Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of Mendon

Local Law No. 3 of the year 2013

A local law to repeal and reenact Chapter 200, Zoning, to enact new Chapter 94, Environmental Protection Districts, and to repeal and reenact Chapter 86, Definitions and Word Usage, of the Code of the Town of Mendon.

Be it enacted by the Town Board of the Town of Mendon as follows:

SECTION 1. Chapter 200, Zoning, is repealed and reenacted as follows:

Chapter 200

ZONING

ARTICLE I
Enactment and Purpose

§ 200-1. Title.
This chapter shall be known and may be cited as the "Zoning Law of the Town of Mendon."

§ 200-2. Purpose.
For the purpose of promoting the health, safety and general welfare of the people of the Town of Mendon, this chapter is adopted pursuant to Article 16 of Town Law and pursuant to the Municipal Home Rule Law of the State of New York. Its purpose is to regulate and restrict the height, number of stories and size of buildings and other structures; the percentage of lot that may be occupied; the size of yards, courts and other open space; the density of population; and the location and use of buildings, structures and land for business, industry, agriculture, residence or other purposes. This chapter, and the Official Zoning Map enacted pursuant to this chapter, are designed to lessen congestion in the streets; to secure safety from fire and other dangers; to provide adequate light and air; to provide for solar access and the implementation of solar energy systems; to prevent the overcrowding of land and to avoid undue concentration of population; to facilitate the efficient and adequate provision of public facilities and services; and to provide the maximum protection to residential areas from the encroachment of adverse environmental influences. This chapter and the Official Zoning Map were enacted after reasonable consideration, among other things, as to the character of the Town and its peculiar suitability for particular uses and with a view to conserving property values and natural resources and encouraging the most appropriate use of land throughout the Town.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
§ 200-3. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum standards and requirements for the protection of the public health, safety and general welfare.

§ 200-4. Conflict with other laws.

Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, local laws or laws, the most restrictive or those imposing the higher standards shall govern. The zoning regulations set forth herein are in addition to and not in place of subdivision and other Town ordinances governing land use.

§ 200-5. Amendments.

A. Procedure. The Town Board may, from time to time, on its own motion, on petition or on recommendation of any board or commission appointed by the Town Board relating to land use, or on petition from an interested person and in accordance with the laws of the State of New York, amend, supplement or repeal the regulations, provisions or district boundaries of this chapter.

B. Filing of petition. A petition to amend, change or supplement the text of this chapter or any zoning district as designated on the Official Zoning Map established herein shall be filed with the Town Clerk and shall be transmitted by the Town Clerk to the Town Board. A petition for a change to the Official Zoning Map shall contain a map which clearly describes the affected property and its boundaries and shall indicate the existing zoning district and the requested zoning change. In addition, every petition for a change to the Official Zoning Map shall contain an environmental assessment form completed and signed by the petitioner, or agent, in accordance with the procedures set forth in the State Environmental Quality Review Act (SEQRA) regulations.

C. Referral to Planning Board. Each proposed amendment, except those initiated by the Planning Board, shall be referred to the Planning Board for an advisory report. In reporting, the Planning Board shall fully state its reasons for recommending or opposing the adoption of such proposed amendment. The Planning Board may condition its recommendation, as may be appropriate, and shall state whether such amendment is in harmony with the most recent Town of Mendon Comprehensive Plan (Comprehensive Plan) for land use. The Planning Board shall state its position relative to proposed zoning amendments, in writing, within 45 days of its receipt of a referral from the Town Board. Absence of a reply from the Planning Board within the forty-five-day period shall indicate that the Planning Board is in favor of the amendment.

D. Public hearing; notice; recording of actions. Unless otherwise provided, the provisions of the Town Law of the State of New York pertaining to public hearings, official notices and proper recording of zoning actions taken by the Town Board shall apply to all amendments to this chapter.

E. Provisional amendments. In the case of a proposed amendment which involves the reclassification or transfer of any area to a less restrictive district, the Town Board may require the petitioner to submit a site plan showing the extent, location and character of proposed structures and uses drawn to scale and including or containing the level of detail required for a preliminary site plan by the provisions of Article VIII. The Town Board may request the Planning Board to review said concept plan and report its findings as part of the public hearing or public record on the rezoning.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
F. Disposition final; rehearing on petition. The disposition of a petition for amendment by the Town Board shall be final. No new petition for an amendment which has been previously denied by the Town Board shall be considered by it, except for a vote to table or to receive and file, and no public hearing shall be held on such petition within a period of one year from the date of such previous denial unless the Planning Board shall submit a recommendation, with reasons stated therefor, certifying that there have been substantial changes in the situation which would merit a rehearing by the Town Board. Such rehearing may be granted only upon a favorable vote of a majority of the Town Board plus one.

ARTICLE II
Terminology

§ 200-6. Definitions and word usage.

For the purpose of this chapter, certain words and terms used herein shall be defined in Chapter 86 of this Code.

ARTICLE III
General Provisions Applicable to All Districts

§ 200-7. Applicability of regulations.

No building shall hereafter be erected and no existing building shall be moved, structurally altered, rebuilt, added to or enlarged, nor shall any land be used, for any purpose other than those included among the uses listed as permitted or special permitted uses in each zoning district of this chapter and meeting the requirements set forth herein. Open space contiguous to any building shall not be encroached upon or reduced in any manner, except in conformity to the area and bulk requirements, off-street parking requirements and all other regulations required by this chapter for the zoning district in which such building or space is located. In the event of any such unlawful encroachment or reduction, such building or use shall be deemed to be in violation of this chapter, and the certificate of occupancy shall become null and void.

§ 200-8. Regulations applicable to all districts.

A. Start of construction shall not commence until the Town has given final subdivision or site plan approval and a subdivision map has been filed in the Monroe County Clerk's office if required. In special circumstances, the Town Board may grant approval for site preparation in advance of final approval upon application for permission to the Town Board and consultation with the Planning Board. Said application shall be supported by good and sufficient reasons for starting in advance of final approval and must contain adequate surety for the performance of the work.

B. There shall be only one principal building or use on any lot.

C. Accessory buildings/structures shall be subject to the following:

   (1) No more than two accessory buildings may be located on any parcel containing less than two acres of land in a residential district.

   (2) The construction of an accessory building may only be allowed when a principal building exists or for which a building permit has been issued.
(3) The total area of all accessory buildings on any parcel of land in an RA-5 Residential District shall not exceed 2% of the total area of the lot. The total area of accessory structures in all other residential districts shall not exceed 1% of the total area of the lot.

(4) In determining the amount of lot coverage, the area of a freestanding garage shall not be included if there is no garage attached to the principal structure. If an existing attached garage is converted to living space, any subsequently built freestanding garage shall be included in determining lot coverage.

(5) For the purpose of determining lot coverage of an accessory structure, the lot coverage shall be the area covered by the horizontal projection of the outer dimensions of its roof (including pergolas) or, if there is no roof or pergola, the lot coverage shall be the area of the ground occupied by the structure.

(6) No accessory building in a residential district shall exceed 35 feet in height.

(7) No accessory building shall be closer to the street or right-of-way line than the minimum front yard setback for the principal building.

(8) These provisions shall not apply to agricultural buildings which are used for income-producing agricultural activities.

(9) The Code Enforcement Officer (CEO) may require accessory buildings to be fenced and/or buffered from adjacent properties, consistent with approved site development plans, in order to shield adjacent properties.

(10) An accessory building containing greater than 50 square feet in area and located in the front yard of the principal building on a site shall be subject to site plan approval by the Planning Board.

D. Every principal building shall have access to a public street. Access may be either direct or by private road or drive approved by the Town. Access is to be owned by fee simple title and be a minimum of 100 contiguous feet wide per lot. Any accessway over 500 feet in length shall be improved to meet Town requirements. The maximum number of principal structures to be serviced by one private road or drive is four. All structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

E. Curb cuts and driveways may be located only upon approval by the Highway Superintendent or such other county and state authorities as required by law. Approval shall not be given where such curb cuts and driveways shall unnecessarily increase traffic hazards. The edge of an improved driveway shall not be located closer than 10 feet to a property line unless such driveway is a common driveway with the adjoining property.

F. No property shall be used for the killing or slaughtering of domestic animals except animals raised on the property which are for consumption by the residents of the property.

G. No front yard shall be used for the parking of boats, recreational vehicles, travel trailers or any other equipment for a period of more than 30 consecutive days. Such boats, recreational vehicles and travel trailers may be stored on the side or rear of the building, but not nearer than 10 feet to the rear or side lot line. All vehicles must be owned by the resident unless fully enclosed in a building.

H. If the use of any lot or building involves the disposal of sewage or wastewater and public sewers are not available, an adequate sanitary disposal system for the same shall be
installed in accordance with regulations and standards promulgated by the Town and by the Department of Health and at all times maintained on such lot or in lawful connection therewith. The minimum lot area otherwise required shall be increased where necessary to the extent required to provide such disposal system. Certification of approval for the installation of on-site sewage disposal systems shall be obtained from the Department of Health and submitted to the CEO prior to the start of construction. In addition, if the use of any lot or building involves a private water source, an adequate well shall be installed in accordance with regulations and standards imposed by the Monroe County Department of Public Health.

I. Except for customary farm operations, no lot shall be used for the commercial storage or disposal of solid or liquid waste without the prior approval of the Town Board. Town Board approval shall be given only upon a finding that the proposed use shall not have a detrimental effect upon surrounding properties and evidence of any required permits necessary from the Monroe County Department of Public Health and/or the New York State Department of Environmental Conservation. The Town Board may require the submission of any documents necessary to make the foregoing finding. No manure, odor- or dust-producing substances shall be permitted to be stored within 200 feet of any lot line, unless such storage is part of accepted agricultural operations or practices and the land on which such storage is conducted is within an agricultural district established pursuant to the New York State Agriculture and Markets Law. No manure shall be stored within 200 feet of any drinking water source or stream corridor. Where manure is stored in connection with an agricultural operation, there shall be no drainage onto adjacent properties.

J. One unregistered motor vehicle being offered for sale may be parked on the premises of a principal residential structure. No more than five unregistered vehicles may be displayed or offered for sale on any premises during any twelve-month period. No vehicle shall be displayed or parked closer than 15 feet to any property line or road right-of-way. Unregistered vehicles offered or displayed for sale may only be parked on the premises of the principal residential structure of their owner.

K. Any structure substantially damaged by any cause as determined by the CEO shall require a new building permit before any reconstruction is started. A new certificate of occupancy shall also be required. Reconstruction must commence within six months of the date of damage and be completed within one year thereof.

L. The dumping of refuse, waste material and other substances, except yard waste generated on the property, is prohibited in all districts. However, filling to establish grades following the issuance of a permit by the CEO is allowed. Materials used as fill to establish grades shall consist solely of clean soil, gravel and other clean fill. All materials applied shall be leveled and covered with at least four inches of topsoil within 14 days of application. Adequate ground cover shall be established within 60 days of application of the fill.

M. No dwelling shall be used to keep more than three dogs which are more than three months of age unless a special use permit for a kennel has been issued.
N. Raising, harboring or housing of animals.

(1) The keeping of any hoofed animal or ratites shall require a minimum lot size of three acres. Additional lands must be provided according to the following schedule:

<table>
<thead>
<tr>
<th>Number of Animals</th>
<th>Minimum Acreage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 to 3</td>
<td>3</td>
</tr>
<tr>
<td>4 to 10</td>
<td>1 additional per animal</td>
</tr>
<tr>
<td>11 to 25</td>
<td>10, plus 2 additional per each animal over 10</td>
</tr>
<tr>
<td>Over 25</td>
<td>40, plus 4 additional for each animal over 25</td>
</tr>
</tbody>
</table>

(2) The keeping of more than six domesticated animals over three months old, such as foxes, mink, skunks or any other fur-bearing animals, shall require a minimum of three acres. One acre of additional land must be provided for each additional six animals or fraction thereof.

(3) Any structure housing up to five such animals shall be located no closer than 100 feet to any property line. Any structure housing more than five such animals shall be located no closer than 150 feet to any property line.

(4) The keeping of poultry, pigeons, gamebirds and rabbits shall require a minimum lot size according to the following schedule:

<table>
<thead>
<tr>
<th>Number of Animals</th>
<th>Minimum Acreage</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 or fewer</td>
<td>1</td>
</tr>
</tbody>
</table>

For each additional three creatures an additional acre is required. The maximum number of creatures permitted on any lot shall be 30.

(5) Roosters are permitted only in an RA-5 District. No more than two roosters are permitted in an RA-5 District. Any structure housing a rooster shall be located not less than 100 feet from any property line.

(6) Any structure housing 14 or fewer of said creatures shall be located no closer than 50 feet to any property line. A structure housing 15 or more of said creatures shall be located no closer than 100 feet to any property line. Any such structure shall be located to the rear of any principal structure.

O. Prohibited uses in all districts.

(1) Dissemination of dust, smoke, observable gas or fumes, odor, noise and vibration beyond the immediate site of the building or buildings in which such use is conducted.

(2) The construction, erection or storage of outhouses and privies, such that waste is discharged directly into the ground.

(3) Airports or landing strips.

(4) Landfills.

(5) Commercial feed lots.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(6) Any use of land that results in the production of any unreasonably odorous smell or use that offends, interferes with or causes damage to the public in the exercise of rights common to all or endangers or injures the property, health, safety or comfort to any other persons.

(7) Potential menace to neighboring properties by reason of fire, explosion or other physical hazard, including radiation.

(8) Discharge of airborne or waterborne wastes.

(9) Mining of any kind, including, but not limited to, mining of minerals, oil, gas, solutions and any other substance by any method, including, but not limited to, fracturing and directional gas drilling, and ancillary related uses.

P. All berms constructed shall not exceed four feet in height above existing grade. In addition, no berm placed within the front yard portion of a lot that is located in the clear sight zones as defined elsewhere in the Town Code may exceed three feet in height. Hedges, bushes or trees that interfere with the line of sight shall not be erected or planted in a clear sight zone nor shall they be allowed to grow so as to obstruct said clear sight zone.

Q. All ponds, except stormwater management facilities, shall not be established any closer than 50 feet to any property line or any road right-of-way but must still be separated by 100 feet from any septic system. All pond designs must be approved by the New York State Department of Environmental Conservation or designed by a New York State licensed engineer.

R. Yard sales are only permitted to take place for three consecutive days no more than twice within a calendar year.

S. No solid waste or recycling collection shall be permitted between 8:00 p.m. of one day and 6:00 a.m. of the following day.

ARTICLE IV
Establishment and Designation of Zoning Districts


The Town is hereby divided into the following zoning districts:

RA-5 Residential Agricultural District (maximum of one lot per five acres)
RA-2 Residential Agricultural District (maximum of one lot per two acres)
RA-1 Residential Agricultural District (maximum of one lot per one acre)
RS-30 Residential Suburban District (maximum of one lot per 30,000 square feet)
PUD Planned Unit Development
B Business District
I Industrial District
EPOD Environmental Protection Overlay Districts
AUO Adult Use Overlay District

§ 200-10. Zoning Map.

A. There shall be only one Official Zoning Map, which shall be kept in the office of the Town Clerk, and it shall bear certification that it is the Official Zoning Map of the Town and its

(If additional space is needed, attach pages the same size as this sheet, and number each.)
date of adoption. Said Zoning Map, which shall show the boundaries of the zoning districts herein established, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

B. Said Zoning Map shall be on material suitable for reproduction. Copies of this map, which may from time to time be published and sold, would be accurate only as of the date of their printing and shall bear words to that effect.

C. Changes made in zoning district boundaries or other matters portrayed on the Zoning Map under the provisions set forth herein shall be permanently affixed to the Zoning Map promptly after a local law amendment has been approved by the Town Board and shall convey information as to the date and nature of the change. No amendment to this chapter which involves matters portrayed on the Zoning Map shall become effective until such change and entry has been made on said Zoning Map and has been attested by the Town Clerk.

§ 200-11. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the center lines of streets or highways shall be construed to follow such center lines.

B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following the municipal limits of the Town shall be construed as following such municipal limits.

D. Boundaries indicated as following the center lines of streams or other water bodies shall be construed to follow such center lines.

E. Boundaries indicated as parallel to or extensions of features indicated in Subsections A through D above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

F. Boundaries indicated as part of the EPOD boundary shall be based on an official map or other law identified in Chapter 94, Environmental Protection Districts, of the Mendon Town Code. Field investigations or other environmental analyses may be required to determine whether or not any portion of a particular piece of property is to be included within the EPOD.

G. Where physical or cultural features on the ground are at variance with those shown on the Official Zoning Map or involve circumstances otherwise not covered by Subsections A through E above, the Zoning Board of Appeals shall interpret the district regulations and establish the precise district boundary or overlay boundary on any site involved with an application made under the provisions of this chapter.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
ARTICLE V
District Regulations

A. The regulations set by this chapter shall be the minimum regulations within each district and shall apply uniformly to each class or kind of structure or use of land, except as hereinafter provided.
B. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered, except in conformity with all the regulations herein specified for the district in which it is located.
C. The regulations herein specified for parking and loading, signs, lighting and dimensions must be adhered to in connection with any use in any district.

A. Purpose. The purpose of the RA-5 Residential Agricultural District is to encourage a proper environment to foster normal agricultural operations and rural residential land uses; to maintain an open rural character of the community; to protect viable agricultural soils; to assure compatible types and densities of rural development on lands where public sewers and water service do not exist and are not envisioned in the near future; and to protect groundwater quality to the greatest extent possible by controlling development over established aquifers.
B. Permitted principal uses. Any use not specifically permitted is prohibited. Permitted principal uses in the RA-5 District are as follows:
   (1) One single-family dwelling per lot.
   (2) Normal agricultural farming operations and the use of land for agricultural production purposes, including the keeping, breeding and raising of cattle, sheep, goats, pigs, fowl, horses and ratites, and dairy farms.
   (3) Buildings and structures used exclusively in support of agricultural operations.
   (4) Historic, scenic preservation and conservation areas.
   (5) Public parks and playgrounds.
C. Permitted accessory uses and structures. Permitted accessory uses and structures in the RA-5 District shall be as follows:
   (1) Private garages or carports.
   (2) Customary accessory structures serving residential uses, including, but not limited to, private swimming pools, tennis courts, hot tubs and storage buildings, all subject to the provisions of this chapter.
   (3) Customary farm accessory buildings for the storage of products or equipment or shelter of animals, all subject to the provisions of this chapter.
   (4) Roadside produce stands of a nonpermanent nature (movable and temporary) for the sale of seasonal agricultural products principally grown on the premises by the operator, under the following conditions:

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(a) The stand shall not exceed 500 square feet of floor area and shall be set back at least 30 feet from the edge of the highway right-of-way.

(b) The ground display area for produce shall not exceed twice the size of the stand and shall be located behind the front of the stand away from on-site parking area and site access.

(c) Signs will be allowed only on the site and only during the seasonal use of the structure.

(d) There is safe access to and from the highway.

(e) All stands shall be removed after the seasonal use of the structure.

(5) Other nonspecified accessory uses which are clearly accessory to the permitted principal use and are consistent with the intent of the zoning district may be approved by the Planning Board.

D. Special permitted uses. The following uses may be permitted consistent with the provisions of Article VII, provided that a special use permit is approved:

(1) Cemeteries and related customary uses.

(2) Continuum care facilities which are duly licensed by the State of New York.

(3) Essential services, public utilities or communications installations, power plants or repair yards and warehouses or uses similar in nature.

(4) Home occupations.

(5) Kennels.

(6) Nonprofit membership corporations established to own and operate outdoor recreational or athletic facilities.

(7) Nursery or day-care centers located in a residential home when caring for more than three children which are not related to the immediate family occupying the primary residence.

(8) Permanent farm markets.

(9) Personal wireless telecommunications facilities and accessory uses.

(10) Public and semipublic uses and buildings.

(11) Veterinary clinics for small animals.

(12) Special for-profit entertainment uses and events.

(13) Stables or riding academies or the boarding of animals.

(14) Tourist homes and bed-and-breakfast establishments.

(15) Two-family dwellings having at least one of the dwelling units occupied by the owner of the property.

(16) Windmill or wind generators for use by the property owner.

(17) Golf courses and country clubs when occupying not less than 50 contiguous acres.

(18) Motorized off-road vehicle use.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
E. The dimensional requirements for this district are specified in Article XVII.

F. Site plan approval. No site preparation or construction may commence until site plan approval has been given by the Planning Board and permits have been issued by all governmental agencies involved.

§ 200-14. RA-2 Residential Agricultural District.

A. Purpose. The purpose of the RA-2 Residential Agricultural District is to promote the orderly development of residential property and to maintain an open rural character for the community.

B. Permitted principal uses. Any use not specifically permitted is prohibited. Permitted principal uses in the RA-2 District shall consist of all of the uses listed in § 200-13B.

C. Permitted accessory uses and structures. Permitted accessory uses and structures shall consist of all of the uses listed and regulated in § 200-13C.

D. Special permitted uses: all of the uses listed in § 200-13D, except major home occupations, may be permitted consistent with the provisions of Article VII, provided that a special use permit is approved.

E. The dimensional requirements for this district are specified in Article XVII.

F. Site plan approval. No site preparation or construction shall commence until site plan approval has been given and permits have been issued by all governmental agencies involved.

§ 200-15. RA-1 Residential Agricultural District.

A. Purpose. The purpose of the RA-1 Residential Agricultural District is to promote the orderly development of residential property and a housing density that provides a meaningful transition between the rural/agricultural character of the community and the more intensely developed areas around the village and the hamlet.

B. Permitted principal uses. Any use not specifically permitted is prohibited. Permitted principal uses in the RA-1 District shall be as follows:

(1) One single-family dwelling per lot.

(2) Normal agricultural farming operations and the use of land for agricultural production purposes, including the keeping, breeding and raising of cattle, sheep, goats, pigs, fowl, horses and ratites, and dairy farms.

(3) Buildings and structures used exclusively in support of agricultural operations.

(4) Public parks and playgrounds.

C. Permitted accessory uses and structures. Permitted accessory uses and structures in the RA-1 District shall consist of all of the uses listed and regulated in § 200-13C.

D. Special permitted uses: all of the uses listed in § 200-13D, except major home occupations, may be permitted consistent with the provisions of Article VII, provided that a special use permit is approved.

E. The dimensional requirements for this district are specified in Article XVII.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
F. Site plan approval. No site preparation or construction shall commence until site plan approval has been given by the Planning Board and permits have been issued by all governmental agencies involved.

§ 200-16. RS-30 Residential Suburban District.

A. Purpose. The purpose of the RS-30 Residential Suburban District is to permit, where appropriate, the construction and development of single- and multiple-family residences in the Town. At the same time, the Town Board does not desire the large-scale development of multiple-family units to the extent that large areas of the Town would be devoted to such use and single-family residences would be incompatible. In considering establishing RS-30 Districts, the Town Board shall consider the general criteria set forth in this chapter, the most current Comprehensive Plan for the Town and this statement of purpose.

B. Permitted principal uses. Any use not specifically permitted is prohibited. The following uses are permitted in the RS-30 Rural Suburban District:

1. One single-family dwelling per lot.
2. Newly constructed two-family dwelling unit structures.

C. Permitted accessory uses. Permitted accessory uses in the RS-30 District shall be as follows:

1. Private garages, carports or storage sheds.
2. Normal accessory uses designed as an integral part of a multifamily development and scaled for the exclusive use of the development.

D. Special permitted uses. The following uses may be permitted, consistent with the provisions of Article VII, provided that a special use permit is approved by the Planning Board:

1. Apartment houses, townhouse clusters, multiple-dwelling units and dwelling groups, condominiums and cooperatives.
2. Essential services, public utilities or communications installations, excluding power plants or repair yards and warehouses or uses similar in nature.
3. Public and semipublic uses and buildings.
4. Residential conversions.
5. Tourist homes and bed-and-breakfast establishments.
6. Windmills or wind generators for use by the property owner.

E. The dimensional requirements for this district are specified in Article XVII.

F. Site plan approval. No site preparation or construction shall commence until site plan approval has been given by the Planning Board and permits have been issued by all governmental agencies involved.

§ 200-17. PUD Planned Unit Development District.

A. Purpose and intent.

(1) It is the intent of this section to provide performance criteria in the context of flexible
use and design regulations so that small- to large-scale residential neighborhoods may be developed within designated districts incorporating a variety of residential types and/or nonresidential uses and containing both individual building sites and common property which are planned and developed as a unit. Such a planned unit development is to be designed and organized so as to be capable of satisfactory use and operation as a separate entity without necessarily needing the participation of other building sites or other common property in order to function as a neighborhood.

(2) These regulations specifically encourage innovations in residential development so that the growing demands for housing at all economic levels may be met by greater variety in type, design and siting of dwellings and by the conservation and more efficient use of land in such developments. These regulations recognize that while the standard zoning function (use and bulk) and the subdivision function (platting and design) are appropriate for the regulation of land use in areas of neighborhoods that are already substantially developed, these controls represent a type of preregulation, regulatory rigidity and uniformity which may be inimical to the technique of land development contained in the planned unit development concept.

(3) Further, these regulations recognize that a strict application of space requirements, along with bulk and use specifications, would frustrate the application of the planned unit development concept. Thus, where PUD techniques are deemed appropriate through the rezoning of land to a planned unit development by the Town Board, the set of use and dimensional specifications in these regulations are herein replaced by an approval process in which an approved plan becomes the basis for continuing land use controls during the development period. Only after the sketch plan has been approved by the Planning Board may the site be rezoned to planned unit development, and these provisions will apply to the site.

(4) In order to carry out the intent of these regulations, a PUD shall achieve the following objectives:

(a) A maximum choice in the types of environment, occupancy and ownership (e.g., cooperatives, individual ownership, condominium, leasing) of housing, lot sizes and community facilities available to Town residents at all economic levels.

(b) More usable open space and recreation areas than existing zoning provides.

(c) More convenience in location of accessory commercial and service areas than existing zoning provides.

(d) A development pattern which preserves trees, outstanding natural topography and geologic features and prevents soil erosion.

(e) A creative use of land and related physical development which allows an orderly transition of land from rural to urban uses.

(f) An efficient use of land resulting in smaller networks of utilities and streets and thereby lower housing costs.

(g) A development pattern in harmony with the objectives of the Comprehensive Plan.

(h) A more desirable environment than would be possible through the strict application of these regulations.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
B. Standards and general requirements.

(1) Under normal circumstances, the minimum area required to qualify for a planned unit development shall be 50 contiguous acres of land. Where the applicant can demonstrate that the characteristics of the applicant's holdings will meet the objectives of this section, the Planning Board may consider projects with less acreage.

(2) The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.

(3) The PUD shall be applicable to any area of the Town where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of these regulations.

(4) The following shall be permitted uses:

(a) Dwelling units in detached, semidetached, attached, clustered or multistoried structures, or any combination thereof.

(b) Commercial, service and other nonresidential uses, where such uses are scaled primarily to serve the residents of the PUD.

(c) Public and/or private institutional and recreational facilities.

(d) Office and research uses.

(5) Residential density and standards.

(a) The overall average gross density shall not exceed eight dwelling units per acre throughout the PUD.

(b) At least 20% of the total number of dwelling units within any PUD shall be in single-family detached structures.

(c) The total density for multifamily residential uses shall not exceed 14 dwelling units per acre.

(d) Landscaped open spaces or open areas left in their natural state shall be provided at a ratio of not less than 1,200 square feet of open space for every dwelling unit. The Planning Board may require as much as 15% of the total gross acreage of such open space to be provided in the form of suitably equipped play areas.

(e) All multifamily uses must provide at least one approved tree per dwelling unit.

(f) A buffer strip shall be provided between residential and nonresidential uses and between residential uses and state or county roads. Said buffer strip shall be at least 100 feet in width, measured inward from the property line and suitably landscaped with grass and shrubs, trees or other ground cover. No parking shall be permitted in this area.

(g) The developer shall provide all necessary water and sewer facilities, storm drainage, highway access, paved service streets, parking and loading facilities and off-street lighting, making reasonable provision for utility service connections with adjoining properties in other ownerships. Such proposed improvements shall be subject to review by the Planning Board.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(14)
(6) Commercial and office uses.

(a) Commercial and office uses may be permitted (or required) where such uses are scaled to serve the residents of the PUD.

(b) Parking areas serving commercial uses shall be provided at a minimum ratio of one square foot of parking space for every one square foot of commercial area.

(7) Common property. Common property in a PUD is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owner and occupants of the individual building sites. Where common property exists, the ownership of such property shall be either public or private. Where such property exists in private ownership, the landowner shall provide for and establish an organization for the ownership and maintenance of any common property. Such organization shall not be dissolved, nor shall it dispose of any common property by sale or otherwise. In reviewing the organization for the ownership and maintenance of any common property, the Planning Board shall consider the following:

(a) The time when the organization is to be created.

(b) Mandatory or automatic nature of membership in the organization by residents.

(c) The permanence of common property safeguards.

(d) The liability of the organization for insurance, taxes and maintenance of all facilities.

(e) The provision for pro rata sharing of costs and assessments.

(f) The capacity of the organization to administer common facilities.

C. Site and structure requirements.

(1) Where feasible, natural features such as streams, rock outcrops, topsoil, trees and shrubs shall be preserved and incorporated in the landscaping of the development.

(2) Where adequate surface drainage is not possible by grading alone, a supplementary drainage system approved by the Planning Board shall be required.

(3) The underground installation of all utilities and telephone equipment shall be required.

(4) Lot sizes and dimensions, and structures, heights and locations thereon, may be freely disposed and arranged in conformity with the overall density standards herein. Minimum lot size or frontage and, except for office and research uses, maximum percentage of lot coverage are not specified herein. In reviewing any application for a planned unit development, the Planning Board shall be guided by standards set forth in these regulations for comparable uses and by common good planning practice, to the end that the resulting development shall be compatible with the surroundings and assure the stability of the uses proposed to be developed on the site.

(5) The right-of-way and pavement widths for internal roads serving multifamily dwellings, commercial and office-research development shall be determined from sound planning and engineering standards to conform to the estimated needs of the proposed full development and the traffic to be generated thereby. The pavement of said roads shall be not less than 24 feet wide and shall be adequate and sufficient in size, location and design to accommodate the maximum traffic, parking and loading

(If additional space is needed, attach pages the same size as this sheet, and number each.)
needs and the access of fire-fighting equipment and police or emergency vehicles. In such instances, the provisions of these regulations shall not apply but may serve as a general guide to the Planning Board in its review of development plans.

(6) The developer shall provide all necessary water and sewer facilities, storm drainage, highway access, paved service streets, parking and loading facilities and off-street lighting, making reasonable provision for utility service connections with adjoining properties in other ownerships. Such proposed improvements shall comply with Town standards and shall be subject to review and approval by the appropriate Town authority.

(7) Nonresidential uses within the planned unit development must be located so as to be compatible with nearby residential uses. Such uses, including parking and loading areas, must be adequately screened and buffered where adjacent to residential development.

D. Application and approval process.

(1) Application for sketch plan approval. In order to allow the Planning Board and the developer to reach an understanding on basic design requirements, at the earliest opportunity the developer shall submit a sketch plan of his proposal to the Planning Board. The sketch plan shall be approximately to scale, though it need not be to the precision of a finished engineering drawing, and it shall clearly show the following information:

(a) The location of various land uses and their areas in acres.

(b) The general outline of the interior roadway system and all existing rights-of-way and easements, whether public or private.

(c) Delineation of the various residential areas, indicating the number of dwelling units by each housing type, e.g., single-family detached, townhouse and garden apartments, plus a calculation of the residential density in dwelling units per gross acre for each residential area.

(d) The interior open space system.

(e) The interior drainage system.

(f) If portions of the site have a moderate to high susceptibility to flooding and ponding or erosion, a topographic map showing contour intervals of not more than five feet of elevation shall be provided.

(g) A general description of the provision of other community facilities such as schools, fire-protection services and cultural services, if any, and some indication of how these needs are proposed to be accommodated.

(h) A statement as to how common open space is to be owned and maintained.

(i) If the development is to be staged, a clear indication of how the staging is to proceed.

(j) A location map showing uses and ownership of abutting lands.

(k) Evidence that the proposal is compatible with the goals of the Comprehensive Plan.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(l) Evidence in the applicant's own behalf to demonstrate his competence to carry out the plan and his awareness of the scope of such a project, both physical and financial.

(m) Principal ties to the community at large with respect to transportation, water supply and sewage disposal.

(n) A detailed landscaping plan.

(2) The Planning Board shall review the sketch plan and its related documents and shall render either a favorable report to the Town Board or an unfavorable report to the applicant. The Planning Board may call upon the Monroe County Department of Planning and Development, the Soil Conservation Service and any other public or private consultants that it feels are necessary to provide a sound review of the proposal.

(a) A favorable report shall include a recommendation to the Town Board that a public hearing be held for the purpose of considering planned unit development. It shall be based on the following findings, which shall be included, as part of the report:


[2] The proposal meets the purpose and intent of planned unit development as expressed in this chapter.

[3] The proposal meets all the general requirements of this chapter.

[4] The proposal is conceptually sound in that it meets a community need and it conforms to accepted design principles in the proposed functional roadway system, land use configuration, open space system, drainage system and scale of the elements, both absolute and to one another.

[5] There are adequate services and utilities available or proposed to be made available in the construction of the development.

(b) An unfavorable report shall state clearly the reasons therefor and, if appropriate, point out to the applicant what might be necessary in order to receive a favorable report. The applicant may, within 10 days after receiving an unfavorable report, file an application for planned unit development with the Town. The Town Board shall then call a public hearing.

(c) The Chairman of the Planning Board shall certify when all of the necessary application material has been presented to the Board, and the Planning Board shall submit its report within 62 days of such certification.

E. Application for zoning.

(1) Upon receipt of a favorable report from the Planning Board, or upon its own determination subsequent to an appeal from an unfavorable report, the Town Board shall set a date for and conduct a public hearing for the purpose of considering planned unit development for the applicant's plan in accordance with the procedures established under §§ 264 and 265 of the Town Law or other applicable laws.

(2) The appropriate Town authorities shall submit a report to the Town Board within 30 days of the referral, duly noting the feasibility and adequacy of those design elements under their spheres of interest. This report need only concern itself with general

(If additional space is needed, attach pages the same size as this sheet, and number each.)
conceptual acceptance or disapproval, as the case may be, and in no way implies any future acceptance or rejection of detailed design elements as will be required in the later site plan review stage. The authorities may also state in their reports any other conditions or problems that must be overcome before consideration of acceptance on their part.

(3) If the Town Board grants the planned unit development, the appropriate changes shall be recorded on the Zoning Map of the Town. The Town Board may, if it feels it necessary in order to fully protect the public health, safety and welfare of the community, attach to its zoning resolution any additional conditions or requirements for the applicant to meet. Such requirements may include, but are not confined to, visual and acoustical screening, land use mixes, order of construction and/or occupancy, circulation systems, both vehicular and pedestrian, availability of sites within the area for necessary public services such as schools, firehouses and libraries, protection of natural and/or historic sites and other such physical or social demands.

