TOWN OF MENDON

MASSACHUSETTS

ZONING BY-LAWS

Adopted
March 10, 1961

as amended through MAY 2,2014

MENDON, MASSACHUSETTS
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Article I. General

Section 1.01 Purpose and Authority

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

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. An accessory use or structure is a subordinate to the principal use of land and/or structure:
   1) whose use is customary in connection with the principal use of land and/or structure, and
   2) whose use is clearly incidental to the principal use of land and/or structure, and
   3) which is located on the same lot with the principal use of land and/or structure, and
   4) which does not constitute a conversion of the principal use of land and/or structure to one that is not permitted.
   5) No use that is prohibited shall be allowed as an accessory use.

(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: A commercial or mercantile establishment, whose business is transacted solely by window service and does not require entrance thereto.
(d) Drive-Through Window: 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: 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) Multi-unit Dwelling: Any structure or building used in whole or in part to contain three or more housekeeping units.
(l) Non-conforming Use: A legally existing use, which does not conform to the zoning regulations for the district in which it is located.
(m) One-Family House: A detached dwelling intended and designed to be occupied by a single family.
(n) Race Track: A tract of land which is used for the purpose of auto racing, horse racing, or dog racing.
(o) Power Plants: Any building, structure, machinery, and associated equipment and facilities for the purpose of producing or generating electricity or power.

(p) 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.

(q) 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.

(r) 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.

(s) Trailer: A vehicle used for living or sleeping purposes and standing on wheels or on rigid supports.

(t) Trailer Park: The existence of more than one inhabited trailer at a given time on a lot.

Section 1.03 Delineation of Districts

(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 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 of way 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 restricted portion provided the lot has required frontage on a public or private way in the less restricted district. Otherwise, there shall be no extension.

Section 1.04 Administration

(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.

(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

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 Board of Selectmen 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.

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

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.

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

(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).

(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.
(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

(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.

TABLE 1
Dimensional Regulations

District	Use	Min. Lot Size[i] (sq. ft.)	Min. Lot Frontage[ii] (feet)	Min. Yard[iii] Setback (feet)			Min. Lot Depth (feet)	Min. Lot Width At leaching area location[iv]	Min. Lot Width[v]	Max. Building Coverage (%)	Max. Structure and Building Height[vi]
				Front[vii]	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.

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.

2/3 vote declared by the Moderator

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 <u>Off Street Parking and Loading</u>

(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.

Table of Off-Street Parking Regulations

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 space 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

(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 non-residential building there shall be one such off-street leading 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:

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 containing in excess of twenty spaces, a minimum of fifty percent of the required landscaping must be provided within the parking area.
11) 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:

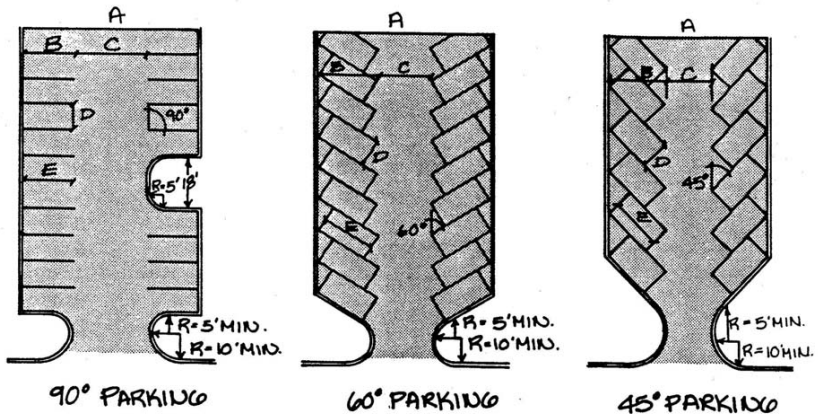
	90 deg	**60 deg**	**45 deg**
A. Double Parking Bay	60 feet	58 feet	53 feet
B. Depth of Bay	18 feet	20 feet	19 feet
C. Width of Aisle	24 feet	18 feet *	15 feet *
D. Width of Space	9 feet	9 feet	9 feet
E. Depth of Space	18 feet	18 feet	18 feet

**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.



• This is an interpretive aid only and is not part of the regulations.

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 etrance 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 within10 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

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 By-law. 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.

(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.

(g) Hybrid parking

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:

1) 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.
2) 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.
3) 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.
4) 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

1) Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
2) 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.

Section 2.04 Non-Conforming Uses - Deleted 2/24/2014

Section 2.05 Prohibited Uses - Deleted 2/24/2014

Section 2.06 Sign By-law

(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. Municipal Signs and signs not intended to be visible from a public way are exempted from this bylaw. 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 a 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) Free Standing Sign: A sign not affixed to any building but constructed on a fixed location with its own support structure.
(iv) 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 Department, or for purposes of identifying municipal offices or functions. Municipal Signs do not require permits.

(v) 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.

(vi) Sign Area: The sign area shall be computed by multiplying the overall width by the overall height, including the letter area, frames, and background.

(vii) Building Sign: A sign that is affixed to the façade or roof of a building or structure, including window areas, so that all sign surfaces are parallel to the building on which the sign is mounted.

(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 of the property or have the written permission of the owner.
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 Board of Selectmen.

