



**TOWN OF MENDON  
SPECIAL TOWN MEETING WARRANT  
NOVEMBER 20, 2019  
THE COMMONWEALTH OF MASSACHUSETTS WORCESTER, SS**

**TO EITHER OF THE CONSTABLES OF THE TOWN OF MENDON, IN THE COUNTY OF WORCESTER, GREETINGS:**

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of said Town, qualified to vote in elections and in Town affairs, to meet at the **Miscoe Hill School** in said **MENDON** on the **twentieth day of November** next, at 7:00 o'clock in the evening, then and there to act on the following articles:

- ARTICLE 1** To see if the Town will vote to raise and appropriate and/or transfer a sum of money from available funds to pay Bills of a Prior Year; or act or do anything in relation thereto.  
**(Fin Com)**
- ARTICLE 2** To see if the Town will vote to raise and appropriate and/or transfer a sum of money from available funds into the Stabilization Account; or act or do anything in relation thereto.  
**(Fin Com)**
- ARTICLE 3** To see if the Town will vote to raise and appropriate and/or transfer a sum of money from available funds into the Capital Expenditure Account; or act or do anything in relation thereto.  
**(Fin Com)**
- ARTICLE 4** To see if the Town will vote to raise and appropriate and/or transfer from available funds, and/or otherwise provide a sum of money to be added to the Other Post-Employment Benefits ("OPEB") Liability Trust Fund; or act or do anything in relation thereto.  
**(Fin Com)**
- ARTICLE 5** To see if the Town will vote to raise and appropriate and/or transfer a sum of money from available funds or otherwise provide this sum for the payout of leave time balances accumulated by employees of the Fire Department prior to July 1, 2019 or act or do anything in relation thereto.  
**(Fin Com)**
- ARTICLE 6** To see if the Town will vote to raise and appropriate and /or transfer a sum of money from available funds for the purposes of litigation settlement; or act or do anything in relation thereto.  
**(Fin Com)**
- ARTICLE 7** To see of the Town will vote to raise and appropriate, or transfer from available funds a sum of money to be expended to establish and/or maintain a regional substance abuse outreach program in the Mendon area, or act or do anything in relation thereto.  
**(Fin Com)**
- ARTICLE 8** To see if the Town will vote to transfer a sum of money from available funds or otherwise for the purchase of fire fighter turn out gear; or act or do anything in relation thereto.  
**(Fin Com)**
- ARTICLE 9** To see if the Town will vote to take the following actions:  
**(Fin Com)**
- A. Establish a departmental revolving account for the Fire Department in accordance with M.G.L. Ch 44, § 53E½ by amending Chapter 32 of the Town's General Bylaws, by inserting the following entry to the table of funds. The purpose of this fund shall be for the repair and maintenance of fire protection cisterns and other expenses related to the use of such cisterns. Receipts to this fund shall be monies paid by a developer at the time of installation for the ongoing fire protection cistern expenses. The Fire Chief, with approval of the Board of Selectmen, shall be authorized to expend from this fund but at no time may exceed more than the available balance in the revolving fund or expend more than ten thousand dollars .

A Revolving Fund	B Spending Authority	C Fees, Charges or Other Receipts Credited to Fund	D Program or Activity Expenses Payable from Fund	E Restrictions or Conditions on Expenses	Requirements/ Reports	G Fiscal Year
	Fire Chief, with approval of the Board of Selectmen	Monies/Fees related to fire protection cisterns	Repairs and maintenance of fire protection cisterns and associated expenses for use of same			Fiscal years that begin on or after July 1, 2019.

- B. To see if the Town will vote to set the annual spending limit on this revolving account in accordance with M.G.L. Ch 44, § 53E ½ to \$10,000.
- C. To transfer the entire balance of the existing Fire Department Revolving Account as of 5/3/19 to this newly established revolving account.
- D. or act or do anything in relation thereto.