(4) Planned unit development zoning shall be conditional upon the following:

(a) The securing of final site plan approval in accordance with the procedures set forth in Article VIII.

(b) Compliance with all additional conditions and requirements as may be set forth by the Town Board in its resolution granting the planned unit development.

F. Preliminary site plan.

(1) Application for preliminary site plan approval shall be to the Planning Board, and a copy of the application shall be sent to the Monroe County Department of Planning and Development for its review and comments. The application shall be accompanied by the following information prepared by a planner or landscape architect or architect or engineer:

(a) An area map showing the applicant's entire holding, that portion of the applicant's property under consideration and all properties, subdivision, streets and easements within 500 feet of the applicant's property.

(b) A topographic map showing contour intervals of not more than five feet of elevation shall be provided.

(c) A preliminary site plan including the following information:

[1] Title of the drawing, including the name and address of the applicant.

[2] North point, scale and date.


[5] A site plan showing:

[a] Location, proposed use and height of all buildings.

[b] Location of all parking and truck-loading areas, with access and egress drives thereto.

[c] Location and proposed development of all open spaces, including parks, playgrounds and open reservations.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
[d] Location of outdoor storage, if any.

[e] Location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.


[g] Location and size of all signs.

[h] Location and proposed development of buffer areas.

[i] Location and design of lighting facilities.

[j] The amount of building area proposed for nonresidential uses, if any.


(d) A tracing overlay showing all soil areas and their classifications and those areas, if any, with moderate to high susceptibility to flooding and moderate to high susceptibility to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation.

(2) Factors for consideration.

(a) The Planning Board's review of a preliminary site plan shall include, but is not limited to, the following considerations:

[1] The adequacy and arrangement of vehicular traffic access and circulation, including intersections, road width, channelization structures and traffic controls.

[2] The adequacy and arrangement of pedestrian traffic access and circulation, including separation of pedestrian from vehicular traffic, walkway structures, control of intersections with vehicular traffic and pedestrian convenience.

[3] Location, arrangement, appearance and sufficiency of off-street parking and loading.

[4] Location, arrangement, size and design of buildings, lighting and signs.

[5] The relationship of the various uses to one another and their scale.

[6] The adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-deterring buffer between adjacent uses and adjoining lands.

[7] In the case of multiple dwellings, the adequacy of usable open space for playgrounds and informal recreation.


[9] The adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion.

[10] Protection of adjacent properties against noise, glare, unsightliness or other objectionable features.

[11] Conformance with other specific charges of the Town Board which may have been stated in these regulations.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(b) In its review, the Planning Board may consult with any Town and county officials, as well as with representatives of federal and state agencies, including the Soil Conservation Service and the New York State Department of Environmental Conservation. The Planning Board may require that exterior design of all structures be made by or under the direction of a registered architect or engineer, whose seal shall be affixed to the plans. The Planning Board may also require such additional provisions and conditions that appear necessary for the public health, safety and general welfare.

(3) Within 62 days of the receipt of the application for preliminary site plan approval, the Planning Board shall act on it. The detailed landscaping plan should be reviewed by the Conservation Board prior to approval by the Planning Board. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is conditionally approved. A copy of the appropriate minutes of the Planning Board shall be a sufficient report.

(4) The Planning Board's statement may include recommendations as to desirable revisions to be incorporated in the final site plan, conformity with which shall be considered a condition of approval. Such recommendations shall be limited, however, to siting and dimensional details within general use areas and shall not significantly alter the sketch plan as it was approved in the zoning proceedings.

(5) If the preliminary site plan is disapproved, the Planning Board's statement shall contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission of the preliminary site plan to the Planning Board after it has been revised or redesigned.

(6) No modification of existing stream channels, filling of lands with a moderate to high susceptibility to erosion, or excavation for and construction of site improvements shall begin until the developer has received preliminary site plan approval. Failure to comply shall be construed as a violation of these regulations, and where necessary, final site plan approval may require the modification or removal of unapproved site improvements.

G. Request for changes in sketch plan. If, in the site plan development, it becomes apparent that certain elements of the sketch plan, as it has been approved by the Town Board, are unfeasible and in need of significant modification, the applicant shall then present a proposed solution to the Planning Board as the preliminary site plan in accordance with the above procedures. The Planning Board shall then determine whether or not the modified plan is still in keeping with the intent of these regulations. If a negative decision is reached, the site plan shall be considered as disapproved. The developer may then, if he wishes, produce another site plan in conformance with the approved sketch plan. If an affirmative decision is reached, the Planning Board shall so notify the Town Board, stating all of the particulars of the matter and its reasons for feeling the project should be continued as modified. Preliminary site plan approval may then be given only with the consent of the Town Board.

H. Final site plan.

(1) After receiving conditional approval from the Planning Board on a preliminary site plan and approval for all necessary permits and curb cuts from state and county officials, the applicant may prepare his final detailed site plan and submit it to the Planning Board for final approval, except that if more than 12 months have elapsed from the time of the Planning Board's report on the preliminary site plan and if the

(If additional space is needed, attach pages the same size as this sheet, and number each.)
Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.

(2) The final detailed site plan shall conform substantially to the preliminary site plan that has received preliminary site plan approval. It should incorporate any revisions or other features that may have been recommended by the Planning Board and/or the Town Board at the preliminary review.

(3) A plan submitted for final approval shall be deemed to be in substantial compliance with the plan previously given preliminary approval unless any modification by the applicant of the plan as preliminarily approved:

(a) Varies the proposed gross residential density or intensity of use by more than 5%.

(b) Involves a reduction of the area set aside for common open space or a substantial relocation of such area.

(c) Increases by more than 10% the floor area proposed for nonresidential uses.

(d) Increases by more than 5% the total ground areas covered by buildings.

(e) Involves a substantial change in the heights of buildings.

(4) Within 60 days of the receipt of the application for final site plan approval, the Planning Board shall render a decision to the applicant and so notify the Town Board.

(a) Upon approving an application, the Planning Board shall endorse its approval on a copy of the final site plan and shall forward it to the CEO, who shall then issue a building permit to the applicant if the project conforms to all other applicable requirements.

(b) Upon disapproving an application, the Planning Board shall so inform the CEO. The Planning Board shall also notify the applicant and the Town Board, in writing, of its decision and its reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.

I. Staging. If the applicant wishes to stage his development, then he may submit only those stages he wishes to develop for site plan approval in accordance with his staging plan. At no point in the development of a planned unit development shall the ratio of nonresidential to residential acreage or the dwelling unit ratios between the several different housing types for that portion of the PUD completed and/or under construction differ from that of the PUD as a whole by more than 20%.

J. Petition for review. At any time following approval of development plans, including the issuance of permits for any part thereof, the applicant may petition for review in detail of the previously approved plan, stating his reasons therefor. Such reasons may be based upon such considerations as, but not limited to, changing social or economic conditions, suggested improvements to layout or design features or unforeseen difficulties or advantages, such as site conditions, state or federal projects or statutory changes, which may mutually affect the interests of the applicant and the Town. The Planning Board, upon finding that such petition and reasons are reasonable and valid, may reconsider the design of the planned unit development and shall follow, in full, the procedure and conditions herein required for original submittal.

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(21)
K. Improvements or performance guaranties.

(1) As a condition of final approval, the Town Board shall require the posting of such performance guaranties as it deems necessary to ensure the installation of the improvements. Said performance guaranty shall be for a period of time to be determined by the Town Board. The amount of the performance guaranty may be reduced by the Town as portions of the required improvements have been completed.

(2) All such improvements shall be subject to the approval of the appropriate authority.


A. Purpose. The purpose of a Business District is to provide a range of integrated and planned commercial areas and facilities necessary to serve the needs of the population of the Town and traveling public.

B. Permitted uses. Any use not specifically permitted is prohibited. The following uses and their accessory uses are permitted outright; provided, further, that no one business located on a parcel of land shall exceed 5,000 square feet in total floor area:

(1) Retail businesses which supply products on the premises.
(2) Service business establishments which perform services on the premises.
(3) Professional and business offices.
(4) Indoor recreational and/or athletic facilities.
(5) Facilities for the teaching of a specific skill or art.
(6) Single-family dwellings.
(7) Art, dance, music or photographic studios.
(8) Art galleries.
(9) Retail bakeries.
(10) Clothes-cleaning pickup store.

C. Permitted accessory uses and structures. Permitted accessory uses and structures in the Business District shall be as follows:

(1) Private garages and storage buildings which are necessary to store any vehicles, equipment or materials on the premises and which are used in conjunction with a permitted principal use.

(2) Outdoor storage areas of products sold on the premises, provided that such areas are not located in the front yard portion of the lot. All outdoor storage areas shall be fenced on all sides, except those sides immediately adjacent to the side of a building.

D. The following uses may be permitted in the Business District consistent with the provisions of Article VII, provided that a special use permit is approved:

(1) Apartments.
(2) Commercial outdoor recreational and/or athletic facilities.
(3) Essential services.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(4) Fuel-dispensing units.
(5) Funeral homes.
(6) Hotel or motel.
(7) Motor vehicle service stations and auto repair shops.
(8) Nursery and day-care centers.
(9) Public and semipublic uses and buildings.
(10) Restaurants.
(11) Special for-profit entertainment uses and events.
(12) Tourist homes and bed-and-breakfast establishments.
(13) Vehicle wash establishments.
(14) Veterinary clinics for small animals.

E. The dimensional requirements in the Business District are specified in Article XVII.

F. Signs shall be permitted subject to the provisions of Article X.

G. Notwithstanding any other provisions, side and rear setbacks adjacent to any residential district shall be a minimum of 100 feet, of which 50 feet thereof shall be used to create a screened buffer zone. Such screening shall not be less than four feet in height and may be accomplished by deciduous and/or evergreen plantings and/or by a fence of acceptable design. All such buffers and screenings shall be properly maintained by the owner or owners of the screened property.

H. Site plan approval. No site preparation or construction shall commence until site plan approval has been given by the Planning Board and permits have been issued by all governmental agencies involved.

§ 200-19. Industrial District.

A. Purpose. The purpose of the Industrial District is to provide for the establishment of industries and maintenance of a well-balanced industrial environment. Such uses shall not be detrimental to other adjacent developments or to the general health, safety or welfare of the community.

B. Permitted uses. Any use not specifically permitted is prohibited. The following uses and their accessory uses are permitted outright; provided, further, that no one business located on a parcel of land shall exceed 40,000 square feet in total floor area:

(1) Laboratories engaged in research, testing and experimental work, including any process normal to laboratory practice and technique.

(2) Industrial uses which are conducted wholly within a building.

(3) The manufacture, compounding, processing and storage of candy and confections, frozen foods, cosmetics, pharmaceutical products, toiletries and food products.

(4) Manufacture of precision tools.

(5) Machine shop operations.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(6) Agribusiness operations.
(7) Parking lots, other than those required under Article IX.
(8) Inside storage of boats and recreational vehicles.
(9) Uses permitted in a Business District.
(10) Motor vehicles sales and rental.
(11) Commercial storage buildings and mini-warehouses.

C.

Permitted accessory uses and structures.

(1) Customary accessory uses, including, but not limited to, loading and unloading docks and areas designed as an integral part of the industrial development and scaled for the exclusive use of the development.
(2) Off-street parking areas for employees and visitors.
(3) Fencing in accordance with the provisions of this chapter.

D.

The following uses may be permitted in the Industrial District consistent with the provisions of Article VII, provided that a special use permit is approved:

(1) Adult use entertainment establishments as regulated in §§ 200-20 and 200-26D(1).
(2) Commercial outdoor recreational and/or athletic facilities.
(3) Essential services.
(4) Public and semipublic uses and buildings.
(5) Truck and freight terminals.
(6) Uses specially permitted in a Business District.

E.

The dimensional requirements in the Industrial District are specified in Article XVII.

F.

Notwithstanding any other provisions, side and rear setbacks adjacent to any residential district shall be a minimum of 150 feet, of which 50 feet thereof shall be used to create a screened buffer zone. Such screening shall not be less than four feet in height and may be accomplished by deciduous and/or evergreen plantings and/or by a fence of acceptable design. All such buffers and screenings shall be properly maintained by the owner or owners of the screened property.

G.

Prohibited activities. No land, building or premises may be used in any way that will cause or result in:

(1) Dissemination of dust, smoke, gas, fumes, odor, noise or vibration beyond the immediate site of the building or buildings in which such use is conducted.
(2) Potential menace to neighboring properties by reason of fire, explosion or other physical hazard, including radiation.
(3) Discharge of airborne or waterborne wastes.
(4) Traffic hazards or congestion.

H.

General provisions:

(1) All processing of materials, including fabrication, shall occur indoors.
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(24)
(2) All equipment for the handling of material and processes shall be enclosed in a suitable building. Equipment as used in this section includes, but is not limited to, conveyors, elevators, storage silos, hoppers, storage tanks and unloading docks.

(3) All waste, scrap, refuse, empty containers, drums, bottles and cartons shall be stored in suitable closed containers.

I. Site plan approval. No site preparation or construction shall commence until site plan approval has been given by the Planning Board and permits have been issued by all governmental agencies involved.

§ 200-20. AUO Adult Use Overlay District.

A. Purpose. It is the purpose of the Adult Use Overlay (AUO) District to establish supplemental regulations to the underlying Industrial District which recognize the specified purpose and particular needs for the Town to regulate this use.

B. Establishment of Adult Use Overlay (AUO) District. The Official Zoning Map shall delineate the location of the (those) site(s) for which the Town Board has approved the Adult Use Overlay (AUO) District Zone.

C. Interpretation of AUO District boundaries. The CEO shall be responsible for interpreting the AUO District boundaries delineated on the Official Zoning Map or a site inspection. Anyone aggrieved by this interpretation may appeal to the Zoning Board of Appeals.

D. AUO District requirements. Where the AUO District Zone has been established, the requirements of the overlay district shall be met in addition to any requirements specified for site development as contained in the respective zoning district and through a special use permit and site plan approval by the Planning Board.

E. Rezoning procedure. Anyone desiring to establish an adult use entertainment establishment shall first apply to the Town Board for rezoning of any parcel of land zoned Industrial District on the Official Zoning Map to the Adult Use Overlay (AUO) District. In the event that the Town Board decides to hear the application for rezoning, it shall follow all procedures set forth in New York Town Law and the SEQRA regulations for rezoning.

F. AUO District rezoning criteria. The following criteria shall be met before the Town Board may entertain an application for rezoning of Industrial District land to the Adult Use Overlay (AUO) District:

(1) The property lines of any adult use entertainment establishment must be at least 1,000 feet from the boundary line of any adjacent municipality and at least 1,000 feet from the boundary line of any other adult use entertainment establishment.

(2) The property lines of any adult use entertainment establishment must be at least 1,000 feet from the property line of any and all residences or residentially zoned land, schools, day-care facilities, churches (or other places of worship), parks, playgrounds, linear trails, designated open space or recreation areas where minors may congregate or governmental facilities.

(3) Each adult use entertainment establishment shall be set back 100 feet from the side and rear property lines and 200 feet from the front property line.

(4) Each adult use entertainment establishment site located adjacent to one of the uses specified in Subsection F(2) above in this subsection shall provide buffering in addition to landscaping as part of any site plan application.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(5) No adult use entertainment establishment shall be allowed on the same parcel with another such establishment.

(6) Each adult use entertainment establishment shall have direct access to a public street or highway.

(7) Each Adult Use Overlay Zone shall be in effect only for the time period specified for any special use permit established by the Planning Board as a condition of approval. Upon the termination of such special use permit, the Town Board shall commence action within 30 days to amend the Official Zoning Map by removing the specified AUO District delineation.

G. Application for AUO rezoning. Applications for rezoning land to the AUO District, which are to be considered by the Town Board, shall be made in writing to the CEO on forms provided by the Town. Such application shall be made by the property owner or his/her agent and shall be accompanied by any materials or information deemed appropriate by the CEO, including but not limited to a current scaled site plan prepared by and certified by a licensed engineer that contains the following minimum information:

(1) A parcel location map and boundary line survey of the property.

(2) A delineation of that portion of the parcel proposed to be used for the adult use entertainment establishment, including access, parking, signage, landscaping, water service, sewage disposal, site lighting and other features as may be required for the applicant to obtain site plan approval from the Planning Board.

(3) A completed environmental assessment form.

H. AUO District rezoning conditions. All AUO zoning shall be conditioned upon the applicant obtaining a special use permit and site plan approval from the Planning Board based upon the criteria further specified elsewhere in this Code.

I. AUO District permitted uses. All other adult use entertainment establishments, as defined in Chapter 86 of the Town Code, may be created, opened, commenced or operated only within the Industrial District upon the Town Board rezoning and mapping of said site to the AUO District and subject further to the requirements set forth elsewhere in this chapter.

J. AUO District prohibited uses. The following uses are prohibited in the AUO District:

(1) Adult theaters and adult motion-picture theaters.

(2) Any business which is used exclusively for wholesale or retail sales without a public sales area being provided.

K. Site plan approval. No site preparation or construction shall commence until site plan approval has been given by the Planning Board and permits have been issued by all governmental agencies involved.

ARTICLE VI
Nonconforming Uses and Structures


Any use of land or of a structure which was lawful at the time this chapter became effective may be continued if the use shall have continued in operation and does not constitute a nuisance. A nonconforming use shall not be enlarged, altered or changed in area, activity or content during its (If additional space is needed, attach pages the same size as this sheet, and number each.)
continuance. Any nonconforming use which ceases operation for a period of six consecutive months or more shall be considered to have terminated and may not thereafter be conducted.


The use or occupancy of a nonconforming structure which was a lawful structure at the time this chapter became effective may be continued. No enlargement, change or alteration shall be permitted except upon a finding by the CEO that such enlargement, change or alteration will result in greater compliance with this chapter and that the use within such structure conforms to the requirements of this chapter. The applicant may appeal a negative finding of the CEO to the Zoning Board of Appeals. The Zoning Board of Appeals may require conditions to minimize any detrimental effects of the nonconforming use upon adjoining conforming uses.


Any lot which was lawful at the time this chapter became effective but does not comply with all of the provisions of this chapter may continue in use. The change in use or the location, modification or construction of any structure on such lot shall not be permitted except upon the granting of a variance by the Zoning Board of Appeals and subject to such conditions as the Zoning Board of Appeals finds appropriate.


A nonconforming structure or a structure housing a nonconforming use which has been damaged by fire or act of God after the effective date of this chapter may be restored, rebuilt or repaired, provided that such restoration, rebuilding or repair is commenced within six months after the damage and is completed within one year of the date of damage.

ARTICLE VII
Special Use Permits


A. Intent. The Planning Board is hereby empowered under § 274-b of the New York State Town Law to issue special use permits for those uses listed in the respective zoning districts as special permitted uses upon a finding that the criteria for issuing special use permits set forth in § 200-26 have been shown. All uses listed as subject to a special use permit are declared to possess characteristics of such unique and special form that each use shall be considered as an individual case in accordance with the standards and procedures of this chapter. Site plan approval by the Planning Board is an essential element of a special use permit.

B. Procedures.

(1) An application for the approval of a special use permit shall be made, by an owner of or a person having an interest in the land on which the special use is to be located, to the Planning Board Clerk. The application shall be accompanied by the necessary fees and documents, including the environmental assessment form and a site plan, containing all of the data required in this chapter for site plan approval.

(2) A special use permit shall authorize only one special use. More than one special use permit may be allowed per parcel. A time period may be established by the designated board for each special use permit. At the end of this specified time period, (If additional space is needed, attach pages the same size as this sheet, and number each.)
the special use permit shall expire unless renewed. In addition, the special use permit shall expire if the use shall cease for more than one year for any reason.

(3) Before any special use permit shall be issued, the respective board shall make written findings certifying compliance with the specific rules governing individual special permit uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:

(a) Ingress and egress to property and proposed structures thereon, with particular reference to vehicular and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.

(b) Off-street parking and loading areas, where required, with particular attention to the items in § 200-33, and the noise, glare or odor effects of the special permit use on adjoining properties, and properties generally in the district, and the economic impact of the proposed special permit use.

(c) Refuse and service areas.

(d) Utilities as appropriate, with reference to locations, availability and compatibility.

(e) Screening, buffering and landscaping, with reference to type, dimensions and character.

(f) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, compatibility and harmony with properties in the district.

(g) Required yards and other open space.

(h) General compatibility with adjacent properties and other property in the zoning district.

(4) Notice.

(a) The Planning Board Clerk shall mail written notice of an application for a special use permit to all abutting property owners. The cost of mailing the notice shall be paid by the applicant.

(b) Where required by Town Law § 283-a, an agricultural data statement shall be prepared and mailed to the owners of land as identified by the applicant. Such notice shall include completed agricultural data statement forms approved by the Town. The cost of mailing the notice shall be paid by the applicant.

(5) When applicable, the application shall be referred to the Monroe County Department of Planning and Development in accordance with the provisions of General Municipal Law §§ 239-l and 239-m.

(6) Public hearing. The Planning Board shall fix a reasonable time for a public hearing on the application as provided for in New York State Town Law and shall provide public notice thereof as follows:

(a) By publishing a notice in the official newspaper of the Town at least five days prior to the date thereof.

(b) By requiring the applicant to erect a sign giving notice of the public hearing, which sign shall be prominently displayed on the premises, facing a public space.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
street or road on which the property abuts. The sign shall be furnished to the applicant for this purpose by the Town. The sign shall be displayed for a period of not less than 10 days immediately preceding the public hearing or any adjourned date thereof. The applicant shall file an affidavit with the Town at or prior to the public hearing stating that the applicant has complied with the provisions of this subsection.

(7) Action.

(a) The issuing board may approve with or without conditions or disapprove the application for a special use permit within the time period specified in New York State Town Law § 274-b. The decision shall contain written findings explaining the rationale for the decision in light of the criteria contained in § 200-26.

(b) In granting a special use permit, the issuing board may impose any conditions which it considers necessary to fulfill the purposes of this chapter. These conditions may include increasing dimensional or area requirements; requiring the reservation of open space or parkland or payment of a recreation fee pursuant to Town Law § 274-a, Subdivision 6; specifying location, character and number of vehicle access points; requiring landscaping, planting and screening; requiring clustering of structures and uses in order to preserve environmental resources and minimize the burden on public services and facilities; and requiring action by the applicant, including the posting of performance bonds and the furnishing of guarantees to ensure the completion of the project in accordance with the conditions imposed.

(8) Required filing. The decision on the special use permit shall be filed with the Town Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant by the Planning Board Clerk.

(9) Fees and permits. The CEO shall, upon receipt of notice of approval and upon application by the applicant, collect all required fees and issue a building permit for the approved special use, subject to all conditions imposed by such approval.

C. Expiration, revocation and enforcement.

(1) A special use permit shall expire if the applicant fails to obtain the necessary building permits or fails to comply with the conditions of approval within one year of issuance.

(2) A special use permit may be revoked by the Planning Board if the permittee violates the conditions of approval or engages in any construction or alteration materially different from what is authorized by the special use permit.

(3) Any violation of the conditions of a special use permit shall be deemed a violation of this chapter and shall be subject to enforcement action as provided herein.

D. Amendments. A special use permit may be amended by filing an application with the issuing board. Any change in a special permitted use shall require a special use permit amendment.

(1) If the board finds that such proposed amendment is consistent with the terms of the prior special use permit and does not represent a substantial change from the approved site plan, it may grant the amendment after a public hearing.
(2) If the board determines that the proposed amendment is inconsistent with the terms of
the special use permit, it may follow the procedures for a new application set forth
above in this section.


A. Special use permits may be authorized only upon a finding that the proposed use would
comply with the specific requirements of this chapter, as well as the following general
requirements:

(1) That the proposed use would not endanger or tend to endanger public health, safety,
morals or the general welfare of the community. In making such determination, the
board shall consider lot areas, land use density and spacing, type of construction,
parking facilities, traffic hazards, fire hazards, odors, smoke, fumes, noise, lights, the
general character of the neighborhood, the nature and use of other premises, the
location and use of other buildings in the vicinity and whether or not the proposed use
will be detrimental to neighboring properties.

(2) That the proposed use will be in harmony with the probable future development of the
neighborhood and will not discourage the appropriate development and use of
adjacent land and buildings or impair their value.

B. The issuing board shall consider the scale of the proposed use as well as any proposed site
amenities, architectural, historic preservation or conservation restrictions or other measures
that would mitigate potential adverse impacts and preserve or enhance the scenic, natural or
historic character of the Town.

C. Each proposed use must meet all the requirements of this chapter regarding off-street
parking and loading, dimensional requirements, landscaping, buffering, signs, accessways
and lighting.

D. The following conditions and criteria must be met for the specified uses:

(1) Adult use entertainment establishments.

(a) Notwithstanding anything contained in this chapter, adult use entertainment
establishments as defined in Chapter 86 of the Code shall only be allowed in the
Adult Use Overlay (AUO) District and upon issuance of a special use permit as
specifically set forth in this chapter and only to the extent that it is consistent
with this chapter and the New York State Penal Law relating to exposure,
obscenity or lewdness.

(b) The Adult Use Overlay (AUO) District shall be a mapped overlay zoning
district restricted to those lands zoned industrial by the Town Board and in
accordance with the standards set forth herein.

(c) The following standards shall apply to every application:

[1] All adult use entertainment establishments shall be conducted within an
enclosed building.

[2] Regardless of the building location or distance from any public and/or
semipublic areas, no person who is passing by an enclosed building having
a use governed by the provisions of this chapter shall be able to view any
specified anatomical area or any specified sexual activity by virtue of any
display which depicts or shows said area or activity, or hear any specified

(If additional space is needed, attach pages the same size as this sheet, and number each.)
sexual activity being offered or conducted therein; or be offered any promotional material advertising the use being conducted therein. This requirement shall apply to any display, decoration, sign, window or other opening.

[3] No building, vehicle or other device associated with an adult use entertainment establishment shall be painted in such other fashion as will effectuate the same purpose as a sign without the board’s approval.

[4] Parking of registered vehicles only shall be permitted on the site and within designated parking area(s) and only during the hours of operation.

[5] No dwelling unit shall be allowed as part of any adult use entertainment establishment.

[6] The requirements referenced herein are in addition to and not in place of any requirements which appear elsewhere in the Code or in any other rule, regulation or policy of the Town which would apply to an application for a special use permit or as otherwise may apply with regard to the uses discussed herein.

(d) The owner of a building or premises, his/her agent for the purpose of managing or controlling or collecting rents or any other person managing or controlling a building or premises used for an adult use entertainment establishment purpose shall register the following information with the CEO as part of any building permit or certificate of occupancy:

[1] The name(s) and address(es) of the owner(s) of the premises.

[2] The name of the business or the establishment subject to the provisions of this chapter.

[3] The names and addresses of the owner, the beneficial owner and the major stockholder(s) of the business or the establishment subject to the provisions of this chapter.


[5] The time period and any conditions of approval that a special use permit has been issued for said use on the premises.

[6] If the premises or building is leased, a copy of said lease.

[7] A copy of all other permits (e.g., state liquor permit, county health, etc.) associated with said use.

(e) Adult use entertainment establishments shall be deemed to be in violation of this chapter if the owner or operator or an employee of the owner or operator has been found to:

[1] Be in violation of any of the conditions imposed by the Planning Board as part of any special use permit or site plan approval.

[2] Refuse to allow an inspection of the establishment.

4. Allow the possession, use of or the sale of a controlled substance on the premises.

5. Allow prostitution to occur on the premises.

6. Allow any of the specified sexual activities to occur either from on the premises or arrangements for these activities to be made from on the premises.

(2) Apartment houses, multiple dwellings and dwelling groups, condominiums and cooperatives.

(a) The minimum lot area shall be five acres.

(b) Not less than 25% of the land area, excluding parking areas and vehicle access, shall be established and maintained as green space for the use and enjoyment of the residents and their guests.

(c) The coverage of all buildings and structures shall not exceed 30% of the area of the entire site.

(d) All dimensional requirements in Article XVII shall be adhered to.

(e) No site preparation or building construction may commence until a site plan has been approved by the Planning Board.

(3) Cemeteries and related customary uses.

(a) A new cemetery shall contain at least 10 acres of land.

(b) No site preparation or use shall commence until final site plan approval has been granted by the Planning Board and permits have been issued by all governmental agencies involved. Among the features to be considered by the Planning Board as part of any site plan approval will be:

1. The adequacy of the site to allow for the safe and efficient off-street parking of vehicles being used as part of a funeral procession.

2. An internal vehicle circulation pattern to permit ingress and egress from the same point of access to a public highway.

3. The method and availability of water supply.

4. The location of all trash receptacles.

5. The location of any structure used to temporarily store remains until burial.

6. The location of compost pile, bin or storage facility for plant materials and the screening of all such facilities.

7. The overall landscaping plan for the entire site.

(c) Each cemetery shall maintain at least a twenty-foot-wide unused area around the perimeter of the property that is to be landscaped and mowed.

(d) Each cemetery shall provide a maintenance building to be used for the storage of all equipment and materials being used in the maintenance of the cemetery, unless such equipment and materials are stored off site.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(c) Each cemetery shall maintain and post the hours of operation, including a phone number for information or to report an incident.

(4) Commercial outdoor recreational and/or athletic facilities.

(a) The applicant shall submit a written statement which sets forth the details of the operation of the proposed use and a site plan showing development of the outdoor recreational facilities.

(b) The minimum tract size for such a use shall be three acres with not less than 275 feet of frontage on each highway which fronts the site.

(c) A landscaped year-round buffer strip not less than 30 feet in depth shall be provided along the periphery of the proposed use. This landscaped buffer shall be provided within the setback requirements. The buffer strip shall include materials and be perpetually maintained by the developer or owner to provide a visual screen between the proposed use and adjoining properties and shall be used for no other purpose.

(d) Noise generated from an outdoor commercial recreational use shall be confined to the site.

(5) Commercial storage buildings and mini-warehouses.

(a) The minimum size lot shall be two acres.

(b) The maximum number of individual storage bays allowed for each mini-warehouse structure shall not exceed 100 feet in linear building length.

(c) All units shall be adequately lighted, both exterior and interior. There shall be interior lighting for each storage unit. Interior lighting may be on a time device to permit automatic shutoff.

(d) Each mini-storage unit shall be clearly identified, and the owner shall maintain records of all occupied units.

(e) No mini-warehouse unit shall be allowed to store any hazardous material.

(f) No mini-warehouse unit shall be used for vehicle repairs or body work.

(g) Adequate landscaping and architectural detail shall be provided to minimize the visual impact of the warehousing structure on adjacent sites.

(6) Continuum care.

(a) The applicant must have obtained all of the requisite governmental approvals to operate the proposed facility.

(b) The number of off-street parking spaces shall be provided as set forth in Article IX. At no time shall on-street parking be permitted to occur.

(c) All off-street parking shall be located in either the side or rear yard portion of the site. All off-street parking areas shall be lighted, landscaped and buffered from any adjacent residential site(s).

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(33)
(7) Essential services.
   (a) The proposed installation in a specific location is necessary and convenient for
       the efficiency of the essential service or the satisfactory and convenient
       provision of service to the area in which the particular use is located.
   (b) The design of any building in connection with such facility shall conform to the
       general character of the area and will not adversely affect the property rights in
       the district in which it is to be located.
   (c) Adequate and attractive fences and other safety devices will be provided.
   (d) A buffer strip not less than 15 feet in depth shall be provided around the
       perimeter of the property proposed for such use.

(8) Fuel dispensing units.
   (a) Fuel dispensing units may be allowed as an accessory use to any motor vehicle
       service station, convenience store or car wash.
   (b) The operation of all fuel dispensing units must be supervised by a company
       employee.
   (c) All bulk storage permits must be obtained by the owner.
   (d) All fuel dispensing units shall contain automatic shutoff nozzles, and the sales
       shall be recorded from within the principal use on the site. In addition, all such
       units shall have safety flushing devices in accordance with Uniform Code
       standards or National Fire Protection Association (NFPA) standards, to include
       automatic shutoffs in the event of an emergency.
   (e) The Planning Board may impose any conditions it deems necessary to protect
       the health and safety of motorists and pedestrians and to protect adjacent
       properties from potential adverse impacts of such use.
   (f) Except for motor vehicle service stations, there shall be no repairs to motor
       vehicles allowed on the site.
   (g) Any merchandise available for sale shall be maintained within a fully enclosed
       building.

(9) Funeral homes.
   (a) The applicant shall have obtained all of the requisite governmental approvals to
       operate the proposed facility.
   (b) The Planning Board shall determine that the street on which the funeral home is
       proposed is capable of carrying the volume of traffic likely to be generated by
       the proposed use. To the extent practical, funeral homes should be located such
       that traffic associated with this use does not flow through adjacent residential
       neighborhoods.
   (c) All off-street parking areas shall be illuminated, adequately screened from
       adjacent residential sites and available for use by visitors and employees.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(d) Each off-street parking area shall be designed so as to accommodate the assembly of vehicles used in a funeral procession. This assembly area shall be provided in addition to the required space for off-street parking. Each assembly area shall contain a minimum of 1,200 square feet.

(e) A caretaker's residence may be provided within the main building of the funeral parlor.

(f) Loading and unloading areas used by ambulances, hearses or other such service vehicles shall be screened from adjacent residential sites by a wall or densely planted shrubs of six feet in height.

(g) No building associated with a funeral home shall be located closer than 50 feet to any residential district or public street.

(10) Home occupations.

(a) It is the intent of this subsection to allow a variety of home occupation pursuits as specially permitted uses in residential districts while recognizing the substantial governmental goal of preserving and maintaining the residential atmosphere, appearance and character of residential districts. It is recognized that while home occupation pursuits are specially permitted under the conditions provided for in this subsection, it is the primary purpose of this subsection to preserve and maintain the residential atmosphere, appearance and character of residential districts. It is the stated intent that the special permitted home occupation use will always be second and subordinate to the principal residential use of the premises and that the home occupation will not harm other residential uses of the property or adversely affect neighboring premises. Under no circumstance shall a special permitted home occupation become so extensive that it predominates the principal permitted residential use of the premises. It is further the intent of this subsection to establish specific performance standards and controls to limit home occupations so as to minimize the adverse impacts a home occupation could have on a neighborhood or district and to assure that it does not become the predominant use of the property.

(b) A major home occupation, as defined in Chapter 86 of this Code, shall first require the issuance of a special use permit by the issuing board. The issuing board may condition or restrict the special use permit for a major home occupation if, in the Board's judgment, such restriction is required to minimize the impact of the use upon the neighborhood or district. No special use permit shall be issued unless the Planning Board makes a finding that the following criteria have been met:

[1] The property is in full compliance with the provisions of the Town Code.