(iii) Enforcement:

1) Owners of signs found to be in violation of this Sign By-Law shall be subject to a fine of $25 per day until such sign is in conformity with this Sign By-law. Such fines shall be imposed in accordance with the non-criminal 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: One freestanding sign, not to exceed twenty (20) feet in height from the ground, may be erected. Such sign shall not be within any right of way and shall set back at least ten (10) feet from the edge of the pavement. 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. 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. There shall be one freestanding sign per parcel regardless of how many businesses or buildings reside on the parcel.
2) Building Signs: Each occupant within a building may have building signs attached to the sides of the building facing a public street. The total sign area of all signs on a building may not exceed one (1) square foot for each linear foot of building frontage facing a public street. 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. A roof sign must be secured to the roof of the building and may not extend higher than the ridgeline of the roof. 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 white light and shall have opaque surfaces so that the light source is not directly visible.
   e) Signs may be illuminated until 10:00 P.M. or end of daily operating hours, whichever occurs later.
   f) The light from any sign shall be at a sufficiently low level of intensity that it shall not adversely affect neighboring premises, reflect or shine on lots used for residential purposes, nor impair the safe vision of operators of vehicles moving on public roadways.
   g) All illuminated signs shall bear a label of approval from the National Board of Fire Underwriters.

(ii) Permits: A permit is required for all signs listed in Section (d).

(iii) Construction and Maintenance:

1) All signs shall be properly secured, supported and braced, shall be kept in good structural condition, and clean and well maintained at all times.

2) Every sign, its framework, braces, anchors and other supports, shall be constructed of such material and in such workmanlike manner as shall make them safe.
3) If a sign is found to be in violation of this section, the Building Inspector may order corrective maintenance and repair to be completed within (30) days of notice to the owner of the sign.

(iv) Abandoned Signs: A sign no longer being used for the purpose for which it was constructed, or identifies a business, product, or service that is no longer available on the premises where the sign is being displayed, shall be removed within thirty (30) days. The Building Inspector may permit the owner of the abandoned sign to maintain such sign beyond the above 30 day period if the sign is in compliance with the Sign By-Law and the owner demonstrates good cause.

(e) Residential District: Permanent Signs

(i) Home Occupation Signs: Permitted home occupations may have one (1) unlighted sign not to exceed two sq. ft. in total area. No permit required.

(f) Church and Institutional Signs/Bulletin Board. Any bona fide church, congregation, community center, or similar organization or institution may erect and maintain one sign for their own use. A second sign or bulletin board may be allowed for the promotion of changeable activities. Neither sign shall exceed twenty (20) square feet in total area. No permit required.

(g) All Districts: Temporary Signs to be Allowed

(i) Banner Signs may be no larger than sixteen (16) square feet in total area.

(ii) Home Improvement and Construction Signs may be erected on the same site during said home improvement or construction. Signs shall be removed within thirty (30) days of cessation of services on the premises.

(iii) Political Signs having reference to a candidate for elective office, or a public question and/or issue to be submitted to the voters at a general, special, or primary election, may not be placed on a public way or on public property. Signs may be placed on private property only with the consent of the property owner. Political signs may not exceed one (1) sign per candidate, public question, and/or issue per zoning lot. No political sign shall exceed three (3) s.f. in area. No political sign shall be more than four (4) feet in height above the ground.

(iv) Real Estate Signs: One (1) on premise sign advertising the sale, rental or lease of real estate shall be allowed. Signs shall be removed within one (1) week after the final sale, rental, or lease of the property. Up to three (3) additional signs for an open house shall be permitted off premises on public roadsides for 48 hours prior to the event and shall be removed immediately following the event. No real estate sign shall exceed three (3) s.f. in area. No real estate sign shall be more than four (4) feet in height above the ground.

(v) Yard and Garage Sale Signs: One (1) on premise sign, and up to (2) additional signs off premises on public roadsides, may be displayed no more than three (3) days prior to the event, and must be removed no later than the day following the event.

(vi) Special Event Signs for charitable, or school events may be permitted. Sponsors are allowed advertising space up to twenty percent (20%) of the sign area to be located at the bottom of the sign.

(vii) A sign permit is not required for the signs listed in Section (g).

(viii) Temporary Sign Regulations: Except as otherwise provided in Section (g) above, the following regulations apply:

1) No temporary sign may exceed six (6) square feet in area.
2) Temporary signs may be displayed for thirty (30) days prior to an event and must be removed within five (5) days after the event.
3) Any sign displayed for more than thirty five (35) days in a calendar year must meet the 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 Board of Selectmen, except temporary signs permitted alongside the public right of way under Section g).

(h) Prohibitions.

(i) No sign may be affixed upon a utility pole, tree, rock, fence, structure, or other object within the limits of a highway. Any such sign within the limits of a highway may be removed or obliterated 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 signage of any type will be allowed on monuments or monument greens.

(iv) 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.

(v) Except as specifically permitted in this Sign By-Law, no off premises commercial signs promoting any business or activity will be permitted.
(vi) No sign will be constructed or erected which will, in any way, interfere with the protection of property by the Department of Public Safety.
(vii) No sign will be constructed or erected in such a manner as to prohibit the emergency egress of a building.
(viii) Any sign not specifically permitted is prohibited. The Planning Board may issue special permits authorizing signs not specifically permitted 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.

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

Section 2.07 Wireless Communications Facilities

(a) 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.
  (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 Board of Selectmen 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.

ARTICLE III Use Regulations

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:

(ix) 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.
(x) Any findings required by the permit granting authority under this Section, shall be in addition to, and not in place of, the required findings for the issuance of the permit itself (for example, without limitation, for special permits, see Section 1.06; variances, see Section 1.05 (b) and for Site Plan Review, see Section 4.02).
(xi) 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.
(xii) 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 explosion, except to the extent allowed by M.G.L. Chapter 111, Section 125A and M.G.L. Chapter 243, Section 6.
(xiii) 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.
(xiv) 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.
(xv) 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 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) 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 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.
    3) 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.
(xvi) Any references to Massachusetts General Law (MGL) shall mean and include any and all amendments thereto.
(xvii) Where more than one category covers a proposed use, the more specific use category shall control.

(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. No nonconforming use may change to a different nonconforming use.