- ARTICLE 10** To see if the Town will vote to set the limits on the Revolving Funds created in Article 10, in accordance with Massachusetts General Laws Chapter 44, § 53E1/2 as follows; or act or do anything in relation thereto.  
**(Fin Com)**

Revolving Fund	Limit on Spending
Fire Department	\$10,000.00

- ARTICLE 11** To see if the Town will vote to set aside for later spending from the FY20 Community Preservation Revenues (10%) for open space; (10%) for historic preservation; (10%) for affordable housing, (5%) for administration and (65%) to the Community Preservation Budgeted Reserve; or act or do anything in relation thereto.  
**(CPA)**



- ARTICLE 12 (CPA)** To see if the Town will vote to transfer a sum of money from the Community Preservation Act Historic Preservation Account to fund the purchase of archival sleeves and boxes for historic document preservation; or act or do anything in relation thereto.
- ARTICLE 13 (CPA)** To see if the Town will vote to transfer a sum of money from the Community Preservation Act Affordable Housing Account for acquisition and site costs for an easement to the Town of Mendon through parcel 46-1 Providence Street, Mendon, MA to access Town-owned 52 Providence Street, Mendon, MA; or act or do anything in relation thereto.
- ARTICLE 14 (CPA)** To see if the Town will vote to give the Board of Selectmen authorization to accept an easement through lot 46-1 Providence Street owned by Michael A. Ferrucci to access Town-owned 52 Providence Street, Mendon, MA; or act or do anything in relation thereto.
- ARTICLE 15 (CPA)** To see if the Town will vote to transfer a sum of money from the Community Preservation Act Affordable Housing Account for acquisition and site costs for an easement to the Town of Mendon over a portion of Kinder Morgan's Tennessee Gas Pipeline located on parcel 46-1 Providence Street, Mendon, MA to access Town-owned 52 Providence Street, Mendon, MA; or act or do anything in relation thereto.
- ARTICLE 16 (CPA)** To see if the Town will vote to give the Board of Selectmen authorization to accept an easement over a portion of Kinder Morgan's Tennessee Gas Pipeline located on parcel 46-1 Providence Street, Mendon, MA to access Town-owned 52 Providence Street, Mendon, MA; or act or do anything in relation thereto.
- ARTICLE 17 (HISTORIC)** To see if the Town will vote to raise and appropriate and/or transfer a sum of money to cover postage and printing for the Public Hearings for demolitions applications for historic homes; or act or do anything in relation thereto.
- ARTICLE 18 (PLANNING)** To see if the Town will vote to amend the Mendon Zoning Bylaws section 1.02 to incorporate Low Impact Development guideline, or act or do anything in relation thereto. A copy of the proposed amendment is on file with the Town Clerk and posted on the Town's Website.
- ARTICLE 19 (PLANNING)** To see if the Town will vote to amend the Mendon Zoning Bylaw Table of Uses 56-1 to include Marijuana establishments, and medical marijuana treatment centers as defined and in accordance with Section 6.03 By Special Permit; or act or do anything in relation thereto. A copy of the proposed amendment is on file with the Town Clerk and posted on the Town's Website.
- ARTICLE 20 (BOS)** To see if the Town will vote, pursuant to M.G.L.c. 59, § 38H, and/or any other enabling authority, to ratify and approve, and to authorize the Board of Selectmen to negotiate and enter into on such terms and conditions as the Board of Selectmen deems in the best interests of the Town, a so-called Payment in Lieu of Taxes (PILOT) Agreement with BWC Box Pond, LLC, or its affiliate, with respect to payments for a sum certain in lieu of real and/or personal property taxes owed to the Town over a twenty (20) year period relative to a proposed solar electric generating facility at 35 Cape Road Mendon, MA 01756, with an option for extension coterminous with the lease of said parcels; and to authorize the Board of Selectmen to take such actions and execute any necessary documents relating thereto; or act or do anything in relation thereto.
- ARTICLE 21 (BOS)** To see if the Town will vote to accept the provisions M.G.L.c. 41, § 110A, authorizing the Town to treat Saturdays as a holiday; or act or do anything in relation thereto.
- ARTICLE 22 (BOS)** To see if the Town will vote to accept the provisions of M.G.L. c. 40, § 22F authorizing the Board of Selectmen to set fees; or act or do anything in relation thereto.
- ARTICLE 23 (BOS)** To see if the Town will vote to amend the Town's General By-Laws, Animal Control By-law, Chapter XI, Section 7-9.2 Section 7-9.7 and Section 7- 9.10 to include fee schedule set by the Board of Selectmen; or act or do anything in relation thereto. A copy of the proposed amendment is on file with the Town Clerk and posted on the Town's Website.
- ARTICLE 24 (BOS)** To see if the Town will vote to amend the Scenic Roads Bylaw, Chapter XVI, Section 7, of the Town of Mendon General By-laws by adding the following road to those designated as Scenic Roads: Washington Street; or act or do anything in relation thereto.
- ARTICLE 25 (BOS)** To see if the Town will vote to amend the Town's General By-Laws by adding a new section to prohibit the display of wild or exotic animals in traveling animal acts for public entertainment or amusement and add this section to the table of contents; or act or do anything in relation thereto. A copy of the proposed amendment is on file with the Town Clerk and posted on the Town's Website.
- ARTICLE 26 (CITIZEN PETITION)** To see the Town will vote that after February 1, 2020, the Town will require the following boards and committees to create an audio-visual recording of their posted meetings, to be made available to public. Meetings convened in executive session for one of the purposes laid out in M.G.L. c. 30A, § 21 will be exempt from this requirement.  
 -Board of Selectmen  
 -Finance Committee  
 -Board of Health  
 -Zoning Board of Appeals  
 -Planning Board  
 -Conservation Commission
- ARTICLE 27 (CITIZENS PETITION)** To see if the Town will vote to rename the "Board of Selectmen" to "Select Board" and replace every instance of the term "Board of Selectmen" and "Selectmen" with "Select Board" in Mendon's General By-laws.
- ARTICLE 28 (CITIZENS PETITION)** To see if the Town will vote to replace every instance of the term "Board of Selectmen" and "Selectmen" with "Select Board" in Mendon's Zoning By-laws.