[2] The major home occupation is determined to be clearly subordinate to the permitted principal residential use of the premises.

[3] No other major home occupation is conducted upon the premises.

[4] The special use permit must be issued to the owner of the premises who is an actual resident of the premises.

[5] No more than two employees, whether full-time or part-time and whether paid or unpaid, who are not residents of the premises, shall be permitted.
[6] The major home occupation must be carried on within an existing building on the premises. A major home occupation located within the principal dwelling unit may not exceed 25% of the total gross floor area or 500 square feet of the principal dwelling unit. A major home occupation located within an accessory structure may not exceed 35% of the total gross floor area or 800 square feet of the usable floor space of such accessory structure. A major home occupation may be located in both a portion of the principal dwelling unit and a portion of an accessory structure located on the premises, provided that the total gross floor area does not exceed 1,000 square feet.

[7] The major home occupation shall be subject to site plan approval by the Planning Board.

[8] The major home occupation must be fairly transparent and unobtrusive. The standard, "fairly transparent and unobtrusive," requires that the nonresidential character of the home occupation shall not be apparent to the Planning Board. The Planning Board shall consider the following standards when making this determination:

[a] Noise. The Board must find that the major home occupation is not likely to produce more noise than would exist in a residence without a major home occupation and that the type of noise and times of day of noise generation are not inconsistent with the primary residential use of the premises.

[b] Pedestrian traffic. The Board must find that the major home occupation is not likely to produce more pedestrian traffic to and from said premises than would exist in the case of a residence without a major home occupation and that the timing of such traffic is not inconsistent with traffic likely to be generated by the primary residential use.

[c] Vehicular traffic. The Board must find that the major home occupation is not likely to produce significantly more vehicular traffic to and from said premises than would exist in the case of a residence without a major home occupation and that timing of such traffic is not inconsistent with the primary residential use.

[d] Parking. The Board must find that the major home occupation does not create a need for any on-street parking spaces. Off-street parking spaces shall not be provided on the lot in such a manner as to cause the backing of vehicles onto a public highway. Furthermore, such off-street parking spaces shall be adequately landscaped so as to provide a visual buffer between the parking spaces and adjacent properties or public rights-of-way.

[e] Lighting. The Board must find that the major home occupation does not create light trespass onto adjacent properties or public rights-of-way which would be inconsistent with the Town's lighting standards.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(36)
Aesthetics. If any change is proposed to the exterior of the building, the Board must find that the change will not materially alter a characteristic architectural feature of the building, such as fascia, window style or roofline.

Trash. The Board must find that the major home occupation does not create additional waste products that are not properly contained within receptacles normally associated with the principal residential use of the premises. Where there are found to be additional waste products associated with a major home occupation that cannot be stored within such receptacles, then there must be provision for adequately securing such waste products within a screened and landscaped facility. Such a facility must be located behind the principal dwelling unit or behind the accessory structure used for the major home occupation.

Exterior display and retail. The Board must find that the major home occupation does not involve the exterior display or storage of goods, materials, equipment or inventory. There shall be no retail sales where the public visits the premises to purchase goods, materials, equipment or inventory.

Hours of operation.

Accessory structure. No major home occupation shall be permitted in an accessory structure located in front of the principal dwelling.

All signage shall conform to the Town's sign law.

Any special use permit, issued hereunder, shall be personal to the permittee, and no permit shall be transferable or run with the land. The special use permit shall terminate upon the issuing board's finding of a change in the performance standards or upon any change in ownership of the property.

In applying the above criteria, the issuing board may consider the following:

[a] The size of the lot (i.e., acreage, lot width and depth, shape, etc.);

[b] The size and/or number of vehicles (including machinery) used in connection with such major home occupation;

[c] The density and/or character of the neighborhood and the proximity of neighboring properties and residences;

[d] The necessity for screening and/or buffering of the major home occupation from adjacent properties or public rights-of-way; and

[e] The size and type of highway (i.e., state, county, Town) upon which such major home occupation is located.

(e) A minor home occupation does not require a special use permit and may operate upon the issuance of a certificate of zoning compliance from the CEO. The CEO must find that:

(If additional space is needed, attach pages the same size as this sheet, and number each.)
[1] The property involved with a minor home occupation is in full compliance with the provisions of the Code;

[2] The minor home occupation is subordinate to the use of the principal dwelling unit located on the premises;

[3] There is no other minor home occupation conducted on the premises;

[4] The minor home occupation is being conducted by a person residing in the principal dwelling unit located on the premises;

[5] The floor area devoted to or used for a minor home occupation shall not exceed 15% of the total gross habitable ground area of the principal dwelling unit, excluding any accessory building or structure, or 350 square feet, whichever is the less. A minor home occupation located within an existing accessory structure may not exceed 25% of the total ground floor area of such accessory structure;

[6] The minor home occupation shall not have any exterior display or storage of goods, materials, equipment or inventory;

[7] The minor home occupation may not have a commercial speech sign; and

[8] The minor home occupation uses no equipment which would not customarily be used by the occupants of the principal dwelling unit.

(d) Code compliance. Both a major and minor home occupation shall require a certificate of compliance from the Fire Marshal and the CEO attesting that the structure and proposed use comply with the New York State Uniform Fire Prevention and Building Code as applicable to the Town.

(e) Revocation of home occupation permits. A home occupation permit shall be deemed revoked upon the occurrence of any of the following:

[1] A subsequent home occupation permit is issued;

[2] There is a substantial change in the nature of the home occupation;

[3] The home occupation is not commenced within six months of the issuance of a permit;

[4] The home occupation ceases operation or is discontinued for a period of three months for any reason;

[5] The person conducting the home occupation no longer resides on the premises; and


(f) Application. Each application for a home occupation permit shall be:

[1] On a form provided by the building and zoning office which has first been approved by the Town Board;

[2] Accompanied by a complete site plan, drawn to scale, showing the location of all buildings or structures on the premises and the area where the proposed home occupation will be conducted; and

(If additional space is needed, attach pages the same size as this sheet, and number each.)
Accompanied by an application fee in the amount established by the Mendon Town Board.

(11) Hotels or motels.
   (a) Each unit shall contain not less than 240 square feet of floor area.
   (b) No guest shall establish residence at a motel for more than 30 consecutive days within any calendar year.
   (c) An accessory use customarily related to a hotel or motel, such as a restaurant, dry-cleaning store, beauty shop or barbershop, may be permitted, provided that such accessory use shall be located entirely within the building to which it is accessory and does not have a direct outside entrance for customers.
   (d) Recreation facilities may be provided for any specially permitted hotel or motel.

(12) Kennels.
   (a) Any premises on which four or more dogs, three months old or older, are kept, bred and/or harbored requires a special use permit.
   (b) The keeping, breeding and/or harboring of more than eight dogs, three months old or older, is not allowed.
   (c) All the dogs shall be owned by the resident owner of the property at which the kennel is located.
   (d) The minimum lot area for such uses shall be three acres.
   (e) Shelters for animals within kennels shall not be closer than 100 feet to any street or property line.
   (f) No outdoor area enclosed by fences, including electronic fences, for the use of animals shall be permitted within a front yard. Fenced areas shall be set back not less than 50 feet from any side or rear property line.
   (g) Adequate provisions shall be made for disposing of animal waste.
   (h) Noise and odors shall not become a nuisance to adjacent property owners.

(13) Motorized off-road vehicle tracks. These regulations shall apply to all types of racing, practice or pleasure areas used or which may be used by a motorcycle, quad-runner, go-cart, stock car, modified, snowmobile or any other type of racing or pleasure motorized vehicle.
   (a) A track may only be located on property which has an established primary residential use and which has a minimum of 20 acres.
   (b) A track must be clearly incidental to the primary use of the property.
   (c) Only one track may be established per parcel.
   (d) Only the person or persons residing on the property where a track is located may utilize said track.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(e) Duration of track operation shall not exceed more than four hours between 10:00 a.m. and 7:00 p.m. in any twenty-four-hour period. Track operation duration will be measured from the time the first motorized vehicle starts to operate and is independent from actual vehicle operation.

(f) No portion of any track shall be closer than 300 feet to any property line or road right-of-way.

(14) Motor vehicle sales. The sale of new and used vehicles may be carried on in an enclosed building or in an unenclosed area, provided that:

(a) Such unenclosed area is on the same or an adjacent lot to a fully enclosed building having a building area of not less than 5,000 square feet devoted to the sales and services of vehicles. If the enclosed area is on an adjacent lot, the lot shall be not more than 200 feet from the lot with the building and shall be in the same ownership as said building and be used for no other purpose.

(b) Such unenclosed area shall be paved, shall be suitably drained and shall be maintained in a neat and orderly manner.

(c) Any exterior illumination shall be approved by the issuing board and shall meet the requirements of this chapter.

(d) Suitable landscaping and/or fencing of such unenclosed area shall be required and approved by the issuing board.

(e) As used herein, the sale of new vehicles shall be deemed to mean only the sale of such vehicles under a franchise granted to the person, firm or corporation conducting such business by a vehicle manufacturer. Used vehicles shall be sold only in connection with the sale of new automobiles.

(15) Motor vehicle service stations and auto repair shops.

(a) The site plan submitted shall show the location and number of fuel tanks to be installed, the dimensions and capacity of each storage tank, the depth the tanks will be placed below the ground and the number and location of fuel pumps to be installed.

(b) All tank installations shall conform to all state and/or federal regulatory standards.

(c) The proposed uses shall be screened from adjacent uses by a buffer area not less than 10 feet in depth composed of densely planted evergreen shrubbery, solid fencing or a combination of both which, in the opinion of the issuing board, will be adequate to prevent the transmission of headlight glare across the boundary line at all times of the year. The Planning Board shall determine on an individual case basis how close to the right-of-way the landscaped buffer shall be required to be installed. Such buffer screen shall have a minimum height of six feet above ground. If said screening becomes decayed and fails to provide an adequate screen, the CEO shall direct the property owner to replace said screening.

(d) The entire area of the site traveled by motor vehicles shall be hard surfaced and dust-free.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(e) All repairs of motor vehicles, except for minor servicing, shall be performed in a fully enclosed building. No motor vehicle parts or partially dismantled motor vehicles shall be stored outside of an enclosed building.

(f) Motor vehicle service stations may include facilities for the sale of food, household items and convenience merchandise, provided that the sale of such items takes place entirely within an enclosed building.

(g) No commercial parking shall be allowed on the premises of a motor vehicle service station or auto repair shop.

(h) Accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of oil cans and/or antifreeze and similar products may be displayed on the respective island if provided for in a suitable stand or rack.

(i) No building or structure, including gasoline pumps or automotive service appliances, shall be erected within 40 feet of any street line.

(j) No motor vehicle service station or auto repair shop may display more than four unregistered vehicles for sale or repair outside of an enclosed building at any one time.

(k) No motor vehicle service station or auto repair shop shall have more than two driveways on any public street fronting the site. The driveway width on any street shall not exceed 1/3 of the total site frontage on each street.

(l) No motor vehicle service station or auto repair shop and no driveway to any such use shall be established within 200 feet of the boundary line of any residential district or of any school, church, park, playground, public library or any place of public assembly designed for the simultaneous use of 100 persons or more, regardless of the district where the subject premises are located. For the purposes of this subsection, the distance shall be measured along the street line on the side of the street where such use is proposed or such driveway would cross.

(16) Nonprofit membership corporations established to own and operate outdoor recreational or athletic facilities.

(a) The minimum size lot shall be 20 acres for any such use other than golf courses or country clubs.

(b) The proposed use shall have a contiguous buffer area surrounding the portion of the site proposed to be used for outdoor recreational or athletic purposes equal to twice the area to be occupied by the permitted use. Said contiguous buffer area shall be designed to reduce the exposure of noise, glare, unsightliness and any other potentially objectionable site feature(s) related to the proposed use from abutting properties.

(c) The buffer area shall include landscaping and/or berms to visually and physically separate the permitted outdoor recreational or athletic use from any adjacent residential site.

(d) The area of the site to be occupied by the permitted outdoor recreational use shall be determined by the issuing board and shall include, but not be limited to:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(41)
2. Site utilities.
3. Playing fields, courts and spectator viewing areas.
4. Accessory structures, including pools, ponds used for swimming, walkways, sidewalks and other improved areas which are used in conjunction with the permitted outdoor recreational or athletic use.
   (e) No site illumination shall be allowed to trespass onto adjacent properties or to cause glare onto any public right-of-way.
   (f) Landscaping and site plantings shall be provided which reduce to the greatest extent possible the noise levels generated from the outdoor recreational or athletic use onto adjacent residential sites.
   (g) Site drainage facilities shall not be included in the area to be occupied by the permitted outdoor recreational or athletic use.

(17) Nursery or day-care centers.

(a) Proof shall be furnished to the issuing board that all other governmental approvals have been obtained by the applicant to operate a nursery or day-care use.

(b) On-site recreational facilities shall be provided and maintained for the exclusive use of the nursery or day-care center. Such area shall be physically separate from on-site parking areas or driveways and screened from adjacent properties.

(18) Permanent farm markets. Permanent structures for the display and sale of agricultural and nursery products are subject to the following provisions:

(a) Such structures shall not exceed 5,000 square feet of floor area.

(b) Such structures shall conform to the minimum setback requirements for accessory buildings.

(19) Personal wireless communications facilities.

(a) Approvals required for personal wireless communications facilities:

[1] Telecommunications facilities comprised of collocated antennas (and accessory structures) may be permitted on an existing tower or structure, upon the issuance of site plan approval by the Planning Board. Where collocation exists, the period of special use permit approval for the collocated antenna shall be five years or the authorized franchise period remaining on the license issued by the Federal Communications Commission (FCC) for the original personal wireless communications provider, whichever is the lesser.

[2] Communications facilities requiring construction of a new tower shall require the following permits and/or approvals:
[a] On municipal-owned property, a tower shall be permitted upon site plan approval from the Planning Board in accordance with the provisions of Article VIII and the criteria contained elsewhere in this section governing the placement of personal wireless communications towers and facilities; or

[b] On privately owned land, both a special use permit and site plan approval are required.

(b) The minimum lot size for the placement of a tower shall be four acres of land, which may be rented, leased or owned by the provider and which is, further, located on a parcel of land where no other specially permitted use (or a previously issued conditional use permit) exists.

(c) Not more than one tower shall be permitted on any parcel of land.

(d) The minimum setback for each tower from any property line shall be the height of the tower to be erected plus 20 feet.

(e) No tower shall exceed 150 feet in height above finished grade without evidence that an additional tower located within the cell area defined by the provider will not provide adequate coverage to at least 90% of the population within said cell area.

(f) No tower shall be erected within a federal- or state-designated freshwater wetland or within any protected buffer area thereto, within a federal-designated area of special flood hazard, on a slope greater than 15% or on a site which has been determined to possess important scenic vistas.

(g) Any cutting of live trees which exceed four inches in diameter, measured at a height of four feet above ground, to provide for the placement of a tower shall first be approved by the Planning Board, in consultation with the Environmental Conservation Board, as part of any preliminary site plan application. Clear-cutting of trees beyond what is deemed necessary by the Planning Board to install and maintain the tower shall be prohibited.

(h) The tower shall be designed to withstand a sustained wind of 70 miles per hour with a one-half-inch ice load.

(i) A minimum radius of 2,000 feet shall be maintained between any proposed tower and any existing tower, whether located in the Town or in an adjacent municipality.

(j) All towers and associated structures shall be enclosed by a fence not less than eight feet in height above ground level. The fence shall contain adequate security measures along the top of the fence to deter site vandalism.

(k) No tower shall contain any signage except that identifying a health, safety or general welfare message, including but not limited to the owner of the tower, an emergency telephone number and tower site identification (i.e., tower number) and address.
(l) No tower or accessory structure shall be illuminated unless required by the Federal Aviation Administration (FAA) or elsewhere that Mercy Flight Central deems it to be appropriate to identify tower locations for maintaining the safety of air ambulance flights within the Town. Where Mercy Flight Central deems lighting to be warranted, one L 810 double-obstruction light shall be provided.

(m) The tower, all attachments, antennas and accessory equipment and structures shall either be a galvanized finish or painted gray above the surrounding tree line and designed to blend into the natural surroundings below the surrounding tree line unless other colors are mandated by the FAA for the tower.

(n) All tower guys shall be designed to provide ice shattering to prevent damage to guy cable terminus.

(o) Each personal wireless communications facility base and accessory structure(s) shall be adequately screened from any adjacent public right-of-way. To accomplish this screening, at least one row of native evergreen shrubs or other screening acceptable to the Planning Board which is capable of forming a continuous hedge at least 10 feet in height within two years of planting shall be required and maintained. This minimum screening requirement may be waived if the Planning Board determines that some other suitable screening already exists.

(p) All utility connections shall, to the greatest extent practical, be buried. This requirement may be waived, in whole or in part, by the Planning Board if, in its opinion, such underground facilities would be impractical due to natural conditions.

(q) The applicant shall comply with FCC regulations. Unless preempted by federal or state law, personal wireless telecommunications facilities shall be inspected annually, by a licensed professional engineer, at the applicant's expense, for radio emissions. A copy of the inspection report shall be filed with the Town. Any determinations by the FCC that radio emissions exceed permitted FCC standards shall immediately terminate the special use permit.

(r) Unless specified elsewhere in this chapter, a special use permit for the erection and maintenance of a tower shall be for a maximum of two years. Such special use permit shall be considered for renewal based upon the terms and conditions imposed with the original permit. Where compliance has been shown, the Planning Board may issue a special use permit for an additional two-year period.

(s) If a tower or accessory structure becomes obsolete or not used for a period of 90 days for the purpose specified in the original approval, the tower or accessory structure shall be dismantled and removed from the site at the owner's expense within 30 days of receipt of written notice from the CEO and based upon the Planning Board declaration to the effect specified herein. All special use permits and site plan approvals shall expire as of the date of abandonment of the facility. The applicant and/or the property owner shall be required to restore the site to the condition then existing on the approval date of the initial special use permit, absent grading and landscaping required above.

(t) The applicant shall provide the Town with an automatically renewing security bond which shall be in an amount adequate to guarantee that the tower and

(If additional space is needed, attach pages the same size as this sheet, and number each.)

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related site facilities are built, maintained and can be removed in accordance with the conditions imposed by the Town in the special use permit. Said security bond shall be in a form and of a sufficient amount which is subject to approval of the Town Attorney and Town Supervisor. Said amount shall be established upon consultation with the Town Engineer.

(u) All facilities shall have a backup source of power suitable for sustaining uninterrupted service to the public during periods of power outages. The Planning Board shall, as a condition of site plan approval, require either a power generator or battery pack source of energy capable of sustaining 24 hours of uninterrupted service.

(v) All facilities shall allow local public safety agencies, including but not limited to the Town Highway Department, the right to collocate their emergency communications facilities at no charge to the public safety provider, provided that the equipment and antennas to be erected on the tower do not interfere with the existing equipment or overload the design for the tower.

(w) Each tower constructed shall be designed to accommodate up to three communications providers, excluding local public safety agencies, which may be collocated on the tower.

(x) Access to towers and facilities shall be obtained from a public right-of-way.

(y) Accessory equipment may be located within an existing building, in a newly constructed building limited to 400 square feet in gross floor area or within freestanding panels which are located within a secured fenced area not exceeding 600 square feet on the site near the base of the tower. Where collocation occurs, each separate provider shall be entitled to one four-hundred-square-foot building or up to 600 square feet of land area upon which to place their accessory facilities.

(z) Each application for a special use permit or site plan approval for a personal wireless communications facility shall be accompanied by a plan which shall reference all existing personal wireless telecommunications facilities that are either located within the Town or whose cell area extends into the Town. Included in the plan shall be:

[1] A report from a licensed professional engineer specializing in communications shall be submitted, which shall:

[a] Describe the need for the facilities on the proposed site in the Town, the tower and facilities designs and the intended use.

[b] Describe the appropriateness of the proposed site, including factors such as the following:

[i] Availability of alternative, less-intrusive sites or opportunities for collocation by others.

[ii] Physical site features and general neighborhood character, present and future use of the site and the density of development within 2,000 feet of the site.

[iii] Distance from existing and planned residential structures and public rights-of-way.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
[iv] Suitability and adaptability of the site for the proposed structure, considering, for example, site topography, natural buffers, screening and security fencing.

[v] Size of the site chosen for the proposed facility, keeping in mind a parcel with an unoccupied area of sufficient size to accommodate all portions of a toppled tower.

[vi] Noise, glare, vibration, electrical disturbance or other objectionable consequences of the proposed installation and operation of the facility.

[vii] Identify the geographic coordinates of the proposed tower as further defined on the applicant's FCC license application using either North American Datum (NAD-27) or (NAD-83), and clearly state in the application and on the site plan which datum in being used.

[viii] Demonstrate that the proposed tower design is structurally sound.

[ix] Demonstrate how many and what kind of antennas are proposed and how many and what kinds of additional facilities are possible to be collocated on the tower and site.

[x] Demonstrate that the site can contain substantially all ice-fall or debris from tower failure.

[xi] Include a copy of the applicant's FCC construction permit, including any requirements from the FAA.

[xii] A copy of the certificate of need issued by the Public Service Commission.

[xiii] A letter of intent committing the tower owner to negotiate in good faith for shared use by third parties in the future. This letter, which shall be filed with the Town prior to the issuance of a special use permit, shall commit the tower owner and successors in interest to:

[A] Respond in a timely manner to a request for information from a potential collocator.

[B] Negotiate in good faith for shared use by third parties.

[C] Allow shared use if an applicant agrees, in writing, to pay reasonable charges.

[D] Make no more than a reasonable charge for shared use, based upon generally acceptable standards.

[2] A complete environmental assessment and visual summary, which includes:

[a] How the facilities can be blended with the viewshed, including any attempts at camouflage.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(46)
[b] Computer-enhanced photo simulations of the site proposed tower, both before and after construction, from all adjacent public rights-of-way.

[3] All building permits for the erection and maintenance of a personal wireless telecommunications facility must be obtained within six months of the date of approval of a special use permit, and construction must be completed within 12 months of such approval. The special use permit shall expire in the event that either of these conditions have not occurred within the time periods specified herein.

[4] Structural inspection. Unless otherwise preempted by federal or state law, personal wireless telecommunications facilities shall be inspected annually at the owner's expense for structural integrity by a licensed professional engineer registered in New York State. The structural inspection report shall describe the structural integrity of the facility, maintenance issues and repairs needed or made. This report shall be filed with the CEO within 12 months of construction of the facilities and each year thereafter. In the event that the structural inspection indicates structural deficiencies, then the deficiencies must be remedied within the time set by the CEO.

[5] The following communications towers are exempted from the provisions of this section:

[a] Satellite dish antennas as regulated elsewhere in the Code.

[b] Conventional television and radio antennas when used exclusively for private benefit and involving a structure with a height less than 15 feet above existing grade or, if attached to a structure, 35 feet above existing grade.

[c] New uses which are accessory to residential uses, so long as the height of any such use does not exceed 30 feet.

[d] Approved uses existing prior to the effective date of these regulations.

(20) Public and semipublic uses and buildings. The applicant shall provide the issuing board with evidence of approval, certificate of need, license or other similar document required to initiate or expand such a use from any and all appropriate regulating agencies.

(21) Rental of automobiles, trucks, trailers and recreational vehicles.

(a) A site plan must be approved showing the location on the property for buildings, open storage of vehicles, customer parking areas and areas devoted to the on-site servicing of the rental vehicles.

(b) There shall be no outside storage of any related customer equipment, materials or vehicles.

(c) All repairs and service (including vehicle washing) shall be within an enclosed building, except for gasoline dispensing.

(d) All gasoline sales shall be restricted to vehicles rented. There shall be no sale of gasoline or oil products to the general public.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(22) Residential conversions. Residential conversions involve the conversion of an existing structure for occupancy by two or more families living as separate and independent housekeeping units in the RS-30 Residential Suburban District.

(a) Any building proposed to be converted to create additional living units shall have not less than 2,000 square feet of gross floor area.

(b) No more than four living units shall be created by conversion within any individual structure.

(c) The minimum habitable floor area for living units shall be:

[1] For efficiency units: 450 square feet

(d) Any parcel of land with an existing single-family dwelling proposed to be converted to create additional dwelling units shall have an area of not less than 1 1/2 acres.

(23) Restaurants.

(a) The applicant shall submit a written statement setting forth the details of the operation of the proposed use.

(b) The location of all on-site refuse containers shall be identified and maintained. All refuse containers shall be enclosed and effectively screened from adjacent properties.

(c) Any outdoor eating area shall be maintained, landscaped and physically separated from any off-street parking area or driveway. In no event shall outdoor eating be allowed unless the site has a paved, dust-free parking surface.

(24) Special for-profit entertainment uses and events.

(a) Such event shall take place on a site of not less than 50 acres, which shall be suited for such an event and which shall be buffered and separated from any adjacent uses. It is contemplated that such uses are not appropriate in the EPOD areas.

(b) Separate permits shall be required for each special event. A separate permit is required for any special event which is separated by more than 48 hours from a previous special event for which a permit had been granted.

(c) Any permit may be revoked by the permit-issuing official if, after a public hearing and notice to the permittee, he or she finds that the special event for (If additional space is needed, attach pages the same size as this sheet, and number each.)
which the permit was issued is maintained, operated or occupied in violation of law. A permit may be revoked upon request of the permittee or upon abandonment of the operation.

(d) The applicant shall present conceptual site plans and a preliminary special use permit application to the Planning Board which includes the following, in addition to the requirements of § 200-25:

[1] Disclosure of owners, managers and proof of permission of the landowner for operation of the event.

[2] Content of program, including days, time and hours of operation.

[3] A statement from local fire and ambulance authorities having jurisdiction over the area verifying that the facilities available to such entertainment use are suitable to provide adequate safety and that they are aware of the event and are willing to cooperate, if needed.

[4] A detailed plan shall be submitted for emergency situations, including:
   [a] Food supplies.
   [b] Medical supplies, facilities and personnel.
   [c] An evacuation plan.
   [d] Emergency access roads.

[5] Detailed plans for internal storage and collection of refuse, including provisions for the disposal and cleaning of property and immediate surrounding properties within 48 hours of the event.

[6] Detailed plans for food service, including a description of food sources, menu, mandatory use of single-service dishes and utensils, refrigeration and food handling and dispensing, according to Monroe County Department of Public Health Standards.


[8] Detailed plans of any animal accommodations, including proper feeding, disposal of waste, security, fencing and care of such animals.

[9] If alcoholic beverages will be served, evidence of liquor license, security provisions and proper insurance coverage.

[10] Detailed plans for security enforcement, including prevention of the unlawful use of alcohol, narcotics and dangerous drugs at the site, and methods for limiting the use of the proposed function to the number of participants for which the facilities are designed and external as well as internal crowd control, including proof of sufficient security for crowd control and security enforcement.

[11] Detailed plans for amplifying equipment designed to control the noise level at the perimeter of the site to no more than 75 decibels on the A-scale of a sound-level meter, which meets the specifications of the American National Standards Institute.

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(49)
(e) All structures, except for those specifically exempted, shall be removed from the premises within 30 days of the discontinuance of such use. A bond or letter of credit for restoration of the site may be required as a condition of approval.

(f) Liability and property damage insurance. No permit shall be issued unless the applicant shall furnish the Town with a comprehensive liability insurance policy insuring the Town against liability for damage to person or property with limits of not less than what the Town carries for bodily injury or death and the same coverage as the Town carries for property damage, to hold the Town harmless from any and all liability or cause of action which might arise by reason of the granting of the permit, which policy shall not be cancelable without 10 days' prior written notice to the Town and which shall be in effect during the entire period of said event. Failure to keep such policy in effect will result in automatic revocation of the permit without hearing.

(g) Proof of financial resources. The applicant shall submit a statement of financial resources prepared by a certified public accountant, showing finances sufficient to execute the plans as submitted.

(25) Stables or riding academies.

(a) The special permitted use may include any of the following:

[1] Storage of registered horse trailers used for the transporting of horses and accessory to the principal use.

[2] Sale or rental of horses for use by the public by the hour, day, month or year.


[6] Sale of horse supplies and/or equipment.

(b) The land devoted to this use shall not be less than 10 contiguous acres.

(c) One principal single-family dwelling must be located on the land devoted to this use, provided that it complies with the requirements for this chapter. The land area on which the principal single-family dwelling is located (minimum lot size of RA-2 District) shall not be considered as part of the land devoted to this use as set forth in § 200-26D(25)(b) above.

(d) The number of horses that may be boarded and/or trained at such property shall meet the requirements of § 200-8N.

(e) A stable shall be located as specified in § 200-8N. The storage of manure shall be located as specified in § 200-8I. The Planning Board may require manure storage areas to be screened and/or buffered from adjacent areas.

(f) Any riding ring shall be at least 50 feet from any boundary line.

(g) Structures on the land devoted to this use (not including the principal dwelling) shall not, in the aggregate, cover more than 5% of the area of the land devoted to this use.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(h) Exterior lighting shall be so installed and arranged as to reflect light away from the adjoining streets and prevent any nuisance to adjoining property and shall be turned off at the end of daily operations or 11:00 p.m., whichever is earlier.

(i) Exterior loudspeakers shall be installed or used on the premises so as to minimize potential nuisances to adjacent properties and shall not be used after the end of daily operations or 11:00 p.m., whichever is earlier.

(26) Tourist homes and bed-and-breakfast establishments.

(a) The building proposed for occupancy as a tourist home/bed-and-breakfast shall contain no more than four lodging rooms for hire.

(b) The operator(s) of the tourist home/bed-and-breakfast shall reside on the premises and shall be the only permanent occupant(s) on the premises.

(c) No tourist home/bed-and-breakfast use shall be established on a lot that is within 500 feet of another lot measured along the same street frontage on which there is an existing tourist home/bed-and-breakfast establishment.

(d) The exterior of the building shall be maintained consistent with the character of the area.

(e) All parking shall be located outside of the highway right-of-way.

(27) Townhouse clusters and developments.

(a) In addition to the dimensional requirements set forth in Article XVII, the following site design standards shall be applicable to all townhouse dwelling unit developments:

[1] The minimum tract area for townhouse development shall be not less than three acres.

[2] Overall site density shall not exceed five dwelling units per gross acre.


[a] The minimum lot area for each townhouse dwelling unit shall be 3,500 square feet.

[b] The minimum lot width at the main building line shall be 25 feet.

[c] The minimum lot depth shall be 140 feet.

(b) Each townhouse dwelling unit shall be located, constructed and served by public facilities and services and utilities in such fashion that each dwelling unit may be sold individually.

(c) Natural features, including streams, drainageways and existing trees, shall be preserved and incorporated in the landscaping of the development.

(d) All utility lines which provide electric, gas, telephone, television or other similar services shall be installed underground. Surface-mounted equipment shall be located in a manner so as to minimize potential conflict with other uses and activities.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(51)
(e) Plans submitted for townhouse developments shall identify areas proposed for dedication to the Town, areas to be held in common ownership and property to be owned by individuals.

(f) Common property shall, except when accepted by the Town Board for dedication, be privately owned. Where property is to remain in common ownership, the developer shall provide for and establish an organization for the ownership and maintenance of such common property. Rules and regulations proposed to govern the operation and maintenance of all common property shall be submitted for review and approval by the Town Board. Common property shall not be changed from its status or use as common property without specific authorization of the Town Board. In reviewing proposals for the establishment of organizations to govern the ownership and maintenance of any common property, the Town Board shall consider and determine the adequacy of:

[1] The timetable for the creation of the organization.
[2] The requirements for membership in the organization by residents.
[3] The safeguards to ensure the continuance of the common property as common property.
[4] The liability of the organization for insurance, taxes and maintenance of all facilities.
[6] The financial capacity of the organization to maintain and administer common facilities.
[7] The proposed relationship between the developer and the organization and the plan to turn over the responsibility for the maintenance and administration of common facilities to the organization.

(g) Building standards.

[1] No more than eight townhouse dwelling units shall be included in a single-dwelling building.
[2] No building shall exceed a maximum length of 240 feet on any exterior facade.
[3] Townhouse dwelling buildings shall be related to one another in design, building mass, materials and placement to provide a visually and physically integrated development.
[4] The treatment of the sides and rear facades of all buildings in a development shall be comparable in amenity and appearance to the treatment of any building facade which faces a public street and complementary in architectural design to adjacent residential structures.
[5] Building walls shall be oriented so as to ensure adequate exposure of light and air to each dwelling unit and to the rooms within.
[6] Buildings shall be arranged so as to preserve visual and audible privacy between each townhouse dwelling unit and adjacent townhouse buildings.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(52)
[7] Building entranceways of adjacent dwelling units in the same structure shall be designed to ensure the privacy of occupants. This may be accomplished by varying the setbacks of entranceways or by providing screening or landscaped plantings, as appropriate.

[8] Building entranceways shall be provided with appropriate illumination for the convenience and safety of residents. Such lighting shall be shielded to avoid glare disturbing other properties.

[9] All townhouse dwelling units shall include ground floor living space. The location of an enclosed garage shall not qualify as meeting this requirement.

(h) Townhouse parking standards.

[1] The requirements for off-street parking may be met by providing parking spaces in an enclosed garage plus any combination of spaces on private driveways and/or in a common parking lot.

[2] No common off-street parking lot or outdoor storage area shall be located closer than 25 feet to any adjacent property.

[3] All off-street parking areas shall be privately owned and maintained.

[4] Common off-street parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and the monotony of parked cars.

[5] Common off-street parking areas shall be designed with careful regard to orderly arrangement, topography, landscaping, and ease of access and shall be developed as an integral part of the overall site plan.

[6] Common off-street parking areas shall be provided with suitable lighting for the convenience and security of residents, but positioned and shielded to minimize glare and potential inconvenience to residents of the townhouse cluster or development and adjacent properties.

(i) Landscape site design standards.

[1] Landscaping shall be provided along and adjacent to all streets, common driveway areas and common off-street parking areas. Landscaping treatments shall be designed, coordinated and installed in accordance with the site plan approved.

[2] Landscape treatment shall consist of shrubs, ground cover and street trees and shall be designed and installed to provide an attractive development pattern. Landscape materials selected should be appropriate to the growing conditions of the local environment.

[3] Whenever possible, existing trees shall be conserved and integrated into the landscape design plan.

[4] All landscaping, except for trees, shrubs and grasses, either existing or to be installed within the public right-of-way, shall be privately owned and maintained.

(j) Site circulation system design standards.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
[1] An adequate, safe and convenient circulation system shall be provided.

[2] The arrangement of streets and common parking areas shall be designed as integral parts of an overall site plan. These features shall be properly related to existing and proposed buildings and appropriately landscaped.

(k) Miscellaneous townhouse regulations.

[1] No home occupations and no business activities of any type shall be permitted within a townhouse cluster or development.

[2] All fencing of common areas shall be shown on the site plan approved by the Planning Board.