(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 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
Y = Permitted by right
BOS = Special Permit from the Board of Selectmen
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			
	Uses	**RR**	**GR**	**GB**	**HB**
	Residential Uses				
1	Single family dwelling	Y	Y	N	N
2	Two family dwelling	Y	Y	N	N
3	Open Space Communities as defined and in accordance with Mendon Zoning By-Laws, Section 3.04	Y	Y	N	N
4	Convalescent or nursing home as defined and in accordance with M.G.L. c. 111, sec. 71*	PB	PB	Y	Y
	Accessory Uses – Residential				
5	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
6	The keeping of domestic livestock, principally for personal enjoyment or household use *	Y	Y	Y	N
7	Home occupations *	Y /PB	Y /PB	PB	PB
8	Bed and Breakfast *	PB	PB	PB	N
9	Non-exempt radio towers, and similar structures *	N	N	N	N
10	Portable storage containers*	Y	Y	Y	Y
	Agricultural Uses				
11	Exempt commercial agriculture, aquaculture, silviculture, horticulture, floriculture, or 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 M.G.L. c. 40A, sec. 3	Y	Y	Y	Y
12	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
13	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

Table A: Table of Uses		Districts			
	Uses	**RR**	**GR**	**GB**	**HB**
14	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
15	Non-exempt greenhouse or nursery, year round, with retail sales	N	PB	Y	Y
16	Farmer's Market *	Y	Y	Y	Y
17	Farm Stand, non-exempt	PB	PB	Y	Y
18	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 M.G.L. c.111	Y	Y	Y	Y
19	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 pursuant to M.G.L. c.111	Y	Y	Y	Y
20	Kennel *	N	PB	PB	N
21	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
	Institutional, Educational, and Municipal				
22	Municipal administration	PB	Y	Y	Y
23	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 qualifications for exemption set forth in M.G.L. c. 40A, sec. 3	Y	Y	Y	Y
24	Exempt child care facility, as defined, and subject to the qualifications for exemption set forth in M.G.L. c. 40A, sec. 3	Y	Y	Y	Y
25	Family child care home as defined and in accordance with M.G.L. c. 15D, sec. 1A *	PB	PB	PB	PB
26	Large family child care home as defined and in accordance with M.G.L. c. 15D, sec. 1A*	N	PB	PB	PB
27	Cemetery	PB	PB	N	N
28	Non-profit civic organizations, clubs, library, or museums	PB	PB	PB	N

Table A: Table of Uses		Districts			
	Uses	**RR**	**GR**	**GB**	**HB**
	Business and Retail				
29	Retail stores, indoor sales only	N	N	Y	Y
30	Retail stores that may include fabrication and assembly	N	N	Y	Y
31	Wholesale business and storage provided there is no manufacturing or processing of materials	N	N	Y	Y
32	Building Materials Sales Room	N	N	Y	Y
33	Shopping center *	N	N	PB	PB
34	Craft Shop of artist, potter, sculptor, wood carver, or similar craftsman	N	PB	Y	N
35	Business and professional offices	N	PB	Y	Y
36	Bank or financial institution	N	N	Y	Y
37	Trade, professional or other school conducted as a private business	N	PB	Y	Y
38	Personal care services such as barber shops, beauty parlors and nail salons	N	N	Y	Y
39	Dry cleaning establishments limited to pick-up service	N	N	Y	Y
40	Restaurant or other establishment providing food and/or beverages within the building	N	N	Y	Y
41	Catering establishment	N	N	Y	Y
42	Motor vehicle service stations as defined and in accordance with Mendon Zoning By-Laws, Section 6.01	N	N	PB	PB
43	Motor vehicle repair, provided that all work is conducted within a completely enclosed building	N	N	PB	PB
44	Auto body shop, provided that all work is conducted within a completely enclosed building	N	N	PB	PB
45	Automobile dealership for sale, leasing and servicing of new and used automobiles	N	N	PB	PB
46	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
47	Sale and rental of recreational vehicles	N	N	PB	PB

Table A: Table of Uses		Districts			
	Uses	**RR**	**GR**	**GB**	**HB**
48	Boat sales and rental including storage, maintenance and repair of boats	N	N	PB	PB
49	Heating oil sales and service	N	N	PB	PB
50	Funeral or undertaking establishment	N	N	PB	PB
51	Large Animal Hospital*	PB	PB	PB	PB
52	Veterinary hospital	N	PB	PB	PB
53	Hotel	N	N	PB	PB
54	Medical center for medical, dental, or clinical	N	N	PB	PB
55	Marina, only on land having direct access to open water	PB	PB	PB	PB
56	Any business and/or retail use permitted above by right in excess of 10,000 square feet of building area	N	N	PB	PB
	Industrial				
57	Light manufacturing or light assembly facility which may include the indoor display and sales of products manufactured or assembled on the premises	N	N	Y	Y
58	Hazardous Waste Facility*	N	N	N	N
59	Any industrial use permitted above by right in excess of 10,000 square feet building area	N	N	PB	PB
	Recreational				
60	Indoor commercial entertainment such as theater, motion picture house, bowling alley, or other indoor amusement	N	N	PB	Y
61	Drive-in theater	N	N	Y	N
62	Golf course and /or country club	PB	PB	N	N
63	Golf driving range not accessory to golf course or country club	N	N	N	N
64	Playing fields, playground, swimming pool, tennis and basketball courts on municipal land	PB	PB	PB	PB
65	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.		

