

Part I: General Provisions

Chapter 1

ADOPTION OF CODE

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Town of Mendon, as codified by General Code, and consisting of Chapters 1 through 260, together with an Appendix, shall be known collectively as the "Code of the Town of Mendon," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Town of Mendon" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of the prior 1994 Code, local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, are intended as a continuation of such prior Code, local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior Code, local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Town Board of the Town of Mendon, and it is the intention of said Town Board that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of the prior 1994 Code, local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

§ 1-3. Repeal of inconsistent enactments.

Except as provided in § 1-4, Enactments saved from repeal; matters not affected, below, all portions of the prior 1994 Code, local laws and ordinances, or parts of such prior Code, local laws or ordinances, inconsistent with the provisions contained in the Code adopted by this local law are hereby repealed as of the adoption and filing of this local law as set forth in § 1-13; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Town of Mendon which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

§ 1-4. Enactments saved from repeal; matters not affected.

The repeal of local laws and ordinances provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued or incurred under any legislative provision of the Town of Mendon prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of Mendon or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the Town of Mendon.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Mendon.
- E. Any local law or ordinance of the Town of Mendon providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Town of Mendon or any portion thereof.
- F. Any local law or ordinance of the Town of Mendon appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Town of Mendon or other instruments or evidence of the Town's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract, agreement or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any local law or ordinance relating to salaries and compensation.
- K. Any local law or ordinance amending the Zoning Map.
- L. Any local law or ordinance relating to or establishing a pension plan or pension fund for Town employees.
- M. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the Town.
- N. Any local law or ordinance adopted subsequent to March 12, 2018.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation 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, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1-6. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk of the Town of Mendon and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified by the Town Clerk of the Town of Mendon by impressing thereon the Seal of the Town of Mendon, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the Town of Mendon" or any new local laws, ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the Town to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be published and, as provided hereunder, inserted in the Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Town Board deems desirable.

§ 1-8. Code to be kept up-to-date.

It shall be the duty of the Town Clerk to keep up-to-date the Code of the Town of Mendon. All changes in said Code and all local laws, ordinances and resolutions adopted by the Town Board subsequent to the enactment of this local law in such form as to indicate the intention of said Town Board to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws, ordinances

or resolutions until such changes, local laws, ordinances or resolutions are published as supplements to said Code.

§ 1-9. Sale of Code; supplementation.

Copies of the Code, or any chapter or portion of it, may be purchased from the Town Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by resolution of the Town Board. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

§ 1-10. Penalties for tampering with Code.

Any person who alters or tampers with the Code of the Town of Mendon in any manner whatsoever which will cause the legislation of the Town of Mendon to be misrepresented thereby, or who violates any other provision of this local law, shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.

§ 1-11. Changes in previously adopted legislation; new provisions.

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Mendon, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.
- B. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)

§ 1-12. Incorporation of provisions into Code.

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the Town of Mendon, such local law to be entitled "General Provisions, Article I, Adoption of Code," and the sections of this local law shall be numbered §§ 1-1 to 1-13, inclusive.

§ 1-13. When effective.

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

Chapter 5

DEFINITIONS AND WORD USAGE

§ 5-1. Purpose and scope.

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 § 5-5, Exempted chapter definitions). Unless otherwise indicated, this chapter will apply to all chapters within the Code.

§ 5-2. 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. The word "lot" includes the words "plot," "parcel," or "tract."
- 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 "designed, intended or arranged to be used or occupied."
- J. "Shall" is mandatory and not discretionary; "may" is permissive.

§ 5-3. Administrative agencies and officials.¹

As used in the Town Code, the following terms shall have the meanings indicated:

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.