**ARTICLE 29**  
**(CITIZENS**  
**PETITION)**

To see if the Town will vote to add Section 1. Notwithstanding any provision of any general or special law to the contrary the number of members of the Board of Selectmen of the Town of Mendon shall be increase from three (3) to five (5). The Board of Selectmen shall annually elect a chairperson from among its members.

Section 2. At the first Annual Town Election following acceptance of this act by the voters of the Town, but in no event prior to the 2020 Annual Town Election, three (3) Selectmen shall be elected. The candidate receiving the highest number of votes in that election shall serve a three (3) year term, the candidate receiving the second highest number of votes shall serve a (2) year term, and the candidate receiving the third highest number of votes shall serve a one (1) year term. Thereafter, as the terms of Selectmen expire, successors shall be elected for terms of three (3) years.

And you are directed to serve this Warrant, by posting up attested copies thereof at three or more public places in said Town, 14 days at least before the time of holding said meeting.

HEREOF FAIL NOT, and make due return of this Warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting, as aforesaid.

Given under our hands this 15th day of October, in the year of our lord two thousand nineteen.

  
\_\_\_\_\_

\_\_\_\_\_ Selectmen of Mendon

A True copy. Attest:

\_\_\_\_\_ Constable

Worcester, ss.

PURSUANT TO THE WITHIN WARRANT, I have notified and warned the inhabitants of the Town of Mendon by posting up attested copies of the same at:

Town Hall; Town Hall Website; Post Office ; Senior Center ; Taft Library

\_\_\_\_\_ days before the date of the meeting, as within directed.