Table A: Table of Uses		Districts			
	Uses	**RR**	**GR**	**GB**	**HB**
66	Any recreational use permitted above by right in excess of 10,000 square feet building area	N	PB	PB	PB
	Utility				
67	Large Ground-Mounted Solar Photovoltaic Facilities in the Solar Photovoltaic Overlay District all as defined and in accordance with the Mendon Zoning By-Laws, Section 5.04	See Section 5.04 for permissible locations for this use, and permits required.			
	Communication, Transportation				
68	Wireless Communications Facilities as defined and in accordance with Mendon Zoning By-Laws, Section 2.07	PB	PB	PB	PB
69	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
	Accessory Uses – Non-Residential				
70	Retail uses such as cafeterias, snack bars, gift shops, and vending machines, for employee use only provided that any such use shall be wholly within the building and shall not be advertised or marketed by outside display, sign or otherwise.	PB	PB	Y	Y
71	Activities necessary in connection with scientific research or scientific development or related production accessory to activities permitted as a matter of right as specified in M.G.L. c. 40A, sec. 9 *	N	N	PB	PB
72	Drive thru windows for restaurants and food service establishments	N	N	PB	PB
73	Drive thru windows for other businesses ~~subject~~	N	N	PB	PB
	Miscellaneous Uses				
74	Earth removal as defined and in accordance with the Town of Mendon By-Laws, Chapter XIV	BOS	BOS	BOS	BOS

Notes to Table A

4 In the Rural Residential and General Residential Districts, convalescent or nursing homes shall be limited to 10 beds.

5 Any lighting used in connection with such accessory uses shall be directed away from abutting properties.

7 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.

8 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.

9 This category is not intended to include Wireless Telecommunication Facilities as defined in Section 2.07 of the Town of Mendon Zoning By-Laws.

10 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.

16 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 ingress and egress and sufficient off street parking as determined by the Zoning Enforcement Officer.

20-21 In residential districts, the owner of the kennel must live on the same property where the kennel is located. The breeding, training, and the raising of dogs is considered an agricultural use if it meets the requirements of M.G.L. Chapter 40A, Section 3. However, if the dogs are not owned by the kennel owner, the breeding, training and the raising of dogs is not considered an agricultural use. All kennels shall be licensed by the Board of Selectmen.

25-26 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.

33 Consisting of at least 3 buildings and provided that the buildings are designed as an architectural unit

51 A minimum of five acres shall be required for a large animal hospital.

58 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.

71 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)) shall apply regardless of whether the lot complies with the current area and frontage requirements.

(iv) Alteration to the side or face of a structure which encroaches upon a required setback area, where the alteration will not encroach upon such to a distance greater than the existing structure (the provisions of this clause (iv)) shall apply regardless of whether the lot complies with current area and frontage requirements.

(v) Alteration to a non-conforming structure, which will not increase the footprint of the existing structure provided that existing height restrictions, shall not be exceeded.

Section 3.03 Rate of Development

(a) Purpose. The purpose of this section, "Rate of Development" is to promote orderly growth in the Town of Mendon, consistent with the rate of residential growth since 1980, to phase growth so that it will not unduly strain the community's ability to provide basic public facilities and services, to provide the Town, its boards and its agencies information, time and capacity to incorporate such growth into the master plan for the community, and to preserve and enhance existing community character and the value of property.

(b) Applicability. This section shall apply to the issuance of all building permits for the construction of new dwelling units. For the purposes of this Rate of Development By-Law, the term "dwelling unit" shall be defined as one or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit with cooking, living, sanitary and sleeping facilities.

(c) General. Beginning on May 12, 2006, building permits for not more than thirty-nine (39) new residential dwelling units shall be issued in each of the five full 12-month periods, hereafter referred to as "calendar years", following said date, for the construction of new residential dwellings. For example, a duplex or two-family structure shall constitute two (2) dwelling units; a principal residence with an accessory apartment therein shall constitute two (2) dwelling units.

(d) Procedures. Any building permits issued shall be in accordance with the following procedures:

(i) The Building Inspector shall mark each application with the time and date of submittal.

(ii) The Building Inspector shall act on each permit in order of submittal. Any permit application that is incomplete or inaccurate shall be returned to the applicant and shall require new submittal.

(iii) The number of units to be allowed in any month shall be determined by subtracting from thirty-nine (39) the total authorized in the preceding eleven (11) months (minus permits withdrawn or expired without use). The eleven (11) months prior to enactment of this provision shall be used to establish availability during the first year after enactment.

(iv) No more than 7 building permits shall be issued to an individual or entity in a twelve month period. For the purposes of this by-law, entities that share at least one principal, officer, trustee, fiduciary, shareholder to beneficiary shall be considered the same entity.

(v) Any building permit for a dwelling unit, which is regulated by this by-law, shall be non-transferable.

(vi) This subsection shall apply to every new residential development. Development shall mean a single parcel or set of contiguous parcels of land held in common ownership regardless of form, at any time on or after the effective date of this subsection even though the property may have been broken up or otherwise transferred to another subsequent to that date. Building permits for each development shall not exceed 7 in one year.

(vii) All definitive subdivisions, ANR divisions, Special Permits and variances shall include a proposed development schedule by the applicant.

(e) Exemptions. The provisions of this section shall not apply to nor limit in any way, the granting of building or occupancy permits required for:

(i) Enlargement, restoration, replacement or reconstruction of dwelling units existing on lots as of the date of passage of this by-law, provided that such construction does not result in an increase in the number of dwelling units.

(f) Extension. This section may be extended, without lapse of its provisions and limitations, by a two-thirds vote of a town meeting prior to June 30, 2011.

(g) Severability. The provisions of this Article are severable, and if any of its provisions shall be held invalid or unconstitutional by a court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Section 3.04 Open Space Communities By-Law

(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 agricultural, 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.

(vii) Not intended to make undevelopable land developable.

(b) Definitions

(i) Common Driveway: a private way that provides access to two (2) single family dwellings.

(ii) Flag Lot: a back lot connected to the road by a driveway that has less than the normally required frontage.

(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, bioretention, and alternative landscaping.

(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) Soft Storm Water Management Techniques: Non –structural storm water management techniques that use passive pre-treatment of storm water 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

(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 review and approval by the Planning Board. An open space plan that meets with 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 Bylaws and Town of Mendon Rules and Regulations for Subdivision of Land and Site Plan Approval 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 Section 2.05(d)(ii)4) below.