1. **Editor's Note: The following definitions were deleted from this section 10-15-2018 by L.L. No. 3-2018: County Planning Board; news media.**

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 Public 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.**[Amended 10-15-2018 by L.L. No. 3-2018]**

EMPLOYEE — Any commissioner, member of a public board or commission, trustee, director, officer, employee, volunteer expressly authorized to participate in a publicly sponsored volunteer program or any other person holding a position by election, appointment or employment in the service of the Town, whether or not compensated, but shall not include an independent contractor. The term "employee" shall include a former employee, his or her estate or judicially appointed personal representative.**[Added 10-15-2018 by L.L. No. 3-2018]**

INTEREST — **[Amended 10-15-2018 by L.L. No. 3-2018]**

- A. A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the Town.
- B. For the purposes of this Code, a municipal officer or employee shall be deemed to have an interest in the contract of:
 - (1) His spouse, minor children and dependents, except a contract of employment with the Town;
 - (2) A firm, partnership or association of which such officer or employee is a member or employee;
 - (3) A corporation of which such officer or employee is an officer, director or employee; and
 - (4) A corporation any stock of which is owned or controlled directly or indirectly by such officer or employee.

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.

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.²

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.

TOWN ZONING CODE — The Zoning Law of the Town of Mendon, also commonly known as Chapter 260 of the Town of Mendon Code.

§ 5-4. General definitions.³

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 from 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

2. **Editor's Note: The definition of "Town Farmland Advisory Committee," which immediately followed this definition, was repealed 10-15-2018 by L.L. No. 3-2018.**

3. **Editor's Note: The following definitions were deleted from this section 10-15-2018 by L.L. No. 3-2018: anchor tenant; attention-getting device; building, principal; general equipment rental; laundry, self-service; lot, corner; motor vehicle; preliminary plat; reservation for highway purposes; sign compliance certificate; sign, freestanding; sketch plan.**

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 arcades; 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 and must have a current agricultural exemption. **[Amended 10-15-2018 by L.L. No. 3-2018]**

AIRSTRIP or AIRPORT — Any area of land designed for the operation of aircraft, including hangars, taxiways, landing strips and accessory uses.

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.

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. See also "lot area."

AREA, SALES — Only includes that area customarily open and accessible to the public.

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.

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. **[Amended 10-15-2018 by L.L. No. 3-2018]**

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 CODE — The New York State Uniform Fire Prevention and Building Code duly adopted by the Town of Mendon.

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.

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.

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 Chapter 226, Subdivision of Land, of the Town Code.

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.

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 as 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 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. Logistical 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 241, Uniform Code Enforcement, and Chapter 260, 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 MARKETS, PERMANENT OR TEMPORARY — Markets for the sale of seasonal agricultural products principally grown by a farmer on his/her farm operation, which could include a number of parcels owned or leased by that farmer throughout the Town, county or the state. The Town considers all such land, when it is located within a county-adopted state-certified agricultural district, as part of the farm operation. **[Added 10-15-2018 by L.L. No. 3-2018]**

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.

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.

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.

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, tin foil, 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.

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 COVERAGE — See Chapter 260, Zoning, § 260-8.

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 178, Article II, 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 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 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 GEODETIC 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, or any amendment thereto, which in its design or location upon a lot does not conform to the new regulations for the district in which it is located. **[Amended 10-15-2018 by L.L. No. 3-2018]**

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, or any amendment thereto, which does not have the minimum width, depth and area required by the new regulations for the district in which it is located. **[Amended 10-15-2018 by L.L. No. 3-2018]**

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, or any amendment thereto, which does not conform to the use regulations of the district in which it is situated. **[Amended 10-15-2018 by L.L. No. 3-2018]**

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.

PLANNED UNIT DEVELOPMENT (PUD) — An integrated and coordinated development of various land uses developed in accordance with the regulations prescribed under the provisions Chapter 260, Zoning, of the Town Code.

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 226, 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 plan and the modifications, if any, required by the Planning Board at the time of approval of the preliminary plan. **[Amended 10-15-2018 by L.L. No. 3-2018]**

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 express 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.

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.

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.

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.

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, 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.

