execute all of the above consistent with the Mendon Master Plan.

The Age Restricted Mixed Use Overlay District (ARMUD) shall not restrict an owner’s use and development of the property in accordance with the underlying zoning district. However, if an owner elects to use the ARMUD for mixed-use development, all such development must conform to the regulations set forth in this section, as well as any other relevant provisions of the Mendon Zoning By-Law.

**(b) Definitions.**

The following definitions shall be applicable to the terms used in this Section. Terms used herein that are Mendon Zoning By-Laws Revised: 5/3/24 52 not defined shall have those meanings ascribed to them in Section 1.02.

- (i) **Age Restricted Mixed Use Development:** A planned development of land consisting of multiple structures on a common lot constructed for business and retail uses for the general public as well as residency by persons who have

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<sup>49</sup> Section 5.05 ARMUD added at 5/5/2023 atm; AG Approved 7/19/23; Effective 5/5/23

achieved the minimum age requirement for residency of fifty-five (55) years or older, as permitted by M.G.L. Chapter 151B, Section 4, Subsection 6 (as amended), and 42 U.S.C. § 3601 et seq, which states that at least 80% of the dwelling units must be occupied by at least one person who is 55 or older. The development shall consist of any combination of residential and business/retail uses as set forth in the Table of Uses in the Mendon Zoning By-Law, Section 3.01, Table A.

- (ii) Dwelling Unit: a permanent building or structurally separated part thereof, such as a detached house or unit of an apartment building that has been built or altered and is intended for habitation by one household.
  - (iii) Low Impact Development: Development practices that protect water quality and preserve the natural hydrology of the land using a wide range of environmentally-friendly techniques. Examples include rain gardens, swales, shared driveways, driveways constructed of permeable paving, bio-retention, and alternative landscaping.
  - (iv) Mixed Use: A combination of residential and commercial uses, arranged vertically (in multiple stories of a structure) or horizontally (adjacent to one another in one or more buildings on a lot). Uses shall be limited to those allowed in the underlying zoning district and those uses allowed in the ARMUD.
  - (v) Multi-Family: A structure on one lot, containing separate dwelling units for three or more families, having separate or joint entrances, and including apartments, row houses, and condominiums.
  - (vi) Potentially Developable Area: Area of land outside of the Primary Conservation Area and Primary Habitat Area that may be used for building the Proposed Housing Site and the Proposed Commercial/Retail Site.
  - (vii) Primary Conservation Area: Areas such as wetlands, stream and riverfront areas, and flood plains regulated by state or federal law.
  - (viii) Priority Habitat Area: The geographic extent of Habitat for State-listed Endangered Species as delineated by the Massachusetts Division of Fisheries and Wildlife. If the proposed project falls in any area so designated, the applicant must file directly with the Natural Heritage and Endangered Species Program pursuant to 321 CMR 10.12.
  - (ix) Proposed Commercial/Retail Site: Area of land in the Mixed Use Development designated for commerce and retail purposes, as well as commercial amenities.
  - (x) Proposed Housing Site: Area of land in the Mixed Use Development designated for residential dwellings, yards, and residential amenities.
- (c) Applicability.
- The Age Restricted Mixed Use Overlay District (ARMUD) comprising the land as shown on the plan entitled "Town of Mendon Proposed Age Restricted Mixed Use Overlay

Districts," dated March 15, 2023, a copy of which is on file in the office of the Town Clerk.

[\[see Appendix B ARMUD Map\]](#)

(d) Allowed Uses.

If a particular proposed use is not listed in the Mendon Zoning By-Law Table of Uses, the Planning Board may allow such use if it meets the intent and the objectives of this ARMUD By-Law as set forth in Section 5.05(g).

[\[see Section 3.01 Table A: Table of Uses\]](#)

(e) Approval Process.

- (i) ARMUD Plan. Prior to the application for a building permit for a mixed-use project under the ARMUD, the applicant must file an ARMUD Plan Special Permit Application with the Planning Board for approval. This Special Permit shall be in lieu of Site Plan Review. The ARMUD Plan shall generally define the proposed character, uses, site layout, and public amenities of the proposed mixed-use project and include the Submittal Requirements as set forth in Section 5.05(f). The Planning Board shall determine whether the ARMUD Plan substantially conforms with the provisions of this By-Law. Where Special Permits, other than the ARMUD Plan Special Permit, are sought under this By-Law, such Special Permits may be applied for concurrently with, or at any time after, the application for the ARMUD Plan Special Permit. Any pending Special Permit applications shall be considered concurrently with the ARMUD Plan Special Permit application, where doing so would promote efficiency and timeliness.

(f) Submittal Requirements.

- (i) General Requirements. The applicant shall supply the Planning Board with eight (8) copies of the ARMUD Plan Special Permit Application, and all supporting documents and plans, as are necessary to provide to other local boards, agencies, and officials, as designated in the Planning Board's rules and regulations for the ARMUD, for their review and comment. An application shall also include a detailed statement describing the project and how the project meets the purposes of the ARMUD. An application shall also include an anticipated build-out schedule, including near-term, mid-term, and long-term phasing of the project. The ARMUD Plan shall consist of the following information:
  - (1) The existing and proposed topography of the land;
  - (2) The location of existing landscape features, including forests, farm fields, meadows, wetlands, riverfront areas, water bodies, archeological and historic structures or points of interest, rock outcrops, stone walls, cliffs, high points, major land views, major tree groupings, noteworthy

tree specimens, and habitats of endangered or threatened wildlife.

Proposals for all features to be preserved, demolished or altered shall be noted on the ARMUD Plan;

- (3) A coordinated landscape design for the entire project area including landscaping of structures, parking areas, driveways and walkways, and buffer strips;
  - (4) The existing and proposed lines of streets, ways, common driveways, easements and any parcel of land intended for public use or to be reserved by deed or covenant for use by all property owners in the ARMUD, or parcels of land to be used for any purpose, other than private residential, shall be so designated within the plan;
  - (5) Proposed roadway grades;
  - (6) Soil percolation tests for the purpose of siting wastewater treatment shall be required as determined by the Planning Board, Board of Health, and Conservation Commission;
  - (7) A stormwater drainage system narrative prepared by a Massachusetts Certified Professional Engineer describing likely impacts on site and abutting parcels of land. The Planning Board shall encourage the use of non-structural, Low Impact Development Stormwater Management Techniques where appropriate. Use of best management practices for Low Impact Development (LID) as defined by the Massachusetts Stormwater Handbook and included in the Mendon Zoning By-Laws are strongly encouraged. The narrative shall specify, for example, whether “traditional” stormwater management techniques or Low Impact Development techniques will be used, the number and location of stormwater management structures (e.g., detention/retention basins, infiltrating catch basins, water quality swales), specific pipe sizes, and any additional information in support of the project. The structures and techniques described in the narrative shall also be shown on the plan;
  - (8) A narrative explanation of the proposed quality, quantity, use, and ownership of any proposed common areas. If proposed, common area parcels shall be clearly shown on the plan;
  - (9) All proposed landscape and buffer areas should be noted on the plan and generally explained in a narrative;
  - (10) A rendering of the proposed development and its immediate surroundings.
- (ii) Additional Requirements. The Planning Board may also require a Development Impact Assessment which may include the following:
- (1) Traffic impact assessment. The assessment shall document existing traffic conditions in the vicinity of the proposed project, describe the volume and

effect of projected traffic generated by the proposed project and identify measures proposed to mitigate any adverse impacts on traffic. The assessment shall include at a minimum:

- (a) Existing traffic conditions; average daily and peak hour volumes, average and peak speeds, sight distance, accident data and levels of service (LOS) of intersections and streets likely to be affected by the proposed development. Generally, such data shall be presented for all streets and intersections adjacent to or within 1,000 feet of the project property boundaries.
  - (b) Projected impact of proposed development: project peak hour and daily traffic generated by the proposed project on roads and ways in the vicinity of the development; sight lines at the intersections, driveways and streets; existing and proposed traffic controls in the vicinity of the proposed development.
  - (c) The projected traffic flow pattern, including vehicular movements at all streets and intersections likely to be affected by the project.
  - (d) The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities.
  - (e) Traffic assessment data shall be no more than 2 years earlier than the Submission date unless, in the Planning Board's determination, an updated study is required due to substantial development in the area.
- (2) Environmental impact assessment. Describe the impacts of the proposed project with respect to on-site and off-site environmental quality. This assessment shall include at a minimum:
- (a) Description and evaluation of potential quality of air, surface water and groundwater adjacent to or directly affected by the proposed development; onsite or off-site flooding, erosion and/or sedimentation resulting from alterations to the project site, including grading changes and increases in impervious areas; on-site or off-site hazards, radiological emissions or other hazardous materials; adverse impacts on temperature and wind conditions on the site and adjacent properties; impacts on solar access of adjacent properties; and off-site noise or light impacts.
  - (b) Soil logs, percolation tests and storm runoff calculations.
  - (c) Evaluation of the adequacy of existing or proposed systems and services for water supply and disposal of liquid and solid wastes.
  - (d) Description of proposed measures for mitigation of any potential adverse impacts identified above.

- (3) Fiscal impact assessment. Describe the fiscal and economic impacts of the proposed project to the Town. This assessment shall include at a minimum:
  - (a) Projections of costs arising from increased demands on public services and infrastructure.
  - (b) Projections of the impacts from increased tax revenue, employment (construction and permanent), and value of the public infrastructure to be provided.
  - (c) Projections of the impacts of the proposed development on the values of adjoining properties.
  - (d) Five-year projections of Town revenues and costs resulting from the proposed development.
- (4) Community impact assessment. Describe the proposed project's consistency and compatibility with the surrounding neighborhood, the character of the Town, and existing local and regional plans. This assessment shall include at a minimum:
  - (a) Evaluation of the relation of the proposed new or altered structure to the surrounding community in terms of character and intensity of the use (e.g., scale, materials, colors, setbacks, roof and cornice lines and other major design elements); and the location and configuration of proposed structures, parking areas and open space with respect to neighboring properties.
  - (b) Identification of impacts on significant historical properties, and districts or areas of archaeological resources (if any) in the vicinity of the proposed development.
  - (c) Evaluation of the proposed project's compatibility with existing local and regional plans.
- (iii) Design Process. Applicants are required to demonstrate to the Planning Board that the following design process was performed by a multidisciplinary team of which one member must be a certified Landscape Architect:
  - (1) Identifying Conservation Areas: First, identify and delineate Primary Conservation Areas such as wetlands, stream and riverfront areas, and flood plains regulated by state or federal law. The Potentially Developable Area should consist of land outside of these identified Primary Conservation Areas. In the case of a Priority Habitat Area all necessary permits must be obtained prior to the issuance of a building permit.
  - (2) Locating Housing and Commercial/Retail Sites: From the Potentially Developable Area, (as defined in Section (b) Definitions) the applicant must delineate the approximate area of The Proposed Housing Site and The Proposed Commercial/Retail Site within the ARMUD site so as to

reflect an integrated community. The “Proposed Housing Site” and the “Proposed Commercial/Retail Site” shall be considered the developable area of which the commercial development area cannot be less than 20% or exceed more than 60% of said developable area.