(d) Pre-application

(i) A pre-application review meeting between the applicant, the site designer, and the Planning Board is strongly encouraged. Participants could also include consultants, members of the Board of Health and the Conservation Commission. This meeting is 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. At the pre-application review meetings 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) Submittals: In order to facilitate review at this or subsequent meetings, the following submittal materials will be required. These will be in addition to the submittal requirements of the Mendon Planning Board Rules and Regulations.

1) 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.

2) 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.

3) 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:

a) 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.

b) 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. 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.

c) The Planning Board reserves the right to require such further documentation or other evidence, as it deems necessary.

4) Sketch Plan: (Conceptual Preliminary Plan) This is a preliminarily engineered plan drawn to illustrate initial thoughts about a conceptual layout for greenway lands, house sites, and street alignments. This is the stage where drawings are tentatively illustrated before heavy engineering costs are incurred. 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 Sketch Plan or Conceptual Preliminary Plan shall follow a four step design process as described below in Section 2.05(e).

The Sketch Plan shall contain the following information:

a) The existing and proposed topography of the land.

b) 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 2.05(e)(i). Proposals for all features to be preserved, demolished or altered shall be noted on the Sketch Plan.

c) 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.

d) Proposed roadway grades.

e) 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.

f) 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 hard or soft (Low Impact Development) Storm Water 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.

g) 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.

h) 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.

i) The Planning Board may waive any requirements in order to achieve the purpose and intent of this bylaw and to enable a better design.

(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 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 2.05(g) for lot size and density requirements for Open Space Communities.

(f) 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) Generic Design Standards:

1) 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.
2) 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.
3) All open space shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
4) 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.

(g) 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

Front and rear lot lines shall not be less than 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 flag lots, common driveways, and lots fronting on a cul-de-sac, furthers the purpose and intent of this bylaw. If it is the case that flag lots and

common driveways do further the purpose and intent of this bylaw, they may be utilized, where appropriate, on a limited basis.

Driveways shall be wholly contained within said lot frontage.

(ii) Lots shall not have frontage on a street other than a street created by the Open Space Community.

(h) 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 50% 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.

(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.

(i) Permissible Uses of Open Space

Open space shall be used solely for recreation, conservation, outdoor education, and/or agriculture purposes by Mendon residents. 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, location, and condition to provide an informal field for group recreation or community gardens.

(j) Monumentation

Where boundaries of the open space are not readily observable in the field, the Planning Board may require placement of surveyed bounds sufficient to identify the location of open space.

(k) Ownership Options

At the developer's option and subject to approval by the planning board, all areas to be protected open space shall have a conservation restriction as specified below in Section 2.05(l) and shall be:

(i) Conveyed to the town:

1) 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.
2) 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 effect these provisions. Documents creating such homeowners association, trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

(iv) Encumbrances: All areas to be set aside as open space shall be conveyed free of any mortgage interest, security interest, liens, or other encumbrances.

(l) 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.

(m) Permanent Restriction

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 Board of Selectmen. 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.

(n) 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 bylaw shall not affect the validity of the remainder of the town's zoning bylaw.

ARTICLE IV. Site Plan Review

Section 4.01 Allowable Land Uses - Deleted 5/2/2014

Section 4.02 Site Plan Review

(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 and structures which may impact traffic, municipal services, visual and natural environment, community economics, and community values in the Town**.**

(b) Applicability.

The following types of activities, structures, and uses require site plan review by the Planning Board, except to the extent they are used for, or accessory to, a residential single family dwelling:

(i) Any new building or structure.

(ii) Any addition or alteration to an existing building or structure which results in an increase of five hundred (500) square feet or more of gross floor area.

(iii) Any addition or alteration that results in one thousand (1000) square feet or more of impervious surface.

(iv) Any change in the existing use of land, building or structure to a non-single family residential use.

(v) Any use or structure that requires a special permit or variance.

(vi) Any land disturbance of more than 1 acre. Land disturbance shall include vegetation clearing or trimming, earth removal or relocation, and grading.

(vii) Any new business, commercial or industrial use or structure, or any addition, alteration or expansion of an existing business, commercial or industrial use or structure in excess of five hundred square feet, in the Residential District.

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.

(c) Building Permits.

(i) No building permit can be issued for the proposed project 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.

(ii) 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.

(d) Application and Review Procedure.

(i) Submission of Site Plan Review Application. The applicant shall file with the Planning Board, at a regularly scheduled meeting, the completed site plan review application form, along with eight (8) copies each of the submission materials specified in subparagraph h 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) 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 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. 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").

(e) 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 Board of Selectmen, 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 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 21 day period has expired, whichever is earlier.

(f) Review and Procedure.

(i) Administrative Review for As of Right Uses and Structures.

1) Site plan review for uses and structures that are permitted in the Town as of right without the need for any zoning relief (i.e. special permit, variance, amendment, waiver, or other discretionary approval) 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 and the immediate abutters of the time and place when the Site Plan Review Application will be reviewed.
2) The Planning Board shall render a decision on the Site Plan Review Application within 45 days of the Submission Date. A written decision shall be sent to the applicant with a copy to the Building Inspector.
3) The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.
4) The appeal of any administrative site plan review decision of the Planning Board shall be in

(ii) Site Plan Review.

1) For all uses and structures that are not permitted as of right, the Planning Board shall hold a public hearing on the Site Plan Review Application within 65 days after the Submission Date.
2) In instances where the use or structure 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 and 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 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 decision of the Planning Board hereunder shall be made in accordance with the provisions of M.G.L. c. 40A, §17.

(g) 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:

(i) 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;
(ii) 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;
(iii) Disapproval of the site plan based upon a determination that the use is not allowed as of right or, for special permit uses, if the special permit for the particular use is denied;
(iv) Disapproval based on a finding that the site plan fails to meet the performance criteria set forth herein; or
(v) 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.

Any approval of the site plan granted shall require the majority vote of the Planning Board.

(h) 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 in paragraph 0 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.