\_\_\_\_\_, Constable

**Article 18 - Proposed Amendment**



## Article 19 – Proposed Amendments

*Changes indicated in red and notated with highlights*

### 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.
- (Add item J)**
  - (j) **Low Impact Development: Systems and practices that use or mimic natural processes that result in the infiltration, evapotranspiration or use of stormwater in order to protect water quality and associated aquatic habitat**
- (reletter subsequent items k-u)**
  - (k) 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.
  - (l) Multi-unit Dwelling: Any structure or building used in whole or in part to contain three or more housekeeping units.
  - (m) Non-conforming Use: ~~A legally existing use, which does not conform to the zoning regulations for the district in which it is located.~~
  - (n) One-Family House: A detached dwelling intended and designed to be occupied by a single family.
  - (o) Race Track: A tract of land which is used for the purpose of auto racing, horse racing, or dog racing.
  - (p) Power Plants: Any building, structure, machinery, and associated equipment and facilities for the purpose of producing or generating electricity or power.

- (q) 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.
- (r) 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.
- (s) 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.
- (t) Trailer: A vehicle used for living or sleeping purposes and standing on wheels or on rigid supports.
- (u) Trailer Park: The existence of more than one inhabited trailer at a given time on a lot.

## **Section 2.03 Off Street Parking and Loading**

### **(a) Purpose**

It is the intent of this section to assure that off-street parking and loading spaces are provided to accommodate the motor vehicles of all persons normally using or visiting a use or structure at any one time. For any permitted use hereafter established, such spaces shall be provided in accordance with standards hereinafter specified. All spaces required to be 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**

*Omitted from this summary to save space as there are no changes from the current by-laws*



(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.

**(add items 11-13)**

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

**(renumber last item to #14)**

- 14) Each required parking space, exclusive of driveways and aisles, shall be at least 9 feet wide and 18 feet long. The dimensions for parking spaces and drive aisles shall conform to the following table:

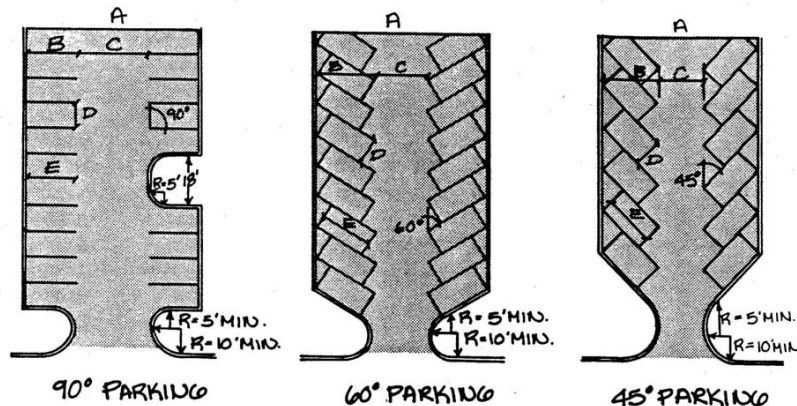
	90 deg	60 deg	45 deg
A. Double Parking Bay	60 feet	58 feet	53 feet
B. Depth of Bay	18 feet	20 feet	19 feet
C. Width of Aisle	24 feet	18 feet *	15 feet *
D. Width of Space	9 feet	9 feet	9 feet
E. Depth of Space	18 feet	18 feet	18 feet

*\*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 entrance and exit for driveways onto the street shall not be less than 12 feet in width for each lane of traffic using the driveway, but the total width of such entrance or exit shall not exceed 30 feet. No such driveway shall be within 10 feet of any other driveway on the same property or within 10 feet of any property line.

**(correct typo in "Maintenance")**

- (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

**(add to item e)**

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.

**Parking stalls may be constructed with pervious materials.**

(f) Joint use

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

(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.