SOLAR FARM — The use of land where a series of one or more devices or structures is constructed or installed, the purpose of which is to generate photovoltaic power in whole or in part for off-site sale or consumption. **[Added 5-8-2017 by L.L. No. 1-2017]**

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 260, 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:

- 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 STREET — A street dedicated to public use.
- F. RESIDENTIAL STREET — 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 226, 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% 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 a 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 in Chapter 260, Zoning, of the Mendon Town Code. **[Amended 10-15-2018 by L.L. No. 3-2018]**

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.

UNIFORM CODE — The New York State Uniform Fire Prevention and Building Code.

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.

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 a "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 Chapter 260, Zoning, of the Town Code.

§ 5-5. Exempted chapter definitions.

The definitions in the following chapters of the Code of the Town of Mendon shall remain in force and effect:

Chapter Number	Title
12 and following	Part II, Administrative Legislation Part III, General Legislation
105	Animals
113	Bingo and Games of Chance
117	Buildings, Unsafe
121	Burning, Outdoor
134	Electrical Inspections
138	Environmental Protection Overlay Districts
146	Fire Alarm Systems
150	Freshwater Wetlands
159	Historic Areas, Preservation of
184	Noise
200	Records
206, Art. I	Storm Sewers
212	Solid Waste
217	Stormwater Management
222	Streets and Sidewalks
230	Taxation
241	Uniform Code Enforcement
247, Art. II	Overnight Parking

Chapter 7

FEES**§ 7-1. Authority to establish fee schedules.**

The Town Board of the Town of Mendon is authorized and empowered to establish and amend, by resolution, fee schedules for the Town, its departments, boards and activities.

Chapter 9**PENALTIES AND ENFORCEMENT****§ 9-1. Penalties for offenses.**

Except as otherwise specifically provided elsewhere in this Code, any person violating any of the provisions of this Code shall, upon conviction thereof, be punished by a fine not to exceed \$250 for each offense or by imprisonment for a period of not more than 15 days, or by both such fine and imprisonment.

§ 9-2. Money judgment. [Added 7-14-1997 by L.L. No. 6-1997]

The court imposing any fine pursuant to this Code may, at its own discretion, convert any such fine to a money judgment.

Part II: Administrative Legislation**Chapter 12****BOARDS AND COMMISSIONS****GENERAL REFERENCES**

Definitions — See Ch. 5.

ARTICLE I

Environmental Conservation Board**[Adopted 8-13-2001 by L.L. No. 9-2001 (Ch. 12 of the 1994 Code)]****§ 12-1. Legislative purpose and intent. [Amended 10-15-2018 by L.L. No. 3-2018]**

The Town Board desires to have a body to review and provide input on applications for the Planning Board and the Zoning Board of Appeals regarding environmental issues.

§ 12-2. Continuation of Board.

The Town Board of the Town of Mendon hereby continues the Board, known as the "Mendon Conservation Board," hereinafter to be known as "Mendon Environmental Conservation Board," and hereinafter called the "Board," which was established by resolution of the Town Board on February 24, 1975.

§ 12-3. Membership. [Amended 5-12-2003 by L.L. No. 7-2003]

- A. The Board shall consist of five members, who shall be appointed by the Town Board and who shall serve at the pleasure of the Town Board. Persons residing within the Town of Mendon who are interested in the improvement and preservation of environmental quality shall be eligible for appointment as members of the Board. The membership shall be appointed for a two-year term. Vacancies on the Board shall be filled in the same manner as the original appointment, except that a vacancy occurring other than by the expiration of a term of office shall be filled only for the remainder of the unexpired term. **[Amended 10-15-2012 by L.L. No. 2-2012]**
- B. A member of the Town Board and other officials as may hereafter be designated by the Town Board shall be ex officio members of the Board. Ex officio members shall not be voting members.

§ 12-4. Officers, meetings, records and reports.

The Town Board shall designate a member to act as Chair. The Board shall adopt rules and procedures for its meetings. It shall keep adequate records of its meetings and activities and shall file an annual report.