- (3) **Aligning the Streets, Ways, and Trails:** Applicant must align streets/ways in order to access the house lots or dwelling units. New trails should be laid out to create internal and external connections to existing streets, ways, sidewalks, and trails. Wetland crossings on land officially designated in the latest edition of the Massachusetts Natural Heritage Atlas as Priority Habitat for Rare Species and Estimated Habitat for Rare Wildlife and streets traversing existing slopes over fifteen percent (15%) shall be strongly discouraged.
- (iv) **Design Standards.** The following generic and site-specific design standards shall apply to all ARMUD Plans for the ARMUD and shall govern the development and design process. Each applicant under the ARMUD is strongly encouraged to utilize the Mendon “Design Guidelines Handbook” as adopted by the Mendon Planning Board under their Rules and Regulations. In addition, the following guidelines and regulations shall be adhered to where applicable:
- (1) **Dimensional Requirements.**
- (a) **Minimum Tract Area:** The minimum tract area shall consist of ten (10) contiguous acres. All individual / separate lots in the proposed ARMUD development, if under contiguous ownership or control, shall be considered as one lot for the purposes of this By-Law.
- (b) **Affordable Units:** Ten percent (10%) of the total number of dwelling units shall meet the State’s affordable housing requirements including the Department of Housing and Community Development guidelines for Local Initiative Program (LIP) / Local Action Units (LAU), for low to moderate income. These affordable dwelling units shall be marketed through, and homebuyers or renters selected by, a housing organization approved by the Planning Board with resale restrictions to assure continued affordability in perpetuity. Such restrictions shall be made known to the homebuyer or renter prior to the purchase / occupancy of dwelling units. Dwelling units reserved for occupancy by persons or families of low to moderate income, or for occupancy by a single individual, shall not be segregated from market rate or larger dwelling units within the development.
- (c) **Residential Density:** The maximum number of residential dwelling units shall be limited to 3 units per acre of the designated “Proposed Housing Site.”

- (d) Frontage: The minimum frontage shall be a minimum of 100 feet on a road with an underlying zoning district of either Highway Business (HB) or General Business (GB).
  - (e) Height: No structure (residential or commercial) may exceed 35 feet.
  - (f) Access/Egress: Access/Egress must be located through the commercial portion of the development, and cannot be through a secondary road or rural residential road.
- (2) Parking.
- (a) A minimum of 1.5 spaces per dwelling unit shall be provided.
  - (b) A minimum of 1 space of visitor parking per three (3) dwelling units shall be required.
  - (c) No parking spaces or parking areas shall be located within the required minimum front, side or rear yard setback requirements for principal structures from property lines.
  - (d) No parking areas, parking lots or access drives shall be located within the minimum separation area between dedicated residential structures.
  - (e) All parking lots shall be screened from abutting properties and streets through the use of landscaped berms and evergreen shrubs and trees a minimum of four feet in height and five feet in width, unless, in the judgment of the Planning Board, the same is either impossible or reasonably cost-prohibitive.
  - (f) Parking for retail, professional office and business services uses shall be in accordance with Section 2.03 Off-Street Parking/Loading of the Mendon Zoning By-Law.
  - (g) For any and all uses or structures not specifically provided for in the foregoing provisions, the parking design shall provide such parking spaces as the Planning Board shall determine to be necessary, considering the activities involved, to provide a maximum of safety and a minimum of congestion on the adjacent roadways.
- (3) Lighting. The lighting design should accommodate public safety and welfare, and protect the night sky from unnecessary ambient light. Any lighting plan submitted under this by-law shall, comply with Section 4.02 (j) ii of the Mendon Zoning By-Laws and must be:
- (a) integrated into the architectural style of the development designed to improve visibility, safety, and a sense of security while minimizing energy use, operating costs, glare, and light pollution;

- (b) appropriately shielded and designed to minimize misdirected or excessive artificial light and glare from creating a nuisance to abutting properties and street;
  - (c) designed so building areas shall not be floodlit; and
  - (d) designed so access drives, parking areas, walkways and other public areas shall be illuminated only by properly positioned, high-efficiency, “full cutoff shielded” lighting fixtures not higher than fifteen (15) feet in height.
- (4) Landscaping.
- (a) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Topography, tree cover, surface water buffers, and natural drainage ways shall, insofar as practicable, be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a development scheme.
  - (b) Wherever possible, existing trees and vegetative cover shall be conserved and integrated into the landscape design.
  - (c) Any grade changes shall be in keeping with the general appearance of the neighboring developed areas.
  - (d) The orientation of individual building sites shall be such as to maintain maximum natural topography and cover.
  - (e) Landscaped screening and buffering should create visual barriers between features of the mixed-use project from public streets and abutting properties. Such features shall include, but are not limited to, dumpsters and trash handling areas, mechanical equipment at ground level or rooftop, service entrances, and utility facilities for building operation, loading docks and spaces, above-ground backflow preventers, and other components of the mixed-use project as may be reasonably determined by the Planning Board to require screening and buffering. Landscaped or naturalized buffers along parcel property lines shall consist of the retention of natural vegetation supplemented with the planting of evergreen trees and shrubs. Additional buffering may be required in sensitive areas at the discretion of the Planning Board. The Planning Board may modify or waive the buffering requirement where variations in topography, natural features and vegetation, or compatible land uses obviate the need for such a buffer.
  - (f) Proper maintenance of the landscaping, including the buffer strip, shall be the responsibility of the owner, and shall be a condition of conformance with the Zoning By-Laws.

- (g) Streets/Ways shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
  - (h) Designs shall include Low Impact Development techniques when feasible.
- (5) Signage. All proposed signage within the ARMUD should comply with Section 2.06 of the Mendon Zoning By-Laws and should also include the following:
- (a) The Planning Board may permit a sign to be permanently affixed at each entrance to the development which:
    - (i) displays the project name;
    - (ii) displays the project's street number sufficient for identification by emergency services;
    - (iii) is designed to be compatible with the character of the development and the surrounding neighborhood;
    - (iv) shall not exceed twenty-four (24) square feet in size (for each sign);
    - (v) shall not be more than five (5) feet in height; and
    - (vi) may be illuminated with projected lighting, but shall not be backlit or internally illuminated.
  - (b) The Planning Board may permit the naming of individual access drives. If so permitted, all access drives shall be posted with standard street signs and all drive names shall be approved by the Planning Board.
  - (c) All access drives shall be posted with a standard street sign stating that this is a private drive.
  - (d) All residential and commercial units must display street numbers.
- (6) Historic Preservation. The removal or disruption of historic, traditional or significant uses, structures or architectural elements shall be minimized insofar as practicable on site. The applicant must take measures to appropriately buffer all development from any existing Historic District, Historical Structure or scenic road as approved by the Town of Mendon.
- (g) Planning Board Waivers. The Planning Board may waive any of the submittal requirements in order to achieve the purpose and intent of this By-Law. Additionally, the Planning Board may grant waivers from the design or dimensional requirements of the ARMUD By-Law upon finding that the applicant has shown good cause for requesting such waiver, that the request is minor in nature, is not structurally significant, and that granting such waiver(s) will not derogate from the intent of this By-Law or be

detrimental or injurious to the public health, safety, and welfare concerns that the regulations are intended to protect. Such waivers shall require a majority vote from the Planning Board. Under no circumstances will the Planning Board waive the minimum lot size, the minimum and maximum commercial percentages, or any design or dimensional requirement that has a direct impact on abutters.

(h) ARMUD Plan Modifications.

- (i) Any application for revisions or amendments to the ARMUD Plan Special Permit shall be submitted in writing to the Planning Board, which shall determine and notify the applicant in writing whether such revisions or amendments are minor or major.
- (ii) If the Planning Board does not notify the applicant in writing within 30 days after such submittal that such revisions or amendments are major, the revisions or amendments shall be deemed minor.
- (iii) Revisions or amendments proposing only changes that (i) do not significantly affect major exterior elements; (ii) do not significantly impact the public interest, as determined by the Planning Board in writing; and (iii) are consistent with the purposes of this Zoning By-Law, shall be considered minor.
- (iv) Revisions or amendments to the ARMUD Plan Special Permit may be made by the Planning Board in accordance with the same procedures as are applicable hereunder to the initial approval of the ARMUD Plan Special Permit, except that the submittal materials, together with an explanatory statement, shall be limited to those affected by the proposed revisions or amendments; and in the case of revisions or amendments that are minor, a public hearing in accordance with the provisions of MGL Chapter 40A need not be held, and the final decision deadline shall be forty-five (45) days from the date of the complete application submittal.
- (v) Where Special Permits issued under this By-Law allow modifications to project elements from those previously approved in the ARMUD Plan Special Permit, such Special Permits shall constitute revisions or amendments of the ARMUD Plan Special Permit to the extent of such allowed modified project elements, without the need for a separate application and approval of such modifications as revisions or amendments to the ARMUD Plan Special Permit.

(i) Enforcement.

- (i) It shall be the duty of the Building Inspector to enforce the conditions of the approved plan. However, the Planning Board may require, as a condition of approval, that its consulting engineer oversee construction of certain aspects of the development to ensure compliance with the approved plan and decision.
- (ii) Any approval issued under this section shall lapse within three (3) years if a substantial use or construction thereof has not commenced and continued through

to completion expeditiously, except for good cause; provided, however, that the Planning Board in its discretion and upon written application by the applicant of such rights may extend the time for an additional period not to exceed three (3) years; and provided, further, that the application for such extension is filed with the Planning Board at least ninety (90) days prior to the expiration of the initial three (3) year period. If the permit granting authority does not grant such extension within thirty (30) days of the date of application therefor, and upon the expiration of the initial three (3) year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section. The time required to pursue and await determination of a judicial appeal pursuant to M.G.L. c. 40A shall not be included within the initial three (3) year time limit.