# 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:
    - (add items to following list (1, 2, 4, 5, 6) and re-number)**
    - 1) Wherever a non-residential district abuts a residential district for a single or two-family dwelling, a 100 foot buffer from the lot lines and a 200 foot buffer from any residential dwelling shall be maintained. Natural vegetation shall be maintained in these buffer zones, and, in the absence of natural vegetation, the addition of dense, hardy evergreens, **deciduous trees, and shrubs, native varieties wherever possible**, will be required. The buffer zones shall not be used in any other manner, or for any other purpose, except for natural or required vegetation.
    - 2) **An effort should be made to provide a variety of sizes and species. Sizes for deciduous trees should range from a minimum of 1-inch to 3-inch caliper as specified by American Standards for Nursery Stock. Multi-stemmed deciduous trees such as *Betula nigra* (River birch) should be of a comparable height (8' to 10') to a 1"-3" caliper tree. Evergreen trees should be planted at varying heights from five to ten feet at the time of planting.**
    - 3) Vegetated landscaped buffer strips at least 15 feet wide shall be installed and maintained between lots. Trees and shrubs for landscaped areas shall be of native varieties. These areas shall be properly



maintained by the lot owner. Any trees, shrubs or other vegetation which dies shall be replaced within one growing season.

- 4) Compost or other organic amendments should be mixed into the back-fill soil to increase water-holding capacity where appropriate.
- 5) Large trees may be staked for stability for one growing season.
- 6) All plant materials should conform to American Standards for Nursery Stock, latest edition. Trees and plants species should be selected on the basis of having similar climatic, water, soil, and maintenance requirements.
- 7) A coordinated landscape design for the entire project shall be reviewed by the Planning Board and approved in accordance with Section 4.02, Site Plan Review.

(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.

**(add item)**

(xviii) Total impervious area on any given site shall be minimized as possible through the use of natural plantings and construction of Low Impact Development best management practices as described in the Massachusetts Stormwater Handbook.

## **(Delete Section 3.03 Rate of Development)**

### **~~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.

**(add item vii)**

- (vii) To promote development that is in line with goals and objectives as defined by Town of Mendon's Open Space and Recreation Plan.
- (viii) 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.~~

**(Insert text, item 3)**

- (iii) Low Impact Development: A technique that incorporates environmentally friendly land use planning through a range of techniques that preserve the natural hydrology of the land. Examples would be rain gardens, swales, shared driveways, ~~driveways constructed of permeable paving~~, bioretention, and alternative landscaping.
- (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

*(add text to item f)*

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. **Use of best management practices for Low Impact Development as defined by the Massachusetts Stormwater Handbook are strongly encouraged.**

- 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:

**(add text to items 3 and 4, add new item 5)**

- 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 **and ecosystem** amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties, **for stormwater mitigation, and enhancing ecological integrity.**
- 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.
- 5) **Designs shall include Low Impact Development techniques when feasible.**

(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.



**(add items 3 and 4)**

- (iii) A functional relationship shall exist between the common open space areas and the proposed residential clusters. Such common open space shall be restricted to open space, agricultural uses, recreational uses such as tot-lot, park, playground, playfield, or conservation area. Such common open space shall have suitable access to and from the development's street(s), and shall conform to the requirements of Mendon's Subdivision Rules and Regulations, in effect at the time of application.
- (iv) The access to the open space must be included in the open space land covered by the conservation restriction. An easement not under the conservation restriction is not acceptable.

(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

**The tract for which an open space residential development is proposed shall be in a single ownership or control at the time of the first lot release and have a clear title. At the developer's option and subject to approval by the planning board, all areas to be protected open space shall be transferred before the first lot release and 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

***(Delete item iii and replace with new text)***

~~(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.~~

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

(a) Maintenance of Open Space

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

***(add text to item M)***

(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. If conservation restriction is not complete at the recording of the definitive plan, the Planning Board can allow the developer to submit a check to the town (amount determined by the Planning Board) to cover the costs of developing the conservation restriction, monitoring and related costs. Before any lots are released, the open space needs to be deeded to the town or other entity as described in Section 3.04 (k) And the developer must mark the open space boundaries with signs, approved by the Planning Board,

(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.