[3] Individual owners may erect privacy fences to enclose outdoor areas of individual dwelling units. Such fences may be up to six feet above ground level, provided that such fencing is located not less than 15 feet from a public street, common off-street parking or storage area or vehicular accessway thereto. Fencing which is closer than 15 feet to a public street or common off-street parking or storage area or vehicular accessway thereto shall not exceed three feet above ground level.

[4] No individual property owner shall erect or place an accessory building or structure on the premises.

[5] The storage of any unregistered vehicles or other similar equipment out of doors overnight shall be prohibited.

(l) Special accessory uses. The following special accessory uses may be established for the common and exclusive use of owners of townhouse residences and their guests. Such special accessory uses shall be operated on a not-for-profit basis and subject to the approval of the Planning Board:

[1] Recreational facilities such as open or enclosed tennis courts, exercise facilities, picnic areas, gazebos or swimming pools as regulated herein.

[2] One structure to house maintenance shops and vehicles to be used exclusively for the maintenance and management of the townhouse development.

[3] Common space for the exclusive use and convenience of residents of the townhouse cluster or development and their guests to park vehicles. Such common space shall be adequately landscaped and buffered so as to screen the site from adjacent areas and uses.

(28) Truck and freight terminals.

(a) The minimum lot area shall be two acres.

(b) A minimum area of 700 square feet of storage (or maneuvering) space shall be required for each tractor trailer on the site. A minimum of 400 square feet of storage (or maneuvering) space shall be required for each truck on the site.

(c) A site plan shall be approved showing the location on the property for buildings, loading areas and docks, vehicle servicing, open storage of vehicles and customer parking areas.

(d) There shall be no on-site open storage of materials.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(e) All repairs and service (including vehicle washing) shall be conducted within an enclosed building, except for gasoline dispensing units.

(f) Fuel sales shall be restricted to vehicles used solely in conjunction with the truck terminal. There shall be no sale of gasoline or oil products to the general public.

(g) All open storage of vehicles shall be located either in the side or rear yards of the site. Open storage areas shall be screened from any adjacent noncommercial site.

(h) Vehicles may be offered for sale to the public. In no event, however, shall the sale of trucks or trailers be allowed to become the principal use of the site without first obtaining site plan approval for the sale, lease or rental of vehicles as otherwise required.

(29) Two-family dwelling units.

(a) At least one of the dwelling units must be occupied by the owner of the property.

(b) The minimum lot size, width and setback requirements for a two-family dwelling unit shall conform to the standards set forth in Article XVII.

(c) Each dwelling unit within a two-family structure shall meet the minimum living area requirements established for single-family dwellings.

(d) Each dwelling unit shall be served with separate utility meters, shutoff valves and waste disposal facilities.

(e) Each dwelling unit shall have a shared driveway to a public street. In addition, each driveway shall have an improved asphalt or dust-free surface.

(f) Each two-family dwelling structure shall have not less than two off-street parking spaces for each dwelling unit which shall be in addition to a separate garage for each dwelling unit. These parking spaces may be designed as part of the driveway and turnaround area.

(g) No site preparation or construction shall commence until final site plan approval has been granted and permits issued by all governmental agencies involved.

(30) Vehicle wash establishments.

(a) The vehicle washing facility and customary uses or operations associated with the facility shall not be located closer than 500 feet to a residential district.

(b) All vehicle wash operations shall be so soundproofed, the entire development shall be so arranged and the operations shall be so conducted that the noise emanating therefrom, as measured from any point on the adjacent property, shall be no more audible than the noise emanating from the ordinary street traffic and from other commercial or industrial uses measured at the same point on said adjacent property.

(c) Vacuuming facilities may be provided outside of the building but shall meet the setback requirements. Such area shall be buffered or screened as deemed necessary by the issuing board.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(d) The only operations conducted on the property shall be the washing of vehicles and the vacuuming of interiors of vehicles.

(e) All washing operations shall be conducted within enclosed structures which shall be externally designed to be in keeping with the exterior facades of adjacent land uses.

(f) Operators of car wash establishments may be permitted to sell gasoline on the site of the vehicle wash property if they meet the standards set forth in § 200-26D(8) and (15). The issuing board, in considering such a request, may require the operator to submit additional information to adequately describe the location and operation of such activity and, as a condition of granting such approval, may impose any conditions it deems necessary to protect the health and safety of motorists and pedestrians and to protect adjacent properties from potential adverse impacts of such use. Under no conditions shall the operator be allowed to perform repairs to motor vehicles on the site. Any merchandise available for sale shall be maintained within a fully enclosed building and should be related to automobile accessories or convenience items.

(31) Veterinary clinic for small animals.

(a) All treatment rendered shall be from within an enclosed building.

(b) All animals kept overnight or for longer periods of time to enable recovery from any injury, disease or as part of any general observation shall be confined to either cages or suitable living areas located within an enclosed structure. In no event shall more than one animal be allowed per cage or suitable living area except for litters.

(c) All waste products shall be kept in secure containers and disposed of through appropriate means. All outdoor containers shall be screened from adjacent sites.

(d) All deceased animals shall be properly disposed of in a manner determined to be acceptable by all regulatory agencies.

(e) Each site shall provide adequate off-street parking for all employees and customers.

(f) Each clinic shall contain the name of the licensed veterinarian and an emergency telephone number that shall be prominently displayed.

(g) Any outdoor animal run area, sized according to standards of a nationally recognized animal husbandry organization, shall be provided for each animal recovering from treatment. Each animal run area shall be within a secure fenced area and not located nearer than the side or rear yard setback of the respective zoning district. In no event shall an outdoor animal run area be allowed in the front yard portion of any site. No outdoor runs or open exercise areas shall be visible from any adjacent residential zoned site. All openings from the enclosed structure to the exercise area shall be screened and buffered from any adjacent residential sites.

(h) No deceased animals shall be buried on the premises.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(i) Each application for a special use permit shall be accompanied by a site plan showing all buildings on the site, exercise areas, dumpster, method of animal waste disposal, water supply and watercourses, access, parking, landscaping, signage and site lighting.

(32) Windmills or wind generators.

(a) The site plan for a windmill or wind generator shall include:

[1] Location of tower on site, including maximum height of turbine components during use (e.g., blade tip for horizontal-axis device) and ground clearance of moving components (e.g., blades) and tower height, including blades, rotor diameter and ground clearance.

[2] All utility lines both above and below ground within a radius from the tower base equal to the proposed tower height, including blades.

[3] Dimensional representation of the various structural components of the tower construction, including the base and footings.

[4] Design data indicating the basis of design, including manufacturer's dimensional drawings, installation and operation instructions.

[5] Certification by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind load requirements for structures.

(b) No windmill, including blades, shall extend more than 75 feet above the average ground level measured at the base of the tower.

(c) No more than one windmill shall be permitted as an accessory use to any property.

(d) No windmill shall be erected in any location where its overall height, including blades, is greater than the distance from its base to any property line.

(e) Access to the tower shall be limited either by means of a fence six feet high around the tower base with a locking gate or by limiting tower climbing apparatus to no lower than 12 feet from the ground.

(f) No windmill shall be installed in any location along the major axis of an existing microwave communications link where the operation of the windmill is likely to produce an unacceptable level of electromagnetic interference.

(g) Windmills shall be located or installed in compliance with the guidelines of the FAA regulations with regard to airport approach zones (15.503) and clearance around VOR and DVOR stations.

(h) Any site proposed for a windmill shall have sufficient access to unimpeded air flow for adequate operation. The Siting Handbook for Small Wind Energy Conversion Systems, PNL-2521, or other nationally recognized reference, should be used as a guide.

(i) No windmill shall be installed in a location where the impact on the neighborhood character is determined by the Planning Board to be detrimental.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(57)
(j) If the windmill is to be interconnected to an electric utility distribution system, the applicant shall provide evidence of approval of the proposed interconnect by the power company.

(k) A tower shall be located in either a rear or side yard. Applicants seeking a side yard siting shall demonstrate that such a location is essential to the viability of the proposed investment.

(l) Guy wires and anchors for towers shall not be located closer than the required accessory structure setback.

(m) All windmills shall be designed with an automatic brake to prevent overspeeding and excessive pressure on the tower structure.

(n) The minimum distance between the ground and any protruding blades shall not be less than 10 feet as measured at the lowest point of the arc of the blades.

(o) Windmills shall be separate, freestanding structures.

ARTICLE VIII
Site Plan Regulations

§ 200-27. Authority.
The Planning Board is hereby empowered to grant site plan approval in accordance with the provisions of § 274-a of the New York State Town Law. The Town Board hereby further empowers the Planning Board to, when reasonable, waive any requirement for the approval, approval with modifications or disapproval of site plans submitted for approval. Any such waiver, which shall be subject to appropriate conditions set forth in this section, may be exercised in the event that any such requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular site plan. Those identified applications requiring site plan approval as a prerequisite and all special use permits (which require site plan approval) shall be regulated as set forth in this section. The application procedures for special use permits are contained in Article VII of this chapter.

§ 200-28. Planning Board considerations for preliminary site plan approval.
A. The Planning Board’s review and approval of a preliminary site plan shall include, as appropriate, but is not limited to, the following:
   (1) General considerations.
      (a) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
      (b) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
      (c) Location, arrangement, appearance and sufficiency of off-street parking and loading.
      (d) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
      (e) Adequacy of stormwater and drainage facilities.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(58)
(f) Adequacy of water supply and sewage disposal facilities.

(g) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.

(h) In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.

(i) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.

(j) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

(k) Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

(l) Impact of the site plan on any scenic vistas.

B. In its review, the Planning Board may consult with the Town Engineer, the emergency service, County Planning Department and other Town and county officials, as well as with representatives of federal and state agencies.

C. The Planning Board may require that the exterior design of all structures be made by or under the direction of a registered architect, whose seal shall be affixed to the plans, and to submit landscape plans made by or under the direction of a registered landscape architect, together with an estimate of the cost of installing the same.

D. Public hearing. When the Planning Board decides to conduct a public hearing on a preliminary site plan, said public hearing shall be conducted within 45 days of the receipt of the complete application for preliminary site plan approval and shall be advertised in the official newspaper of the Town at least 10 days before the public hearing. The Planning Board, by resolution, can waive the right to public hearing on final plans if changes are not substantial.

§ 200-29. Planning Board action on preliminary site plan.

A. Within 45 days of the Planning Board's publication of a complete application for preliminary site plan approval, the Planning Board shall act on it. If no decision is made within said forty-five-day period, the preliminary site plan shall be considered approved and the applicant so notified. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved, approved with modifications or approved by default when not reaching a timely decision within the time period specified.

B. The Planning Board's statement may include recommendations or modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement shall contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

C. If the preliminary site plan identifies the need for dimensional variances, then the Planning Board shall notify the Zoning Board of Appeals and the applicant of what variance(s) the Board believes would be appropriate based on its review of the preliminary site plan. The

(If additional space is needed, attach pages the same size as this sheet, and number each.)
Planning Board's report shall be considered by the Zoning Board of Appeals in its deliberation on any variance request(s).

D. No modifications of existing stream channels, filling of lands, grading or removal of vegetation in areas with a moderate to high susceptibility to erosion or excavation for construction of site improvements shall begin until the applicant has received final site plan approval. Failure to comply shall be construed as a violation of this chapter, and where necessary, final site plan approval may require the modification, restoration or removal of unapproved site changes.

§ 200-30. Application for final detailed site plan approval.

A. After receiving conditional approval from the Planning Board on a preliminary site plan, the applicant may prepare his final detailed site plan and submit it to the Planning Board for approval, except that if more than six months have elapsed between the time of the Planning Board's report on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.

B. The final detailed site plan shall conform substantially to the preliminary site plan that has received preliminary site approval. It should incorporate any revisions or other features that may have been recommended by the Planning Board at the preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

C. The following additional information shall accompany an application for final site plan approval when appropriate:

1. Detailed sizing and final material specification of all required improvements.

2. An estimated project construction schedule.

3. A detailed plan identifying all lands, easements and rights-of-way which shall be commonly owned, with the identification of the association responsible for said ownership, the method of managing commonly owned properties and requiring that the officers of said association shall be identified to the CEO, in writing, on an annual basis.

4. Information specifying the materials to be used and information as to the character of the exterior design.

§ 200-31. Action on detailed final site plan application.

A. Within 45 days of the receipt of a complete application for final site plan approval, the Planning Board shall render a decision to the applicant and the CEO.

B. Upon approval by all involved agencies, an application for the site plan approval by the Planning Board shall direct the Planning Board Chairman to endorse its approval on the original Mylar and one copy of the final site plan. Once signed, the Planning Board shall forward it to the CEO, who shall then issue a building permit to the applicant if the projects conform to all other applicable requirements and permits.

C. Upon disapproving an application, the Planning Board shall so inform the CEO and the applicant. The CEO shall deny a building permit to the applicant. The Planning Board shall also notify the applicant, in writing, of its decision and its reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
§ 200-32. Supplemental regulations pertaining to site plan approval.

A. Expiration of site plan approval. Such site plan approval will automatically terminate one year after the same is granted, unless significant work has been done on the project.

B. Reimbursable costs. Reasonable costs incurred by the Town for consultation fees or other extraordinary expenses associated with the review of a proposed site plan shall be charged to the applicant in accordance with the fee schedule.

C. Performance guarantee. No building permit shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee, approved by the Town Board, has been posted for improvements. The sufficiency of such performance guarantee shall be determined by the Town Board after consultation with the CEO, Town Engineer, Planning Board and Town Attorney.

D. Inspection of improvements and development. The CEO shall be responsible for the overall inspection of site improvements, including coordination with the Town officials and agencies, as appropriate. No certificate of occupancy shall be granted prior to a final inspection and determination of conformity to the site plan and New York State Building Code.

E. Integration of site plan approval procedure with other Planning Board approvals. Whenever the particular circumstances of a proposed development require compliance with either the special use permit procedure or requirements of Chapter 174, Subdivision of Land, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliances. In any case, all state permits and local land use control approvals shall be procured prior to the issuance of a building permit for a development project.

F. Conflicts. If any conflicts exist between this site development plan review procedure and other land use controls of the Town, this section shall apply.

ARTICLE IX
Off-Street Parking and Loading

§ 200-33. Off-street parking and loading requirements.

A. Off-street parking. The off-street parking requirements shall be as follows:

<table>
<thead>
<tr>
<th>Type of Use</th>
<th>Minimum Number of Off-Street Parking Spaces Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
</tr>
<tr>
<td>Single- and two-family dwellings</td>
<td>2 per dwelling</td>
</tr>
<tr>
<td>Multiple-family developments, garden apartments and townhouses</td>
<td>2 per dwelling</td>
</tr>
<tr>
<td>Home-operated barbershops and beauty shops</td>
<td>2 per beauty or barber chair, plus 1 for each nonresident employee, in addition to the off-street parking spaces required for the dwelling</td>
</tr>
<tr>
<td>Home occupations and professional offices</td>
<td>3 for client use, plus 1 for each nonresident employee, in addition to the off-street parking spaces required for the dwelling</td>
</tr>
<tr>
<td>Home-operated doctor or dentist offices</td>
<td>5 for clients, plus 1 for each nonresident employee, in addition to the off-street parking spaces required for the dwelling</td>
</tr>
<tr>
<td>Commercial</td>
<td></td>
</tr>
</tbody>
</table>

(If additional space is needed, attach pages the same size as this sheet, and number each.)
<table>
<thead>
<tr>
<th>Type of Use</th>
<th>Minimum Number of Off-Street Parking Spaces Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motels, hotels and auto courts</td>
<td>1 for every 150 square feet of gross floor area or major fraction thereof, but not less than 1 per sleeping or dwelling unit</td>
</tr>
<tr>
<td>Business and professional offices</td>
<td>1 for every 150 square feet of gross floor area or major fraction thereof</td>
</tr>
<tr>
<td>Banking offices</td>
<td>1 for every 100 square feet of gross floor area or major fraction thereof. Drive-in windows shall have sufficient space to adequately handle 10 cars, separate and apart from any required parking spaces or travel lanes.</td>
</tr>
<tr>
<td>Retail and service shops, except when otherwise specifically covered herein</td>
<td>1 for every 150 square feet of gross floor area or major fraction thereof</td>
</tr>
<tr>
<td>Stores for the retail sale of furniture, appliances or hardware</td>
<td>1 for every 500 square feet of gross floor area or major fraction thereof</td>
</tr>
<tr>
<td>Supermarkets and self-service food stores</td>
<td>1 for every 100 square feet of gross floor area or major fraction thereof</td>
</tr>
<tr>
<td>Laundromats</td>
<td>1 for every 2 washing machines</td>
</tr>
<tr>
<td>Motor vehicle service stations</td>
<td>1 for every 100 square feet of gross floor area or fraction thereof</td>
</tr>
<tr>
<td>Motor vehicle sales, including used car sales</td>
<td>1 for customer parking for every 300 square feet of gross floor area or fraction thereof. In no case, however, shall a motor vehicle sales establishment provide less than 10 off-street parking spaces exclusively for customer use.</td>
</tr>
<tr>
<td>Car wash establishments (coin-operated)</td>
<td>4 entering each washing bay and 3 exiting each washing bay, plus 1 for each employee</td>
</tr>
<tr>
<td>Car wash establishments (automatic)</td>
<td>10 entering each washing bay if there are 2 bays, or 7 if there are 3 or more bays and 5 exiting each washing bay, plus 1 for each employee</td>
</tr>
<tr>
<td>Commercial storage buildings (includes mini-warehouses)</td>
<td>1 for every 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>Restaurants, cafeterias, taverns and bars</td>
<td>1 for every 2 seats for customers, or 1 for every 25 square feet of floor area available to patrons, whichever is higher</td>
</tr>
<tr>
<td>Restaurants, fast-food</td>
<td>1 for every 100 square feet of gross floor area or fraction thereof</td>
</tr>
<tr>
<td>Funeral homes and mortuaries</td>
<td>15 per parlor, plus 1 for each employee</td>
</tr>
<tr>
<td>Medical or dental clinics or offices</td>
<td>5 for each doctor or dentist, plus 1 for each employee</td>
</tr>
<tr>
<td>Farm stands</td>
<td>3</td>
</tr>
<tr>
<td>Nursery or day-care centers</td>
<td>1 for each 2 children of capacity, plus 1 for each employee</td>
</tr>
<tr>
<td>Flea markets</td>
<td>5 for every 1,000 square feet of gross floor area or major fraction thereof of a permanent structure, plus 3 for every 150 square feet of gross area or major fraction thereof of booth, stands or outside display areas</td>
</tr>
<tr>
<td>Tourist homes, bed-and-breakfast establishments and rooming houses</td>
<td>2 for the family residing on the premises, plus 1 additional space for each lodging room</td>
</tr>
</tbody>
</table>

(If additional space is needed, attach pages the same size as this sheet, and number each.)
<table>
<thead>
<tr>
<th>Type of Use</th>
<th>Minimum Number of Off-Street Parking Spaces Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial</td>
<td>1 for each employee, plus 1 for each 1,000 square feet of gross floor area in the building for use by guests or visitors. The employee ratio shall be applied to that shift of work activity which has the greatest number of employees.</td>
</tr>
<tr>
<td>Public and other uses</td>
<td></td>
</tr>
<tr>
<td>Nonoffice public utility installations</td>
<td>5, except for box substations, where no off-street parking spaces shall be required</td>
</tr>
<tr>
<td>Parks and other outdoor recreation sites</td>
<td>5 for each gross acre of land up to 50 acres, and 1 per gross acre of land above 50 acres</td>
</tr>
<tr>
<td>Country clubs and golf courses</td>
<td>1 for each 200 square feet of floor area occupied by principal and accessory structures, except those used for parking purposes</td>
</tr>
<tr>
<td>Nursing and convalescing homes</td>
<td>1 for each 3 beds, plus 1 for every 2 employees and members of the staff in the largest working shift. Notwithstanding the provisions of other sections of this chapter, off-street parking which serves nursing homes, retirement homes, housing for the elderly and other similar uses predominantly serving senior citizens shall be no further than 150 feet from the building it serves.</td>
</tr>
<tr>
<td>Auditoriums, churches, theaters, assembly halls and similar places of public and quasi-public assembly having fixed seating facilities</td>
<td>1 for every 3 seats in the main assembly</td>
</tr>
<tr>
<td>Auditoriums, exhibition halls, assembly halls, community centers, places of public and quasi-public and similar assembly not having fixed seating facilities</td>
<td>1 for every 150 square feet of gross floor area</td>
</tr>
<tr>
<td>Schools</td>
<td>4 for each classroom or 1 for every 3 seats in the auditorium, whichever is greater</td>
</tr>
</tbody>
</table>

NOTES:

1. If any proposed use is not specifically identified herein, the Planning Board shall determine the number of parking spaces to be required for such proposed use.

2. Required parking space for employees refers to the maximum number of employees working on the site at any one time.

B. Design requirements. An off-street parking layout and dimensional requirements showing compliance with this chapter shall be submitted to the CEO for approval only for one- and two-family dwellings before the issuance of a building permit for the structure for which the parking facility is required. The approval of a site plan by the Planning Board shall constitute compliance with the parking standards of this chapter for the proposed development indicated on the site plan.

(1) Each parking space shall consist of an area not less than nine feet wide by 18 feet deep; provided, however, that such dimensions shall be increased when necessary to permit safe ingress and egress.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(2) Required off-street parking areas for uses other than one- or two-family dwellings shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley and so that any automobile may be parked and unparked without moving or damaging another.

(3) For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained or improved in a manner appropriate to the circumstances of the case and in accordance with all laws and regulations of the Town.

C. Off-street loading spaces. All off-street loading spaces for specified land uses shall be provided in accordance with the following requirements:

(1) Retail and personal service uses. All retail sales facilities exceeding 10,000 square feet in area shall provide two loading spaces plus one loading space for each additional 30,000 square feet of floor area over 10,000 square feet.

(2) Industrial uses. All industrial land uses shall provide one loading space for each 10,000 square feet of floor area, with a minimum of not less than two loading spaces.

(3) All loading spaces shall be located and designed to avoid creating traffic hazards to the public use of all public rights-of-way; provided, further, that each loading space shall have a minimum width of 14 feet and a minimum length of 60 feet.

(4) The loading area layout and dimensional requirements shall be indicated on the site plan submitted to the Planning Board for approval before the building permit for the structure for which the loading facility is required is issued by the CEO.

D. Landscaping of parking lots and loading areas. A landscaping plan is to be included whenever parking and/or loading is required. The landscaping plan shall include the following:

(1) A landscaped buffer surrounding the parking lot.

(2) A landscaped buffer at the loading area.

(3) The landscaped buffer to consist of a mix of native deciduous and evergreen species, with no one species dominating.

(4) The landscaped buffer shall consist of a minimum of one deciduous shade tree per 10 parking spaces. The minimum size of each deciduous shade tree at planting shall be two to three inches caliper measured at six inches above ground level.

(5) Interior landscaping, when the lot is more than 75 spaces, to consist of islands, with a minimum area of 100 square feet, including a minimum dimension of eight feet. It is recommended that landscaping for these islands includes shade trees and/or groupings of ornamental trees.

(6) All landscaped areas shall be protected from vehicles.

(7) All landscaped areas shall be developed and maintained in accordance with the approved site plan and shall be the responsibility of the property owner.

(8) A location identifying snow storage is required.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(64)
E. Future parking option. Designation on plans. All areas to be used for parking and site access shall be identified on the site plan approved by the Planning Board. Since use of a site may not require all parking spaces at the time of initial construction, the applicant may request that a portion of the required parking spaces be designated as future parking at the time of site plan approval.

(1) All sites shall be designed to provide sufficient parking area and parking spaces to satisfy the requirements of this chapter. These required spaces may include those to be constructed immediately and those designated for future needs of the site.

(2) The ratio of future-to-constructed parking spaces shall be determined by the Planning Board.

(3) Construction details, including landscaping and drainage for all parking, shall be shown on the site plan as approved.

(4) Consistent parking of vehicles on a public right-of-way or outside constructed parking areas shall be the primary indicator of the need for converting future parking areas to functional constructed parking spaces.

(5) The need for conversion from future to functional parking spaces shall be determined by the Planning Board. The owner must comply with such determination within 120 days of receipt of the notice thereof.

ARTICLE X
Sign Regulations

§ 200-34. Purpose.

The purpose of this article is to provide standards to protect the public health, safety and welfare by controlling the number, location, construction, installation, illumination and maintenance of all signs and sign structure in the Town, excluding the Village of Honeoye Falls and planned unit developments.

§ 200-35. Intent.

A. These regulations are intended to create a more attractive economic and business climate and to enhance and protect the physical appearance of the community.

B. In addition, these regulations are intended to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, and provide more visual open space.

C. Finally, these regulations are intended to promote attractive signs, which clearly present the visual message in a manner that is compatible with the sign's surroundings. The appearance, character and quality of a community are affected by the location, size, construction and graphic design of its signs. Therefore, such signs should convey their messages clearly and simply to enhance their surroundings.


Except as indicated under § 200-39C, Exemptions, all signs require a permit. The CEO is responsible for the approval of permits for all signs which comply with this article. Upon approval, the CEO will issue the permit. For signs that do not conform to this article, the applicant may pursue the appeal process.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
§ 200-37. Fees.

A fee shall be paid to the Town Clerk for the permit in accordance with the fee schedule, established by resolution from time to time by the Town Board, before the CEO approves the permit.

§ 200-38. General regulations.

A. All signs shall be considered structures and, unless exempted, shall require a permit obtained upon approval by the CEO. A permit is required prior to erecting, altering or relocating any sign. To insure the safety of the community, all signs must comply with the Building and Electrical Codes of the Town of Mendon and the State of New York. See § 200-41A for the permit process.

B. Freestanding signs and off-premises signs are not permitted except as allowed herein or as allowed by variance to this article. Any permanent sign shall have footings adequate to maintain the sign in a vertical position.

C. Owners of signs in the Hamlet of Mendon are encouraged to use the Hamlet logo identified in the Mendon Hamlet Master Plan.

D. The following provisions shall apply to all types and locations of signs erected, altered, relocated or maintained within the Town.

(1) General regulations regarding specific sign types:

(a) Illuminated signs or lighting devices may be permitted, provided that such signs employ only fixtures emitting a light of constant intensity and no sign shall be illuminated by, or contain, flashing or moving light or lights. Searchlights are not permitted. All illuminated signs or lighting devices for signs shall be placed or directed so as to be localized and unobtrusive and shall be turned off at the later of 11:00 p.m. or the close of business. All illuminated signs shall comply with the Town's lighting laws and regulations.

(b) The use of portable signs, billboards, pennants, banners, spinners, streamers, or flashing, glittering or reflective, illuminated or moving signs or similar eye-catching devices is not permitted. Temporary banners or portable signs announcing civic or charitable events are permitted for a period up to 14 days prior to the event and shall be removed within 48 hours after the event.

(c) The use of awnings as signs may be permitted. When awnings are used on adjacent businesses on the same structure in an industrial park, a commercial plaza, a strip mall, an enclosed commercial mall or any combination thereof, the awnings shall be uniform in vertical dimensions and height above ground, shall be of the same color, material, and extension, and display lettering of the same size, style and color.

(d) One A-frame sign is permitted for each business. It shall only be displayed during business hours and shall not be located in the road right-of-way nor shall it be placed in such a location as to obstruct the clear sight zone. The size of the sign shall not exceed eight square feet on each side.
(2) Sign locations.

(a) Signs shall not be placed on the roof of any structure or project above the roof surface of flat roofs or the deckline of mansard roofs or above the average height between eaves and ridges for pitched, gable, hip and gambrel roofs.

(b) Three feet is the maximum distance the furthermost edge of a sign (excluding awning signs) shall project from the structure wall to which it is attached.

(c) Signs or awnings must be located greater than eight feet above a pedestrian way and shall not project over any adjacent property line or into a vehicular public way.

(d) Signs shall be located such that they do not prevent ingress or egress from any door, window or fire escape or hinder a clear view into and/or out of buildings.

(e) Signs shall be located such that they do not interfere with, obstruct the view of, or be confused with any authorized traffic sign. Use of the words "stop," "look," "danger," "drive slowly," "caution," "warning," "detour," or any similar words or phrases which could interfere with proper and safe driving procedures or confuse motorists is not permitted.

(f) The number of signs permitted shall be limited to one sign for each frontage which is physically part of the occupied space.

(g) All signs, including associated berms, walls and plantings, except those signs permitted on a structure, shall be installed a minimum of 15 feet from the edge of the right-of-way, unless otherwise exempted herein.

(h) Area coverage by all window signs shall be limited to 25% of the total window area. The combined area of window and wall signs shall not exceed that allowed in § 200-39B(1).

(i) Temporary real estate signs and political signs shall be located no less than 15 feet from the edge of the pavement, subject to all county and state laws.

§ 200-39. Signs requiring permit; exemptions.

A. Residential.

(1) One temporary sign shall be allowed to advertise a newly approved subdivision. The area of the sign shall not exceed 16 square feet. The height of the sign shall not exceed six feet. Such sign shall be allowed for a period of no more than two years. If a permanent sign is erected during this two-year period, the temporary sign shall be removed immediately.

(2) One permanent sign, per entrance, may be erected to indicate a subdivision, apartment, church or condominium complex. The area of the sign shall not exceed 20 square feet. The height of the sign shall not exceed six feet. A readily identifiable owner, such as a tract association, shall be determined at site plan review to be responsible for the repair and maintenance of such sign and the premises surrounding it. The responsible party will be identified on the final plan.

(3) A major home occupation sign may be either a wall sign or freestanding sign and shall not exceed an area of three square feet. The vertical dimension of the sign shall not exceed 1 1/2 feet.
(4) Signs advertising roadside stands shall be placed against the stand. The area of the sign shall not exceed eight square feet, and the height of the sign shall not exceed six feet.

B. Business or industrial districts.

(1) Permitted wall signs. One sign shall be allowed per occupied space frontage. Such sign shall contain not greater than one square foot of sign area for each linear foot of frontage. The area of the sign shall not exceed 50 square feet. The sign shall contain only the name of the business or the use located on the site.

(2) Use of awnings: See § 200-38D(1)(c).

(3) Traffic control signs not subject to regulation by the state or county shall be limited to three square feet per sign and shall not exceed three signs unless otherwise approved by the Planning Board or the CEO.

(4) Multi-occupant business or industrial properties.

(a) Industrial park, office park, commercial plaza, strip mall. One exterior wall sign shall be allowed for each business use in an industrial park, an office park, a commercial plaza, a strip mall or any combination thereof. The total sign area allowed for each business shall be one square foot for each linear foot of occupied frontage, not to exceed a maximum of 20 square feet. Where an occupied space has more than one frontage, that occupant may choose to utilize any or all of the frontages according to the specified requirements.

(b) Enclosed commercial mall. Each use in an enclosed commercial mall shall be entitled to one sign per business to be displayed on the exterior of the building containing the use. Such signs shall be uniform in height, lettering size, style, color, and height above the ground. The total area for all tenants' signs shall not exceed one square foot for each linear foot of building frontage, not to exceed a maximum of 50 square feet. The landowner shall be responsible for submitting the request for the signs. When there is a change in occupancy, a permit shall not be required to change an existing commercial mall sign, provided such sign is not changed in height, lettering size, style, color and height above the ground.

(c) Permitted freestanding signs.

[1] One freestanding sign may be allowed for each industrial park and office park. The area of the sign shall not exceed 30 square feet. The height of the sign shall not be more than eight feet, provided that such sign should have a clear area of four feet between the bottom portion of the sign area and the ground level at the sign's location if the sign will obstruct the line of sight. Such sign shall display only the name of the industrial park or office park. The sign may be illuminated. [See § 200-38D(1)(a)].
[2] One freestanding sign may be allowed for each commercial plaza, strip mall, enclosed commercial mall or any combination thereof. The area of the sign shall not exceed 30 square feet. The height of the sign shall not be more than eight feet, provided that such sign should have a clear area of four feet between the bottom portion of the sign area and the ground level at the sign's location if the sign will obstruct the line of sight. Such sign may display the name of the commercial plaza, strip mall or enclosed commercial mall and the names of the individual businesses. The sign may be illuminated by exterior lighting only. [See § 200-38D(1)(a).]

[3] A freestanding business or industrial use sign, where there is only one use involved. As an alternative to a building-mounted sign, there may be erected one two-sided ground sign on the premises. The area of the sign shall not exceed 20 square feet per side. The height of the sign shall not be more than six feet above the ground. Such freestanding sign shall contain only the name of the use on the site.

[4] All such signs shall be uniform in height, lettering size, style, color, and height above the ground.

C. Exemptions. The following paragraphs describe types of signs which shall be exempt from the permit process, providing such signs comply with the general requirements of this article and other conditions imposed by these regulations. Where uncertainty exists, the Code Enforcement Office shall be consulted prior to proceeding.

(1) Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel, or similar material; and emblems installed by governmental agencies, religious or nonprofit organizations; not exceeding six square feet.

(2) A single flag or insignia of any government, except when displayed in connection with any commercial promotion.

(3) On-premises directional signs for the health, safety and welfare of the general public, not exceeding four square feet per face.

(4) Nonilluminated warning, private drive or no trespassing signs, not exceeding two square feet per face and six feet in height above the ground.

(5) Legal notices, identification, informational or directional signs erected or required by governmental agencies.

(6) Number and nameplates identifying residents and addresses, mounted on the house, apartment or mailbox, not exceeding two square feet in area.

(7) Lawn signs or lamppost signs identifying residents or addresses, not exceeding two square feet.

(8) Private-owner merchandise sale signs for garage sales and auctions, not exceeding four square feet. Signs shall be erected no sooner than 72 hours prior to the sale and removed within 24 hours after such sale. In no case shall the total sale period exceed 10 days.

(9) Signs at gasoline stations which are integral graphics or attached price signs on pumps and other signs as mandated by regulatory agencies.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(10) Credit card advertisements or trade association emblems shall be displayed together in an area which does not exceed one square foot. Such signs shall be displayed flat on window or door surfaces. The purpose of these signs shall be solely to offer a service and not to advertise the business.

(11) One sign listing the architect, engineer, contractor, lending institution, and/or owner on premises where construction, renovation, or repair is in progress. The area of the sign shall not exceed six square feet in residential districts or 16 square feet in the business districts. The height of the sign shall not exceed six feet. Such signs shall be removed within three days after completion of the project.

(12) Nonilluminated window signs and posters not exceeding 25% of the window.

(13) Temporary directional signs for meetings, conventions, and other assemblies. Such signs shall be removed within 24 hours following the function.

(14) Temporary signs advertising a special community event located in the Town may be displayed no more than 30 days prior to the beginning of the event and shall be removed within three days following the event. The area of the sign shall not exceed 16 square feet. The height of the sign shall not exceed six feet.