- (iii) Planning Board Rules and Regulations. The Planning Board may periodically adopt and from time to time amend the Planning Board Rules and Regulations to include reasonable rules and regulations for the administration of the ARMUD. The Planning Board may also adopt reasonable administrative fees and technical review fees for the ARMUD.

(j) Severability.

If any section or portion of this By-Law is ruled invalid, such ruling shall not affect the validity of the remainder of the By-Law, which provisions shall remain in full force and effect. If any provision of this By-Law is held invalid by a court of competent jurisdiction, the remainder of the By-Law shall not be affected thereby. The invalidity of any section or sections or parts of this By-Law shall not affect the validity of the remainder of the Town's Zoning By-Law.

### **Section 5.06 Groundwater Protection District<sup>50</sup>**

(a) Purpose.

The purpose of this Groundwater Protection District is to:

- (i) promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the Town of Mendon;
- (ii) preserve and protect existing and potential sources of drinking water;
- (iii) conserve natural resources in the Town of Mendon; and
- (iv) prevent temporary and permanent contamination of the environment.

(b) Scope of Authority.

The Groundwater Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities and uses

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<sup>50</sup> Voted 5/3/2024; AG Approved 8/23/2024; Effective 5/3/2024

in a portion of one of the underlying zoning districts that fall within the Groundwater Protection District must additionally comply with the requirements of this by-law. Uses prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District.

(c) Definitions.

- (i) Automobile Graveyard: An establishment that is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or motor vehicle parts as defined in MGL c.140B, s.1.
- (ii) Aquifer: A geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.
- (iii) CMR: Code of Massachusetts Regulations.
- (iv) Commercial Fertilizer: Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use, or claimed to have value in promoting plant growth, except un-manipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and gypsum, and other products exempted by state regulations.
- (v) Discharge: The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, pouring, or placing of toxic or hazardous material or hazardous waste upon or into any land or water such that it may enter the surface or ground waters.
- (vi) Dry Well: A subsurface pit with open-jointed lining or holes through which storm-water drainage from roofs, basement floors, foundations or other areas seep into the surrounding soil.
- (vii) Groundwater Protection District: The land area consisting of aquifers and Zone II recharge areas as identified on a map and adopted pursuant to this by-law.
- (viii) Hazardous Material: Any substance in any form which because of its quantity, concentration, or its chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with one or more substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. Hazardous material includes, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as toxic or hazardous under MGL c. 21E. This term shall not include hazardous waste or oil.
- (ix) Historical High Groundwater Table Elevation: A groundwater elevation determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey.
- (x) Hazardous Waste: A substance or combination of substances, which because of quantity, concentration, or physical, chemical or infectious characteristics may

cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety, or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. This term shall include all substances identified as hazardous pursuant to the Hazardous Waste Regulations, 310 CMR 30.000.

- (xi) Impervious Surface: Material or structure on, above, or below the ground that does not allow precipitation or surface water runoff to penetrate into the soil.
- (xii) Interim Wellhead Protection Area (IWPA): The MassDEP designated protection radius around a public water well that lacks a Zone II.
- (xiii) Junkyard: An establishment that is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, as defined in MGL c.140B, s.1.
- (xiv) Landfill: A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to the Solid Waste Regulations, 310 CMR 19.006.
- (xv) MassDEP: Massachusetts Department of Environmental Protection.
- (xvi) MGL: Massachusetts General Law.
- (xvii) Petroleum Product: Includes, but not limited to, fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane.
- (xviii) Non-Sanitary Wastewater: Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage including, but not limited to, activities specified in 310 CMR 15.004(6).
- (xix) Open Dump: A facility operated or maintained in violation of the Resource Conservation and Recovery Act 42 U.S.C. 4004(a)(b), or state regulations and criteria for solid waste disposal.
- (xx) Recharge Areas: Land areas, such as a Zone II or Interim Wellhead Protection Area, where precipitation and surface water infiltrates into the ground to replenish groundwater and aquifers used for public drinking water supplies.
- (xxi) Septage: The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. This term shall not include any material that is a hazardous waste, as defined by 310 CMR 30.000.
- (xxii) Sludge: The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment including wastewater residuals. This term shall not include grit, screening, or grease and oil which are removed at the head-works of a facility

- (xxiii) Treatment Works: Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.
  - (xxiv) Utility Works: Regulated activities providing for public services, including roads, water, sewer, electricity, gas, telephone, transportation and their associated maintenance activities. This term shall include the installation of detention and retention basins for the purpose of controlling stormwater.
  - (xxv) Very Small Quantity Generator: Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.
  - (xxvi) Waste Oil Retention Facility: A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with MGL c.21. s.52A.
  - (xxvii) Zone II: The delineated recharge area to a public drinking water well as approved by MassDEP and defined under the Massachusetts Drinking Water Regulations 310 CMR 22.00.
- (d) Establishment and Delineation of Groundwater Protection District.
- For the purposes of this by-law, there are hereby established within the Town of Mendon certain groundwater protection areas consisting of aquifers or recharge areas. These areas are delineated on a map entitled Groundwater Protection District, dated May 2024 (*adopted at 5/3/24 ATM*) **Appendix C** which is hereby made part of the Groundwater Protection District Bylaw and is on file in the office of the Town Clerk.
- (e) District Boundary Disputes.
- (i) If the location of the Groundwater Protection District in relation to a particular parcel is in doubt, resolution of the boundary dispute shall be through a Special Permit application to the Special Permit Granting Authority. Any application for a special permit for this purpose shall be accompanied by adequate documentation.
  - (ii) Burden of proof shall be upon the land owner to demonstrate that the location of the Groundwater Protection District with respect to a particular parcel(s) of land is uncertain. At the request of the land owner, the Town may engage a professional engineer, hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the Groundwater Protection District with respect to a particular parcel(s) of land, and may charge the owner for the cost of the investigation. Changes to the Groundwater Protection District require town meeting approval.

- (iii) Where the boundary line of the Groundwater Protection District divides a lot or parcel, the requirements established by this bylaw shall apply to the entire lot or parcel.

(f) Permitted Uses.

- (i) The following uses are permitted within the Groundwater Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:
  - (1) conservation of soil, water, plants, and wildlife;
  - (2) outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
  - (3) foot, bicycle and/or horse paths, and bridges;
  - (4) normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
  - (5) maintenance, repair, and enlargement of any existing structure, subject to Section G and Section H of this by-law;
  - (6) residential development, subject to Sections G and H of this by-law;
  - (7) farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Section G and Section H of this by-law;
  - (8) construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels; and
  - (9) any use permitted in the underlying zoning except for those uses specifically prohibited in Sections G and H of this bylaw.

(g) Prohibited Uses.

- (i) The following land uses and activities are prohibited unless designed in accordance with the specified performance standards:
  - (1) landfills and open dumps;
  - (2) automobile graveyards and junkyards;
  - (3) landfills receiving only wastewater residuals and/or septage, including those approved by MassDEP pursuant to MGL c. 21 s.26 through s.53, MGL c.111 s.17, and MGL c.83 s.6 and s.7;
  - (4) facilities that generate, treat, store, or dispose of hazardous waste that are subject to MGL c.21C and 310CMR 30.000, except for:
    - (a) very small quantity generators as defined under 310 CMR 30.000;
    - (b) household hazardous waste centers and events under 310 CMR 30.390;
    - (c) waste oil retention facilities required by MGL c. 21, s.52A;

- (d) water remediation treatment works approved by MassDEP for the treatment of contaminated waters.
- (5) petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under North American Industry Classification System (NAICS) Codes 424710 and 454311, except for liquefied petroleum gas.
- (6) storage of liquid hazardous materials and/or liquid petroleum products unless such storage is above ground level and on an impervious surface and either:
  - (a) in container(s) or above ground tank(s) within a building; or
  - (b) outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either; 10% of the total possible storage capacity of all containers or 110% of the largest container's storage capacity, whichever is greater.

however, these storage requirements shall not apply to the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline provided the replacement is performed in a manner consistent with state and local requirements;

- (7) storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
- (8) storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- (9) storage of animal manure unless contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- (10) storage of commercial fertilizers unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- (11) stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside the Groundwater Protection District;
- (12) earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within 4 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, utility works or wetland restoration work conducted in accordance with a valid Order of Condition issued pursuant to MGL c. 131, s.40; and

- (13) treatment or disposal works subject to 314 CMR 5.00, for non-sanitary wastewater, including those activities listed under 310 CMR 15.004(6), except for:
  - (a) treatment works approved by MassDEP designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and
  - (b) publicly owned treatment works.
  
- (h) Uses and Activities Requiring a Special Permit.
  - (i) The following uses and activities are permitted only upon the issuance of a Special Permit by the Special Permit Granting Authority (SPGA) under such conditions as they may require:
    - (1) Enlargement or alteration of existing uses that do not conform to the Groundwater Protection District;
    - (2) except as prohibited under Section G of this by-law, activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use and which are permitted in the underlying zoning district;
    - (3) rendering impervious any lot or parcel more than 15% or 2,500 square feet, whichever is greater; unless artificial recharge, that will not degrade water quality, is provided using methods demonstrated to be capable of removing contaminants from storm water and which are consistent with methods described in MassDEP's Stormwater Handbook, Vol. I, II and III, as amended.
  
- (i) Procedures for Issuance of a Special Permit.
  - (i) The Special Permit Granting Authority (SPGA) under this by-law shall be the Mendon Planning Board. A special permit shall be granted if the SPGA determines, in conjunction with the Select Board, Highway Department, Building Department, Police and Fire Departments, the Town Engineer, Board of Health, and such other departments, agencies, committees, boards, and town officials (collectively "Town Officials") as the Planning Board may determine necessary, that the intent of this bylaw, as well as its specific criteria, is met. The SPGA shall not grant a special permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other municipal boards, departments or commissions in its decision.

- (ii) Upon receipt of the special permit application, the SPGA shall transmit one copy to the Town Officials.
- (iii) Failure to respond in writing within 35 days of receipt shall indicate approval, or no desire to comment. The necessary number of copies of the application shall be furnished by the applicant.
- (iv) The SPGA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section G of this by-law, and any regulations or guidelines adopted by the SPGA. The proposed use must:
  - (1) in no way, during construction or thereafter, adversely affect the quality or quantity of the water supplies protected by the Groundwater Protection District; and
  - (2) be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.
- (v) The SPGA may adopt controls to govern design features of projects. Such controls shall be consistent with the Town's subdivision regulations.
- (vi) The applicant shall file eight (8) copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the SPGA and be stamped by a professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:
  - (1) a complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use; and
  - (2) for activities using or storing hazardous materials or wastes, a management plan shall be prepared and filed with the Fire Chief and Board of Health. The plan will be consistent with the requirements of Section G and shall include:
    - (a) provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
    - (b) provisions for indoor, secured storage of hazardous materials or wastes with impervious floor surfaces;
    - (c) evidence of compliance with the Massachusetts Hazardous Waste Regulations 310 CMR 30.000; and
    - (d) proposed down-gradient location(s) for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.