## **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.~~

**(correct typo in item iv)**

(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 XXVI, 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

# **Article 19 - Proposed Amendments**



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
56-1	Marijuana establishments, and medical marijuana treatment centers as defined and in accordance with Section 6.03 <i>inserted 11/21/18</i>	N	N	PB	PB
<b>Industrial</b>					
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
<b>Recreational</b>					
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.		

Proposed Change

# **Article 23 - Proposed Amendment**

## Article 23 Proposed Amendment

**To see if the Town will vote to amend the Town's General Bylaws to allow changes to the Section 7 – Animal Control By-Law, a copy of which is on file with the Town Clerk and posted on the Town's Website; or act or do anything in relation thereto.**

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

#### Section 7.1 - Purpose

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

#### Section 7.2 Applicability

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

#### Section 8 - Definitions

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

- 8.10 Livestock or fowl. A fowl or other animal kept or propagated by the owner for food or as a means of livelihood, deer, elk, cottontail rabbit, northern hare, pheasant, quail, partridge and other birds and quadrupeds determined by the department of fisheries, wildlife and environmental law enforcement to be wild and kept by, or under a permit from, the department in proper houses or suitable enclosed yards; provided, however, that "livestock or fowl" shall not include a dog, cat or other pet.
- 8.11 Nuisance dog. A dog that: (i) by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or (iii) has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.
- 8.12 Personal kennel. a pack or collection of more than four (4) dogs, three (3) months old or older, owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally-owned dog; and provided further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the Department of Agricultural Resources, may be sold, traded, bartered or distributed if the transfer is not for profit.

#### Section 9 - Licensing

- 9.1 All dogs shall be licensed, except as otherwise provided in this By-Law. The owner or keeper of a dog over the age of six (6) months shall obtain a license for the dog pursuant to Chapter 140, Section 137 of the Massachusetts General Laws. Any owner or keeper of a dog over six (6) months of age shall, by April 1<sup>st</sup> of each year, cause the dog to be registered, numbered, described and licensed with the Town Clerk in accordance with Massachusetts General Laws, Chapter 140, Section 139 as amended.
- 9.2 ~~The annual fee for every dog license except as otherwise provided by law shall be ten dollars (\$10.00) for a male or female dog, unless a certificate of a registered veterinarian who performed the operation that such dog has been spayed or neutered and has thereby been deprived of the power of propagation has been shown to the Town Clerk, in which case the fee shall be six dollars (\$6.00).~~ set by the Select Board. A certified copy of such certificate of spaying or neutering on file in the office of any city or town clerk within the Commonwealth may be accepted as evidence that such operation has been performed. If the Town Clerk is satisfied that the certificate of the veterinarian cannot be obtained, he/she may accept in lieu thereof a statement signed under the penalties of perjury by a veterinarian registered and practicing in the Commonwealth describing the dog and stating that he/she has examined such dog and that it appears to have been, and in his/her opinion, has been spayed or neutered and thereby deprived of the power of propagation.
- 9.3 A licensing authority shall not grant a license for a dog unless the owner of the dog provides the licensing authority with a veterinarian's certification that the dog has been vaccinated for rabies, certification that such dog is exempt from the rabies vaccination requirement under Massachusetts General Laws Chapter 140, Section 145B, or a notarized letter from a veterinarian that either of these certifications was issued relative to such dog.
- 9.4 The license shall be granted upon condition that the dog shall be controlled and restrained from killing, chasing or harassing livestock or fowl.
- 9.5 No license fee shall be charged for a license for a service animal as defined by the Americans with Disabilities Act. No fee shall be charged for a license for a dog owned by a person aged seventy (70) years or over.

9.6 No dog license fee or part thereof shall be refunded because of the subsequent death, loss, spaying or removal from the Commonwealth or other disposal of the dog.