(15) Up to four temporary signs or posters advertising a candidate or ballot may be displayed no more than 40 days prior to the date of the election and shall be removed no later than seven days after the election unless such sign continues to pertain to a pending election. The area of the sign shall not exceed four square feet. Such signs shall not be attached to any highway sign or utility pole and shall be located no less than 15 feet from the edge of the pavement.

(16) Temporary real estate signs.

(a) Improved premises. One temporary real estate sign advertising the sale, lease or rental of improved premises upon which the sign is located shall be allowed for each frontage. The area of the sign shall not exceed six square feet. The height of the sign shall not exceed six feet. The sign may have printing on both sides and shall be allowed on a premises offered for rent, sale or lease.

(b) Unimproved premises. One temporary real estate sign advertising the sale, lease or rental of unimproved land upon which the sign is located shall be allowed for each frontage. The area of the sign shall not exceed 16 square feet. The height of the sign shall not exceed six feet. The sign shall be removed within 30 days following the sale, lease or rental of the unimproved land.

(c) Open-for-inspection signs.

[1] One temporary freestanding open-for-inspection sign shall be permitted only during those hours when such property is actually available for public inspection and only if located upon the premises.

[2] Additional temporary freestanding open-for-inspection signs shall be permitted at the intersections of those streets leading to the property only during those hours in which the property is actually available for inspection. Such signs shall not be attached to any highway sign or utility pole.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(70)
§ 200-40. Enforcement.

A. No sign shall be permitted in the Town except in conformance with the provisions of this chapter.

B. Continuance of nonconforming signs. Any existing sign which is made nonconforming by this chapter and was not in conformance with prior ordinances shall be removed within one year from the effective date of this article. Billboards, pennants, banners, etc., shall be removed immediately upon the effective date of this chapter [see § 200-38D(1)(b)].

C. Removal of signs. Every sign, including those signs exempt from the permit process, shall be maintained in good structural condition at all times. All signs shall be kept neatly painted, including all metal parts and supports thereof that are not galvanized or of rust-resistant material. The CEO shall inspect and shall have the authority to order the painting, repair, alteration or removal of a sign which shall constitute a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, or obsolescence.

(1) Signs in violation. The CEO shall notify in writing the owner of any sign which has been erected or installed in violation of this article, to remove or correct the unsatisfactory condition of said sign within 10 days from the date of such notice. If the CEO's notice is not appealed within 10 days of the date of the written notice, the notice automatically becomes an "order to remove" and shall be enforced in accordance with this section.

(2) Hazardous signs, abandoned signs and signs not pertinent to use. The CEO shall notify in writing the landowner of any sign which is unsafe or insecure or is a menace to the public or which is abandoned or found to otherwise no longer serve the purpose for which a permit was issued, to remove or correct the unsatisfactory condition of said sign within 10 days from the date of such notice. If the CEO's notice is not appealed within 10 days of the date of the written notice, the notice automatically becomes an order to remove and shall be enforced in accordance with this section.

(3) Signs causing immediate peril. The CEO may cause any sign which is a source of immediate peril to persons or property to be removed summarily upon written notice to that effect. Failure to comply immediately upon receipt of such notice will serve as an authorization to the CEO to immediately remove or cause removal of such sign, with all costs and expenses charged to the owner of the land upon which the sign is erected.

(4) Failure to comply. Upon failure to comply with any order to remove or any order to correct or remove within the prescribed time, the CEO is hereby authorized to remove or cause removal of such sign and shall charge all costs and expenses incurred in said removal to the owner of the land or building upon which the sign is located.

(5) Other remedies. This section shall not be construed so as to limit or eliminate any other remedy or cause of action at law or equity by which the Town may seek to correct, abate or enjoin any violation of the provisions contained herein.

§ 200-41. Application procedure.

A. Permit process.

(1) Applications for building permits for the erection of a sign shall be made in writing to the CEO by the owner, lessee or erector and be accompanied by materials the Code Enforcement Office may deem necessary, such as, but not limited to, dimensions;

(If additional space is needed, attach pages the same size as this sheet, and number each.)
proposed design; the legend; a scale drawing showing colors; materials; the location of buildings; parking areas; other signs on the same property; frontage of each unit; and/or any fences or other obstructions in relation to the designated location of the proposed sign. Lessee or erecter applicants shall show written approval from the landowner of the property for such applications.

(2) It shall be the duty of the CEO upon filing of an application for a permit to erect, enlarge or structurally alter a sign to examine such plans, specifications, and, if necessary, the building or premises upon which the sign is proposed to be erected. If the proposed sign is in compliance with all the requirements of this article and all other regulations of the Town, the CEO shall approve the issuance of a permit for the proposed sign.

(3) The permit shall be issued by the CEO upon payment of the appropriate fee.

(4) The CEO shall maintain current files for approved permits and variances and initial photographs of all approved signs.

B. Appeal process.

(1) An area variance may be granted by the Zoning Board of Appeals in those instances where a sign permit is denied by the CEO. The applicant must demonstrate that the applicable zoning regulations and restrictions have caused unnecessary hardship under Town Law.

(2) The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

ARTICLE XI
Fences

§ 200-42. Fence regulations.

Fences erected in the Town must adhere to the following standards:

A. No fence in a front yard in a residential or business district shall be erected, altered or reconstructed to a height exceeding four feet above ground level.

B. No fence in a rear or side yard in a residential or business district shall be erected, altered or reconstructed to a height exceeding six feet above ground level.

C. A mesh or chain link fence used to enclose a sporting facility may be up to 12 feet in height above ground level, provided that such fence is not less than the minimum accessory structure setback requirement from either side or rear property lines.

D. Fences in the industrial district may be up to eight feet in height above ground level.

E. Fences for the purpose of enclosing farmland, horses, cattle and communications towers shall not exceed eight feet in height above ground level.

F. No fence shall be erected in a delineated area of special flood hazard, except for farm fences, if it can be demonstrated that such fence would not restrict the flow of floodwaters nor have any impact on any buildings.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
G. At the intersection of two or more streets, no hedge, berm, fence or wall (other than a single post or tree) which is higher than three feet above ground level, nor any obstruction to vision, including agricultural crops, shall be permitted in the triangular area formed by the intersecting street lines and a line joining each 50 feet distant from said intersection measured along the edge of the pavement.

ARTICLE XII
Swimming Pools

§ 200-43. Swimming pool regulations.
Residential-type swimming pools are permitted in any district, provided that there is an existing residence on said lot and the following regulations are complied with:

A. Swimming pools shall conform to the requirements of the New York State Building Code.
B. Swimming pools shall be located in the rear or side yard.
C. No permit shall be issued for a swimming pool unless the applicant can show that the proposed drainage of such pool is adequate and will not interfere with the property of others, with public highways or area drainage facilities. Pools shall not be drained into sanitary sewers or septic systems. Swimming pools shall not be located within 10 feet of any part of a septic system.
D. Lights shall be regulated pursuant to Article XIII. Lights shall be turned off when the pool is not in use.
E. All electric supply wiring shall be installed in accordance with the National Electric Code and be inspected by a Town-approved electrical inspection agency prior to the issuance of a certificate of compliance. All electric supply wiring is to be installed underground.
F. Building permits shall be required for all swimming pools more than 24 inches deep.
G. Pools are to be used during such appropriate hours and in such a manner so as not to create an annoyance or disturbance to neighboring residential properties.

ARTICLE XIII
Lighting Regulations

§ 200-44. Findings; purpose.
A. The Town Board finds that proper outdoor lighting is necessary for the safety of motorists and pedestrians as well as aiding in police functions and reducing crime. The Board also finds that the proper design and use of outdoor lighting will ensure a nighttime appearance consistent with overall community goals of enhancing the attractiveness of businesses, streets and other portions of the environment.
B. The purpose of this article is to provide the regulatory framework to ensure the installation of safe and attractive outdoor lighting needed to protect the health, safety and welfare of the residents and visitors to the community. It is also declared to be the purpose of these regulations to provide more specific guidelines for site plan applications and standards in regard to lighting in order to maximize the effectiveness of site lighting, to avoid unnecessary upward illumination and illumination of adjacent properties and to reduce glare. This article will control unwanted glare and light trespass onto neighboring properties, roadways and night sky.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
§ 200-45. Applicability.

All private outdoor lighting shall be in conformance with the requirements of this article.

§ 200-46. General requirements for all zoning districts.

A. All outdoor lighting fixtures, including display lighting, shall be turned off after close of business, unless needed for safety or security, in which case the lighting shall be reduced to the minimum level necessary.

B. Automobile filling stations. Island canopy ceiling fixtures shall be recessed.

C. Recreational facilities, public or private. Lighting for outdoor recreational facilities shall be shielded according to § 200-47.

D. All light fixtures that are required to be fully shielded shall be installed and maintained so that the shielding is effective as described in the definition of "fully shielded luminaire" in Chapter 86 of this Code.

§ 200-47. Shielding requirements.

Shielding requirements shall be as follows:

<table>
<thead>
<tr>
<th>Fixture/Lamp Type</th>
<th>Shielding Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low-/high-pressure sodium, metal halide and fluorescent over 50 watts</td>
<td>Fully</td>
</tr>
<tr>
<td>Incandescent over 160 watts</td>
<td>Fully</td>
</tr>
<tr>
<td>Incandescent 160 watts or less</td>
<td>None</td>
</tr>
<tr>
<td>Fossil fuel</td>
<td>None</td>
</tr>
<tr>
<td>Any light source of 50 watts or less</td>
<td>None</td>
</tr>
</tbody>
</table>


The following exceptions shall apply:

A. Holiday lights for a maximum of 60 days per calendar year.

B. Any spot or flood luminaire having initial source lumens of 900 or less, provided that no direct light is focused so as to cause avoidance glare on adjoining property or roadways. Such luminaire may be redirected or its light output controlled so as to eliminate this glare and be eligible for exemption under this section.

C. Temporary circus, fair, carnival or civic uses.

D. Construction or emergency lighting, provided that such lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting.

E. Temporary lighting.

F. Lighting associated with agricultural pursuits.
§ 200-49. Prohibited lighting.

The following lighting shall be prohibited:

A. All moving, revolving and flashing lights.
B. Mercury vapor lights.
C. Laser source lighting or any similar high-intensity light for outdoor advertising or entertainment, when projected above the horizon, is prohibited.


All exterior lights and illuminated signs shall be designed, located, installed and directed in such a manner as to prevent objectionable light at (and glare across) the property lines and disability glare at any location on or off the property. The maintained horizontal illuminance recommendations set by the Illuminating Engineers Society of North America (IESNA) shall be observed.

§ 200-51. Submittal requirements.

A. Uses requiring site plan and special use permit approval. All applications for site plan and/or special use permit approval shall require a lighting plan showing conformity with standards contained in this section. Such lighting plan shall indicate the location, type of lamp, luminaire, mounting height, source lumens, illuminance and glare control options, if any, for each light source and area. Illuminance may be plotted using manufacturers' photometric charts, or the Planning Board may require iso-footcandle drawings to examine the interaction of all lighting on the site. Any additional documentation necessary to show conformance to the standards set forth in this article shall also be provided. Additions or changes to an approved lighting plan shall be considered under the site plan review provisions of this chapter.

B. All other uses: documentation as required and determined by the CEO to show conformance with the standards set forth in this article.

§ 200-52. Illuminance and uniformity.

A. Lighting in conformance with this article is required for all parking lots. Light levels shall be designed to meet but not to exceed the latest recommended levels from the Illuminating Engineers Society of North America (IESNA) for the type of activity/area being lighted, except light levels for ATMs, which shall be in accordance with the New York State ATM Safety Act. Where no standard is available from IESNA, the applicable standard shall be determined by the Planning Board taking into account the levels for the closest IESNA activity.

B. Uniform light levels shall be achieved on the site. The uniformity ratio (average to minimum) shall not exceed three to one for parking and traffic areas nor four to one for pedestrian areas. Design should establish a hierarchy of lighting to ensure a smooth transition from bright areas to those with subdued lighting.

C. Maximum to average light levels should be kept within a ratio of six to one. Light levels shall be maintained at design levels with lamp or luminaire replacement as needed.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

The visibility of the light source inside a luminaire is restricted to the following:

A. Nonresidential zones. Direct light shall not be visible above six feet at the adjoining public roadway pavement edge or 25 feet beyond the property line, except no such restriction for lighting site entrances.

B. Residential zones and where adjacent property is in a residential zone. Direct light shall not be visible above ground level at the adjoining public roadway pavement edge or 25 feet beyond the property line or at the dwelling unit, whichever is less, except no restriction for lighting site entrances.

§ 200-54. Luminaires.

All luminaires whose initial source lumens are greater than 1,800 must meet the following requirements:

A. Have a cutoff angle of 90° or less.

B. Wall-pack units are required to be opaque shielded or have optics that provide a cutoff angle of 70° or less.

C. Canopy lights must be recessed or have side shields.


A. Roof-mounted area lighting is prohibited.

B. Mounting heights shall be no higher than 30 feet.

§ 200-56. Light trespass.

Light trespass shall be limited to the following:

A. In all zoning districts, at the pavement edge of adjoining public roads: a maximum of 0.5 footcandle, except for site access points, where a maximum of one footcandle at the pavement edge is permitted.

B. Residential districts and where an adjacent property is in a residential district: a maximum of 0.2 footcandle 25 feet beyond the property line or at the dwelling unit, whichever is less.

C. Nonresidential districts: no maximum limit; however, light trespass shall be based on adjoining uses and light levels to ensure that IESNA standards are not exceeded.


All outdoor lighting lawfully existing prior to the effective date of this chapter shall be deemed conforming to this article, except that:

A. No replacement or installation of new luminaries shall be permitted unless in conformance to this article.

B. All outdoor lighting that, in the opinion of the CEO, is causing avoidance glare on adjoining roadways or properties shall be required to submit lighting details to the Code Enforcement Officer showing that the existing lighting meets the requirements of this article or how such lighting will be brought into conformance.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

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ARTICLE XIV
Zoning Board of Appeals and Planning Board


A. A Zoning Board of Appeals has been created pursuant to the provisions of § 267 of the Town Law. Said Board consists of five members appointed by the Town Board, which also designates a chairperson. There shall also be one alternate member appointed by the Town Board. Such alternate member shall substitute for a member in the event such member is unable to participate because of a conflict of interest or for any other reason. No person who is a member of the Town Board shall be eligible for membership on such Zoning Board of Appeals.

B. The Zoning Board of Appeals shall establish such rules and regulations as are required by state and local laws for the transaction of its business and may amend, modify and repeal the same from time to time.

C. Whenever the Zoning Board of Appeals, after hearing all the evidence presented upon an application or an appeal under the provisions of this chapter, denies or rejects the same, said Board shall refuse to hold further hearings on the same or substantially similar application or appeal by the same applicant, or successors or assigns, for a period of one year, except and unless the Board shall find and determine from the information supplied in the request for a rehearing that changed conditions have occurred relating to the promotion of public health, safety, convenience, comfort, prosperity and general welfare and that a reconsideration is justified. Such rehearing may be granted only upon the unanimous vote of the Board members present.

§ 200-59. Powers and duties of Zoning Board of Appeals.

The Zoning Board of Appeals shall have all the powers and duties prescribed by Chapter 62, § 267, of the Town Law and by this chapter, which are more particularly specified as follows:

A. Administrative review.

(1) The Zoning Board of Appeals shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative officer or body in the enforcement of this chapter.

(2) The Zoning Board of Appeals may reverse or affirm wholly or partly or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made and, to that end, shall have all the powers of the officer or body from whom the appeal is taken.

(3) The Zoning Board of Appeals shall hear and decide on interpretive matters where the provisions of this chapter, including the determination of exact district boundaries, are not clear.

B. Variances.

(1) The Zoning Board of Appeals is empowered to authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to conditions peculiar to the property, a literal enforcement of the provisions herein would result in unnecessary hardship or practical difficulties.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

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(2) As used herein, a variance may be authorized for height, area, size of structure, size of yards and open spaces or establishment or expansion of a use otherwise prohibited.

(3) A variance shall not be granted solely because of the presence of nonconformities in the zoning district or uses in other zoning districts.

(4) In granting any variance, the Zoning Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.

(5) Variances granted shall be the minimum which would accomplish the purpose of providing for reasonable use of land or buildings.

(6) Variances granted shall be in harmony with the general purpose and intent of this chapter and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.

§ 200-60. Variance and appeals procedure.

A. All appeals and all applications for variances shall be made to the Zoning Board of Appeals Secretary, on forms provided by the Secretary, and shall be accompanied by plans and supporting documents to sufficiently describe the proposal. The Zoning Board of Appeals may request additional information it deems necessary in order to act on the appeal or application.

B. The applicant may arrange an informal discussion with the Zoning Board of Appeals to determine any and all of the data to be included in the application.

C. An appeal, specifying the grounds for the appeal, shall also be filed with the officer or body from which the appeal is taken. All appeals shall be made to the Zoning Board of Appeals within 60 days of the date on which the order, requirement, decision or determination appealed from was rendered.

D. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Zoning Board of Appeals after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court of record, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

E. The Zoning Board of Appeals Secretary, after determining that an appeal or application is in proper form, shall transmit copies of the appeal or application and all supporting documents to the Zoning Board of Appeals for action thereon.

F. Any appeal for a use variance, or application for variances to parking or sign provisions, shall be referred to the Planning Board for its recommendations concurrent with the submission to the Zoning Board of Appeals. The Planning Board shall have 30 days from the receipt of said variance application to provide the Zoning Board of Appeals with an advisory opinion on the application. The Zoning Board of Appeals shall not act on the appeal or application within a period of 30 days of its receipt of the appeal or application.

G. A copy of the complete variance appeal or application and supporting documents shall also be transmitted to the Monroe County Department of Planning and Economic Development for review when required under Article 12-B, §§ 239-l and 239-m, of the General Municipal Law.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
H. Notifications.

(1) The Zoning Board of Appeals shall fix a reasonable time and place for the hearing of the appeal or application and shall give due notice of the time set for the hearing to the applicant.

(2) Public notice shall be by the publication of a notice at least five days prior to the hearing date in the official newspaper of the Town and shall briefly describe the nature of the appeal and the time and place of the hearing.

(3) The applicant shall be required to erect a sign giving notice of such public hearing, which sign shall be prominently displayed on the premises, facing a public street or road on which the property abuts. The sign shall be furnished to the applicant for this purpose by the Town. Said sign shall be displayed for a period of not less than 10 days, immediately preceding the public hearing or any adjournment date thereof. The applicant shall file an affidavit with the Town, at or prior to the public hearing, stating that he has complied with the provisions of this section.

I. In its review, the Zoning Board of Appeals may consult with any other Town, county and state officials or boards.

J. The Board shall approve, with or without conditions, or disapprove the application within the time limit specified in § 267 of the Town Law and shall communicate its action, in writing, to the applicant, the Town Clerk, the CEO and other appropriate boards within five business days of the time of the meeting at which it decided the application.

K. The CEO shall, upon receipt of a notice of approval and upon application by the applicant, issue the appropriate permit or such other approval permitting the variance, subject to all conditions imposed by such approval.

§ 200-61. Zoning Board of Appeals office.

The office of the Town Clerk shall be the office of the Zoning Board of Appeals. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall be filed in said office as required by § 267 of the Town Law of the State of New York. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member, indicating such fact, and shall keep records of its environmental reviews and determination, its examinations and other official actions.


Any variance or modification of this chapter authorized by the Zoning Board of Appeals shall be automatically revoked unless a site development permit or building permit, conforming to all the conditions and requirements established by the Zoning Board of Appeals, is obtained within six months of the date of approval by the Zoning Board of Appeals and construction commenced within one year of such date of approval. Variances not requiring permits must be executed within nine months of approval.

§ 200-63. Violation of conditions or restrictions.

Failure to comply with any condition or restriction prescribed by the Zoning Board of Appeals in approving any appeal for a variance or a modification of regulations shall constitute a violation. Such violation may constitute the basis for revocation of a variance or modification or for imposing penalties and other applicable remedies.
§ 200-64. Creation, appointment and organization of Planning Board.

A. A Planning Board has been created pursuant to the provisions of § 271 of the Town Law. Said Board consists of five members appointed by the Town Board, which also designates a chairperson. There may also be one alternate member appointed by the Town Board. Such alternate member shall substitute for a member in the event such member is unable to participate because of a conflict of interest or for any other reason. No person who is a member of the Town Board shall be eligible for membership on such Planning Board.

B. The Planning Board shall establish such rules and regulations as are required by law and the provisions herein for the transaction of its business and may amend, modify and repeal the same from time to time.

§ 200-65. Powers and duties of Planning Board.

The Planning Board shall have the following powers and duties:

A. Said Board is hereby vested with the powers and duties and made subject to the limitations set forth in the Town Law, as the same may be amended, modified or changed from time to time, or any sections subsequently adopted pertaining to Planning Board.

B. To maintain, and from time to time update, the Comprehensive Plan for the development of the Town as provided under the Town Law.

C. To review development proposals; to approve or disapprove the laying out, closing off, abandonment or changes in lines of streets, highways and public areas; and to make recommendations to the Town Board.

D. To make investigations and reports relating to the planning and development of the Town, including changes in boundaries of districts, recommended changes in the provisions of this chapter and to act on any matter lawfully referred to it by the Town Board.

E. To review, act on or provide advisory reports or applications as specified by this chapter.

F. To review and approve, approve with modifications or disapprove special use permits as specified in this chapter.

G. To review and approve, approve with modifications or disapprove site plans, prepared to specifications set forth in this chapter, showing the arrangement, layout and design of proposed uses, buildings and/or structures shown on such plan.

§ 200-66. Planning Board office.

The office of the Town Clerk shall be the office of the Planning Board. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall be filed in said office as required by the Town Law of the State of New York. The Planning Board shall keep minutes of its proceedings, showing the vote indicating such fact, and shall keep records of its environmental reviews and determination, its examinations and other official actions.

ARTICLE XV
Administration and Enforcement


The duty of administering and enforcing the provisions of this chapter is hereby conferred upon the CEO, who shall have such powers as are conferred upon him by this chapter. The CEO shall (If additional space is needed, attach pages the same size as this sheet, and number each.)
be appointed by the Town Board and shall carry out any directives from the Board relative to the duties of the position set forth below. The CEO shall receive such compensation as the Town Board shall determine. Any duly authorized assistant or deputy to the CEO shall have the same duties and powers as the CEO.

§ 200-68. Duties of Code Enforcement Officer.

A. It shall be the duty of the CEO or any duly authorized assistants to cause any plans, buildings or premises to be examined or inspected to determine that they are not in violation of the provisions of this chapter. In the fulfillment of their duties, the CEO or any authorized assistants may enter any premises or building during reasonable hours in the course of their duties in accordance with state law after due written notice has been given.

B. If the CEO shall find that any of the provisions of this chapter are being violated, the officer shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering the action to correct it. In an effort to attain compliance, the CEO shall have the authority to order discontinuance of illegal uses of land, buildings or structures; removal of illegal buildings or structures or illegal additions, alterations or structural changes; stop-work; or discontinuance of any illegal work being done. On the serving of notice by the CEO to the owner of any property violating any of the provisions of this chapter, the certificate of occupancy or certificate of compliance, as appropriate, for such building or use shall be held null and void. New certificates of occupancy and/or compliance shall be required for any further use of such building or premises.

C. It shall be the duty of the CEO to issue permits and certificates to applicants who fully comply with the provisions of this chapter.

D. The CEO shall maintain a permanent and current record of all applications for permits and certificates, the CEO's action upon the same, any conditions relating thereto and any other matters considered and action taken by the CEO. Such records shall form a part of the records of the CEO's office and shall be available for use by Town officials and for inspection by the public. The records to be maintained shall include the following:

(1) Application file. An individual permanent file for each application for a permit or certificate provided for by this chapter shall be established at the time the application is made. Said file shall contain one copy of the application and all supporting documents and plans; notations regarding pertinent dates and fees and the like; as appropriate, one copy of any resolutions or actions of the Town Board, Planning Board or Zoning Board of Appeals in acting on the application; and the date the permit or certificate applied for was issued or denied.

E. Whenever the CEO denies a permit or certificate, the CEO shall, in writing, inform the applicant of the specific reasons for denial and instruct the applicant on the proper methods to apply for relief.

F. Upon written direction from the Planning Board, the CEO shall issue special use permits.

G. Upon written approval of a variance by the Zoning Board of Appeals, the CEO shall be empowered to issue the necessary permits with the specific conditions to be imposed.

H. The CEO shall be authorized and empowered to issue appearance tickets pursuant to § 150.20 of the New York State Criminal Procedure Law.
§ 200-69. Issuance of certificates and permits; inspection of special permit uses.

The certificates and permits enumerated herein are hereby established for the equitable enforcement and administration of the provisions of this chapter. A building permit shall be a prerequisite for the erection or alteration of a building, structure or use thereof or for the change in the use of any land area or existing building. Permits issued pursuant to this section shall expire in 12 months. The CEO may grant an extension for time of completion and include any conditions or requirements deemed necessary or desirable. Applicants shall justify the need for the proposed extension. Unless such an extension is requested and approved, further work as described in the canceled permit shall not proceed until a new permit has been obtained. If a project is not initiated within six months of the issuance of the permit, the permit issued shall be considered null and void.

A. Building permits.

(1) The CEO is hereby empowered to issue a building permit for any plans regarding the construction, alteration or demolition of any building or part of any building; or the change in the use of any land area or part thereof; or for the change in use of any existing building, where the CEO determines that such plans are not in violation of the provisions of this chapter.

(2) No building or structure shall be erected, moved, added to or structurally altered or changed in use without a building permit issued by the CEO. No permit shall be issued by the CEO except in conformity with the provisions of this chapter, unless the CEO receives a written order from the Zoning Board of Appeals in the form of an administrative review or variance as provided by this chapter.

B. Temporary dwelling permit. The CEO is hereby empowered to issue temporary dwelling permits as specified herein:

(1) A temporary dwelling permit may be approved to enable the placement of a manufactured home dwelling unit on a lot; provided, further, that:

(a) The applicant first obtains a building permit to erect a dwelling unit on said lot in accordance with Town regulations.

(b) The applicant identifies the interim water supply and sewage disposal for the manufactured dwelling unit.

(c) The applicant agrees to remove said manufactured dwelling unit and any interim water supply and sewage disposal no later than one year from the first issuance of the temporary use permit.

(2) A temporary use permit for the placement of a manufactured home dwelling unit may be issued only for one year and may be renewed for one additional year; provided, further, that construction on the dwelling unit on said lot is at least 50% completed to the satisfaction of the CEO at the time of permit renewal.

C. Certificate of compliance.

(1) It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance shall have been issued therefor by the CEO stating that the proposed use of the building or land conforms to the requirements of this chapter.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(2) Failure to obtain a certificate of compliance shall be a violation of this chapter and punishable as provided by Article XVI.

D. The CEO shall inspect the premises of a use authorized and approved with a special use permit not less than one time each calendar year. The inspection shall determine that the use is being operated consistent with the terms and conditions established by the permit. If the CEO determines that the conditions are not in compliance with the permit, the CEO shall nullify the special use permit and set forth the procedures and requirements for reestablishing the use. The use may not be operated until a new application is submitted and approved.

§ 200-70. Application procedures.

A. Building permits. No building or structure shall be commenced, nor shall any building or structure be extended or structurally altered, nor shall any use of a building or land be changed, except pursuant to a building permit issued by the CEO. The CEO shall in no case, except under a written order of the Zoning Board of Appeals, issue any permit for any building or structure or use where the proposed construction, alteration or use thereof would be in violation of any provision of this chapter.

(1) All applications for building permits shall be made in duplicate to the CEO, on forms supplied by the Town.

(2) One copy of the application and supporting documents shall be returned to the applicant by the CEO after he shall have marked such copy either as approved or disapproved and attested to the same by his signature on such copy. The original and all remaining copies of the application, similarly marked, shall be retained by the CEO.

(3) Where the proposed use is for the expansion or structural alteration of an existing single-family dwelling or an accessory use or structure in an agricultural or residential district, the CEO shall carefully consider the application for compliance with this chapter and may either issue or deny the permit applied for. When the application is for any other permitted use or special permitted use in any zone, the CEO shall refer copies of such plans, drawings and statements to the Planning Board for site plan approval in accordance with Article VIII of this chapter.

(4) All applications referred to the Planning Board shall be reviewed to determine that the proposed site development plan is consistent with the goals and objectives of the Comprehensive Plan; that the proposed improvements are sufficient to adequately serve the proposed use; that adjacent properties are protected from potential negative impacts; that potential adverse environmental impacts are identified; and that appropriate mitigation measures have been proposed.

(5) The CEO shall, within 30 days after receipt of a complete application, either approve or disapprove of the proposed development or construction. In the event of disapproval, the reasons shall be stated clearly by the CEO, in writing. The CEO shall deny a building permit for the proposed construction until such conditions as the disapproval is based upon have been corrected or written order of the Zoning Board of Appeals is obtained.

B. Certificates of compliance.

(1) Within seven days after the completion of the change in use of a building or parcel of land, the applicant shall so notify the CEO that such action has been completed. The (If additional space is needed, attach pages the same size as this sheet, and number each.)
CEO shall conduct a final inspection of the premises to determine whether the new use complies with the requirements of this chapter. If the CEO determines that said building or use complies with the provisions herein, he shall issue a certificate of compliance. If it is determined that the provisions specified herein are not fully complied with, the CEO shall specify the violations and the terms and conditions for remedying these violations. A certificate of compliance shall not be issued until such violations are corrected.

(2) No nonconforming building or use shall be maintained, renewed, changed or extended without a certificate of compliance having first been issued by the Code Enforcement Officer. The certificate of compliance shall state specifically wherein the nonconforming use differs from the provisions of this chapter.

C. Special use permits.

(1) All applications for special and temporary use permits shall be made to the Planning Board Clerk on forms prescribed by the Town.

(2) The Planning Board Clerk, after determining that an application is in proper form, shall transmit copies of the application and all supporting documents to the issuing board.

(3) The Planning Board Clerk shall transmit a copy of the complete application and supporting documents to the Monroe County Department of Planning and Development for review when required.

(4) The application for special permit use shall include a site development plan of the subject parcel drawn to scale which includes all of the data specified in Article VIII of this chapter.

(5) The issuing board must hold a public hearing within 45 days following the receipt of a complete application. Within 30 days from the date of such public hearing, the board shall, by resolution, either approve or disapprove the application so heard. The thirty-day period available to make a determination may be extended by mutual agreement of the applicant and the board.

(6) In approving an application, the issuing board may impose any modifications or conditions (including time limits) it deems necessary.

(7) If an application is approved, the CEO shall be furnished with a copy of the approving resolution.

(8) If any application is disapproved, a copy of such resolution shall be transmitted to the CEO. The resolution of denial shall be provided to the applicant after filing with the Town Clerk.


Each application for a site development or a special use permit shall be made in quadruplicate and accompanied by a site plan. The materials to be submitted with each application shall clearly show the conditions on the site at the time of the application, the features of the site which are to be incorporated into the proposed use or building and the appearance and function of the proposed use or building. The application shall include the following information and plans for both before and after conditions:

(If additional space is needed, attach pages the same size as this sheet, and number each.)
A. The location, design, dimensions, use and height of each proposed building and yard area.
B. Property boundaries, as shown on an accurate map drawn to scale, including the precise location of the center line of the road, dimensions, North arrow and date.
C. A general location map showing the location of the property in relation to adjacent parcels.
D. The location and arrangement of vehicular accessways, and the location, size and capacity of all areas to be used for off-street parking.
E. Information to describe topography and natural grades.
F. Provisions for water supply, sewage disposal and storm drainage.
G. The location of fire hydrants.
H. The location and design of outdoor lighting facilities.
I. The location and design of construction materials of all proposed signs.
J. The location and capacity of all areas to be used for loading and unloading, and the distance to the nearest intersection.
K. The location and dimensions of sidewalks, walkways and other areas established for pedestrian use.
L. The design and treatment of open areas, buffer areas and screening devices maintained, including dimensions of all areas devoted to lawns, trees and other landscaping.
M. The location of fire and other emergency zones.
N. The location of any easements or rights-of-way.
O. Other elements integral to the proposed development as considered necessary by the CEO or the Planning Board, including a property survey, any and all requirements to comply with the SEQRA regulations, other community impacts and the identification of any state or county permits required for the execution of the project.
P. The location of any EPOD on the site.

ARTICLE XVI
Penalties

§ 200-72. Penalties for offenses.
Any person, firm, company or corporation owning, controlling or managing any building, structure or premises therein or where there shall be placed on or there exists anything in violation of any of the provisions of this chapter and any person, firm, company or corporation who or which shall assist in the commission of any violation of this chapter or any conditions imposed by the Town Board, the Planning Board or the Zoning Board of Appeals; or who or which shall build or use any building or parcel of land, contrary to the plans or specifications submitted to the CEO and certified as complying with this chapter and the Uniform Code; and any person, firm, company or corporation who or which shall omit, neglect or refuse to do any act required by this chapter shall be guilty of an offense punishable by the maximum fine and/or imprisonment permitted by Town Law § 268, Subdivision 1, and, in addition, may be ordered to pay all costs and expenses involved in the case. All of the provisions of Town Law § 268, Subdivision 1, shall apply to the enforcement of this chapter. Every such person, firm, company (If additional space is needed, attach pages the same size as this sheet, and number each.)
or corporation shall be deemed guilty of a separate offense for each calendar week or portion thereof such violation, disobedience, omission, neglect or refusal shall continue.

§ 200-73. Alternative penalty.

In case of any new violation of any of the provisions of this chapter or conditions imposed by the Town Board, the Planning Board or the Zoning Board of Appeals, in addition to other remedies herein provided, the Town Board may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE XVII
Zoning Schedule

§ 200-74. Zoning requirements by district.