(i) 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:

1) 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.
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) All existing and proposed lot lines, easements, rights-of-way (including area in acres or square feet), and other encumbrances.
4) All minimum dimensional requirements in the underlying district and setback distances.
5) The location, dimensions, and uses of all existing and proposed buildings and structures on the property, including height and floor area.
6) The location and width of all existing and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, and paths.
7) 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.

8) Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on site and within 100 feet of the site.
9) 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.
10) The location, height, size, materials, content, and design of all proposed signage.
11) Indicate areas where ground removal or filling is proposed and give its approximate volume in cubic yards.
12) 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 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.

(ii) 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.

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

(iv) 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 By-Laws, Chapter XVI, Storm water Management By-Law.

(v) 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 the one hundred year flood plain, the area will be shown and base flood elevations given.

(vi) A copy of all permits, approvals, variances and applications applied for and obtained for the project and property, including applications for utility connection permits.

(vii) For large developments, those exceeding 10,000 square feet of gross floor area or requiring more than 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:

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; 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.
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.

(i) 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.

(j) Performance Criteria.

All proposed projects subject to site plan review shall conform to the following standards:

(i) 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.

(ii) All exterior lighting shall be designed and installed in the following manner:

1) 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 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.
2) 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.
3) 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.
4) 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.
5) 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 bylaws.

(iii) Electric, telephone, and other utility lines shall be placed underground where physically and environmentally feasible.

(iv) 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 their being a hazard or being incongruous with the existing or contemplated environment and surrounding properties.

(v) Storm water 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.

(vi) 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.

(vii) 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.

(viii) 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.

(ix) 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.

(x) 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.

(xi) 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.

(xii) 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.

(xiii) 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.

(k) 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.

(l) 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.

(m) 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.

Article V. Overlay Districts

Section 5.01 Adult Entertainment Overlay District

(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.

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) APPLICABLILITY.

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 bylaws 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) In approving a Special Permit, the Special Permit granting authority may attach such conditions, limitations, and safeguards as are deemed necessary to protect the immediate area and the Town, provided however that no such conditions in fact prohibit the use of the property for the use intended. Conditions of approval may include but are not limited to the following:
1) Street, side or rear setbacks greater than the minimum required by law.
2) Requirement of screening or parking areas or other parts of the premises from adjoining premises or from the street, by walls, fences, planting, or other means.
3) Modification of the exterior features or appearances of the structure.
4) Limitation of the size, number of occupants, method or time of operation, or extent of facilities.
5) Regulation of number, design and location of access drives or other traffic features.
6) Requirement of off-street parking or other special features beyond the minimum required by this or other applicable ordinances.
7) Limiting the hours of operation.

(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 <u>14' in structural height.</u> 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 <u>not to exceed</u> 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 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.

Section 5.02 Affordable Housing Overlay District

Deleted 8/6/2012

Section 5.03 Flood Hazard Overlay District

(a) Purpose

The Flood Hazard Overlay District is herein established as an overlay district to protect human life and property from the hazards of periodic flooding, to facilitate accurate insurance ratings, and to promote awareness and availability of flood insurance. It is also intended to preserve natural flood control characteristics and flood storage capacity of the flood plain and to preserve and maintain the ground water table and water recharge areas within the flood plain.

(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, 25027C0868E, 25027C1030E, 25027C1031E, 25027C1032E, 25027C1033E, 25027C1034E and 25027C1055E dated July 4, 2011. 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 4, 2011. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk and Building Inspector.

(c) Development Regulations

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) These regulations include the following:

1) Chapter 131, Section 40 of the Massachusetts General Laws;
2) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas;
3) Wetlands Protection Regulations, Department of Environmental Protection (DEP) 310 CMR 10.00;
4) Inland Wetlands Restriction, DEP 310 CMR 13.00; and
5) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP 310 CMR 15, Title 5.

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

(ii) Floodway Data and Base Flood Elevation

1) Floodway Data

In zones A and AE, along watercourses that have not had a regulatory floodway designation, 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. This data must be brought to the attention of the Building Inspector and reviewed for its reasonable utilization toward meeting the elevation or flood-proofing requirements, as appropriate, of the State Building Code.

2) Base Flood Elevation Data

Base Flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is lesser, within unnumbered A zones if said proposals include any work within the Flood Hazard Overlay District.

(d) Use Regulations

(i) The following or similar uses are specifically prohibited and shall not be allowed:

1) The storage or disposal of any soil, loam, peat, gravel, rock, refuse, trash, hazardous

materials or materials used for snow and ice control including salt and other deicing chemicals and sand;

2) Draining, excavation, dredging, removal, relocation or transfer of earth, loam, peat, sand, gravel, or rock except as necessary to work that is permitted as of right or by a Special Permit granted by the Planning Board

(e) Special Permit Criteria

(i) In the Flood Hazard Overlay District, no new buildings shall be erected or constructed, and no existing buildings shall be enlarged or moved, except by Special Permit. The applicant shall forward one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, and Building Inspector for comments, which will be considered by the appropriate permitting board prior to issuing applicable permits. All subdivision proposals must be designed to assure that:

1) such proposals minimize flood damage;
2) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
3) adequate drainage is provided to reduce exposure to flood hazards.

(ii) Special Permits hereunder shall be granted only if the Planning Board determines that the proposed use:

(i) Complies in all respects with the requirements of the underlying zoning district in which the land is located, and

(ii) Will not result in any increase in flood levels during the occurrence of a statistical hundred (100) year storm.

(f) Notification of Watercourse Alteration

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

1) Adjacent Communities
2) NFIP State Coordinator
   Massachusetts Department of Conservation and Recreation
   251 Causeway Street, Suite 600-700
   Boston, MA 02114-2104
3) NFIP Program Specialist
   Federal Emergency Management Agency, Region I
   99 High Street, 6th Floor
   Boston, MA 02110

(g) Severability

If any provision of these Flood Hazard District Regulations is held invalid by a court of competent jurisdiction, the remainder of the Flood Hazard District Regulations shall not be affected thereby.