9.7 Should any owner or keeper of a dog fail to license his/her dog before May 1st, close of business on March 31<sup>st</sup>, the owner shall pay a late fee of six dollars (\$6.00) consistent with the current fee schedule as set by the Select Board. The owner of any dog impounded because of failure to license according to this By-Law, may claim such dog upon the reimbursement to the Animal Control Officer of the expense incurred for maintaining such dog according to the following fee schedule:

- a. Payment of any Kennel charges incurred for the period of the dog's impoundment.
- b. Twenty-five (\$25) for initial handling and pick-up of the dog. Prior to its release, the owner of said dog shall obtain a license from the Town Clerk.

9.8 The owner or keeper of a licensed dog shall keep affixed around the dog's neck or body, a collar or harness of leather or other suitable material, to which a tag shall be securely attached. The tag shall have inscribed upon it the dog's license number, the name of the city or town issuing the license and the year of issue. If the tag becomes lost, the owner or keeper of the dog shall immediately secure a substitute tag from the licensing authority at a cost to be determined by the city or town and the fee for the substitute shall, if received by a city or town clerk, be retained by the clerk unless otherwise provided by law.

9.9 Every person maintaining a kennel shall obtain a kennel license in accordance with M.G.L. Chapter 140, Section 137A.

9.10 The fee for every kennel license shall, except as otherwise provided, be thirty dollars (\$30.00) for four (4) dogs or less, forty dollars (\$40.00) for ten (10) dogs or less, and fifty dollars (\$50.00) for more than ten (10) dogs be consistent with the current fee schedule set by the Select Board. An owner or keeper of a Personal Kennel may elect to secure a kennel license in lieu of licensing each individual dog.

9.11 In the case of an applicant for initial licensure, a licensing authority shall not issue a kennel license until a kennel has passed inspection by the Animal Control Officer.

9.12 Whoever violates M.G.L. Chapter 140, section 137, 137A, 137 B or 138 shall be assessed a penalty of not less than fifty dollars (\$50.00).

9.13 Any funds collected pursuant to the provisions of this by-law, shall be accounted for and paid over to the Town Treasurer at such time and in such manner as may be designated by the Town Treasurer.

#### Section 10 - Public Nuisance

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

#### Section 11 - Complaint of Nuisance

11.1 If any person shall make a complaint in writing to the Animal Control Officer that any dog owned or harbored within the Town is a nuisance dog or is dangerous dog, the Animal Control Officer shall investigate such complaint and submit written report to the Board of Selectmen, acting as the hearing authority, of his findings and recommendations, together with the written complaint.



11.2 The Animal Control Officer, after investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed fourteen (14) days to allow the Board of Selectmen to issue their order following receipt of the report of the Animal Control Officer.

11.3 Any dog may be restrained or muzzled pursuant to an interim order of the Animal Control Officer for any of the following reasons:

- a. For having bitten any person.
- b. If found at large while an order for restraint of such dog is in effect.
- c. If found in a school, schoolyard or public recreation area.
- d. For having killed or maimed or otherwise damaged any other domesticated animal.
- e. For chasing any vehicle upon a public way or way open to public travel in the Town.
- f. For any violation of this section relating to dogs.

Upon restraining or muzzling, or issuing any order to restrain or muzzle, the Animal Control Officer shall submit in writing to the Board of Selectmen a report of his action and the reasons therefore. If the Board of Selectmen fails to act during the period of the interim order, upon expiration of the period, the interim order shall be automatically vacated.

11.4 Such investigation shall include notice to the owner and a hearing with an examination under oath of the complainant to determine whether the dog is a nuisance or is a dangerous dog.