(3) The SPGA shall hold a hearing, in conformity with the provision of MGL c.40A s. 9, within 65 days after the filing of the application. Notice of the public hearing shall be given by publication and posting and by first-class mailings to "parties of interest" as defined in MGL c.40A s.11. The decision of the SPGA and any extension, modification, or renewal thereof shall be filed with the SPGA and Town Clerk within 90 days following the closing of the public hearing. Failure of the SPGA to act within 90 days shall be deemed as a granting of the permit.

(j) Enforcement.

- (i) Written notice of any violations of this bylaw shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance.
- (ii) A copy of such notice shall be submitted to the Town Officials. The cost of containment, clean-up, or other action of compliance shall be borne by the owner/operator of the premises.

(k) Severability.

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of this bylaw.

## ARTICLE VI. SPECIAL PROVISIONS

### Section 6.01 Motor Vehicle Service Station<sup>51</sup>

- (a) Purpose.
  - (i) To provide for public safety;
  - (ii) To mitigate adverse effects on surrounding properties, including the visual impact; and
  - (iii) To protect the environment.
  
- (b) Definitions: The following definitions shall be applicable to the terms used in this Section. Terms used herein that are not defined shall have those meanings ascribed to them in Section 1.02.
  - (i) Motor Vehicle Service Station: Premises or any portion thereof devoted to retail sales and on-premises dispensing of fuels, oils and lubricants.
  - (ii) Gas Pump: A pump in a service station that draws gasoline from storage tanks. A gas pump may service up to two vehicles, one on each side of the pump.
  - (iii) Canopy: The structure covering the pump islands.
  - (iv) Convenience Store: A retail store used accessory to the Motor Vehicle Service Station that primarily sells staple groceries and snacks and may include other items of necessity and convenience.
  
- (c) All Motor Vehicle Service Stations shall require a Special Permit issued in accordance with Section 1.06 and shall be subject to Site Plan Review in accordance with Section 4.02. No Special Permit shall be granted by the Planning Board unless all of the following conditions are also met:
  - (i) There shall be no more than four (4) Gas Pumps.
  
- (d) The following shall apply to any proposed Canopies:
  - (i) The aggregate size of the canopies shall not be more than 2,200 square feet.
  - (ii) No Canopy shall exceed 60 feet in length unless a greater length is authorized by the planning board.
  - (iii) Striping, neon, and illuminated panels are not permitted on buildings or on any Canopy.
  
- (e) The design elements of the building and Canopy shall be aesthetically compatible and shall incorporate New England style architectural design.

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<sup>51</sup> Voted 4/10/2012; AG Approved 7/30/2012; Effective 4/10/2012

- (f) No building or structure shall be located closer than fifty (50) feet to any residentially zoned lot or any lot used for residential purposes.
- (g) No Motor Vehicle Service Station shall be allowed in a Residential District
- (h) Motor vehicle service stations meeting requirements of Article VI, Special Provisions, Section 6.01 entitled, Motor Vehicle Service Stations, shall be exempt from CHAPTER XI, Section 9 of the town of Mendon General Bylaws.

### **Section 6.02 Solar Photovoltaic Facilities<sup>52</sup>**

- (a) Purpose. The purpose of this By-Law is to promote solar photovoltaic facilities in a manner that protects public health, safety, and welfare, and consistent with this purpose, minimizes their impacts on the character of surrounding neighborhoods, property values, and on the scenic, natural, and historic resources of the Town, by providing standards for the design, construction, operation, monitoring, alteration, modification, maintenance, repair, and removal of such facilities. This By-Law also provides adequate financial assurance for the eventual decommissioning of such facilities.
- (b) Definitions.
  - (i) As-Of-Right: As-Of-Right shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval, provided, however, that such development may be subject to site plan review. As-Of-Right developments shall be subject to and in compliance with all applicable local, state, and federal statutes, rules, regulations, bylaws and requirements.
  - (ii) Designated Location: The following location shall be referred to as a Designated Location:
    - Lot 4, an area of 31.87 acres with frontage of 969.19 feet on Milford Street on a plan entitled “Plan of Property Owned by the Town of Mendon, Milford Street and North Avenue, Mendon Massachusetts,” made by Cullinan Engineering, dated October 18, 2006.
  - (iii) Ground-mounted Solar Photovoltaic Facility: Ground-mounted SPF shall mean any SPF that is structurally mounted on the ground or, with Planning Board approval, on a structure(s) that is used for an alternate purpose.
  - (iv) Large-Scale Ground-Mounted Solar Photovoltaic Facility (“LSGM SPF”): A solar photovoltaic facility that has a Rated Nameplate Capacity of 250 kW DC or more.

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<sup>52</sup> Voted 6/24/2015; AG Approved 1/15/2016; Effective 6/24/2015

- (v) **Rated Nameplate Capacity:** The maximum rated output of electric power production of the photovoltaic system in direct current (DC). Such capacity shall mean and include the aggregate capacity of all SPF's located on any lot.
- (vi) **Roof-mounted SPF:** Roof-mounted SPF shall mean any SPF affixed to the roof of a building.
- (vii) **Solar Photovoltaic Facility ("SPF"):** Shall mean and include all devices, equipment, structures, and structural design features, used for, as part of, or in connection with, the collection, storage, generation, and/or distribution of solar energy, and all appurtenant facilities, structures and equipment thereto.
- (viii) **Solar Photovoltaic Facility Footprint ("SPF Footprint"):** The entire ground-surface area covered by the Solar Photovoltaic Facility.
- (ix) **Solar Photovoltaic Facility, Non-Residential Accessory ("Non-Residential Accessory SPF"):** A Non-Residential Accessory SPF is an SPF that is:
  - (1) incidental and subordinate to a non-residential use located on the same lot,
  - (2) constructed and used solely to serve the electrical load of such use located on the same lot,
  - (3) sized no greater than what is required to serve such on-site load, as evidenced by the past three year electrical load consumption by the use; and
  - (4) roof-mounted or ground mounted having an SPF Footprint of less than 10,000 s.f..

Provided all of the above requirements are met, arrangements where the electricity generated is sold or net-metered may still fall within the definition of a Non-Residential Accessory SPF provided that such arrangement directly and primarily benefits the on-site use by a reduction in the cost of on-site electrical consumption.

- (x) **Solar Photovoltaic Facility, Residential Accessory ("Residential Accessory SPF"):** A Residential Accessory SPF is an SPF that is
  - (1) incidental and subordinate to the residential use of the lot,
  - (2) constructed and used solely to serve the electrical load of residential dwelling(s) located on the same lot, and
  - (3) sized no greater than what is required to serve such on-site load, and in all cases less than or equal to a total Rated Nameplate Capacity of 10kW.

Provided all of the above requirements are met, arrangements where the electricity generated is sold or net-metered may still fall within the definition of a Residential Accessory SPF provided that such arrangement directly and primarily benefits the on-site use by a reduction in the cost of on-site electrical consumption.

- (c) **Applicability.** This Section 6.02 applies to all Solar Photovoltaic Facilities proposed to be constructed or modified (in size, configuration, or any other material way) after the effective date of this By-Law.
- (d) **Compliance with Applicable Laws and Regulations.** The construction, operation, use, maintenance, repair, modification and removal of all SPF's shall be subject to and comply with all applicable local, state, and federal statutes, rules, regulations, bylaws and requirements, including, without limitation, all Town of Mendon General and Zoning By-Laws, including those concerning design criteria, the bulk and height of buildings and structures, lot area, setbacks, open space, parking and building coverage requirements as applicable, whether or not specifically stated in, and in addition to, this Section 6.02.
- (e) **Use Regulations:**  
Solar Photovoltaic Facilities may only be constructed or modified (in size, configuration, or any other material way) upon the issuance of the following required permits and approvals:
- (i) All SPF's shall either be roof-mounted or ground-mounted. No SPF shall be constructed without a building permit. Except for off-grid systems, no building or other permit or approval for an SPF shall be issued unless the applicant has provided satisfactory evidence that the utility company has been informed of the owner or operator's intent to install the SPF and that the utility company has agreed to interconnect the SPF to the electric power grid.
  - (ii) All SPF's, except for roof-mounted Accessory (Residential and Non-Residential) SPF's, shall require site plan review and approval.
  - (iii) The following SPF's shall be permitted As-Of-Right provided they meet the requirements of this Section 6.02:
    - (1) Residential Accessory SPF's in all districts;
    - (2) Non-Residential Accessory SPF's in all districts; and
    - (3) any SPF having a total Rated Nameplate Capacity of less than 1250 kW in the Designated Location.
  - (iv) All other SPF's may be permitted upon the issuance of a Special Permit from the Planning Board subject to the conditions and limitations herein.
- The permits and approvals required shall be determined based on the aggregate Rated Nameplate Capacity of all SPF's authorized or proposed to be located on any lot.
- (f) **Accessory Solar Photovoltaic Facilities.** Accessory Solar Photovoltaic Facilities, Residential and Non-Residential, shall be subject to the following restrictions:

- (i) Roof-mounted Residential and Non-Residential Accessory SPF's may not protrude higher than the highest point of the roofline. The Planning Board may, by special permit, authorize a protrusion of up to six (6) feet upon a finding by the Board that the waiver is in the public interest and is consistent with the purpose and intent of the Town of Mendon Zoning By-laws. No waiver shall be granted if the height of the structure measured to the highest point of the SPF will exceed thirty-five (35) feet.
  - (ii) Ground-mounted Residential and Non-Residential Accessory SPF's may not exceed a height of twenty feet (20') and shall have front, side, and rear yard setbacks of at least fifty (50) feet.
  - (iii) The SPF Footprint of a ground-mounted Non-Residential Accessory SPF, including any accessory buildings and structures, shall not exceed thirty percent (30%) of the lot area. The SPF Footprint shall be included in any calculation of the maximum building coverage (%) requirement (if applicable) set forth in Article II, Section 2.01, Table 1 of the Town of Mendon Zoning By-Laws.
  - (iv) The SPF Footprint of a ground-mounted Residential Accessory SPF shall not exceed 1,750 square feet.
- (g) Solar Photovoltaic Facilities. All Solar Photovoltaic Facilities, except for Residential and Non-Residential Accessory Solar Photovoltaic Facilities, shall be subject to the following requirements:
- (i) Design and Dimensional Requirements. Except as otherwise specifically set forth herein, SPF's, including all accessory structures and buildings, shall be subject to the dimensional regulations set forth in Section 2.01 of the Town of Mendon Zoning Bylaw.
    - (1) Height. No ground-mounted SPF shall exceed 20 feet in height. Roof-mounted SPF's may not protrude higher than the highest point of the roofline. The Planning Board may, by special permit, authorize a protrusion of up to six (6) feet upon a finding by the Planning Board that the waiver is in the public interest and is consistent with the purpose and intent of the Town of Mendon Zoning By-Laws. No waiver shall be granted if the height of the structure measured to the highest point of the SPF will exceed thirty-five (35) feet.
    - (2) Lot Size. The minimum lot size required for an ground mounted SPF in any residential district shall be five (5) acres; the minimum lot size required for an ground mounted SPF in any nonresidential district shall be three (3) acres. No more than one (1) SPF shall be permitted on any lot.