Section 5.04 Large-Scale Ground- Mounted Solar Photovoltaic Facilities Overlay District

(a) Purpose.

The purpose of this by-law is to permit new large-scale ground-mounted solar photovoltaic facilities by providing standards for the placement, design, construction, operation, monitoring, alteration, modification, repair, and removal of such facilities that address public safety and minimize impacts, including those on scenic, natural, and historic resources. This by-law also provides adequate financial assurance for the eventual decommissioning of such facilities.

(b) Applicability.

This Section 5.04 shall apply to the construction, operation, modification, alteration, and/or repair of large-scale ground-mounted solar photovoltaic facilities (SPFs) as defined below.

(c) Location.

The Solar Photovoltaic Facilities Overlay District (SPF District) shall be considered as overlying other zoning districts established by these Zoning By-Laws, as amended. The SPF District shall be shown on the Mendon, Massachusetts Zoning Map dated May 7, 2010 as amended, and shall consist of the following areas:

(i) Parcel 5 on assessor's map 6, an area of 7.27 acres with frontage of 355 feet on Harrington Street;
(ii) 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) Parcel 28 on assessor's map 13, an area of 29.8 acres at 28 Bellingham Street;
(iv) Parcel 32 on assessor's map 18, an area of 12.73 acres at 32 Bellingham Street; and
(v) Parcel 18 on assessor's map 13, an area of 11 acres at 18-R Bellingham Street. Sections of Parcels 28, 32, and 18 comprise the site of the Town Dump landfill and have frontage on a private road off Bellingham Street.

(d) Definitions.
(i) As-of-Right Siting: As-of-Right Siting shall mean that development may proceed without the need for any zoning relief (i.e. special permit, variance, amendment, waiver, or other discretionary approval) except site plan review, if applicable.
(ii) Large-Scale Ground- Mounted Solar Photovoltaic Facilities (herein referred to as SPFs): A solar photovoltaic system that is structurally mounted on the ground and is not roof mounted, and has a minimum nameplate capacity of 250 kW DC**,** and any necessary appurtenances provided they are incidental and subordinate to the SPF and located on the same property.
(iii) Rated Nameplate Capacity: The maximum rated output of electric power production of the SPF in Direct Current (DC).

(e) Required Permits and Approvals.
SPFs shall be permitted in the SPF District upon the issuance of the following permits and approvals:

(i) SPFs occupying a total area of less than 5 acres and having a total rated nameplate capacity of less than 1250 kW shall be permitted as-of-right in the SPF District subject to Site Plan Review in accordance with Section 4.02 of the Town of Mendon Zoning By-Laws.
(ii) SPFs exceeding the acreage or capacity thresholds set forth above in the aggregate, either at initial construction or upon additions or modifications thereto, shall be permitted in the SPF District only upon the issuance of a special permit from the Planning Board in accordance with Section 1.06 of the Town of Mendon Zoning By-Laws, and subject to Site Plan Review in accordance with Section 4.02 of the Town of Mendon Zoning By-Laws.
(iii) No SPF shall be constructed without a building permit. The application for a building permit for a SPF must be accompanied by the required fee.

(f) Compliance with Laws, Ordinances, and Regulations.
(i) The required permits and approvals for the construction, operation, alteration, repair, and removal of all SPFs shall be consistent with all applicable local, state and federal requirements including, but not limited to, all applicable safety, construction, electrical, and communications requirements. All buildings, structures, appurtenances and fixtures forming part of the SPF shall be constructed in accordance with the State Building Code.

(ii) Submission Materials.
In addition to the Site Plan Review Application submission requirements of Section 4.02, the following materials must also be included in a Site Plan Review Application for SPFs:
1) Blueprints or drawings of the solar photovoltaic installation showing the proposed layout of the system and any potential shading from nearby structures;
2) One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
3) Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
4) Name, address, and contact information for proposed system installer;
5) An operation and maintenance plan (See also Section 5.04(g));
6) Proof of liability insurance; and a
7) Description of financial surety that satisfies Section 5.04 (m).

(g) Operation & Maintenance Plan.

The applicant shall submit a plan for the operation and maintenance of the SPFs which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures.

(h) Utility Notification.

No large-scale ground -mounted SPF shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the facility is to be located has been informed of the solar photovoltaic facility's owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

(i) Landscaped Buffer Strip.

A landscaped buffer strip is intended to protect the visual environment of the Town by providing, in a reasonable time, a visual barrier between the SPF and any street or way or any residential area. Screening shall consist of a combination of native plantings that is mostly evergreen and accented with deciduous materials in staggered rows. Deciduous trees shall be at least 2 inches in caliper (measured at breast height) and shall be expected to reach a height of 20 feet within 10 years after planting. Evergreen trees shall be a minimum of 6 to 8 feet in height at time of planting. Existing healthy plant material shall be preserved and may be substituted at the discretion of the Planning Board. A planting plan showing types and sizes and locations of material to be used shall be subject to approval of the Planning Board. Plant materials shall be carefully maintained during establishment. Where considered appropriate, in the judgment of the Planning Board, walls and fences may be used in addition to plantings.

(j) Dimensional and Design Standards.

In addition to the design standards applicable under site plan review, SPFs shall be subject to the following criteria:

(i) SPFs shall be set back a minimum of 50 feet from all streets and ways, and from each lot line of any property either located in the residential district or used for residential purposes.

(ii) No SPF or accessory buildings or structures to the SPF shall exceed 20 feet in height.

(iii) Except as specifically set forth herein, any construction, installation, modification, alteration and/or repair of all or any part of an SPF shall comply with the Town's zoning by-laws concerning design criteria, the bulk and height of buildings and structures, lot area, setbacks, open space, parking and building coverage requirements applicable in the underlying zoning district.