The zoning requirements according to district are as follows:

<table>
<thead>
<tr>
<th>District</th>
<th>Lot Size</th>
<th>Habitable Floor Area (square feet) or Lot Coverage</th>
<th>Setback (feet)</th>
<th>Front</th>
<th>Side</th>
<th>Rear</th>
<th>Building Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>RA-5</td>
<td>1 lot per 5 acres</td>
<td>1 story: 1,200 Other: 1,500</td>
<td></td>
<td>Town and county roads: 60</td>
<td>20</td>
<td>20</td>
<td>2 1/2 stories or 35 feet</td>
</tr>
<tr>
<td></td>
<td>Lot width at ROW: 100 feet</td>
<td>Lot width at building line: 300 feet</td>
<td></td>
<td>State roads: 80</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RA-2</td>
<td>1 lot per 2 acres</td>
<td>1 story: 1,200 Other: 1,500</td>
<td></td>
<td>Town and county roads: 60</td>
<td>20</td>
<td>20</td>
<td>2 1/2 stories or 35 feet</td>
</tr>
<tr>
<td></td>
<td>Lot width at ROW: 100 feet</td>
<td>Lot width at building line: 200 feet</td>
<td></td>
<td>State roads: 80</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RA-1</td>
<td>1 lot per acre</td>
<td>1 story: 1,200 Other: 1,500</td>
<td></td>
<td>Town and county roads: 60</td>
<td>20</td>
<td>20</td>
<td>2 1/2 stories or 35 feet</td>
</tr>
<tr>
<td></td>
<td>Lot width at ROW: 100 feet</td>
<td>Lot width at building line: 150 feet</td>
<td></td>
<td>State roads: 80</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RS-30</td>
<td>1 lot per 30,000 square feet</td>
<td>1 story: 1,000 Other: 1,200</td>
<td></td>
<td>Town and county roads: 60</td>
<td>15</td>
<td>20</td>
<td>2 1/2 stories or 35 feet</td>
</tr>
<tr>
<td></td>
<td>Lot width at ROW: 50 feet</td>
<td>Lot width at building line: 100 feet</td>
<td></td>
<td>State roads: 80</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PUD</td>
<td>50 contiguous acres</td>
<td>See § 200-17</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(If additional space is needed, attach pages the same size as this sheet, and number each.)
### Setback (feet)

<table>
<thead>
<tr>
<th>District</th>
<th>Lot Size</th>
<th>Habitable Floor Area (square feet) or Lot Coverage</th>
<th>Front</th>
<th>Side</th>
<th>Rear</th>
<th>Building Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>B</td>
<td>Minimum to provide required setback plus structure</td>
<td>Structure not to exceed 40% coverage of lot and 30% green space required</td>
<td>Minimum 10 from ROW and generally in line with adjacent structures</td>
<td>30</td>
<td>30</td>
<td>2 1/2 stories or 35 feet</td>
</tr>
<tr>
<td>I</td>
<td>Minimum to provide required setback plus structure</td>
<td>Structure not to exceed 40% coverage of lot or 40,000 square feet</td>
<td>Town and county roads: 60</td>
<td>30</td>
<td>30</td>
<td>2 1/2 stories or 35 feet, excluding required antennas and towers</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>State roads: 80</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Side adjacent to residential district: 100</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Side adjacent to residential district: 150</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

SECTION 2. Chapter 94 of the Code of the Town of Mendon is enacted as follows:

Chapter 94

ENVIRONMENTAL PROTECTION OVERLAY DISTRICTS

ARTICLE I

General Provisions

§ 94-1. Purpose and intent.

The purpose of the Environmental Protection Overlay Districts (EPODs) established in this chapter is to provide special controls over land development located in sensitive environmental areas within the Town. The EPOD regulations are intended to maintain open space and to prevent the irreversible loss of natural resources; enhance the safety of residents and property located within areas of special flood hazard; maintain and/or improve surface water quality; preserve wildlife habitats; enhance the aesthetics of site development; preserve important scenic vistas which are visible from public rights-of-way; maintain soil and slope stability; and control the impacts of development on the environment.

§ 94-2. Compliance with other regulations.

The requirements of the overlay district shall be met in addition to any requirements specified for development in the respective primary zoning district. In addition to meeting the requirements of the underlying zoning district and these EPOD regulations, development shall also meet all of the standards for development as further regulated by the Federal Emergency Management Agency (FEMA), the United States Army Corps of Engineers and the New York State Department of Environmental Conservation (NYSDEC).

(If additional space is needed, attach pages the same size as this sheet, and number each.)
§ 94-3. Districts established.

In order to implement the purpose and intent set forth above in this chapter, the following EPODs are hereby established:

<table>
<thead>
<tr>
<th>EPOD</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Wetland Protection Overlay District</td>
</tr>
<tr>
<td>2</td>
<td>Steep Slope Protection Overlay District</td>
</tr>
<tr>
<td>3</td>
<td>Watercourse Protection Overlay District</td>
</tr>
<tr>
<td>4</td>
<td>Scenic Vista Protection Overlay District</td>
</tr>
<tr>
<td>5</td>
<td>Historic and Archeological Site Protection</td>
</tr>
<tr>
<td>6</td>
<td>Waste Disposal Site Protection Overlay District</td>
</tr>
<tr>
<td>7</td>
<td>Woodlot and Timber Harvesting Protection District</td>
</tr>
<tr>
<td>8</td>
<td>Flood Damage Prevention Overlay District</td>
</tr>
<tr>
<td>9</td>
<td>Soils Susceptible to Ponding Overlay District</td>
</tr>
<tr>
<td>10</td>
<td>Geological Feature Protection Overlay District</td>
</tr>
</tbody>
</table>

§ 94-4. Official maps.

The locations and boundaries of all EPODs are delineated on an official set of maps on file in the Building Department. These maps are known as the "Official Town of Mendon EPOD Maps" and include the Environmental Atlas Maps of the Town prepared by the Monroe County Environmental Management Council; the FEMA Flood Insurance Rate Maps for the Town of Mendon; the New York State Department of Environmental Conservation Freshwater Wetland Maps for the Town of Mendon; and federally designated wetland maps. The Official Town of Mendon EPOD Maps shall be used for reference purposes only and shall not be used to delineate specific or exact boundaries of the various overlay districts. The Town has the authority to amend or add to these Official EPOD Maps as necessary. Field investigations and/or other environmental analyses shall be required in order to determine whether a particular piece of property is included within one or more of the overlay districts.

§ 94-5. Interpretation of district boundaries.

The Code Enforcement Officer (CEO) shall be responsible for interpreting EPOD boundaries based upon an interpretation of the Official Town of Mendon EPOD Maps, as well as the use of various criteria set forth in this chapter for determining such district boundaries. The CEO may request the assistance of the Town Engineer or other appropriate board in making a determination.

§ 94-6. Development permit application procedures.

A. EPOD development permit. In those EPODs where development is allowed, an EPOD development permit is required, subject to the provisions of this article and prior to the commencement of any regulated activity or the issuance of any permit for regulated development.
B. Activities not requiring a permit:

(1) Lawn care and maintenance, except as limited by this chapter.
(2) Gardening activities.
(3) Tree and shrub care and maintenance.
(4) Removal of dead or deteriorating vegetation or trees.
(5) Removal of structures, except for those as further regulated within Historic and Archaeological Site Protection EPOD sites.
(6) Repair and maintenance of structures, except for those as further regulated within Flood Damage Prevention EPOD sites.
(7) Repair and maintenance of faulty or deteriorating sewage facilities or utility lines.
(8) Reconstruction of structures damaged by a natural disaster, provided that the new construction is of the same size and use and subject to the time limits found in Chapter 200, Zoning, § 200-24, regarding restoration of nonconforming structures or uses.
(9) Customary agricultural activities in a County Agricultural District.
(10) Public health activities, orders and regulations of the New York State Department of Health, Monroe County Department of Public Health or other public health agency.
(11) Emergency activity which is immediately necessary for the protection and preservation of life, property or natural resource values.

C. Application for permit. A permit application is required when the proposed activity does not require Planning Board approval. Applications for EPOD development permits shall be made in writing to the CEO, on forms available in the Building Department. The application shall be made by the property owner or his/her agent and shall be accompanied by any materials or information deemed appropriate by the authorized official. The application shall be accompanied by a site plan map and other information as required for site plan approval found in Chapter 200, Zoning, Article VIII, Site Plan Regulations. Each application for an EPOD development permit shall be accompanied by the appropriate fee as determined by the Town Board. This fee shall be in addition to any other fees required.

D. Permit review.

(1) For projects requiring site plan approval, the CEO shall refer the matter to the Planning Board for a public hearing in accordance with the provisions of Chapter 200, Zoning. The CEO may refer all applications to other appropriate boards and agencies for their review and recommendations. Such boards or agencies shall have 30 days from the date of their receipt of a complete application in which to review such application and report their recommendations to the Planning Board or authorized official. Should such boards or agencies fail to report their recommendations within the thirty-day time period, then the CEO or Planning Board may take action on the permit application without such report. Any SEQRA review shall be completed by the Planning Board.
(2) When an EPOD development permit application proposes any development activity or site improvements within parcels containing areas identified in the Town's Official Open Space Index, then the applicant shall be referred to the Environmental Conservation Board for its review and recommendations regarding the following:

(a) Protection of environmentally sensitive areas.

(b) Open space/natural resource management.

(c) Opportunities for public access.

(3) The CEO or Planning Board shall have the authority to grant or deny an EPOD development permit, subject to the standards, criteria and other regulations contained in this chapter and Chapter 200, Zoning. Should a board to which the matter has been referred make recommendations which the CEO or Planning Board chooses not to follow, in whole or in part, the reasons for not doing so shall be made a part of the written determination.

(4) Any development permit issued by the CEO or the Planning Board in accordance with the provisions of this chapter may be issued with conditions. Such conditions may be attached as are deemed necessary to ensure the preservation and protection of environmentally sensitive areas and to ensure compliance with the purpose and intent and the specific provisions of this chapter. Every permit issued pursuant to this chapter shall contain the following conditions:

(a) The CEO or other designated Town official shall have the right to inspect the project from time to time.

(b) The permit shall expire within six months of the date issued, if construction is not started, or within one year if there has not been a substantial amount of work completed after the start of construction.

(c) The permit holder shall notify the CEO of the date on which project construction is to begin, at least five days in advance of such date of construction.

§ 94-7. Security required.

A. Following approval of an application for an EPOD development permit, and prior to the issuance of any building or other Town permit, the applicant shall furnish the Town with an irrevocable letter of credit or certified check in an amount to be established by the Town Board after review by the Town Engineer. Said instrument shall be sufficient to cover the costs of compliance, contingencies and inspection of the various specifications and conditions of the development permit. The purpose of the letter of credit or certified check shall be to ensure that all items, activities or structures specified in the plans approved by the authorized boards or agencies and by the Town are constructed or carried out in accordance with such plans and specifications and other appropriate requirements of the Town.
B. The irrevocable letter of credit or certified check shall continue in full force and effect until such time as the CEO has certified that, based upon a site inspection, all specifications, requirements and permit conditions have been completed and/or complied with. At such time, the letter of credit or certified check shall be released to the applicant. Where the CEO finds noncompliance with permit conditions, said official may deduct or withhold an amount from the letter of credit or certified check sufficient to cover the cost of compliance with any requirements, specifications or permit conditions.

§ 94-8. Suspension or revocation of permits.

The CEO may suspend a permit until such time as the Planning Board reviews the suspension. The Planning Board may suspend or revoke a development permit issued in accordance with the provisions of this chapter. Suspension or revocation shall be based upon evidence that the applicant has not complied with any or all terms or conditions of such permit, has exceeded the authority granted in the permit or has failed to undertake the project in the manner set forth. The Planning Board shall, in writing, notify the applicant of this finding and the reasons for revoking or suspending a permit issued pursuant to this chapter and shall forward a copy of said findings to the applicant.


A. Where a proposed development or subdivision contains an area delineated on the Official Town of Mendon EPOD Maps, the Planning Board has the right to restrict or prohibit the following activities within the EPOD portion of the site:

(1) Construction, including but not limited to structures, roads, bridges, drainage facilities, barns and sheds for animals and livestock and fences, subject to New York State's Agricultural District Law which is adopted by the Monroe County Legislature.

(2) Clear-cutting of trees or removal of vegetation or other ground cover.

(3) Change in the natural flow of a stream or disturbance of a streambed.

(4) Placement of septic or other sewage disposal systems.

(5) The use of motorized vehicles, including but not limited to all-terrain vehicles, motorcycles, snowmobiles and motorbikes.

B. Where proposed development results in a conservation restriction being imposed by the Planning Board, said restriction shall be noted on the final approved map and filed with the office of the County Clerk and/or the Building Department.

§ 94-10. Appeals.

All appeals of decisions of the CEO made under this chapter shall be made to the Planning Board.

ARTICLE II
EPOD 1 Wetland Protection Overlay District

§ 94-11. Purpose and intent.

The purpose of the Wetland Protection EPOD is to preserve, conserve and protect freshwater wetlands located within the Town, pursuant to the New York State Environmental Conservation Law. It is the intent of these regulations to prevent the despoliation and destruction of freshwater wetlands by prohibiting development within the regulated areas.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
§ 94-12. Delineation of district boundaries.

The boundaries of the Wetland Protection EPOD shall be delineated on the Official Town of Mendon EPOD Maps. These boundaries and their regulated buffer areas shall include all areas classified as freshwater wetlands by the NYSDEC, the Federal Fish and Wildlife Agency, or regulated by the United States Army Corps of Engineers. This wetland information may also include, but is not limited to, the Soil Survey Report for Monroe County; field survey maps of flagged wetland boundaries and their buffer areas; and other appropriate sources.

§ 94-13. Regulated activities.

No person may conduct any development activity within the boundary of any determined federal or state freshwater wetland area or its buffer area in the Town.

ARTICLE III
EPOD 2 Steep Slope Protection Overlay District

§ 94-14. Purpose and intent.

The purpose and intent of the Steep Slope Protection EPOD is to mitigate the impacts of development activities on steep slopes in the Town by prohibiting activities in these areas.

§ 94-15. Delineation of district boundaries.

The boundaries of the Steep Slope Protection EPOD shall include all areas of fifteen-percent or greater slopes. In order to more accurately locate and delineate Steep Slope Protection EPOD boundaries within the Town, the CEO or Town Engineer may consult other topographic information. This other topographic information may include, but is not limited to, the Soil Survey Report for Monroe County; topographic maps produced by the United States Geological Survey and/or the Monroe County Environmental Management Council; field survey maps; and other appropriate sources.

§ 94-16. Regulated activities.

No person may conduct any development activity within any Steep Slope Protection EPOD without a permit. No permit shall be available nor development activity permitted where the existing slope is greater than 30%.

ARTICLE IV
EPOD 3 Watercourse Protection Overlay District

§ 94-17. Purpose and intent.

The purpose of the Watercourse Protection EPOD is to provide special controls to guide land development within the major waterway corridors in the Town. These regulations encourage planning and development of land that will protect and preserve these sensitive environmental areas. It is also the intent of these regulations to prevent soil erosion, sedimentation and slope failure due to removal of vegetation, dredging, filling, damming or channelization; prevent degradation or loss of scenic views and the natural character of the area; and prevent activities which degrade water quality.

§ 94-18. Delineation of district boundaries.

The boundaries of the Watercourse Protection Overlay District shall be delineated on the Official Town of Mendon EPOD Maps. These boundaries shall include the following areas: Irondequoit

(If additional space is needed, attach pages the same size as this sheet, and number each.)
Creek, Honeoye Creek and all tributaries thereto located within the Town; and for a distance of 100 feet from the center line or to the landward boundary of a Flood Damage Prevention EPOD (EPOD 8), whichever is greater.

§ 94-19. Regulated activities.

No person shall conduct any of the following regulated activities unless such person has first applied for and obtained a Watercourse Protection EPOD development permit pursuant to the requirements of this article. Customary agricultural operations are not required to obtain a permit.

A. Construction of new buildings or structures or additions to or modifications of existing buildings or structures.

B. Construction or placement of any on-site septic or sewage disposal system.

C. Filling, cutting or excavation, either on land or within a watercourse or floodplain.

D. Removal of natural vegetation.

E. Discharge of stormwater and/or construction of a private commercial or municipal stormwater runoff system.

F. Outside storage of materials and equipment used in the conduct of a business.

G. Activities which would alter the natural flow pattern of any of the aforementioned watercourses.

H. Construction of public or private roads, trails and bridges.

I. Boat launching sites and fishing access parking areas.


In granting, denying or conditioning any application for a Watercourse Protection EPOD development permit, the CEO or the Planning Board shall consider the effect that the proposed regulated activity shall have on the public health, safety and welfare and the protection of the major watercourses within the Town.

A. General regulations. Any applicant for a permit to undertake a regulated activity within a Watercourse Protection EPOD shall be required to adequately demonstrate that the proposed activity will in no way at present or at any time in the future adversely affect the following:

   (1) Water quality.

   (2) Watercourse flood-carrying capacities.

   (3) Rate of sedimentation.

   (4) Rate/Velocity of groundwater runoff.

   (5) Natural characteristics of the watercourse or floodplain.

B. Specific standards. No permit to undertake a regulated activity within the district shall be issued by the CEO or the Planning Board unless it determines that the proposed project complies with the following standards:

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(1) The proposed activity provides adequate measures to prevent disruption and pollution of fish and wildlife habitats and freshwater wetlands, stormwater runoff, septic and sewage systems and any other activity on the site.

(2) A natural vegetative buffer of 100 feet from each bank shall be retained adjacent to the watercourses to absorb floodwaters, to trap sediments, to protect adjacent fish and wildlife habitats and to protect scenic qualities.

(3) Site preparation, including stripping of vegetative cover or grading, shall be undertaken so that the amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water is limited. Disturbed soils shall be stabilized and revegetated before construction can begin. During the interim, erosion protection measures, including but not limited to vegetation, retention ponds, recharge basins, berming, silt traps and mulching, shall be used to ensure that sedimentation is minimized and mitigated.

(4) The project shall provide adequate measures to protect surface waters and groundwaters from direct or indirect pollution and from overuse.

(5) Fill shall not encroach on natural watercourses, constructed channels or floodway areas. All fill shall be compacted at a final angle of repose which provides stability for the material, minimizes erosion and prevents settlement.

(6) Roads, trails and walking paths along water bodies shall be sited and constructed so they are not a source of runoff and sedimentation. Such roads, trails and walking paths shall be constructed and sited in such a manner to maximize the visual opportunities of a water body while maintaining the scenic qualities of the water body.

(7) No new dock, boat launching site or fishing access and parking area shall be constructed unless it is shown that it will not impede the natural flow of the streams to which this article applies. Said facilities shall be located and constructed so as to minimize their intrusion into the streams and avoid adverse environmental impact and unreasonable impacts upon public use of the waters.

(8) New structures, except crossings which are regulated by the New York State Department of Environmental Conservation and/or the United States Army Corps of Engineers, shall not be constructed within 100 feet of the bank of the stream.


ARTICLE V
EPOD 4 Scenic Vista Protection Overlay District

§ 94-21. Purpose and intent.

The purpose and intent of the Scenic Vista Protection EPOD is to minimize the impacts of development activities on identified scenic corridor view sites (SCSs) identified in this chapter (as may from time to time be amended), which includes by reference those SCSs identified on the Town of Mendon EPOD Map. The aim is to ensure that any potential visual effect from a development within an identified SCS is minimized or eliminated so as to preserve the character and setting of each SCS, including the rural character of the community.

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§ 94-22. Delineation of district boundaries.

The boundaries of the Scenic Vista Protection EPOD shall be delineated on the Official Town of Mendon EPOD Maps and shall include the SCSs and those lands which, if developed, may potentially have a visual effect on the character and setting of the identified SCSs. SCSs shall include buildings, structures, fields or other resources, both natural and man-made, comprising each SCS.

§ 94-23. Regulated activities and exceptions.

A. No person may conduct any of the following activities within the Scenic Vista Protection EPOD without following the requirements of this article and without obtaining a permit issued pursuant to the requirements of this article:

(1) Construction of new structures or modification of existing structures, including accessory structures, but this prohibition shall not include those activities found under § 94-6B.

(2) Placement of permanent signs.

(3) Clearing of land (not cleared, etc., as part of ongoing agricultural activities or agricultural operations).

(4) Construction or erection of any other structure not encompassed by Subsection A(1), including but not limited to personal satellite receivers and transmitters, wind turbines and other structures.

(5) Filling, cutting and/or excavating operations.

B. The following shall be exempt from compliance with these regulations:

(1) Active farm and agricultural-related structures.

(2) Single-family dwellings on an existing lot of record.

(3) Buildings and structures existing on the date this EPOD becomes effective, provided any addition to or expansion of such existing structures and/or buildings shall be subject to compliance with these regulations.


A. When a person proposes to undertake any of the activities identified in § 94-24 above, then he/she shall be required to, at a minimum, submit an application for same to the CEO, which application shall include details as to the proposed structure (height, width, etc.) as well as a completed visual EAF addendum form [found in the New York Codes, Rules and Regulations (NYCRR) and regulations at Section 617.20, Appendix B (a copy of the Visual EAF Addendum)]. At that time, the CEO shall review the application for completeness. If the application is deemed complete, then it shall be submitted to the Planning Board for a written determination on the acceptability of the proposed development.

B. The Planning Board's written determination shall identify the conditions for any EPOD permit and may include as conditions visual simulation studies and conditions on height, color or architectural features.

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C. No permit shall be issued unless the applicant can demonstrate, in the Planning Board's reasonable discretion, that the activity will not adversely affect the visual character of the identified SCS.

§ 94-25. Setbacks, buffers, trees and landscaping.

A. Scenic view site buffer. A scenic view site buffer of at least 40 feet shall be provided directly abutting any road right-of-way located adjacent to the scenic corridor vista site. The purpose of the buffer is to act as an additional visual screen (working in concert with the setback requirement below) to preserve the SCS. Where existing trees and significant vegetation are already located within the roadway buffer, they shall be retained as determined appropriate and directed by the CEO and Planning Board in accordance with these regulations. Where such existing trees and significant vegetation are sparse, they may require revegetation as directed by the Planning Board. Vegetation within a buffer that is required to remain in accordance with this EPOD may be pruned and/or removed only as necessary to ensure proper sight visibility to or from the roadway, to remove safety hazards, or to remove dying or diseased vegetation, or for other good cause shown as approve by the CEO and the Planning Board.

B. Exceptions to the scenic view site buffer. When the application of the scenic view site buffer would have the practical effect of screening from view important aspects of a scenic view site, the CEO and the Planning Board may permit a modification of these provisions so that views of such sites are retained. The intent of this provision is to preserve the lines of site to view distant scenery to and from the scenic view sites.

C. Landscaping plan. A landscaping plan showing all existing and proposed features, including trees and other relevant features of the landscape within the scenic view site, shall be required to be approved by the Planning Board and the CEO. Landscaping shall be installed by the development applicant in accordance with the approved landscape plan. Native plant materials are particularly encouraged, although the use of ornamental plant materials may be approved by the Planning Board and the CEO if planted in a manner that enhances the existing native vegetation.


A. Screening. To the extent the required buffer in § 94-26 above does not, in the judgment of the CEO and Planning Board, provide screening of buildings, structures, parking lots and service and loading zones included in a development, except for good cause shown as determined by the CEO and Planning Board, there shall be provided as part of the site plan review process additional landscaping, walls, fences, hedges, shrubbery and/or earthen berms to provide screening that is appropriate to protect the SCS in the judgment of the CEO and the Planning Board, based on, among other things, the standards set forth in § 94-25.

B. Roads, driveways and paths. A road pattern or characteristics of any road pattern that are proposed as part of a development that is directly adjacent to an SCS buffer and/or an SCS setback shall be designed and constructed so as to be compatible with the SCS in the judgment of the CEO and the Planning Board.

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ARTICLE VI
EPOD 5 Historic and Archeological Site Protection Overlay District

§ 94-27. Purpose and intent.
The purpose and intent of the Historic and Archeological Site Protection EPOD is to minimize the impacts of development activities on historic structures, historic sites, and archaeological sites which are listed on federal, state, or local registers of such sites. The aim is to enhance the architectural compatibility of proposed development with the adjacent historic or archaeological site and evidences a desire by the Town to retain, as much as possible, the natural character and historic setting of the registered site.

The boundaries of the Historic and Archeological Site Protection EPOD shall be those lands lying no farther than 500 feet from the limits of a listed site. The Historic Preservation Commission (see Chapter 121 of the Mendon Town Code) may determine the limits of a listed site by such features as hedgerows, streams, tree lines, streets, maintained lawn areas and/or property lines.

§ 94-29. Regulated activities.
No person may conduct any of the following activities within the Historic and Archeological Site Protection EPOD without a permit issued pursuant to the requirements of this article:

A. Construction of new structures or modification of existing structures, including accessory structures.
B. Placement of permanent signs.
C. Clearing of land.
D. Filling, cutting or excavating operations.
E. Discharge of stormwater or construction of stormwater runoff systems.

§ 94-30. Standards of review.

A. No permit shall be issued unless the applicant can demonstrate that the activity will not adversely affect the physical integrity or historic character of the listed site and that there is no reasonable alternative to the proposed action.

B. In granting, denying or conditioning any Historic and Archeological Site Protection EPOD development permit, the CEO or the Planning Board shall refer the application to the Historic Preservation Commission (HPC) for its recommendations. The HPC will, in turn, rely upon the criteria established in the Secretary of the Interior's Standards for the Treatment of Historic Properties, New York State Historic Preservation Office (SHPO) guidelines for the treatment of archaeological sites, as well as its own criteria, established and documented prior to the subject application, to determine the appropriateness of any proposed work within the defined overlay district.

C. If the CEO or Planning Board chooses not to follow the HPC's recommendations, in whole or in part, the reasons for not doing so shall be made a part of the written determination.

D. The determining body shall consider the effect of the proposed activity upon the protection and enhancement of the listed site as well as the general public health, safety and welfare.
ARTICLE VII
EPOD 6 Waste Disposal Site Protection Overlay District

§ 94-31. Purpose and intent.

A. The purpose of the Waste Disposal Site Protection EPOD is to identify and evaluate any confirmed waste disposal sites located on a site or within 2,000 feet of a proposed development and regulate any activity in these areas by requiring review and permit approval prior to project commencement.

B. Waste disposal sites have the potential to pose a hazard to health and the environment. The regulations contained in this article are designed to promote a coordinated review by appropriate agencies and the Town, analyze known waste disposal sites prior to development within the affected areas and protect humans, animals, structures and the environment from exposure to potential contamination through direct or indirect contact.

§ 94-32. Identification of confirmed waste disposal sites.

The locations of confirmed waste disposal sites are shown on the Official Waste Site Inventory Maps for the Town, which include any locations of waste sites in adjacent municipalities that are located within 2,000 feet of the municipal boundary. Sites known to contain waste are based upon information obtained from the Monroe County Environmental Management Council (MCEMC), Monroe County Department of Public Health (MCDOH), NYSDEC, municipal files, aerial photos, knowledge of residents or through site investigation. Additional site investigations may be necessary to determine if these sites contain hazardous waste.

§ 94-33. Review of waste disposal sites.

A. The MCDOH is involved in the review of realty subdivision, on-site sewage disposal installation, water main extensions and sanitary sewer extensions. The MCDOH also assists with inventorying and reviewing information on waste sites, developing municipal reports on waste sites, reviewing information and reports on hazardous waste sites and reviewing comments on proposed developments near waste sites. The MCDOH approval can be withheld until the waste site concerns have been adequately addressed.

B. Preliminary reviews of many developments, under the authority of New York State General Municipal Law §§ 239-l, 239-m and 239-n, are performed by the Monroe County Department of Planning and Economic Development Review Committee. Waste sites which may impact the proposed development are also identified during this review process, resulting in a recommendation to the developer and municipality that an evaluation of the impact of a waste site be conducted.

C. Impact assessment.

(1) Waste disposal sites have the potential to pose a hazard to human health and the environment. Therefore, consideration of a nearby waste site's potential effect upon future residents or users of a proposed development is within the purview of SEQRA regulations.

(2) Potential adverse effects from waste disposal sites can include the following:

(a) Direct human contact with waste materials when development occurs on or near a waste disposal site.
(b) Indirect human contact with waste materials, such as when utility service is extended through a waste site and contamination subsequently migrates along the water or other underground line.

(c) Contamination of drinking water from private wells as a result of contaminated groundwater.

(d) Exposure of other living organisms to contamination. Stormwater runoff from a new development discharged in the direction of a waste site could generate additional leachate and/or erode cover material, allowing leachate to escape, which may prove harmful to nearby plant and animal communities.

(e) Damage to nearby utility lines or building foundations due to the corrosive and reactive characteristics of certain wastes.

D. Proximity of a proposed development to a waste disposal site does not necessarily result in disapproval of the application. It may require special design features to mitigate potential problems as well as additional conditions of approval to provide for careful monitoring during construction.

§ 94-34. Development standards and permits.

When an applicant first contacts the Town, the CEO shall determine whether the project is near a waste site using the waste site information described above in this article and the process that follows:

A. Waste disposal site evaluation form.

(1) The MCEMC and the MCDOH have developed a waste disposal site evaluation form (WDSEF), on file with the MCEMC, to help applicants gather relevant information when development projects involve a waste site. The form also indicates the type of impacts that should be evaluated after the information is obtained. In addition, these two agencies have developed a property inspection form to aid in on-site investigations.

(2) The MCDOH has designated two cases requiring evaluation of a waste site and completion of a WDSEF:

(a) Case 1: development proposed on or within 300 feet from the boundary of a confirmed waste disposal site.

(b) Case 2: construction disturbance associated with proposed development occurring between 300 feet and 2,000 feet from the boundary of a confirmed waste disposal site, under certain conditions as follows:

[1] The development will be utilizing a private water well for drinking water or for irrigation;

[2] The site is listed in the Inactive Hazardous Waste Disposal Sites in New York State prepared by the NYSDEC and New York State Department of Health or is otherwise under investigation through the federal or state Superfund programs; and/or

[3] A public agency has identified concerns about the proximity of the development to the waste site.

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(3) "Construction disturbance," as referred to in this section, is defined as construction of utility lines, a drinking water well and/or excavations for basements or footers or significant cutting (greater than two feet) to regrade a parcel.

(4) The instructions for a WDSEF recommend that the applicant contact MCEMC prior to completing the form. This will enable the developer to review the project in relation to the waste site and obtain information on the waste site. The extent of site investigation will depend on the nature of the waste site, the amount of data already available and the nature of the proposed development.

B. Permit approval.

(1) The applicant shall complete and submit the WDSEF property inspection form and site plans to the Town. The Town shall submit the information to the MCDOH.

(2) The MCDOH shall review the information and determine completeness. The applicant and the Town will be provided with a written statement of deficiencies if the requested information is incomplete. Upon receipt of a complete application, a review is initiated and a written response is made to the applicant, with copies to the Town and other involved agencies. The correspondence will specify conditions for inclusion in and SEQRA determination of significance and/or the EPOD development permit.

ARTICLE VIII
EPOD 7 Woodlot and Timber Harvesting Protection Overlay District

§ 94-35. Purpose and intent.

The purpose of the Woodlot Protection and Timber Harvesting EPOD is to preserve, conserve and protect established wooded areas located within the Town. It is the intent of these regulations to prevent the destruction of established woodlot areas by requiring review and permit approval prior to any tree harvesting or cutting within the EPOD. Applicants for such activity must submit a plan prepared by a qualified consulting forester, arborist, horticulturist or a qualified forester that includes the following information:

A. A survey of all trees to be removed on the site that are over six inches in diameter measured at breast height and identified by species, condition and worthiness for preservation.

B. A during- and post-harvesting or cutting for development purposes protection plan for trees to be saved or moved.

C. An integrated site plan which includes the woodlot area protection plan and any additional development on the site, including all new or expanded structures, utilities, access roads, grading or other activities, which may adversely affect the woodlot area.

§ 94-36. Practices to minimize soil erosion and sedimentation.

The following specific practices shall be used to minimize soil erosion and sedimentation during woodlot area management activities:

A. All disturbed areas shall be protected from erosion either by mulch or temporary seeding within two weeks of disturbance.

B. Erosion and siltation controls shall be consistent with the New York Guidelines for Urban Erosion and Sediment Control, most recent edition.

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C. Maintenance of landscape plantings, if required, shall be guaranteed for three years.

D. In planning development sites, applicants shall preserve as much mature vegetation as possible. Use of clustering of buildings to avoid mature wooded areas shall be encouraged wherever practical, as well as the planting of replacement vegetation to mitigate the unavoidable uses of woodlots.

ARTICLE IX
EPOD 8 Flood Damage Prevention Overlay District

§ 94-37. Findings.

The Town Board finds that potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town. Such damages may include destruction or loss of private and public housing, damage to both publicly and privately owned facilities and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, these Flood Damage Prevention EPOD regulations are enacted.

§ 94-38. Purpose.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions that are designed to:

A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.

B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.

D. Control filling, grading, dredging and other development which may increase erosion and flood damages.

E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

F. Qualify for and maintain properties in the Town for participation in the National Flood Insurance Program.


The objectives of the Flood Damage Prevention EPOD are to:

A. Protect human life and health.

B. Minimize expenditure of public money for costly flood control projects.

C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

D. Minimize prolonged business interruptions.

E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard.

F. Help maintain a stable tax base by providing for the sound use and development of areas of

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special flood hazard so as to minimize future flood blight areas.

G. Provide that developers are notified that property is in an area of special flood hazard.

H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.


Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application. See Chapter 86, Definitions and Word Usage, for additional definitions applicable to these provisions.

APPEAL — A request for a review of the CEO's interpretation of any provision of this article or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO, AH or VO Zone on the Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average annual depth of one foot to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within the Town subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain." For purposes of this article, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT — That portion of a building having its floor subgrade (below ground level) on all sides.

CELLAR — Has the same meaning as "basement."

CRAWL SPACE — An enclosed area beneath the lowest elevated floor, 18 inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING — A non-basement building (i) built, in the case of a building in Zone A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zone V1-V30, VE, or V to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zone A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated

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building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zone V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

FEDERAL EMERGENCY MANAGEMENT AGENCY — The federal agency that administers the National Flood Insurance Program.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) — An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD ELEVATION STUDY — An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — See "flood elevation study."

FLOOD or FLOODING

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.

2. The unusual and rapid accumulation or runoff of surface waters from any source.

B. "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A above.

FLOODPLAIN or FLOOD-PRONE AREA — Any land area susceptible to being inundated by water from any source (see definition of "flood or flooding").

FLOODPROOFING — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — Has the same meaning as "regulatory floodway."

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FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE — Any structure that is:

A. Listed individually on the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

   (1) By an approved state program as determined by the Secretary of the Interior; or

   (2) Directly by the Secretary of the Interior in states without approved programs.

LOCAL ADMINISTRATOR — The Code Enforcement Officer; the person appointed by the Town to administer and implement this article by granting or denying development permits in accordance with its provisions.

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this article.

MANUFACTURED HOME — A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle.

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

ONE-HUNDRED-YEAR FLOOD or 100-YEAR FLOOD — Has the same meaning as "base flood."

(If additional space is needed, attach pages the same size as this sheet, and number each.)
PRINCIPALLY ABOVE GROUND — At least 51% of the actual cash value of the structure, excluding land value, is above ground.

RECREATIONAL VEHICLE — A vehicle which is:
A. Built on a single chassis;
B. Four hundred square feet or less when measured at the largest horizontal projections;
C. Designed to be self-propelled or permanently towable by a light-duty truck; and
D. Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 94-45B.

START OF CONSTRUCTION — The date of permit issuance for new construction and substantial improvements to existing structures, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:
A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
B. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

§ 94-41. General provisions.
A. Applicability. This article applies to all areas of special flood hazard within the jurisdiction of the Town, exclusive of the Village of Honeoye Falls.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(105)
B. Basis for establishing regulations.