- (3) Setbacks. All ground-mounted SPFs, including any accessory buildings and structures, shall have minimum front, side, and rear yard setbacks of at least fifty (50) feet.
- (4) Maximum % Lot Coverage. The SPF Footprint of a ground-mounted SPF, including any accessory buildings and structures, shall not exceed thirty percent (30%) of the lot. The SPF Footprint shall be included in any calculation of the maximum building coverage % requirement (if applicable) set forth in Article II, Section 2.01, Table 1 of the Town of Mendon Zoning By-laws.
- (5) Maximum Lot Coverage. No SPF Footprint of a ground-mounted SPF shall exceed twenty (20) acres. For the purposes of determining compliance with this provision, the SPF Footprint of SPFs located on contiguous lots held in common ownership shall be included in the determination of area.
- (6) Commercial uses are generally discouraged in the residential districts. In lieu of prohibiting such uses all together, the following restrictions shall apply:
  - (a) no non-accessory SPF shall be shall be permitted on any parcel of land located within a residential subdivision approved in accordance with the Subdivision Control Laws by the Planning Board; and
  - (b) no Large Scale Ground Mounted Solar Photovoltaic Facility, shall be located within one (1) radius mile of another LSGM SPF in the Residential Rural District .
- (7) Lighting. Lighting shall be limited to that required for safety and operational purposes.
- (8) Signage. A sign shall be required to identify the owner and operator of the SPF and provide a 24-hour emergency contact phone number.

Where an SPF is located in a residential district or abuts residential uses, there must be increased consideration for mitigating impacts to the residential use. For example, the Planning Board may require items such as, but not limited to, increased setbacks, visual screening or sound buffering as part of site plan review. Additional screening or other public safety measures may also be considered to mitigate sun glare to abutting properties or roadways.

- (ii) Operation & Maintenance. The owner or operator shall maintain the SPF in good condition and repair at all times. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Mendon Police and Fire Chiefs.
- (iii) Emergency Services. The SPF owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon

request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the SPF shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the SPF.

- (iv) **Liability Insurance.** Proof of liability insurance in an amount and form acceptable to the Planning Board shall be maintained until the SPF has been removed in accordance with Section 6.02 (k) below. Proof of liability insurance in the form and amount approved by the Planning Board shall be provided to the Building Inspector prior to the operation of the SPF and thereafter on an annual basis.
  - (v) **Financial Surety.** Applicants proposing SPFs shall provide a form of financial surety satisfactory to the Planning Board to cover the cost of removal in the event the Town must remove the facility and restore the landscape. This surety shall be in an amount determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal (including, without limitation, the work specified under section (k) below) and compliance with the additional requirements set forth herein, as determined by satisfactory evidence submitted by the applicant. Such surety may be waived by the Planning Board for municipal or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.
- (h) **Site Plan Review.** Site Plan Review shall be subject to and in accordance with Section 4.02 of the Town of Mendon Zoning By-laws. In addition to the requirements of Section 4.02, the following materials must also be included in any site plan review application for SPFs:
- (i) Detailed layout of the proposed SPF, including but not limited to panel mounts, foundations, appurtenant equipment and fencing.
  - (ii) Detailed layout of the electric infrastructure to connect the SPF to the electric grid.
  - (iii) Blueprints or drawings of the SPF showing the proposed layout of the system and any potential shading from nearby structures.
  - (iv) One (1) or three (3) line electrical diagram detailing the SPF, associated components, and electrical interconnection methods, with all Massachusetts Electrical Code, 527 CMR 12.00 (or its successor provision) compliant disconnects and overcurrent devices.
  - (v) Documentation of the major system components to be used, including the PV panels, mounting system, and inverters.
  - (vi) Name, address, and contact information for proposed system installer.
  - (vii) Operation, maintenance and emergency services plans;

- (viii) Proof of liability insurance in an amount and form acceptable to the Planning Board.
- (ix) Description of financial surety in an amount and form acceptable to the Planning Board, if required under Section 6.02 (g).
  
- (i) **Technical Review.** Upon receipt of an application for a SPF, the Planning Board may engage professional and technical consultants, at the applicant's expense, pursuant to M.G.L. Chapter 44 § 53G to assist the Planning Board with its review of application materials. The Planning Board may direct the applicant to deposit funds with the Planning Board for such review at the time the application is accepted and to add additional funds as needed upon notice. Failure to comply with this section shall be good grounds for denying site plan approval and/or the special permit application. Upon the approval or denial of the application, any excess amounts in the account attributable to the application process, including any interest accrued shall be refunded to the applicant.
  
- (j) **Special Permit Approval Criteria.** In reviewing any application for a special permit pursuant to this Section 6.02, the Planning Board shall give due consideration to promoting the public health, safety, and welfare; shall encourage the most appropriate use of land and shall permit no building, structure, or use that is injurious, noxious, offensive or detrimental to its neighborhood. Before the Planning Board may issue such a special permit, it shall consider, in addition to the special permit approval criteria set forth in Section 1.06, the protection of Town resources and abutting properties by minimizing any undue disturbance from noise, traffic, lighting, hazardous materials, signage, glare or stormwater runoff for purposes of protecting the public health, safety and welfare.. The Planning Board may request a study if any of these disturbances appear to pose a particularly significant risk.
  
- (k) **Decommissioning, Abandonment & Removal.**
  - (i) Any SPF which the owner or operator is required or intends to decommission, or which has been abandoned, as defined in sub-paragraph (ii) below, shall be removed by the owner or operator within one hundred fifty (150) days. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Removal shall include:
    - (1) Physical removal of all large- scale ground-mounted SPFs, structures, equipment, security barriers and transmission lines from the site.
    - (2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
    - (3) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave

landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation

(ii) Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the SPF shall be considered abandoned when it fails to operate for more than one (1) year without the written consent of the Planning Board.

(iii) If the owner or operator of the SPF fails to remove the installation in accordance with the requirements of this section within one hundred fifty (150) days of abandonment or the proposed date of decommissioning, it shall be a condition to any Special Permit or site plan approval issued that the applicant and owner shall be deemed to have consented in advance to the Town entering the property and being authorized to physically remove the facility at the sole cost of the owner or operator, which may include, without limitation, the Town’s use, in accordance with all applicable laws, of any financial surety provided by the owner or operator. Any special permit or site plan approval issued shall automatically lapse upon the removal of the SPF required under this Section 6.02(k) and/or abandonment (whether or not the SPF has been removed).

(l) Planning Board Waivers. The Planning Board may grant requested waivers from the design or dimensional requirements of this Section 6.02 upon a special permit finding that the applicant has shown good cause for requesting such waiver, and granting such waiver(s) will not derogate from the intent of this bylaw or be detrimental or injurious to the public health, safety and welfare concerns that the regulations are intended to protect. No waiver may be granted to reduce the lot size requirements. Such waivers shall require a unanimous vote of the Planning Board.

(m) Severability. If any section, subsection, sentence, clause, phrase or any portion of this article is for any reason held to be invalid, unenforceable or unconstitutional by any reviewing agency or by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Section 6.02.

**COVERED IN SEPARATE WARRANT ARTICLE**

[REDACTED]

[REDACTED]

COVERED IN SEPARATE WARRANT ARTICLE

[REDACTED]