Based on the credible evidence and testimony presented at the public hearing, the Board of Selectmen shall, if the dog is complained of as a nuisance dog, either:

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

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

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

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

## Section 12

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

## Section 13 Penalty

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

## Section 14 Penalty-Violations of Article

Whoever violates any provision of this By-Law may be penalized by a noncriminal disposition as provided in M.G.L. Chapter 40, Section 21D. For the purposes of this By-Law, the Animal Control Officer and all Mendon Police Officers, shall be designated enforcing persons. Each day on which any violation of this By-Law occurs shall be deemed to be a separate offense subject to the following penalties:

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

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

Section 15 Severability

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

**END OF SECTION 7 – ANIMAL CONTROL BYLAW**

local and regional plans. This assessment shall include at a minimum:

- a. Evaluation of the relation of the proposed new or altered structure to the surrounding community in terms of character and intensity of the use (e.g., scale, materials, colors, setbacks, roof and cornice lines and other major design elements); and the location and configuration of proposed structures, parking areas and open space with respect to neighboring properties.
- b. Identification of impacts on significant historical properties, and districts or areas of archaeological resources (if any) in the vicinity of the proposed development.
- c. Evaluation of the proposed project's compatibility with existing local and regional plans.
- d. In large developments with buildings over 10,000 sq ft or for smaller developments in dense areas also include a development impact assessment to determine applicability of LID to site.

**(add item d)**

# **Article 25 - Proposed Section**

## **11.20.19 STM Article 25**

***To see if the Town will vote to amend the Town's General By-Laws by adding a new section to prohibit the display of wild or exotic animals in traveling animal acts for public entertainment or amusement and add this section to the table of contents; or act or do anything in relation thereto. A copy of which is on file with the Town Clerk and posted on the Town's Website.***

### **Sec 1. Definitions**

As used in this Article, the following words and phrases have the following meanings:

Department means the [enforcement agency, such as the Department of Health and Human Services]

Director means the Director of the [enforcement agency, such as Department of Health and Human Services].

Display means any exhibition, fair, act, circus, ride, or similar undertaking in which animals are required to perform tricks, give rides, or participate as accompaniments for the entertainment, amusement, or benefit of a live audience, whether or not a fee is charged. This Article shall not apply to educational programs or activities affiliated with a licensed zoo or rescue facility.

Mobile or traveling housing facility means a transporting vehicle such as a truck, trailer or railway car, used to transport or house animals while traveling for exhibition or other performance.

Traveling animal act means any display of animals where such animals are transported to, from, or between locations for the purpose of such display, in a mobile or traveling housing facility.

Wild or exotic animal means any live animal from any of the following scientific classifications:

- a. Artiodactyla (including hippopotamuses, giraffes, camels, but excepting cattle, bison, buffalo, swine, sheep, goats, llamas, and alpacas);
- b. Crocodilia (including alligators and crocodiles);
- c. Elephantidae (elephants);
- d. Felidae (including tigers, lions, jaguars, leopards, cheetahs, and cougars, or any hybrid thereof, but excluding domestic cats);
- e. Marsupialia (including kangaroos);
- f. Non-human primates (including apes, monkeys, and lemurs);
- g. Perissodactyla (including rhinoceroses, tapirs, and zebras, excepting horses, ponies, donkeys, and mules);
- h. Pinnipedia (including seals, sea lions, and walruses);
- i. Ursidae (bears);
- j. Elasmobranchii (including nurse sharks and lemon sharks)

### **Sec 2. Prohibited Acts**

It shall be unlawful for any person to allow for the participation of a wild or exotic animal in a traveling animal acts.



### **Sec. 3. Enforcement and Penalties**

This Bylaw shall be enforced by any available means in law or equity, including but not limited to enforcement by non-criminal disposition pursuant to M.G.L. c. 40, §21D. Display of a wild or exotic animal in violation of this bylaw shall constitute a separate violation for each day such violation exists for the display of each such animal. When enforced through non-criminal disposition, the penalties shall be as follows:

First violation: \$100.00

Second violation: \$200.00

Third violation and subsequent offenses: \$300.00

The Board of Selectmen or its designee, the Board of Health or its agent, and any Police Officer of the Town of Mendon shall be considered "enforcing persons" for purposes of this bylaw.

### **Sec. 4. Violations of Article**

Any person who violates any provision of this article shall be subject to punishment for a \$500 maximum fine and 30 days in jail. Each day a violation continues to exist shall constitute a separate offense, as shall each wild or exotic animal exhibited.