(1) These regulations are based upon the areas of special flood hazard that have been identified and defined on the following documents prepared by the Federal Emergency Management Agency:


(b) Flood Insurance Study, Monroe County, New York, All Jurisdictions, dated August 28, 2008.

(2) The above documents are hereby adopted and declared to be a part of this article. The Flood Insurance Study and/or Maps are on file at the Town of Mendon Building Department, 16 West Main Street, Honeoye Falls, New York 14472.

C. Interpretation and conflict with other laws and regulations.

(1) These regulations include all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted by the Town for the purpose of flood damage prevention.

(2) In the interpretation and application of these regulations, the provisions of this article shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this article are at variance with the requirements of any other article of this chapter or Chapter 200, Zoning, the most restrictive, or that section imposing the higher standards, shall govern.

D. Notification procedure for noncompliance. No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of these regulations and any other applicable regulations. Any person, firm, company or corporation in violation any of the provisions of this article by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the Flood Damage Prevention EPOD development permit, shall be guilty of an offense punishable by the maximum fine and/or imprisonment permitted by Town Law § 268, Subdivision 1, and, in addition, may be ordered to pay all costs and expenses involved in the case. All of the provisions of Town Law § 268, Subdivision 1, shall apply to the enforcement of this article. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this article for which the developer and/or owner has not applied for and received an approved variance under § 94-53 of this article will be declared to be noncompliant by the CEO and notification sent to FEMA.
E. Warning and disclaimer of liability. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based upon scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This regulation does not imply that land outside the area of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This section does not impose liability on the part of the Town, any officer or employee thereof, or FEMA for any flood damages that result from reliance on this article or any administrative decision made hereunder.

§ 94-42. Designation of local administrator.

The CEO is hereby appointed local administrator to administer and implement this article by granting or denying Flood Damage Prevention EPOD development permits in accordance with these provisions.

§ 94-43. Development permits.

A. Purpose. The Flood Damage Prevention EPOD development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard for the purpose of protecting citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Maps enumerated in § 94-41B above, without a valid Flood Damage Prevention EPOD development permit.

B. Fees. All applications for a development permit shall be accompanied by an application fee established by the Town Board. In addition, the applicant shall be responsible for reimbursing the Town for any additional costs necessary for review, inspection and approval of any development for which a development permit is issued. The Town Board, by resolution, may require a deposit to cover these additional costs.

C. Application for development permit. An application for a development permit shall be made on forms furnished by the CEO. The application may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. The applicant shall also provide the following information on the permit form:

(1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure that is to be located within Zone A1-A30, AE or AH or Zone A on the Flood Insurance Rate Maps or Flood Boundary Floodway Maps if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the CEO the as-built elevation, certified by a licensed professional engineer or surveyor.

(2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the CEO the as-built floodproofed elevation, certified by a professional engineer or surveyor.

(3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 94-48, Utilities.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(4) A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 94-50, Nonresidential structures.

(5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by FEMA to revise the documents enumerated in § 94-41B, when notified by the CEO, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

(6) A technical analysis, by a licensed professional engineer, if required by the CEO, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

(7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured homes and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

§ 94-44. Duties and responsibilities of CEO.

Duties of the CEO shall include but not be limited to the following:

A. Permit application review. The CEO shall conduct the following permit application review before issuing a Flood Damage Prevention EPOD development permit:

(1) Review all applications for completeness, particularly with the requirements of § 94-43, Development permits, and for compliance with the provisions and standards set forth in this article.

(2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards for § 94-45, Construction standards, and, in particular, § 94-45A, Subdivision proposals.

(3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The CEO may require the applicant to submit additional technical analyses and data necessary to complete the application. If the proposed development may result in physical damage to any other property or fails to meet the requirements of § 94-45, Construction standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.

(4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.
B. Use of other flood data.

(1) When FEMA has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the CEO shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 94-43C(7), as criteria for requiring that new construction, substantial improvements or other proposed development meets the requirements of this article.

(2) When base flood elevation data are not available, the CEO may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard for the purposes of this article.

C. Alteration of watercourses.

(1) The CEO shall notify adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director, Region II, FEMA.

(2) The CEO shall determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

D. Construction stage.

(1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, the CEO shall obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

(2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The CEO shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

E. Inspections. The CEO and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

F. Stop-work orders.

(1) The CEO shall issue, or cause to be issued, a stop-work order for any Flood Damage Prevention EPOD development found ongoing without said permit. Disregard of a stop-work order shall subject the violator to the penalties set forth in § 94-41D.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(109)
(2) The CEO shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this article and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties set forth in § 94-41D.

G. Certificate of compliance.

(1) In areas of special flood hazard, as determined by documents enumerated in § 94-41B, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof, hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance for the Flood Damage Prevention EPOD development has been issued by the CEO stating that the building and/or land conforms to the requirements of this article.

(2) A certificate of compliance shall be issued by the CEO upon satisfactory completion of all development in areas of special flood hazard.

(3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Subsection E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. Information to be retained. The CEO shall retain and make available for inspection copies of the following:

(1) Floodplain development permits and certificates of compliance.

(2) Certifications of as-built lowest floor elevations of structures, required pursuant to Subsection D(1) and (2), and whether or not the structures contain a basement.

(3) Floodproofing certificates required pursuant to Subsection D(1), and whether or not the structures contain a basement.

(4) Variances issued pursuant to § 94-52, Variance procedure.

(5) Notices required under Subsection C, Alteration of watercourses.

§ 94-45. Construction standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 94-41B.

A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

(1) Proposals shall be consistent with the need to minimize flood damage.

(2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage.

(3) Adequate drainage shall be provided to reduce exposure to flood damage.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
B. Encroachments.

(1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or

(b) The Town agrees to apply to FEMA for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town for all costs related to the final map revision.

(2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 94-41B, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or

(b) The Town agrees to apply to FEMA for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Mendon for all costs related to the final map revisions.

§ 94-46. Anchoring.

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

§ 94-47. Construction methods and materials.

A. New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

B. New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

C. Enclosed areas below lowest floor.

(1) For enclosed areas below the lowest floor of a structure within Zone A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for the parking of vehicles, building access or storage in an area other than a basement, and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit (If additional space is needed, attach pages the same size as this sheet, and number each.

(111)
of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

(a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

(b) The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

(2) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.


A. New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations.

B. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

C. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.

D. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§ 94-49. Elevation of residential structures.

The following standards, in addition to the standards in §§ 94-45A, Subdivision proposals, 94-45B, Encroachments, and 94-46, Anchoring, apply to structures located in areas of special flood hazard as indicated:

A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood level.

B. Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

C. Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 94-41B above (at least two feet if no depth number is specified).

(If additional space is needed, attach pages the same size as this sheet, and number each.)
D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.


The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in §§ 94-45A, Subdivision proposals, 94-45B, Encroachments, and 94-46, Anchoring:

A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:

1. Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or

2. Be floodproofed so that the structure is watertight below two feet above the base flood elevation, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:

1. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or

2. Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Subsection A(2).

C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design specifications and plans for construction. A floodproofing certificate or other certification shall be provided by the CEO that certifies the design methods for construction are in accordance with accepted standards of practice for meeting the provisions of Subsection A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 94-51. Manufactured homes and recreational vehicles.

A. The following standards, in addition to the standards in §§ 94-45, Construction standards, and 94-46, Anchoring, apply in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard:

1. Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:

   a. Be on site fewer than 180 consecutive days;

   b. Be fully licensed and ready for highway use; or

(If additional space is needed, attach pages the same size as this sheet, and number each.) (113)
(c) Meet the requirements for manufactured homes in Subsections B, C and D of this section.

(2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.

B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

C. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.

D. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 94-41B (at least two feet if no depth number is specified).

§ 94-52. Variance procedures.

A. Appeals board.

(1) The Zoning Board of Appeals as established by the Town of Mendon shall hear and decide appeals and requests for variances from the requirements of this article.

(2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the CEO in the enforcement or administration of this article.

(3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

(4) In passing upon an application for a variance to the requirements of these Flood Damage Prevention EPOD regulations, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and Chapter 200, Zoning, and:

(a) The danger that materials may be swept onto other lands to the injury of others.

(b) The danger to life and property due to flooding or erosion damage.

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(d) The importance of the services provided by the proposed facility to the community.

(e) The necessity to the facility of a waterfront location, where applicable.

(f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(g) The compatibility of the proposed use with existing and anticipated development.

(h) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area.

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(j) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.

(k) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

(l) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

(5) Upon consideration of the factors listed above in this subsection, the purpose of the Flood Damage Prevention EPOD District and the criteria set forth in §§ 94-38 and 94-39, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(6) The CEO shall maintain a copy of the records of all appeal actions, including technical information, and report any variances to FEMA upon request.

B. Conditions for variances. Generally, variances may be issued for the following actions:

(1) New construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that items in Subsection A(4) above have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

(a) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure.

(b) The variance is the minimum necessary to preserve the historic character and design of the structure.

(3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

(a) The criteria of Subsection B(1), (4), (5) and (6) of this section are met; and

(b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

(4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
(5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(6) Variances shall only be issued upon receiving written justification of:

(a) A showing of good and sufficient cause.

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant.

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing laws or ordinances.

(7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of the CEO that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required in § 94-44H.

ARTICLE X
EPOD 9 Soils Susceptible to Ponding Overlay District

§ 94-53. Purpose and intent.

The Town Board finds that the potential and/or actual damages from development occurring on soils that possess characteristics which are susceptible to the ponding of surface waters may be a problem to the residents of the Town. Such problems may include increased peak drainage flows affecting drainage downstream from the site; impact on public improvements such as drainage structures downstream; destruction or loss of private septic systems; foundation damage; and the placement of development in close proximity to areas where insect infestation may occur. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, these Soils Susceptible to Ponding EPOD areas are delineated to alert those seeking to develop in these areas of the need to take these conditions into account in development.

§ 94-54. Delineation of district boundaries.

The boundaries of the Soils Susceptible to Ponding EPOD shall be delineated on the Official Town of Mendon EPOD Maps. These boundaries shall be based upon the soils characteristics and the mapping of these areas identified on the map on file in the Town Building Department.

§ 94-55. Development standards.

The Planning Board shall consider the effect that the proposed regulated activity will have on the public health, safety and welfare. In addition, consideration shall also be given to the protection and enhancement of the natural drainage patterns within the drainage divide; in particular, impact on sites located downstream of the site being developed.
ARTICLE XI
EPOD 10 Geological Feature Protection Overlay District

§ 94-56. Purpose and intent.
The purpose and intent of the Geological Feature Protection EPOD is to eliminate the impacts of development activities on significant geological features in the Town by prohibiting activities in areas that encompass protected geological features (hereinafter "geological feature").

§ 94-57. Delineation of district boundaries.
The boundaries of the Geological Feature Protection EPOD shall be delineated on the Official Town of Mendon EPOD Maps and shall include all areas designated by the Town and all areas within 50 feet of a geological feature. In order to more accurately locate and delineate Geological Feature Protection EPOD boundaries within the Town, the CEO or Town Engineer may consult other topographic information. This other topographic information may include, but is not limited to, the Soil Survey Report for Monroe County; topographic maps produced by the United States Geological Survey and/or the Monroe County Environmental Management Council; field survey maps; and other appropriate sources.

§ 94-58. Regulated activities.
No person may conduct any development activity within any Geological Feature Protection EPOD in the Town.

SECTION 3. Chapter 86, Definitions and Word Usage, of the Code of the Town of Mendon, is repealed and reenacted to read as follows:

Chapter 86

DEFINITIONS AND WORD USAGE

§ 86-1. Purpose.
This chapter is hereby adopted to provide the Town of Mendon with uniform definitions applicable to the chapters within the Town of Mendon Code, thereby eliminating unnecessary or conflicting definitions in the various chapters. There are some chapters within the Code that contain definitions which apply specifically to those chapters (see § 86-5, Exempted chapter definitions). Unless otherwise indicated, this chapter will apply to all chapters within the Code.

§ 86-2. Word usage.
A. All words used in the present tense include the future tense.
B. All words in the plural number include the singular number, and all words in the singular number include the plural number, except as to the number of permitted structures or unless the natural construction of the wording indicates otherwise.
C. The word "person" includes an association, partnership or corporation.
D. The word "measurement," unless otherwise specified, shall mean the distances measured horizontally.
E. The word "building" includes the word "structure."
F. "Lot" includes the words "plot," "parcel," or "tract."
   (If additional space is needed, attach pages the same size as this sheet, and number each.)
G. The word "premises" includes a lot and all buildings or structures thereon.

H. To "erect," "to construct" and "to build" a building or structure each have the same meaning.

I. "Used" shall be deemed also to include "designated, intended or arranged to be used or occupied."

J. "Shall" is mandatory and not discretionary; "may" is permissive.

§ 86-3. Administrative agencies and officials defined; terms pertaining thereto.

CODE — The official Town Code Manual entitled "Code of the Town of Mendon, County of Monroe, State of New York." Official copies of the Code, as may be amended, are maintained and are on file in the Town Clerk's office.

CODE ENFORCEMENT OFFICER — The official designated by the Town Board of the Town of Mendon to enforce the provisions of the Town of Mendon Code and the New York State Uniform Fire Prevention and Building Code in the Town.

COUNTY HEALTH DEPARTMENT — The Monroe County Department of Health and any other health board or department established pursuant to the laws of the State of New York or the County of Monroe and having authority for the regulation of matters pertaining to the public health of the Town.

COUNTY PLANNING BOARD — The Monroe County Department of Planning and Development.

INTEREST — A pecuniary or material benefit accruing to a municipal officer or employee unless the contract otherwise requires.

MUNICIPAL OFFICER OR EMPLOYEE — An officer or employee of the Town of Mendon, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a Fire Department Chief, Assistant Chief or Fire Commissioner.

NEWS MEDIA — A newspaper that is printed not less frequently than once a week in which legal notices may be published, or a radio or television station that regularly broadcasts news.

NOTICE — Includes, but shall not be limited to, written or oral information relating to the date, time and place where a meeting is to be held.

TOWN — The Town of Mendon.

TOWN BOARD — The officials duly elected to the Mendon Town Board.

TOWN CLERK — The official duly elected to the position of Mendon Town Clerk.

TOWN ENVIRONMENTAL CONSERVATION BOARD — The Environmental Conservation Board (ECB) of the Town of Mendon.

TOWN FARMLAND ADVISORY COMMITTEE — The Farmland Advisory Committee (FAC) of the Town of Mendon.

TOWN HIGHWAY SUPERINTENDENT — The official elected to the position of Mendon Superintendent of Highways.

TOWN HISTORIC PRESERVATION COMMISSION — The Historic Preservation Commission (HPC) of the Town of Mendon.

TOWN PLANNING BOARD — The Planning Board of the Town of Mendon.

TOWN ZONING BOARD OF APPEALS — The Zoning Board of Appeals (ZBA) of the Town of Mendon.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
TOWN ZONING CODE — The Zoning Law of the Town of Mendon, also commonly known as Chapter 200 of the Town of Mendon Code.

§ 86-4. Definitions.

Except as otherwise provided herein, words and terms used in the Code shall have their usual and customary meanings. As used in the Code, the following terms shall have the meanings indicated:

ABANDONED VEHICLE — The intent of the owner of a vehicle not to use it on the public highways or as a conveyance in the manner for which said vehicle was originally designed shall establish it as abandoned. The intent of the owner shall be determined by the physical condition of the vehicle, any statements as to its abandonment, the length of time since the vehicle was last used, whether the vehicle is currently licensed, registered and other relevant facts.

ACCESSORY BUILDING OR STRUCTURE — The term applied to a building or structure which is separate or attached to the principal building by a contiguous wall and is customarily incidental and subordinate to, and serves a principal building; is subordinate in area, extent or purpose to the principal building served; contributes to the comfort, convenience or necessity of occupants of the principal building use; and is located on the same parcel as the principal building.

ACCESSORY FACILITIES — Separately constructed items, not limited to structures or accessory structures, which are necessary to operate the principal use, but are secondary in size and function to such use, and are located on the same parcel of land as the principal use. Such constructed items are not intended to include underground water, sewer, natural gas and electric lines or roadways which may be incidental to the operation of the principal use.

ACCESSORY USE — A use incidental and subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

ACTION — Any project or physical activity, such as construction or other activity that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that requires a permit or approval from any board or official of the Town of Mendon.

ADULT MOTION-PICTURE THEATER — A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER — A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

ADULT USE AND ENTERTAINMENT ESTABLISHMENT — A public or private establishment, or any part thereof, which presents any of the following entertainment, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages; service or entertainment where the servers or entertainers wear pasties or G-strings or both; adult arcade; adult bookstores or adult video stores; adult cabarets; adult motion-picture theaters; adult theaters; escort agencies; nude model studios; and sexual encounter centers. Adult use and entertainment establishments customarily exclude minors by reason of age.

AGRICULTURAL DATA STATEMENT — The form(s) completed by the applicant which is provided by the Town in satisfaction of the requirements of § 283-a of the New York Town Law.

AGRICULTURAL OR FARMING ACTIVITIES — The use of the land for agricultural purposes, including but not limited to dairying, pasturage, fruit and vegetable farms, nurseries, animal and poultry husbandry and the necessary accessory uses for storage; provided, however, that the operation of any such accessory use shall be incidental to that of the principal agricultural activities.

AIRSTRIP or AIRPORT — Any area of land designed for the operation of aircraft, including hangars, taxiways, landing strips and accessory uses.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
ALLEY — A public or private way not more than 40 feet wide affording only secondary means of access to abutting property.

ALTERATIONS — As applied to a building or structure:
A. The change or rearrangement in the supporting members of a building or structure, such as bearing walls, columns, beams or girders, or in the exit facilities.
B. An enlargement of a building or structure, whether by extending on a side or by increasing in height.
C. The moving from one location or position to another.
D. Any alteration whereby a structure is adapted to another or different use.

ANCHOR TENANT — A major business occupying a significant percentage of the total area of the mall.

ANTENNA — A system of electrical conductors that transmit or receive radio frequency signals. The frequency of these signals generally ranges from 10 hertz to 300,000 megahertz. Such signals shall include but not be limited to radio, television, cellular paging, personal communications systems (PCS) and microwave communications. All antennas used in one function shall be considered as one antenna.

ANTENNA, COLLOCATED — Telecommunications facilities which utilize existing towers, buildings or other structures for placement of an antenna(s) and which do not require construction of a new tower.

APARTMENT — A dwelling unit that is intended to be leased, rented or owned. This shall not be deemed to include a motel, hotel, boardinghouse or travel trailer.

APARTMENT HOUSE — A building arranged, intended or designed to provide three or more dwelling units independent of each other but having common or separate hallways and entrances.

APPURTENANT ACTIVITIES — All on-site operations involved in the treatment, processing or further fabrication of soil, sand, gravel or natural deposits, including washing, sedimentation ponds, grading, sorting, grinding, crushing, concrete batching plants, asphalt mixing plants and aggregate dryers.

ARCHAEOLOGICAL SITE — Grounds that:
A. Are associated with events that have made a significant contribution to the broad patterns of our history.
B. Are associated with the lives of persons significant in our past.
C. Have yielded, or may be likely to yield, information important in prehistory or history.
D. Are recognized through listing on either national, state, or local registers according to the same criteria as for an historic structure.

ARCHITECTURAL FEATURE — A prominent, or characteristic, part of a building. The following are examples of architectural features: windows, columns, awnings, marquees and fascias.

AREA — The extent of horizontal surface contained within the boundaries or extremities of land or building. Also see "lot area."

AREA, SALES — Only includes that area customarily open and accessible to the public.

ATTENTION-GETTING DEVICE — Any streamer, spinner, light, balloon, nongovernmental flag or similar device or ornamentation used for purposes of attracting attention for advertising or commercial speech.

AUTO TRAILER — Any unit, vehicular in design, used as living quarters for any human, which may be driven, towed or propelled from one location to another without change in structure or design, whether or not the same is supported on wheels.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
AWNING — A rooflike shelter, including a canopy, either rigid or of fabric, that extends over a doorway, window or the facade of a building in order to provide protection, as from the sun or weather. When such awning or canopy displays lettering, a logo or pictorial material or is illuminated, it shall be a sign.

AWNING SIGN — Any visual message incorporated into an awning attached to a building. An awning is described as a rooflike shelter, including a canopy, either rigid or of fabric, that extends over a doorway, window or the face of a building. When such awning or canopy displays lettering, a logo or pictorial material or is illuminated, it is a sign.

BED-AND-BREAKFAST — A single-family dwelling in which sleeping rooms, integral with the residents’ quarters, are rented to transient guests and service includes meals.

BERM — Earth materials that are placed so as to create an elevated area on any parcel of land.

BILLBOARD — A freestanding sign larger than 35 square feet in gross area, or a wall sign covering more than 10 feet of an area to which it is affixed.

BUFFER AREA — A continuous strip of land area covered with grass, vegetation, trees, fencing, embankments or berms and designed to provide a physical screen diminishing visual access from one use to another and to reduce the escape and/or intrusion of litter, fumes, dust, noise or other noxious or objectionable elements.

BUILDING — Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals, property or business activity. See also "dwelling" and "structure."


BUILDING ENVELOPE — An area of land shown on a subdivision plat or a site plan as a suitable location for the construction of buildings and other structures.

BUILDING FRONTAGE — The length, in feet, of the side of a building adjacent to and most nearly parallel to a street or public parking lot.

BUILDING LINE — A line formed by the intersection of a horizontal plane and a vertical plane that coincides with the exterior surface of the building or a projected roof or porch; the vertical plane will coincide with the most projected surface, excluding steps and overhanging eaves less than two feet in width. All yard and setback requirements are measured to the building lines. (See "structure, height of."

BUILDING PERMIT — A written permit issued by the Code Enforcement Officer.

BUILDING, PRINCIPAL — A building in which is conducted the main or principal use of the lot on which said building is situated.

CANTILEVER — The free part of a horizontal member of a structure projecting beyond a support.

CEASE OPERATION — Abandonment of use as evidenced by a cessation of all substantial business activities in furtherance of the continuation of the nonconforming use.

CERTIFICATE OF COMPLIANCE (C of C) — A certificate issued by the Code Enforcement Officer upon completion of the change in use of an existing building or upon the completion of a project requiring site plan approval. Said certificate shall acknowledge compliance with all requirements of the Town's Code and local laws in existence as of the date of the issuance of the certificate of compliance.

CERTIFICATE OF OCCUPANCY (C of O) — A certificate issued by the Code Enforcement Officer upon completion of construction or alteration of a building. Said certificate shall acknowledge compliance with all of the requirements of the State Uniform Codes and the State Energy Code.

CLEAR-SIGHT ZONE — An area of unobstructed vision at street intersections or intersections of streets and driveways defined by lines of sight between points at a distance of 50 feet from the intersection of street right-of-way lines or street right-of-way lines and driveways.

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CLUB — An organization catering exclusively to members and their guests, including premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, provided that there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club or as permitted by separate ordinance or local law.

CLUSTER DEVELOPMENT — An arrangement of buildings on the land in which lot size and/or setback regulations are reduced in order to provide open space, either natural or developed, and maintains the same density permitted in a conventional subdivision.

COMMERCIAL PLAZA — A group of commercial enterprises, businesses or professional offices in one or more buildings sharing a common parking lot, with each enterprise having an outside public entrance.

COMMON AREA — Space reserved for use by any and all residents of a housing development, including but not limited to halls, stairways and landings.

COMMUNICATIONS FACILITIES, PERSONAL WIRELESS — Towers and/or antennas and accessory structures used in connection with the provision of cellular telephone service, personal communications services (PCS), paging services, radio and television broadcast services and similar broadcast services which have been defined by the courts to be essential services and structures.

COMMUNICATIONS FACILITY — An accessory facility which serves the principal telecommunications structure and is subordinate in area, extent and purpose to the principal telecommunications structure and is located on the same lot as the principal telecommunications structure. Examples of such accessory facilities include transmission equipment, cabinets, sheds and buildings for the storage of such facilities.

CONDITIONAL APPROVAL OF A FINAL PLAT — The approval of a final plat by the Planning Board, subject to conditions set forth by the Planning Board in a resolution conditionally approving such plat. Such conditional approval does not qualify a final plat for recording nor authorize issuance of building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and recording of the plat in the office of the Monroe County Clerk in accordance with provisions of this chapter.

CONDOMINIUM — An ownership arrangement in which the interior of a housing unit is individually owned, while the exterior, including land and facilities (common elements), is owned in common by all homeowners in the development. The owner has title to the interior individual dwelling and a shared interest in the common elements.

CONSERVATION RESTRICTION — A restriction placed upon the use of a specific portion of land for a specific purpose. The restriction may or may not permit public access to or across the parcel of land.

CONTINUUM CARE FACILITY — A facility which is authorized in accordance with rules and regulations of the New York State Department of Social Services to provide residential services, supervision and care to adults who do not require continual medical or nursing care from a hospital, health-related facility or nursing home but who, by reason of limitations associated with age, physical or mental disabilities or other factors, may not be able to live independently.

COUNTY COMPREHENSIVE PLAN — A Comprehensive Plan for the development of Monroe County prepared by the Monroe County Department of Planning and Development and as may be adopted in part or in its entirety by the Monroe County Legislature pursuant to the Monroe County Charter.

COUNTY OFFICIAL MAP — A map established by the Monroe County Legislature, pursuant to §§ 239-g, 239-h and 239-i of the New York State General Municipal Law.

CUL-DE-SAC — A minor street intersecting another street at one end and terminated at the other end by a circular vehicular turnaround.

DAY-CARE CENTER — A facility duly permitted by the State of New York for the care of seven or more children for fewer than 24 hours each day.

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DEDICATION — The deliberate appropriation of land by its owner for any general public use, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public use to which the property has been devoted.

DESIGN CRITERIA AND CONSTRUCTION SPECIFICATIONS FOR LAND DEVELOPMENT (DESIGN CRITERIA) — The official document regulating the design and construction of all development within the Town of Mendon.

DISCARDED VEHICLE — Any vehicle which the owner thereof, as established by the surrounding circumstances, does not intend to recover the possession of, or any vehicle of which the owner cannot be found after due and reasonable inquiry.

DISPOSE — To dump, deposit or throw away any item.

DISTRICT — A portion of the territory of the Town of Mendon within which certain uniform regulations and requirements, or various combinations thereof, apply under the Town of Mendon Zoning Code and other Town of Mendon local laws or regulations.

DRIVEWAY — A roadway providing a means of access from a street to a property or off-street parking area. An accessway may also be deemed a "driveway."

DWELLING — A building or portion thereof designed or used as the living quarters for one or more families or for individuals. The term "dwelling" shall not be deemed to include a motel, hotel, boardinghouse or recreational vehicle. See also "building" and "structure."

DWELLING, MANUFACTURED — A factory-built residential dwelling unit designed to be occupied as a dwelling, complete and ready for occupancy except for minor and incidental unpacking and assembly operations and placement on a permanent foundation and connections to utilities. Manufactured housing built after June 15, 1976, shall meet the National Manufactured Home Construction and Safety Standards as set forth by the United States Department of Housing and Urban Development. A travel trailer shall not be considered a manufactured dwelling.

DWELLING, MULTIPLE-FAMILY (MULTIFAMILY) — A building or portion thereof containing three or more dwelling units and designed or used for occupancy by three or more families living independently of each other.

DWELLING, SINGLE-FAMILY — A detached residential dwelling unit other than a mobile home designed for and occupied exclusively by one or more persons living as a single housekeeping unit.

DWELLING, SINGLE-FAMILY, WITH ACCESSORY APARTMENT — A detached residential dwelling unit having the external appearance of a single-family dwelling but in which there is located a second dwelling unit that does not exceed 50% of the principal dwelling unit nor more than 750 square feet.

DWELLING, TWO-FAMILY — A detached residential building, containing two dwelling units, designed for occupancy and used exclusively by two families independently of each other.

DWELLING UNIT — A dwelling or portion of a dwelling providing complete living facilities for one family or for an individual person.

EASEMENT — Authorization by a property owner for the use by another person, town, municipality or public utility district, or for any public purpose, of any designated part of the property for a specified purpose.

ENCLOSED COMMERCIAL MALL — A group of contiguous commercial enterprises or businesses or professional offices in one or more buildings which share common public entrances, with the majority of the commercial enterprises or businesses or professional offices fronting an interior hall, walkway or mall.

ENVIRONMENT — The physical conditions that will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, resources of agricultural, archaeological, historic or aesthetic

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significance, existing patterns of population concentration, distribution of growth, existing community or neighborhood character, and human health.

ENVIRONMENTAL ASSESSMENT FORM (EAF) — The form required by the Town agencies to determine the environmental significance and to assess the potential impacts of a proposed action on the environment. A properly completed EAF must contain enough information to describe the proposed action, its location, its purpose and its potential impacts on the environment.

ESSENTIAL SERVICES — A "public utility" which has been defined to mean "a private business, often a monopoly, which provides services so essential to the public interest as to enjoy certain privileges such as eminent domain and be subject to such governmental regulation as fixing of rates and standards of service." Characteristics of the public utility include:

A. The essential nature of the services offered which must be taken into account when regulations seek to limit expansion of facilities which provide the services.

B. Operation under a franchise, subject to some measure of public regulation.

C. Logistic problems such as the fact that the product of the utility must be piped, wired or otherwise served to each user, the supply must be maintained at a constant level to meet minute-by-minute need, and the user has no alternative source and the supplier commonly has no alternative means of delivery.

ESTABLISHED PLACE OF BUSINESS — A permanent building, store or depository constructed in accordance with Chapter 190, Uniform Code Enforcement, and Chapter 200, Zoning, in which or where the person transacts business and deals in the goods, wares or commodities he peddles or solicits in the ordinary and regular course of business.

EXCAVATION — The process of the removal or stockpiling of sand, gravel, soil (including topsoil) or other natural deposits by stripping, digging or other means for any purpose other than for the construction of a wall, driveway, sidewalk, building, structure or part thereof for which a building permit has been issued, farm pond, wildlife marsh or other farm conservation practice or for the construction of any public utilities, at or on the same parcel of land as the parcel where said removal takes place. All grading of lands pursuant to plans approved by the Planning Board for site preparation, public and private site development and site improvement shall also be excluded from this definition, except grading that involves the proposed removal of disturbed earth materials from the graded premises.

EXCAVATION SITE — A parcel of land used for the purpose of extracting stone, sand, gravel or topsoil for sale as in industrial or commercial operation. See also "mining permit."

FAMILY — One or more persons related by birth, blood, marriage or adoption living together as a single housekeeping unit in a dwelling unit.

FARM — Any parcel of land which is used for agricultural or farming activities. It includes necessary farm structures and the storage of equipment used.

FARM OPERATIONS — See "agricultural or farming activities."

FEE SCHEDULE — A fee that is paid for all permits issued, the amount of which is established by resolution from time to time by the Town Board.

FENCE — A structure of wood, masonry, wire mesh or other material which prohibits or inhibits unrestricted travel or view between properties or portions of properties or between the street or public right-of-way and a property.

FINISHED GRADE — The level where the finished grade of the ground intersects the foundation walls. Height measurements shall be based from the average elevation of the finished grade level.

FLAG, NONGOVERNMENTAL — Any piece of fabric used as a symbol or signaling device to attract attention.

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FLOOR — The top surface of an enclosed area in a building (including basement), i.e., top of a concrete slab construction or top of wood flooring in wood frame construction.

FLOOR AREA — For the purposes of applying the requirements for off-street parking and loading, "floor area," in the case of offices, merchandising or service types of uses, shall mean the floor area used or intended to be used by tenants or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sales of merchandise. It shall not include areas used principally for nonpublic purposes such as storage, incidental repair, processing or packaging of merchandise, for shop windows, for offices incidental to the management or maintenance of stores or buildings, for toilet or rest rooms, for utilities or for dressing rooms, fitting rooms or alteration rooms.

FLOOR AREA, GROSS — The sum of the gross horizontal areas of all floors of a building or buildings, measured from the outside faces of exterior walls or from the center line of walls separating two uses.

FLOOR AREA, HABITABLE — The horizontal area of all floors of a building designed and intended for living purposes, which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used only for storage purposes is not a habitable floor. All dimensions shall be measured from the outside faces of exterior walls or from the center line of the base of walls separating two dwelling units.

FREESTANDING SIGN — A sign supported by one or more upright poles, columns or braces (including sandwich signs) placed in or on the ground and not attached to any building or structure (including an A-frame sign).

FULLY SHIELDED LUMINAIRE — A lamp and fixture assembly designed with a cutoff angle of 90°, so that no direct light is emitted above a horizontal plane.

GARAGE, PRIVATE — An accessory building which provides for the storage of motor vehicles or household items by the occupants on the lot on which it is erected, with no provision for repairing or servicing such vehicles for profit.

GARBAGE — All animal and vegetable waste materials such as but not limited to waste materials from residences, kitchens, grocery stores, butcher shops and restaurants and all other deleterious substances.

GENERAL EQUIPMENT RENTAL — An establishment specializing in the rental of equipment for home repair, yard care and other consumer needs. This use shall exclude the rental of commercial construction equipment or vehicles.

GROUND FLOOR AREA — The maximum horizontal area of a building at the ground level. The minimum ground floor area refers to the principal residence within the limits of the principal foundation walls, excluding all accessory buildings, private garages, porches, patios or other accessory structures.

HAWKER, PEDDLER or SOLICITOR — Includes, unless otherwise herein provided, any person who engages in merchandising any goods, wares, commodities, books, periodicals or services or solicits contributions of goods or moneys by going from house to house, place of business to place of business or hawking in any public street or public place or by temporarily occupying a room, building or other premises therefor.

HAZARDOUS WASTES — Waste materials that are toxic or poisonous, corrosive, irritating or sensitizing, radioactive, biologically infectious or explosive and/or that present a significant hazard to human health and/or to the environment.

HEIGHT OF SIGN — In all cases, the distance measured from the top of the sign to the ground directly under the sign.

HISTORIC SITE — The grounds upon which an historic structure resides or which are associated with an historic structure and recognized through listing on either national, state, or local registers according to the same criteria as for an historic structure.

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HOME OCCUPATION — A nonresidential use clearly subordinate to the permitted principal residential use of the premises.

HOME OCCUPATION, MAJOR — Any home occupation that is not a minor home occupation.

HOME OCCUPATION, MINOR — Any home occupation that:

A. Involves no person other than persons residing on the premises.
B. Shows no visible evidence (including signage) from the exterior of the dwelling unit or accessory structure used in conducting the occupation.
C. Generates no additional traffic and no need for off-street parking beyond the customary needs of the occupants of the dwelling unit.
D. Uses no equipment which would not customarily be used by the occupants of the dwelling unit.
E. Is conducted entirely inside the principal dwelling unit or other accessory structure on the premises.
F. Involves:
   (1) No retail sales where the public visits the premises to purchase;
   (2) No exterior display or storage of goods, materials, equipment, or inventory;
   (3) No other activities requiring a permit;
   (4) No noise other than that which is customarily generated by the occupants of the dwelling unit;
   (5) No vehicles larger than a four-wheel truck and/or a four-wheel trailer; and
   (6) The lesser of 15% or 350 square feet of gross floor area of the principal dwelling unit.