COVER SEPARATE WARRANT ARTICLE  
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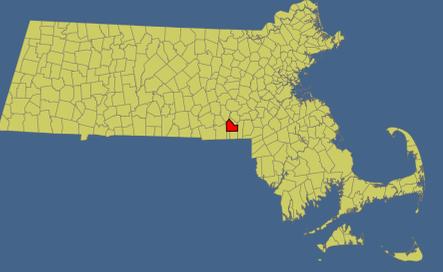
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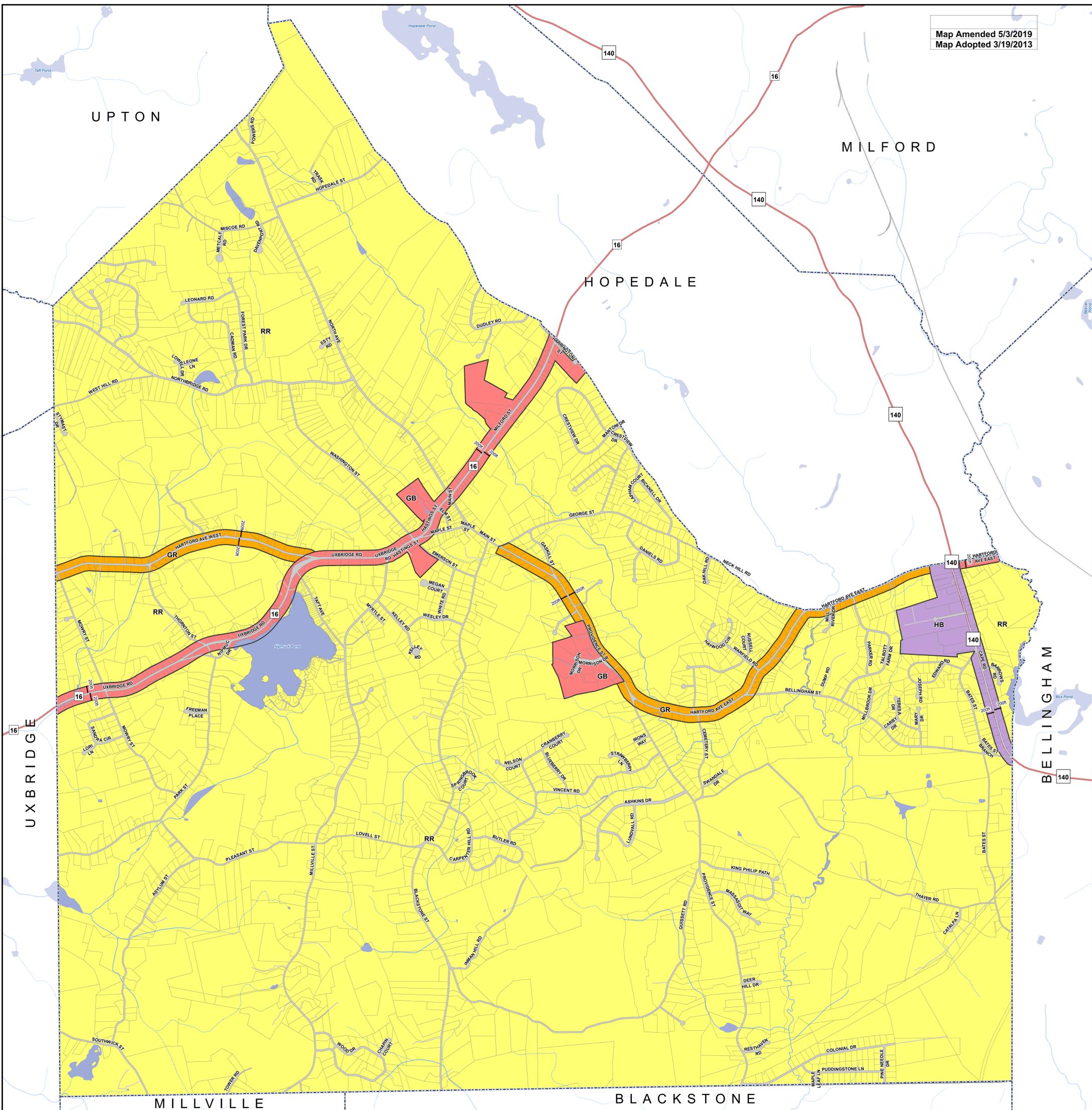
# TOWN OF MENDON MASSACHUSETTS ZONING MAP



As Amended through May 3, 2019



Map Amended 5/3/2019  
Map Adopted 3/19/2013



**Legend**

- Town Boundary
- Property Parcels
- Major Road
- Local Road
- Railroad
- Stream
- Intermittent Stream
- Water Body

**Zoning Districts**

- HB - Highway Business District
- GR - General Residential District
- GB - General Business District
- RR - Rural Residential District



1 in = 0.16 miles  
When map is at full size, 36x44

Source data:  
Zoning and overlay districts provided by the Town of Mendon, CMRPC. Additional GIS data provided by Office of Geographic Information (MassGIS), Commonwealth of Massachusetts, MassIT and MassDOT.

Information depicted on this map is for planning purposes only. This information is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analysis. Use caution interpreting positional accuracy. This does not represent an official road map.



One Mercantile Street, Suite 520  
Worcester, MA 01608  
508-756-7717

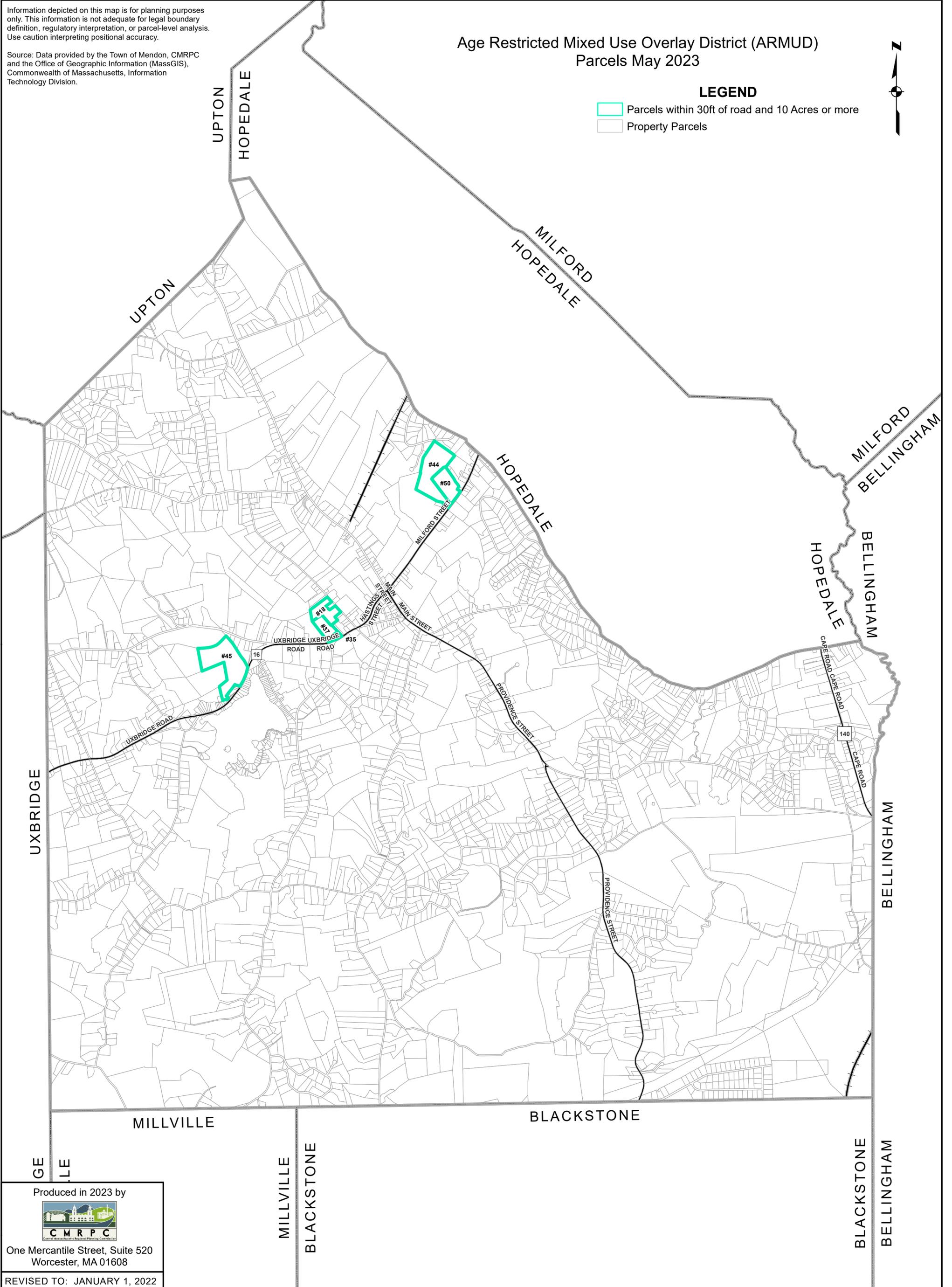
Information depicted on this map is for planning purposes only. This information is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analysis. Use caution interpreting positional accuracy.

Source: Data provided by the Town of Mendon, CMRPC and the Office of Geographic Information (MassGIS), Commonwealth of Massachusetts, Information Technology Division.

# Age Restricted Mixed Use Overlay District (ARMUD) Parcels May 2023

## LEGEND

-  Parcels within 30ft of road and 10 Acres or more
-  Property Parcels



Produced in 2023 by



One Mercantile Street, Suite 520  
Worcester, MA 01608

REVISED TO: JANUARY 1, 2022

# Groundwater Protection District

Phase III  
Town of Mendon



## Legend

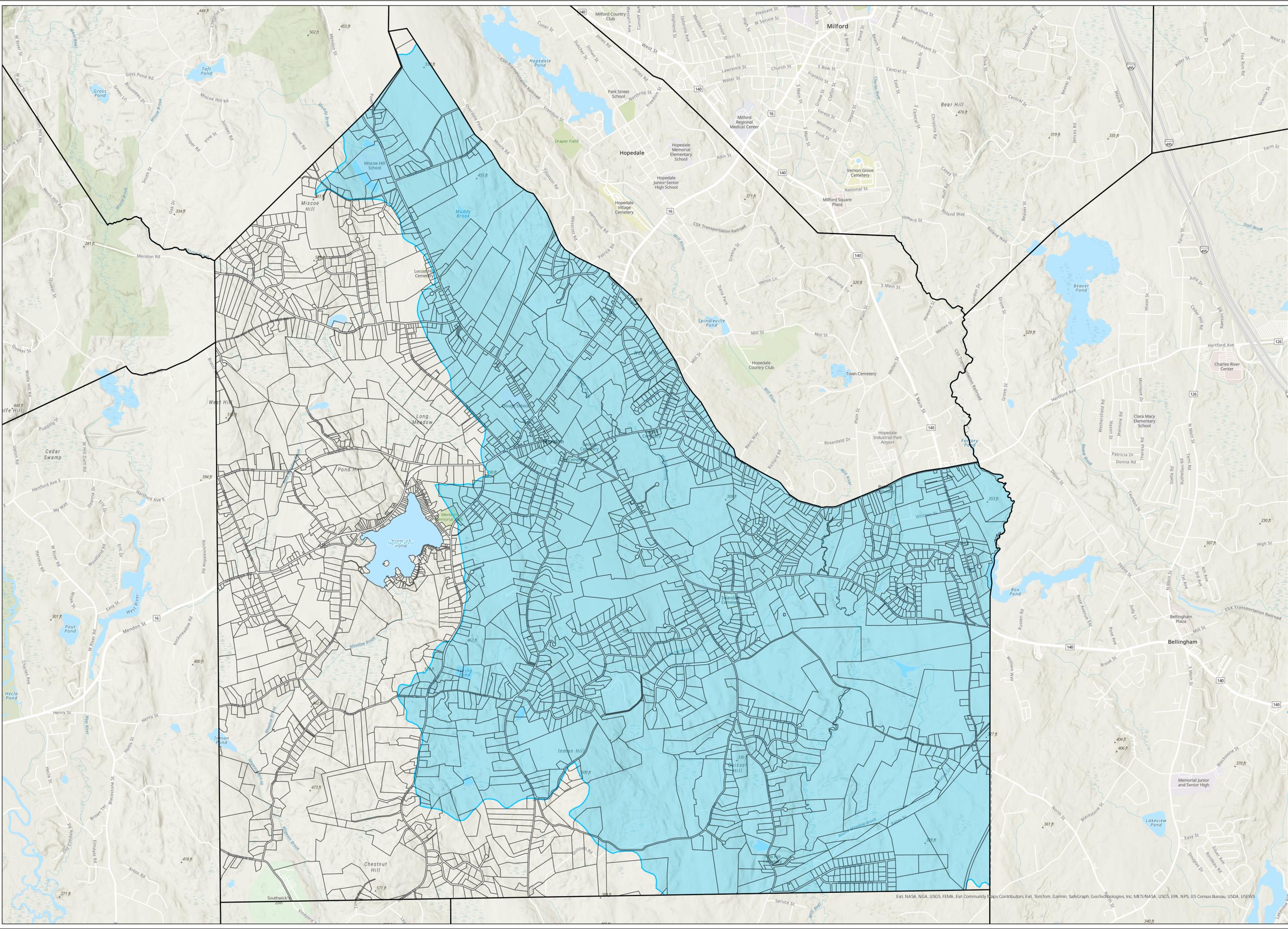
- Mendon Tax Parcels
- Groundwater Protection District