(iv) Signage.

1) Signs on large- scale ground-mounted SPFs shall comply with the Town of Mendon's Sign By-Law. A sign shall be required to identify the owner and provide a 24-hour emergency contact phone number.

2) Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

(v) All appurtenant structures to SPFs including, but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall complement, whenever feasible, the general setback, roof line, arrangement of openings, color, and exterior materials, proportion and scale of existing buildings in the vicinity.

(k) Safety Standards.

(i) Emergency Services

The applicant shall submit a plan clearly marking all means of shutting down the SPF. The owner or operator shall identify a responsible person for public inquiries throughout the life of the facility.

(l) Abandonment or Decommissioning.

(i) Removal Requirements

Any large- scale ground-mounted SPF which has reached the end of its useful life or has been abandoned consistent with paragraph (l) (ii) of this by-law below shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations.

The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal.

Decommissioning shall consist of:

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) Abandonment

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 year without the written consent of the Planning Board. If the owner or operator of the SPF fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and, at the cost of the owner or operator, shall physically remove the facility.

(m) 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 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.

Article VI. Special Provisions

Section 6.01 Motor Vehicle Service Stations

(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.

(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.

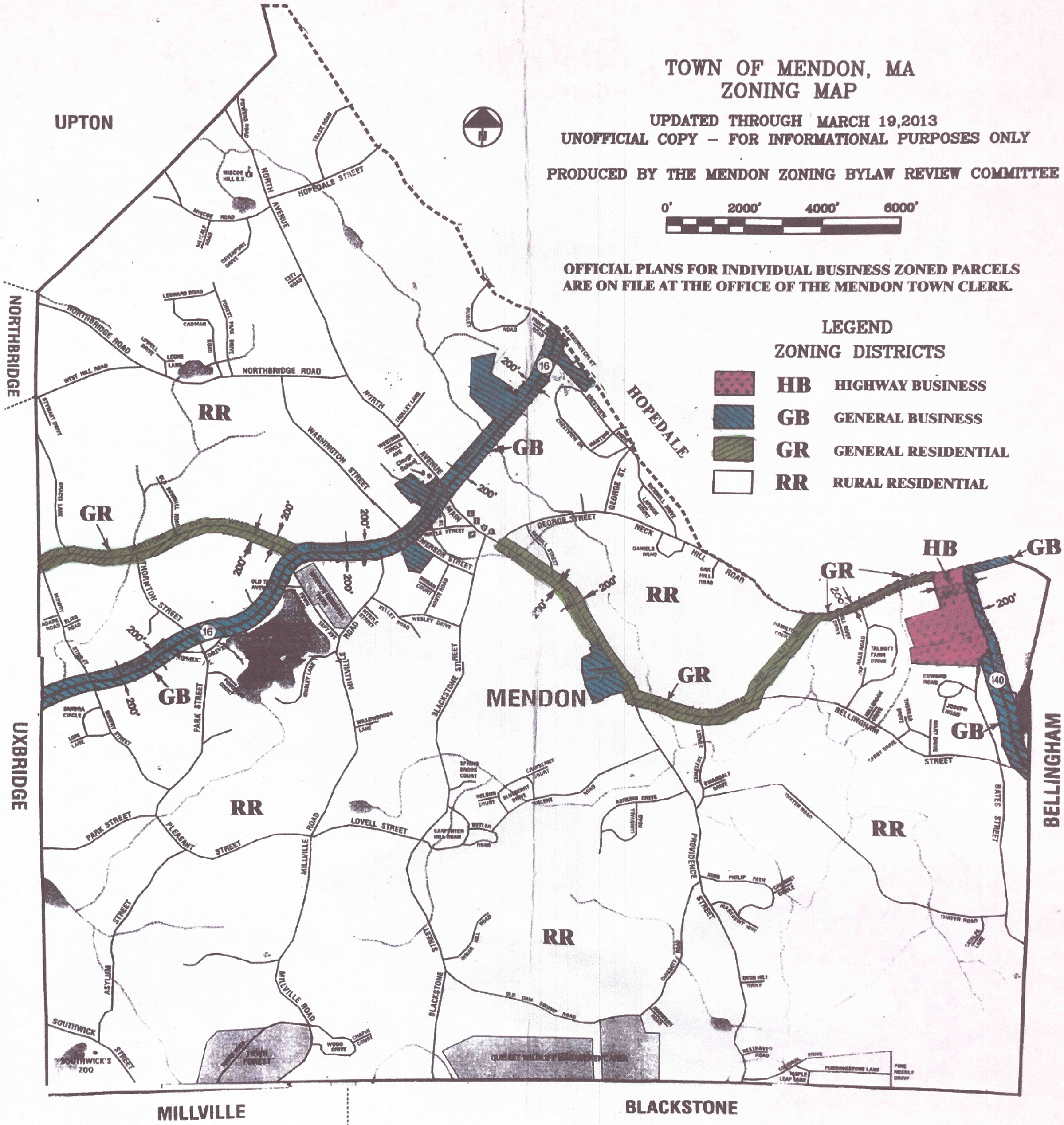
TOWN OF MENDON, MA
ZONING MAP

UPDATED THROUGH MARCH 19,2013
UNOFFICIAL COPY – FOR INFORMATIONAL PURPOSES ONLY

PRODUCED BY THE MENDON ZONING BYLAW REVIEW COMMITTEE

0' 2000' 4000' 6000'

OFFICIAL PLANS FOR INDIVIDUAL BUSINESS ZONED PARCELS ARE ON FILE AT THE OFFICE OF THE MENDON TOWN CLERK.



LEGEND
ZONING DISTRICTS

HB	HIGHWAY BUSINESS
GB	GENERAL BUSINESS
GR	GENERAL RESIDENTIAL
RR	RURAL RESIDENTIAL