HOME OCCUPATION SIGN — Any sign identifying an occupation conducted in a dwelling unit or in a structure that is accessory to a dwelling unit as referenced in the Mendon Zoning Code.

HOTEL — See "motel."

ILLUMINATED SIGN — Any sign illuminated by electricity, gas or other artificial light either from the interior or exterior of the sign and including signs which use reflective and phosphorescent materials.

INDOOR RECREATIONAL AND/OR ATHLETIC FACILITY — Indoor facilities include but are not limited to swimming pools, health clubs, gymnasiums, ice rinks, shooting ranges, bowling alleys and court sports such as tennis, racquetball, squash, handball, etc., wherein the entire activity except for parking is conducted within a structure.

INFECTIOUS WASTES — Equipment, instruments and utensils, as well as substances that may harbor or transmit pathogenic organisms that have been in contact with persons having a communicable disease, or laboratory wastes, as well as specimens and disposable materials from medical facilities.

JUNK — Includes scrap metals and their alloys, bones, used materials and products, such as rags and cloth, rubber, rope, tinfoil, bottles, old tools and machinery, fixtures and appliances, lumber, boxes or crates, pipe and pipe fittings, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

JUNK VEHICLE — Any vehicle in such condition as to cost more to repair and place the same in operating condition than the reasonable market value before such repair.

KENNEL — Any premises on which four or more dogs, three months old or older, are bred or harbored.

LAUNDRY, SELF-SERVICE — A business establishment providing clothes washers and dryers for hire to be used by customers on the premises. Self-service dry-cleaning facilities are not included in this definition.

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LOADING SPACE, OFF-STREET — Space logically and conveniently located for public pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles.

LODGING ROOM — A room rented as sleeping and living quarters, but without cooking facilities, with or without an individual bathroom.

LOGO — Any picture, shape or drawing, with or without letters or words, used to identify a product, service or business or organization.

LOT — A parcel of land considered as a unit, devoted to a certain use and occupied, or capable of being occupied, by a building or group of buildings that are united by a common interest or use, and the customary accessory uses and open space belonging to same.

LOT AREA — The square footage or acreage contained within the boundaries of a lot. Any portion of a lot included in a public road, street or highway right-of-way shall not be included in calculating lot area.

LOT, CORNER — A parcel of land at the junction of, and fronting on, two or more intersecting streets. All corner lots shall be deemed to have two front yards, two side yards and no rear yard.


LOT DEPTH — The minimum horizontal distance from the front lot line of a lot to the rear line, measured at right angles (90°) to the front lot line.

LOT, FLAG — An approved lot having less lot width than otherwise normally required for the zoned district, but in no instance less than 100 feet in lot width, that provides access to the interior portion of the flag lot which contains the minimum lot area requirements for said district. The access portion of the flag lot shall not be considered buildable and may not be used in calculation of the minimum lot area requirements for the zoned district.

LOT, FLAG, ACCESS — The panhandle portion of a flag lot that provides an access corridor between a road, street or highway right-of-way to the interior portion of a flag lot consistent with the New York State Town Law.

LOT FRONTAGE — The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots, all sides of a lot adjacent to streets shall be considered front yards.

LOT LINE, FRONT — The line separating the lot from the boundary of the highway or right-of-way upon which the lot abuts.

LOT LINE, REAR — The lot line opposite and most distant from the front lot line.

LOT LINE, SIDE — The lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a "side street lot line."

LOT, THROUGH — A lot which is not a corner lot and which has frontage on two streets.

LOT WIDTH — The horizontal distance across the lot between side lot lines at the street line.

MERCHANDISING — The selling, bartering or trading of, or offering to sell, barter or trade, any goods, wares, commodities or services.

MINING PERMIT — A valid permit from the New York State Department of Environmental Conservation issued pursuant to Title 27, Article 23, of the Environmental Conservation Law. See also Chapter 97, Excavations, of the Town Code.

MINOR — A person under 18 years of age.

MOBILE HOME — A portable unit designed and built to be towed on its own chassis, comprised of frame and wheels, connected to utilities and designed without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity, as well as two or more separately towable

(If additional space is needed, attach pages the same size as this sheet, and number each.)
components designed to be joined into one integral unit capable of again being separated into the components for repeated towing. Such definition does not include travel trailers, motorized homes, pickup coaches and camping trailers.

MOTEL — A building or buildings containing sleeping units for transient guests and providing accessory off-street parking facilities and which may include restaurant facilities and a dwelling unit for a bona fide caretaker or operator.

MOTOR VEHICLE — Every vehicle which is propelled by a power other than muscular power, except electrically driven invalid chairs being operated or driven by an invalid. Motor vehicles shall include but not be limited to automobiles, trucks, motorcycles, motorbikes, boats, all-terrain vehicles, snowmobiles, etc.

MOTOR VEHICLE SERVICE STATION — A building and/or premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail and where, in addition, the following services may be rendered and sales made, and no other:

A. Sales and servicing of spark plugs, distributors and distributor parts.
B. Tire servicing and repair, but not recapping or regrooving.
C. Replacement of mufflers and tailpipes, water hoses, fan belts, brake fluids, light bulbs, fuses, floor mats, seat covers, windshield wiper blades, grease retainers, wheel bearings, mirrors and the like.
D. Radiator cleaning and flushing.
E. Washing and polishing and the sale of automotive washing and polishing materials.
F. Greasing and lubrication.
G. Replacing or repairing of carburetors, fuel pumps, oil pumps and lines.
H. Emergency wiring repairs.
I. Adjusting and repairing brakes.
J. Minor motor adjustments not involving removal of the head or crankcase or racing the motor.
K. Sale of cold drinks, packaged foods, tobacco and similar convenience goods for the service station's customers as accessory and incidental to the principal operation.
L. Provision of road maps and other informational material to customers; provision of rest room facilities.

MUNICIPAL SOLID WASTES — All normal residential or commercial waste materials generated within the Town of Mendon.

NATIONAL GEODE蒂C VERTICAL DATUM (NGVD) — A vertical control used as a reference for establishing varying elevations within the floodplain.

NEIGHBORHOOD CHARACTER — The atmosphere or physical environment which is created by the combination of land use and buildings within an area. Neighborhood character is established and influenced by land use types and intensity, traffic generation and also by the location, size and design of structures as well as the interrelationship of all these features.

NONCONFORMING BUILDING OR STRUCTURE — Any building or structure existing at the date of enactment of the Town of Mendon's Zoning Code, local laws or regulations which in its design or location upon a lot does not conform to the new regulations for the district in which it is located.

NONCONFORMING LOT — A lot of record existing at the date of the enactment of the Town of Mendon's Zoning Code, local laws or regulations which does not have the minimum width, depth and area by the new regulations for the district in which it is located.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
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NONCONFORMING USE — Any use of land, buildings or structures lawfully existing on the date of enactment of the Town of Mendon's Zoning Code, local laws or regulations which does not conform to the use regulations of the district in which it is situated.

NOTICE OF VIOLATION — A notice issued by the Code Enforcement Officer advising the owner or occupant of a premises upon which there is an indication of a violation of any provision of this Code. A notice of violation shall specify the condition violating the Code, the section violated, the remedial steps required to abate the violation and the time in which said steps shall be taken.

OFFICE PARK — A group of contiguous or separate business offices in one or more buildings sharing a common parking lot, with each business office having an outside entrance.

OFF-PREMISES SIGN — Any sign that is not located on the premises or property of the business being advertised.

ON-PREMISES SIGN — A sign relating in its subject matter to the premises on which it is located or to products, accommodations, services or activities on the premises.

OPEN BURNING — Any fire wherein the products of combustion are emitted into the open air and are not directed through a stack or chimney or an approved incinerator.

OPEN SPACE — Area unoccupied by any building, structure or parking area, whether paved or unpaved.

OPERATOR — A person who shall maintain, or supervise the use of, any parcel of land.

OUTDOOR FURNACE — Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space.

OUTDOOR RECREATIONAL AND/OR ATHLETIC FACILITY — Outdoor facilities include, but are not limited to, individual sports such as golf, tennis, swimming, shooting and horseback riding which take place primarily out-of-doors. Also included would be team sports requiring use of playing fields or outdoor ice rinks. Internal combustion engine based activities or sports shall not be included or permitted. Outdoor facilities may contain accessory structures wherein the same sports are played.

OVERBURDEN — Soil and all other natural material, other than vegetation, overlying the material to be excavated.

OWNER OF VEHICLE — Any person, firm, corporation or association having the property in or title to a vehicle, including a person entitled to the use and possession of a vehicle subject to a security interest in another person and including any lessee or bailee of a vehicle having the use thereof under lease or otherwise.

PARCEL — Land identified by a legal description and tax account number which is filed or proposed to be filed in the Monroe County Clerk's office.

PARKING SPACE, OFF-STREET — A space adequate for parking an automobile and having an area of not less than 162 square feet per vehicle, exclusive of passageways and driveways appurtenant thereto.

PERMITTED USE — Any use listed in any zoning district as permitted.

PERSON — Any individual, firm, partnership, corporation, association, trustee, receiver or assignee or person acting in any other representative capacity.

PLAN — A drawing on a flat surface showing the requirements as specified by the Town of Mendon Code and the Town of Mendon design criteria. This may be supported with written information where necessary for clarification.

PLAN, FINAL — A complete and exact subdivision or site plan, prepared for official recording as required by statute, to define property rights and proposed streets and other improvements.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

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PLANNED UNIT DEVELOPMENT (PUD) — An integrated and coordinated development of various land uses developed in accordance with the regulations prescribed under the provisions of the Town Code Chapter 200, Zoning.

PLAN, PRELIMINARY — A tentative subdivision or site plan, in lesser detail than a final plan, showing approximate proposed streets and lot layout as a basis for consideration prior to preparation of a final plan.

PLAN, SKETCH — An informal plan, drawn to scale, indicating salient existing features of a tract and its surroundings and the general layout of the proposed subdivision or site.

PLAT — A drawing prepared in a manner prescribed by Chapter 174, Subdivision of Land, of the Town Code for filing in the office of the County Clerk that shows a proposed subdivision, containing in such additional detail as required to be shown on a preliminary plat and the modifications, if any, required by the Planning Board at the time of approval of the preliminary plat.

PORTABLE SIGN — Any sign not permanently affixed to the ground or to a building, including any sign attached to or displayed on wheels or on a vehicle that is used for the expressed purpose of advertising a business establishment, product, service or entertainment when that vehicle is so parked as to attract the attention of motoring or pedestrian traffic.

PRELIMINARY PLAT — A drawing prepared in accordance with Chapter 174, Subdivision of Land, of the Mendon Town Code showing the approximate manner in which a tract of land is proposed to be subdivided and including preliminary design data for related improvements.

PREMISES or PROPERTY — All parcels of real property privately or publicly owned, situated in the Town of Mendon, outside the Village of Honeoye Falls, whether occupied or vacant.

PRINCIPAL BUILDING — A building in which is conducted the main or principal use of the lot on which said building is located.

PRINCIPAL USE — The main or primary purpose for which a building, structure or lot is to be used.

PROFESSIONAL AND BUSINESS OFFICES — Include but are not limited to the following services: architect, landscape architect, doctor, dentist, insurance agency, lawyer, engineer, accountant and realtor.

PROJECTING SIGN — A sign that is affixed to a building or other structure and that has its furthest edge extending more than six inches beyond the surface to which it is affixed.

PUBLIC AND SEMIPUBLIC BUILDINGS AND USES — Any one or more of the following uses, including grounds and accessory buildings necessary for their use:

A. Churches, places of worship, parish houses and convents.
B. Public parks, playgrounds and recreational areas when authorized or operated by a governmental authority.
C. Nursery schools, elementary schools, secondary schools, colleges or universities having a curriculum approved by the Board of Regents of the State of New York.
D. Public libraries and museums.
E. Fire, ambulance and public safety buildings.
F. Hospitals for the care of human beings, nursing homes, convalescent homes, homes for the adults, homes for the aged or residences for adults as the same are defined under the Public Health Law or the Social Services Law of the State of New York, provided that they are duly licensed by the State of New York.
G. Membership corporations established for cultural, social or recreational purposes.
H. Day-care centers and nursery schools approved by the New York State Department of Social Services.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
PUBLIC WAY — Any right-of-way open to the public for vehicular or pedestrian access.

REAL ESTATE SIGN — Any sign which is used to offer real property for sale, lease or rent.

RECORD DRAWINGS — Drawings which reflect actual site development submitted upon completion of subdivision or site plan approval(s) and prior to dedication.

REFUSE — All putrescible and nonputrescible wastes, including but not limited to garbage, trash, rubbish and similar used, discarded or waste materials that are in a solid state, except human waste, and shall include but not be limited to construction and demolition debris.

RESERVATION FOR HIGHWAY PURPOSES — A strip of land between the existing right-of-way line and the future right-of-way line of a highway, as determined by the agency having jurisdictional responsibility over the maintenance and construction of the highway. Where a reservation is required, the front lot line shall be considered to be coincident with the future right-of-way line, with front setbacks and any other necessary lot measurements being measured from the future right-of-way line. Where there is no requirement for a reservation for highway purposes, the front lot line shall be considered to be coincident with the existing right-of-way line, with front setbacks and any other necessary lot measurements being measured from the existing right-of-way line.

RESTAURANT — A business establishment, or an area within a business establishment, specializing in the preparation of food items in individual or multiple-serving portions which are intended for on-premises, take-out or delivered consumption by customers without the necessity of preparation by the customer. Included in this definition are full-service restaurants, pizzerias, cafes, coffee shops, donut shops, bagel shops, ice cream shops, fast-food restaurants, take-out restaurants, delivery restaurants, buffet-style restaurants, cafeterias and similar establishments having 14 or more seats. Specialty food stores may also be included in this definition if a determination is made that a substantial portion of their business is generated from individual portion sales.

RESTORATION — The reparation, to an environmentally acceptable natural state, of an area which has undergone physical change due to excavation and related activities.

RESUBDIVISION — A change in a map of an approved or filed subdivision plat if such change affects any street layout shown on such map or area reserved thereon for public use, or any change of a lot line.

RIGHT-OF-WAY OR HIGHWAY LINE — The line, present or proposed, which is the joint boundary line between a lot and the street or highway right-of-way.

SANITARY LANDFILL — A disposal area conducted in compliance with the regulations prescribed in the Town Code.

SERVICE STATION — Buildings and premises where gasoline, oil, grease, batteries, tires and/or automobile accessories may be supplied and dispensed at retail.

SETBACK — The distance between the street line, rear or side lines of the lot, and the front, rear and side lines of the building. All measurements shall be made at right angles to or radially from the lot lines to the nearest portion of the building lines. Setbacks from street lines to building lines are defined as "front setbacks." Setbacks from side lot lines are "side setbacks." Setbacks from rear lot lines are "rear setbacks."

SHOPPING CENTER — A group of stores, shops and similar establishments occupying adjoining structures or two or more commercial buildings located on a single lot or adjacent lots, with such buildings developed as part of a single integrated development with a common architectural design.

SIGHT DISTANCE — The minimum extent of unobstructed vision along a street as defined by AASHTO and NYSDOT.

SIGN, CHANGEABLE-COPY — An announcement sign which makes provision for changing letters and other copy. As copy identifying the name, address and location of a business does not routinely need to be changed, a changeable-copy sign will generally be a business advertising sign as well.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

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SIGN COMPLIANCE CERTIFICATE — A certificate issued by the Code Enforcement Officer attesting that a sign described therein has been erected in compliance with Chapter 200, Zoning, and any permit issued therefor. Generally, commercial speech signs require a sign compliance certificate; noncommercial speech signs do not.

SIGN, DIRECTIONAL — A sign that directs attention to the location of a local service or place of business.

SIGN FACE — The surface of the sign having a single continuous perimeter enclosing all elements which form an integral part of the sign.

SIGN, FREESTANDING — A sign or sign support structure that is not attached to or part of a building or structure.

SIGN, GROUND — A sign supported by a pole, uprights or braces which are placed in or on the ground.

SIGN HEIGHT — A measure of the distance from the edge of a sign nearest the ground to the edge furthest from the adjacent ground.

SITE PLAN — A plan, to scale, showing uses and structures proposed for a parcel of land, including lot lines, streets, existing and proposed buildings and structures, topography, rights-of-way, parking areas, open space, and any other information deemed necessary by the Code Enforcement Officer, Planning Board, Zoning Board of Appeals, or Town Board.

SKETCH PLAN — A drawing prepared in accordance with Chapter 174, Subdivision of Land, of the Mendon Town Code showing in sketch form the general manner in which a tract of land is proposed to be subdivided.

SPECIAL USE — A use listed as a special permitted use in a zoning district. A special use requires application made in accordance with procedures and specifications set forth in the Town of Mendon Zoning Code. The term does not include use variances.

SPECIAL USE PERMIT — A permit issued by the Planning Board for a use of land listed as a special permitted use in each of the respective zoning districts and based upon the criteria for granting special use permits set forth in Chapter 200, Zoning. The term "special use permit" replaces the term "conditional use permit."

SPECIFIED SEXUAL ACTIVITIES — Any of the following:
A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
B. Sex acts, normal or perverted, actual or simulated, including intercourse, or copulation or sodomy;
C. Masturbation, actual or simulated; or
D. Excretory functions as part of or in connection with any of the activities set forth in Subsection A, B or C above.

STABLE — A building in which any horses are kept for remuneration, hire or sale.

STORY — That portion of a building included between the surface of the floor and the ceiling next above it, having a vertical distance of at least seven feet five inches along the studs forming each exterior wall. The first story is the lowest story with 75% or more above the average level of ground adjacent to said building.

STREET — A strip of land, including the entire right-of-way, intended for use as a means of vehicular and pedestrian circulation. The term also includes highways and roads. Classes of streets are as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.) (132)
A. COLLECTOR STREETS — Those which, in addition to giving access to abutting properties, intercept minor streets and provide routes, carrying considerable volumes of traffic, to community facilities and to major traffic streets, and include streets classified as secondary streets in the Comprehensive Plan and the Transportation Master Plan.

B. MAJOR TRAFFIC STREETS — Those streets classified by the New York State Department of Transportation as serving large volumes of comparatively high-speed and long-distance traffic. The term includes streets classified as principal and minor arterials, major and minor collectors as delineated in Chapter 2 and on Figure 2-7 in the Town of Mendon Comprehensive Plan and in the Town of Mendon Transportation Master Plan.

C. MINOR STREETS — Those streets classified as local streets in Chapter 2 and on Figure 2-7 in the Town of Mendon Comprehensive Plan and in the Town of Mendon Transportation Master Plan which are used primarily to provide access to abutting property.

D. MARGINAL ACCESS STREETS — Minor streets, parallel and adjacent to major traffic streets, providing access to abutting properties and control of intersections with the major traffic streets.

E. PUBLIC — A street dedicated to public use.

F. RESIDENTIAL — A street between two intersecting streets upon which an R District abuts or where 50% or more of the abutting street frontage is in predominantly residential use.

STREET GRADE — The grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.

STREET LINE — The line separating a lot from a street.

STRIP MALL — A linear, contiguous grouping of buildings with businesses, each having a separate entrance and sharing the same parking lot.

STRUCTURE — Anything constructed or erected which requires temporary or permanent support or attachment to the ground, beneath the ground or to something having permanent location on the ground, including gasoline and oil tanks, buildings, docks, mobile homes, fences, signs, billboards, swimming pools, towers, antennas and satellite TV dishes. It also means a walled and roofed building, including a gas or liquid storage tank, that is principally above the ground, as well as a manufactured home.

STRUCTURE, HEIGHT OF — The vertical distance measured from the average grade level to the highest point.

SUBDIVIDER — The owner, or authorized agent of the owner, of a subdivision.

SUBDIVISION — The division of any parcel of land into two or more lots along an existing street, highway, easement or right-of-way or any proposed subdivision of land along a proposed street or highway for sale or for rent as residential, commercial or industrial lots or building lots and which are described by metes and bounds or by reference to a map or survey of the property or by any other method of description.

SUBDIVISION PLAT — Drawings prepared in accordance with Chapter 174, Subdivision of Land, of the Mendon Town Code showing definitively a proposed subdivision of a tract of land and plans for related improvements.

SWIMMING POOL — Any man-made body of water or receptacle for water, except farm or agricultural ponds, which has a capability of a depth of more than two feet at a point, used or intended to be used for swimming, bathing or wading and installed or constructed above or below the ground.

TEMPORARY USE — An activity conducted for a specific limited period of time which may not otherwise be permitted by Town ordinances, laws or regulations. Examples of such uses are structures incidental to new construction which shall be removed after the completion of the construction work.

TOPSOIL — The layer of surface material which is composed of particles not larger than two inches in diameter, of which not less than 90% will pass a No. 4 sieve, and not less than 25% nor more than 75% (If additional space is needed, attach pages the same size as this sheet, and number each.)
will pass a No. 200 sieve, which contains not less than 3% nor more than 20% organic material, which has an acidity range of 5.5 pH to 7.6 pH and which is capable of nurturing ornamental plants.

TOWER — Includes any structure, including dish antennas, whether attached to a building or freestanding and whether guyed or self-supporting, designed to be used as or for the support of devices to be used for the transmission and/or reception of radio frequency signals, including but not limited to broadcast, shortwave, citizens band, FM or television signals or wind-driven devices such as windmills or wind speed and/or direction indicators.

TOWN COMPREHENSIVE PLAN — A Comprehensive Plan prepared for the residents of the Town of Mendon and adopted by Town Board resolution in accordance with the provisions of § 272-a of the New York Town Law. The term also includes master plans, which are functional plans prepared on one or more elements of the Comprehensive Plan (i.e., Hamlet Master Plan, Utilities Master Plan, etc.) and adopted by Town Board resolution as formal amendments to the Comprehensive Plan.

TOWNHOUSE — An independent single-family dwelling unit which is one of a series of dwelling units, having a common party wall between each adjacent unit, each with private outside entrance.

TOWNHOUSE CLUSTERS — A building, or group of buildings, with each building containing not more than eight townhouse dwelling units connected by common party walls.

TOWNHOUSE DEVELOPMENTS — A tract of land adequately sized to accommodate the construction of townhouse dwelling units in accordance with the density standards contained elsewhere in these regulations.

TRACK — An area where the ground cover has been reduced, denuded or paved as a consequence of, or for the purpose of, motorized off-road vehicle use.

TRACT — Any body of land, including contiguous parcels of land, under one ownership or under common control of any group of persons acting in concert as part of a common scheme or plan.

TRASH — Rubbish, such as feathers, coffee grounds, ashes, tin cans, paper, glass, wood, leaves, yard clippings, tree trimmings and similar materials.


UNLICENSED VEHICLE — Any vehicle which may be licensed or registered with the State of New York and is not currently registered. The fact that a vehicle which may be licensed or registered with the State of New York does not display a current license plate or displays an expired registration shall be presumptive evidence of the fact that such motor vehicle is not currently licensed or registered. Seasonal motor vehicles having a license plate or registration sticker that expired less than six months previously shall not be considered unlicensed.

VARIANCE — An authorization by the Zoning Board of Appeals for the construction or maintenance of a building or structure, or the establishment or maintenance of a use of land which is otherwise prohibited by the Town Code.

VARIANCE, AREA — A variance not involving a use prohibited by the Town Zoning Code or ordinance. Area variances involve matters such as setback lines, frontage requirements, lot size restrictions, density regulations, yard requirements and sign sizes.

VARIANCE, USE — A variance which permits a use of land otherwise prohibited or proscribed by the Town Zoning Code or ordinance.

VEHICLE — Every motor vehicle or other conveyance originally designed and intended to be operated, drawn or driven or capable of being operated, drawn or driven upon a public highway by any power other than muscular power, together with all conveyances popularly referred to as "snowmobiles," "all-terrain vehicles" and "jitneys," as well as any other substantially rebuilt, modified or altered motor vehicles. For the purpose of this Code, the term "motor vehicle" shall include but not be limited to automobiles, trucks, buses, motorcycles and trailers. Vehicles operated solely for farming purposes are excluded.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(134)
VETERINARY CLINIC FOR SMALL ANIMALS — An establishment for the veterinary care of small domestic animals, specifically excluding hoofed animals, which is operated by a licensed veterinarian with boarding only as required and incidental to the care of such animals.

WASTE, SOLID OR LIQUID — Constitutes any material temporarily or permanently discarded, or unwarranted, and not stored in a verminproof, sealed enclosure or structure for subsequent disposal.

WINDMILL — A device which converts wind energy by means of a rotor to mechanical or electrical energy. A wind generator may also be deemed "windmill."

YARD — An open space unoccupied and unobstructed by any structure or portion of a structure and situated between the principal building or group of buildings and the nearest lot line.

YARD, FRONT — A yard extending between the side lot lines across the front of a lot which runs parallel with the adjoining public street. The front yard of a flag lot includes only the interior or buildable portion of the lot and does not include the portion of the lot which provides access to a public street. (See "lot, flag.") The front yard does not include the driveway. Where a lot abuts more than one dedicated street, the front yard shall be determined by the address.

YARD, REAR — A yard extending between the side lot lines situated between the rear line of the building and the rear lot line.

YARD SALE — A temporary retail sale conducted in the yard, garage or driveway of a residence by the resident.

YARD, SIDE — A yard extending between the side building line and the nearest side lot line; situated between the front and rear yards.

ZONING DISTRICT — The classification of lands as established in the Town Zoning Code, Chapter 200 of the Town Code.

§ 86-5. Exempted chapter definitions.
The definitions in the following chapters of the Code of the Town of Mendon shall remain in force and effect:

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(If additional space is needed, attach pages the same size as this sheet, and number each.)
SECTION 4. Severability.
If any clause, sentence, paragraph, section, article or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 5. When Effective.
This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
(Complete the certification in the paragraph that applies to the filing of this local law and strikeout that which is not applicable.)

1. **(Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2013 of the Town of Mendon was duly passed by the Mendon Town Board on October 7, 2013, in accordance with the applicable provisions of law.

2. **(Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2013 of the (County) (City) (Town) (Village) of __________________________ was duly passed by the (Name of Legislative Body) __________________________ on __________ 2013, and was (approved) (not approved) (repassage after disapproval) by the (Elective Chief Executive Officer*) __________________________ and was deemed duly adopted on __________ 2013, in accordance with the applicable provisions of law.

3. **(Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2013 of the (County) (City) (Town) (Village) of __________________________ was duly passed by the (Name of Legislative Body) __________________________ on __________ 2013, and was (approved) (not approved) (repassage after disapproval) by the (Elective Chief Executive Officer*) __________________________ on __________ 2013. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on __________________________ 2013, in accordance with the applicable provisions of law.

4. **(Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2013 of the (County) (City) (Town) (Village) of __________________________ was duly passed by the (Name of Legislative Body) __________________________ on __________ 2013, and was (approved) (not approved) (repassage after disapproval) by the (Elective Chief Executive Officer*) __________________________ on __________ 2013. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of __________________________ 2013, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

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5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. ______ of 20____ of the City of ________________ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on ____________ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. ______ of 20____ of the County of ________________, State of New York, having been submitted to the electors at the General Election of November ______ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

__________________________
Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal) Date: _____________________
Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City
Town
Village

of MENDON

Local Law No. 1 of the year 2013

A Local Law entitled "Hydraulic Fracturing and Related Activities Moratorium Local Law" of the Town of Mendon.

Be it enacted by the Town Board of the

County
City
Town
Village

of MENDON as follows:

Section I. Title
This Local Law shall be known as the "Hydraulic Fracturing and Related Activities Moratorium Local Law" of the Town of Mendon.

Section II. Purpose
While hydraulic fracturing and directional gas drilling are not currently permitted uses in any zoning district in the Town of Mendon, the Town Board desires to take further steps to ensure that neither hydraulic fracturing, ir directional gas drilling nor any ancillary or related uses or activities take place within the Town, pending review, drafting and adoption of Town Code provisions relevant to such activities. Serious health and environmental impacts caused by these uses could threaten the health of the residents of the Town, could require the use of massive amounts of water, or the transportation of massive amounts of water causing impact to Town highways and could cause other aesthetic, environmental and public health impacts, resulting in the degradation of the quality of life in the Town of Mendon and the Town's infrastructure. It is the purpose of this local law to enable the Town to have sufficient time to consider, draft and enact a local law or laws relating to hydraulic fracturing, directional gas drilling and related or ancillary uses to avoid such negative impact within the Town of Mendon.

Section III. Moratorium
The Town Board hereby enacts a Moratorium which shall prohibit the review of any application, the grant of any approval or permit, the issuance of any use or area variance, the grant of any preliminary or final site plan or subdivision approval, and/or the issuance of any other Town approval or permit relating to any wells involving the practices involving of directional gas drilling or hydraulic fracturing, or any use, business or project involving the storage or vehicular transport of water to be used for hydraulic fracturing or any hydraulic fracturing fluids or waste materials on, over, or about any real property within the Town.

Section IV. Supersession of Provisions of State Law
This Local Law is enacted pursuant to Section 10 of the Municipal Home Rule Law, and under Section 22 of such Law, is intended to supersede Town Law Sections 261-a, 264, 267, 267-a, 267-b, 273, 274-a, 274-b, 276, 277, 278, 279, 280, and 280-a, as well as all inconsistent provisions of the Town of Mendon Code or Town ordinances.

Section V. Term of Moratorium
This Local Law and the Moratorium established hereunder, shall expire one year from its effective date.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
Section VI. Effective Date
This Local Law shall take effect immediately upon filing with the Secretary of State.

Section VII. Severability
If any clause, sentence, phrase, paragraph or any part of this Local Law shall for any reason be adjudicated finally by a court or competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Local Law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this Local Law would have been adopted had any such provision been excluded.
(Complete the certification in the paragraph that applies to the filing of this local law and strikeout that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2013 of the (County) (City) (Town) (Village) of MENDON was duly passed by the Town Board on February 11, 2013, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County) (City) (Town) (Village) of was duly passed by the (Name of Legislative Body) on 20, and was (approved) (not approved) (repassed after disapproval) by the (Elective Chief Executive Officer*) and was deemed duly adopted on 20, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County) (City) (Town) (Village) of was duly passed by the (Name of Legislative Body) on 20, and was (approved) (not approved) (repassed after disapproval) by the (Elective Chief Executive Officer*) on 20. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on 20, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County) (City) (Town) (Village) of was duly passed by the (Name of Legislative Body) on 20, and was (approved) (not approved) (repassed after disapproval) by the (Elective Chief Executive Officer*) on 20. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of 20, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

(If additional space is needed, attach pages the same size as this sheet, and number each.)
5. (City-local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. __________ of 20____ of the City of ________________ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on __________ 20____, became operative.

6. (County-local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. __________ of 20____ of the County of ________________, State of New York, having been submitted to the electors at the General Election of November _______ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

______________________________________________
Town Clerk

(Seal)  
Date: February 27, 2013

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF MONROE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

______________________________________________
Signature

Town Attorney
Title

Town of MENDON

Date: February 27, 2013
WHEREAS, the Town Board duly scheduled a Public Hearing to be held on the ___ day of ____________, 2012 at 7:00 p.m., to consider the adoption of a proposed Local Law of 2012 entitled “Hydraulic Fracturing and Related Activities Moratorium Local Law” for the Town of Mendon, Monroe County, New York; and

WHEREAS, such public hearing was duly called and held and all persons having an interest in the matter having had an opportunity to be heard; and

WHEREAS, the adoption of a moratorium is a Type II action under the State Environmental Quality Review Act; and

WHEREAS, based on the testimony and materials received at the public hearing, the Town Board deems it necessary and advisable to adopt the proposed Local Law.

NOW, THEREFORE, on motion of ______________________, seconded by ______________________,

BE IT RESOLVED, that the Town Board of the Town of Mendon, pursuant to the provisions of Article 3 of the Municipal Home Rule Law of the State of New York, hereby adopts the Local Law of 2012 entitled “Hydraulic Fracturing and Related Activities Moratorium Local Law” as attached hereto as Exhibit “A”, for the Town of Mendon, Monroe County, New York.
LOCAL LAW OF 2012
TOWN OF MENDON
“HYDRAULIC FRACTURING AND RELATED ACTIVITIES MORATORIUM LOCAL LAW”

Section 1. Title
This Local Law shall be known as the “Hydraulic Fracturing and Related Activities Moratorium Local Law” of the Town of Mendon.

Section 2. Purpose
While hydraulic fracturing and directional gas drilling are not currently permitted uses in any zoning district in the Town of Mendon, the Town Board desires to take further steps to ensure that neither hydraulic fracturing, directional gas drilling nor any ancillary or related uses or activities take place within the Town, pending review, drafting and adoption of Town Code provisions relevant to such activities. Serious health and environmental impacts caused by these uses could threaten the health of the residents of the Town, could require the use of massive amounts of water, or the transportation of massive amounts of water causing impact to Town highways and could cause other aesthetic, environmental and public health impacts, resulting in the degradation of the quality of life in the Town of Mendon and the Town’s infrastructure. It is the purpose of this local law to enable the Town to have sufficient time to consider, draft and enact a local law or laws relating to hydraulic fracturing, directional gas drilling and related or ancillary uses to avoid such negative impact within the Town of Mendon.

Section 3. Moratorium
The Town Board hereby enacts a Moratorium which shall prohibit the review of any application, the grant of any approval or permit, the issuance of any use or area variance, the grant of any preliminary or final site plan or subdivision approval, and/or the issuance of any other Town approval or permit relating to any wells involving the practices involving of directional gas drilling or hydraulic fracturing, or any use, business or project involving the storage or vehicular transport of water to be used for hydraulic fracturing or any hydraulic fracturing fluids or waste materials on, over, or about any real property within the Town.

Section 4. Supersession of Provisions of State Law
This Local Law is enacted pursuant to Section 10 of the Municipal Home Rule Law, and under Section 22 of such Law, is intended to supersede Town Law Sections 261-a, 264, 267, 267-a, 267-b, 273, 274-a, 274-b, 276, 277, 278, 279, 280, and 280-a, as well as all inconsistent provisions of the Town of Mendon Code or Town ordinances.

Section 5. Term of Moratorium
This Local Law and the Moratorium established hereunder, shall expire one year from its effective date.
Section 6. **Effective Date**

This Local Law shall take effect immediately upon filing with the Secretary of State.

Section 7. **Severability**

If any clause, sentence, phrase, paragraph or any part of this Local Law shall for any reason be adjudicated finally by a court or competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Local Law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this Local Law would have been adopted had any such provision been excluded.