0 500 1,000 2,000  
1 inch = 1,300 feet



Project #: 0012217.01  
Map Created: May 2024

Third Party GIS Disclaimer: This map is for reference and graphical purposes only and should not be relied upon by third parties for any legal decisions. Any reliance upon the map or data contained herein shall be at the users' sole risk. Data Sources: MassGIS, SWMI



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**Dates of Appendix Adoptions and Revisions**

**Appendix A: Zoning Map Revisions**

*Established Business Districts 3/30/1973; AG Approved 8/27/1973; Effective 3/30/1973  
Amended 3/6/1974; AG Approved 4/8/1974; Effective 3/6/1974  
Amended 8/19/1974; AG Approved 9/23/1974; Effective 8/19/1974  
Amended 11/8/1977; AG Approved 2/2/1978; Effective 11/8/1977  
Amended 5/15/1981; AG Approved 9/10/1981; Effective 5/15/1981  
Amended 5/2/2008; AG Approved 9/23/2008; Effective 5/2/2008  
Amended 5/1/2009; AG Approved 8/11/2009; Effective 5/1/2009  
Amended 6/6/2011; AG Approved 10/26/2011; Effective 6/6/2011  
Amended 3/19/2013; AG Approved 5/2/2013; Effective 3/19/2013  
Voted 5/3/19, approved 7/12/19, Effective 5/3/19  
2019 Map digitized by CMRPC in 2022  
Amended 5/3/2024; AG Approved 8/23/2024; Effective 5/3/2024 – changed 3 Bates from  
partly in Highway Business District to fully in Rural Residential District*

**Appendix B: Age Restricted Multi-Use Overlay District (ARMUD) Map Revisions**

*Established ARMUD 5/5/23; AG Approved 7/19/23; Effective 5/5/23*

**Appendix C: Groundwater Protection District Map Revisions**

*Established Groundwater Protection District and adopted map at 5/3/24 ATM; AG Approved 8/23/24; Effective 5/3/24*

## CHAPTER XXI - Community Preservation Act

### Section 1 Establishment

There is hereby established a Community Preservation Committee, consisting of seven (7) voting members pursuant to MGL Chapter 44B. The composition of the committee, the appointment authority and the term of office for the committee members shall be as follows:

One member of the Conservation Commission as designated by the Commission for a term of three years.

One member of the Historical Commission as designated by the Historical Commission for a term of three years.

One member of the Planning Board as designated by the Planning Board for a term of three years.

One member of the Land Use Committee as designated by the Land Use Committee for a term of three years.

One member of the Park Commission as designated by the Park Commission for a term of three years.

One member of the Mendon Housing Authority as designated by the Housing Authority for a term of three years.

One member appointed by the Select Board for a term of three years.

One alternate member-at-large, will be appointed to act in the absence of disability of any of the seven appointed Community Preservation Committee members with all the powers of such absent or disabled members. The alternate member will be appointed by the Select Board from a list of names submitted to the Select Board. Should any of the Committees, Commissions, Boards or Councils who have appointment authority under this chapter be no longer in existence for whatever reason, the appointment authority for that Committee, Commission, Board or council shall become the responsibility of the Select Board.

### Section 2 Duties

- a. The Community Preservation Committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the land use committee, the select board, the park commission and the housing authority or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.
- b. The Community Preservation Committee shall make presentations to the Town Meeting for the acquisition, creation and preservation of open space, the acquisition and preservation of historic resources, the acquisition, creation and preservation of land for recreational use, the acquisition, creation and support of community housing, and for the rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community

- housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings or previously developed sites.
- c. The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for alter spending funds for general purposes that are consistent with community preservation.

### **Section 3 Requirement for a quorum and cost estimates**

The community preservation committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the community preservation committee shall constitute a quorum. The community preservation committee shall approve of its actions by majority vote. Recommendations to the Town Meeting shall include their anticipated costs.

### **Section 4 Amendments**

This chapter may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not cause a conflict to occur with MGL chapter 44B.

### **Section 5 Severability**

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

### **Section 6 Effective Date**

Following Town Meeting approval, this Chapter shall take effect immediately upon passage of the ballot question accepting sections 3 to 7 inclusive of Chapter 44B of the General Laws and approval by the Attorney General of the Commonwealth. Each appointing authority shall have ten days after passage of the ballot question to make their initial appointments. Should any appointing authority fail to make their appointment within that allotted time, the ~~Town Moderator~~ **the Select Board** shall make the appointment.

*Added 5/10/2002; AG Approved 7/19/2002; Effective 7/23/2002*

## Article 36 Draft Language

Revised 11/6/25

**Amend Chapter 11, Section 7 by striking all text and inserting  
“See Chapter 34”**

**Insert new Chapter 34 Animal Control By-Law as follows:**

### **Section 7~~1~~ - Animal Control By-Law**

(Fees removed from the by-law and placed under jurisdiction of the Select Board at 11/20/19 STM)

#### **Section 7~~1~~.1 - Purpose**

The purpose of this By-Law is to achieve the objectives of the animal control enabling legislation, as amended, contained in Chapter 140, Sections 137-174E, of the Massachusetts General Laws, which includes the regulation of domesticated animals within the borders of the Town of Mendon, Massachusetts, the licensing of dogs, and the establishment of fines for violation of this By-Law.

#### **Section 7~~1~~.2 Applicability**

This By-Law shall apply to all dogs owned by or kept by residents of the Town of Mendon: all dogs harbored or kept in the Town of Mendon, and all dogs physically within the Town of Mendon, whether on public or private property and regardless of whether ownership can be determined. This By-Law also shall apply to all residents of the Town of Mendon who bring or harbor one or more dogs within the Town of Mendon.

#### **Section 2~~8~~ – Definitions**

- 2.1. Animal Control Officer. An appointed officer authorized to enforce sections 136A to 174E, inclusive.
- 2.2. At Large. A dog off the premises of its owner or keeper and not under the control of a person capable of preventing the dog from being a threat to public safety, biting other domestic animals or being a public nuisance.
- 2.3. Attack. Aggressive physical contact initiated by an animal.
- 2.4. Commercial boarding or training kennel. An establishment used for boarding, holding, day care, overnight stays or training of animals that are not the property of the owner of the establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal; provided, however, that “commercial boarding or training kennel” shall not include an animal shelter or animal control facility, a pet shop licensed under Massachusetts General Laws Chapter 129, Section 39A, a grooming facility operated solely for the purpose of grooming and not for overnight boarding or an individual who temporarily, and not in the normal course of business, boards or cares for animals owned by others.
- 2.5. Dangerous dog. A dog that either: (i) without justification, attacks a person or domestic animal causing physical injury or death; or (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.
- 2.6. Hearing authority. The Select Board of the Town of Mendon.
- 2.7. Keeper. A person, business, corporation, entity or society, other than the owner, having possession of a dog.
- 2.8. Kennel. A pack or collection of dogs on a single premise, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel or veterinary kennel. **[“Kennel” shall include any establishment, including a private residence, used for boarding, holding, day care, overnight stays, or training of animals that are not**

the property of the owner of the establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal, as further defined by M.G.L. c.140, §136A and regulations of the Department of Agricultural Resources.]

- 2.9. Licensing authority. ~~The clerk of any municipality.~~ **The Town Clerk**, for the purposes of license issuance and fee collection, and the **Select Board**, for the purposes of determining license conditions, investigation, suspension, and revocation, in accordance with M.G.L. c. 140.
- 2.10. Livestock or fowl. A fowl or other animal kept or propagated by the owner for food or as a means of livelihood, deer, elk, cottontail rabbit, northern hare, pheasant, quail, partridge and other birds and quadrupeds determined by the department of fisheries, wildlife and environmental law enforcement to be wild and kept by, or under a permit from, the department in proper houses or suitable enclosed yards; provided, however, that “livestock or fowl” shall not include a dog, cat or other pet.
- 2.11. Nuisance dog. A dog that: (i) by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one’s quiet and peaceful enjoyment; or (iii) has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.
- 2.12. Personal kennel. a pack or collection of more than four (4) dogs, three (3) months old or older, owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally-owned dog; and provided further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the Department of Agricultural Resources, may be sold, traded, bartered or distributed if the transfer is not for profit.
- 2.13. **Licensee. The person to whom a kennel license is issued under this by-law and M.G.L. c.140, §137A.**

### **Section 9-3 - Licensing**

- 3.1. All dogs shall be licensed, except as otherwise provided in this By-Law. The owner or keeper of a dog over the age of six (6) months shall obtain a license for the dog pursuant to Chapter 140, Section 137 of the Massachusetts General Laws. Any owner or keeper of a dog over six (6) months of age shall, by ~~April 1st~~ **March 31st** of each year, cause the dog to be registered, numbered, described and licensed with the Town Clerk in accordance with Massachusetts General Laws, Chapter 140, Section 139 as amended.
- 3.2. The annual fee for every dog license except as otherwise provided by law shall be set by the Select Board. A certified copy of such certificate of spaying or neutering **provided to the** ~~on file in the office of any city or town clerk~~ **within the Commonwealth** may be accepted as evidence that such operation has been performed. If the Town Clerk is satisfied that the certificate of the veterinarian cannot be obtained, he/she may accept in lieu thereof a statement signed under the penalties of perjury by a veterinarian registered and practicing in the Commonwealth describing the dog and stating that he/she has examined such dog and that it appears to have been, and in his/her opinion, has been spayed or neutered and thereby deprived of the power of propagation.
- 3.3. A licensing authority shall not grant a license for a dog unless the owner of the dog provides the

licensing authority with a veterinarian's certification that the dog has been vaccinated for rabies, certification that such dog is exempt from the rabies vaccination requirement under Massachusetts General Laws Chapter 140, Section 145B, or a notarized letter from a veterinarian that either of these certifications was issued relative to such dog.

- 3.4. The license shall be granted upon condition that the dog shall be controlled and restrained from killing, chasing or harassing livestock or fowl.
- 3.5. No license fee shall be charged for a license for a service animal as defined by the Americans with Disabilities Act. No fee shall be charged for a license for a dog owned by a person aged seventy (70) years or over.
- 3.6. No dog license fee or part thereof shall be refunded because of the subsequent death, loss, spaying or removal from the ~~Commonwealth~~Town of Mendon or other disposal of the dog.
- 3.7. Should any owner or keeper of a dog fail to license his/her dog before the close of business on March 31st, the owner shall pay a late fee consistent with the current fee schedule as set by the Select Board. The owner of any dog impounded because of failure to license according to this ByLaw, may claim such dog upon the reimbursement to the Animal Control Officer of the expense incurred for maintaining such dog according to the following fee schedule:
  - a. Payment of any Kennel charges incurred for the period of the dog's impoundment.
  - b. Twenty-five (\$25) for initial handling and pick-up of the dog. Prior to its release, the owner of said dog shall obtain a license from the Town Clerk.
- 3.8. The owner or keeper of a licensed dog shall keep affixed around the dog's neck or body, a collar or harness of leather or other suitable material, to which a tag shall be securely attached. The tag shall have inscribed upon it the dog's license number, the name of the city or town issuing the license and the year of issue. If the tag becomes lost, the owner or keeper of the dog shall immediately secure a substitute tag from the licensing authority at a cost to be determined by the city or town ~~and the fee for the substitute shall, if received by a city or town clerk, be retained by the clerk unless otherwise provided by law.~~
- 3.9. Every person maintaining a kennel shall obtain a kennel license in accordance with M.G.L. Chapter 140, Section 137A. ~~No kennel license shall be issued or renewed until the kennel has passed inspection by the Animal Control Officer or other authorized inspector. Annual inspections are required for all licensed kennels. Refusal to allow inspection shall result in denial, suspension, or revocation of the license.~~
- 3.10. The fee for every kennel license shall be consistent with the current fee schedule set by the Select Board. ~~An owner or keeper of a Personal Kennel may elect to secure a kennel license in lieu of licensing each individual dog. A kennel license shall not be issued in lieu of individual dog licenses. Every dog six (6) months of age or older kept at a licensed kennel, unless owned by the kennel license holder, must have its own individual municipal dog license issued by the Town Clerk in accordance with M.G.L. c. 140, § 137.~~
- 3.11. In the case of an applicant for initial licensure *or license renewal*, a licensing authority shall ~~not issue deny~~ a kennel license until a kennel has passed inspection by the Animal Control Officer. ~~The licensing authority shall specify on the license the type of kennel and the maximum number of animals that may be maintained by the licensee. Such number shall be determined by the licensing authority and the Animal Control Officer following the required inspection, in accordance with all state law and regulations. All kennel licenses shall be subject to annual inspection.~~
- 3.12. Whoever violates M.G.L. Chapter 140, section 137, ~~137A~~, 137 B or 138 shall be assessed a penalty of not less than fifty dollars (\$50.00). ~~Violations of M.G.L. c. 140, § 137A are subject to the specific penalties set forth in Section 14 of this By-Law.~~

- 3.13. Any funds collected pursuant to the provisions of this by-law, shall be accounted for and paid over to the Town Treasurer at such time and in such manner as may be designated by the Town Treasurer.
- 3.14. **Injury Reporting and Investigation:** Commercial boarding or training kennels, including those located at a private residence, shall report to the licensing authority (Select Board/Town Clerk) all injuries to animals or people that occur on the premises of the kennel. The licensing authority shall investigate all reports of injury received pursuant to this section. All licensed kennels shall comply with all rules and regulations promulgated by the Massachusetts Department of Agricultural Resources (MDAR) pursuant to M.G.L. c. 140, § 174G.
- 3.15. **State Reporting:** Annually, not later than **June 1**, the Town Clerk shall send to the Massachusetts Department of Agricultural Resources (**MDAR**) a list of all kennels and their addresses licensed by the Town of Mendon pursuant to M.G.L. c. 140, § 137A.

#### **Section ~~10~~4 - Public Nuisance**

- 4.1. No person shall own or keep in the Town any dog which by biting, excessive barking, howling, or being at large or in any other manner becomes a public nuisance. Any unspayed female dog in season shall be deemed a public nuisance when not confined indoors by the owner thereof, or housed in a veterinarian hospital or registered clinic. No person owning or keeping a dog shall permit such dog to be at large, loose or unattended in any street or public place or allow it upon the premises of anyone other than the owner or keeper of such dog without the permission of the owner or occupant of such premises.

#### **Section ~~11~~5- Complaint of Nuisance**

- 5.1. If any person shall make a complaint in writing to the Animal Control Officer that any dog owned or harbored within the Town is a nuisance dog or is dangerous dog, the Animal Control Officer shall investigate such complaint and submit written report to the Select Board, acting as the hearing authority, of his findings and recommendations, together with the written complaint.
- 5.2. The Animal Control Officer, after investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed fourteen (14) days to allow the Select Board to issue their order following receipt of the report of the Animal Control Officer.
- 5.3. Any dog may be restrained or muzzled pursuant to an interim order of the Animal Control Officer for any of the following reasons:
  - a. For having bitten any person.
  - b. If found at large while an order for restraint of such dog is in effect.
  - c. If found in a school, schoolyard or public recreation area.
  - d. For having killed or maimed or otherwise damaged any other domesticated animal.
  - e. For chasing any vehicle upon a public way or way open to public travel in the Town.
  - f. For any violation of this section relating to dogs. Upon restraining or muzzling, or issuing any order to restrain or muzzle, the Animal Control Officer shall submit in writing to the Select Board a report of his action and the reasons therefore. If the Select Board fails to act during the period of the interim order, upon expiration of the period, the interim order shall be automatically vacated.
- 5.4. Such investigation shall include notice to the owner and a hearing with an examination under oath of the complainant to determine whether the dog is a nuisance or is a dangerous dog. Based on the credible evidence and testimony presented at the public hearing, the Select Board shall, if the dog is complained of as a nuisance dog, either:

1. Dismiss the complaint; or
2. Deem such dog a nuisance dog.

Or, if the dog is complained of as being a dangerous dog, either:

1. Dismiss the complaint;
2. Deem the dog is a nuisance dog; or
3. Deem such dog a dangerous dog.

If the Select Board deem a dog as a nuisance dog or a dangerous dog, the Select Board may order remedial action in accordance with Massachusetts General Laws Chapter 140, Section 157.

**Section ~~125~~**

In accordance with the requirements of M.G.L. Section 174E, no person owning or keeping a dog shall chain or tether a dog to a stationary object including, but not limited to, a structure, dog house, pole or tree for longer than twenty-four (24) consecutive hours.

**Section ~~13-6~~ Penalty**

Any owner or keeper of a dog who shall fail to comply with any order of the Animal Control Officer or Select Board issued pursuant to this chapter shall be punished by a fine of fifty dollars (\$50.00), with a right to appeal to the District Court pursuant to M.G.L. Chapter 140, Section 157.

**Section ~~14-7~~ Penalty-Violations of Article**

7.1. Whoever violates any provision of this By-Law may be penalized by a noncriminal disposition as provided in M.G.L. Chapter 40, Section 21D. For the purposes of this By-Law, the Animal Control Officer and all Mendon Police Officers, shall be designated enforcing persons.

Each day on which any violation of this By-Law occurs shall be deemed to be a separate offense subject to the following penalties:

- First Offense.....\$10.00
- Second Offense.....\$25.00
- Each Subsequent Offense.....\$50.00

The issuance of a penalty or non-criminal disposition shall not preclude the Town from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this By-Law.

**7.2. M.G.L. Kennel Licensing and Operation Penalties (M.G.L. c. 140, § 137A):** Notwithstanding the noncriminal disposition schedule in Section 14.1, the following mandatory penalties shall apply to violations of M.G.L. c. 140, § 137A (Kennel Licensing): **A person who violates the requirement to obtain a kennel license shall be assessed a fine by the licensing authority of \$500 for a first offense and a fine of not more than \$1,000 for a second or subsequent offense.** A person maintaining a kennel after the license to maintain a kennel has been revoked or suspended shall be assessed a fine by the licensing authority of **not more than \$250 for a first offense, by a fine of not less than \$500 for a second offense, and by a fine of not more than \$1,500 for a third or subsequent offense.**

**Section 15 Mandated State Nuisance Kennel Procedure**

In accordance with M.G.L. c. 140, § 137C, Upon the filing of a petition by 25 citizens of the town stating that they are aggrieved or annoyed to an extent that constitutes a nuisance by a dog maintained in a kennel, the Select Board shall follow the investigation, public hearing, and remedial order timeline and process as mandated by M.G.L. c. 140, § 137C.

**Section 156 8 Severability**

Should any portion, section or provision of this By-Law be found invalid for any reason, that finding shall not affect the validity and force of any other section, portion or provision of this By-Law.

Amended 5/5/1978; AG Approved ?; Effective 10/27/1978

Amended 5/8/1981; AG Approved 9/10/1981; Effective 9/15/1981

Amended 5/11/1984; AG Approved 9/14/1984; Effective 9/15/1984

Amended 5/9/1986; AG Approved 6/26/1986; Effective 6/27/1986

Amended 9/6/1990; AG no action; effective 12/6/1990

Amended 5/5/1995; AG Approved 5/31/1995; Effective 7/10/1995

Amended 5/8/1998; AG Approved 8/27/1998; Effective 9/3/1998

Amended 5/11/2001; AG Approved 8/27/2001; Effective 8/28/2001

Amended 5/9/2003; AG Approved 8/6/2003; Effective 9/1/2003

Amended 5/2/2014; AG approved 6/20/2014; Effective 6/20/2014

Fees removed from the bylaw and placed under jurisdiction of Select Board 11/20/2019

~~END OF SECTION 7 — ANIMAL CONTROL BYLAW~~