§ 12-5. Powers and duties. [Amended 10-15-2018 by L.L. No. 3-2018]

The powers and duties of the Board shall be to review each application received by the Town Board, Building Department, Planning Board, Zoning Board of Appeals or other administrative body which seeks approval for the use or development of any open area listed in the open space index or other open areas deserving protection as a community resource. The Board shall submit a written report to the referral body within the time required by the

referring body. Such report shall evaluate the proposed use or development of the open area in terms of the open area planning objectives of the Town and shall include the effect of such use or development on the open space index or other plans. The report shall make recommendations as to the most appropriate use or development of the open area and may include preferable alternative use proposals consistent with open area conservation and the sound conservation of retained open spaces in areas planned for private development. A copy of every report shall be filed with the Planning Board.⁴

§ 12-6. Construal of provisions.

This article shall be deemed an exercise of the powers of the Town of Mendon to preserve and improve the quality of the natural and built environment on behalf of the present and future inhabitants of the Town. This article is not intended and shall not be deemed to impair the powers of any other public corporation.

4. Editor's Note: Original § 12-6 of the 1994 Code, Reports, which immediately followed this section, was repealed 10-15-2018 by L.L. No. 3-2018.

ARTICLE II
Library Board of Trustees
[Adopted 10-15-2012 by L.L. No. 3-2012]

§ 12-7. Authority.

This article is enacted pursuant to the authority of § 10 of the Municipal Home Rule Law authorizing towns to adopt a local law which may amend or supersede any provision of state law in relation to the property, affairs or government of the town unless there is a state legislative restriction on such amendment or supersession.

§ 12-8. Number of Trustees. [Amended 10-15-2018 by L.L. No. 3-2018]

The Town Board may establish the number of members of the Library Board of Trustees by resolution.

§ 12-9. Effective date.

This article shall take effect January 1, 2013.

Chapter 19**DEFENSE AND INDEMNIFICATION****GENERAL REFERENCES**

Definitions — See Ch. 5.

Officers and employees — See Ch. 58.

§ 19-1. Title.

This chapter shall be known as the "Legal Defense of Town Officials and Employees Law" of the Town of Mendon.⁵

§ 19-2. Defense provided; representation by attorney; payment of fees.

- A. Upon compliance by the employee with the provisions of § 19-3 of this chapter, the Town shall provide for the defense of the employee in any civil action or proceeding, state or federal, arising out of any alleged act or omission which occurred or is alleged to have occurred while the employee was acting or in good faith purporting to act within the scope of his public employment or duties. Such defense shall not be provided where such civil action or proceeding is brought by or on behalf of the Town.
- B. Subject to the conditions set forth in this chapter, the employee shall be represented by the Town Attorney or an attorney employed or retained by the Town for the defense of the employee. The employee shall be entitled to be represented by private counsel of his choice in any civil action or proceeding whenever the Town Attorney or other attorney designated by the Town determines that a conflict of interest exists, or whenever a court, upon appropriate motion or otherwise by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by counsel of his choice; provided, however, that the Town Attorney or other counsel designated by the Town may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel. Reasonable attorney's fees and litigation expenses shall be paid by the Town to such attorney employed or retained from time to time, during the pendency of the civil action or proceeding, with the approval of the Town Board.
- C. Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation expenses or the reasonableness of attorney's fees shall be resolved by the court upon motion or by way of a special proceeding.

5. **Editor's Note: Original § 10-2 of the 1994 Code, Definitions, which immediately followed this section, was repealed 10-15-2018 by L.L. No. 3-2018. See now Ch. 5, Definitions and Word Usage, of the Town Code.**

- D. Where the employee delivers process and a request for a defense to the Town Attorney or the Town Supervisor as required by § 19-3 of this chapter, the Town shall take the necessary steps on behalf of the employee to avoid entry of a default judgment, pending resolution of any question relating to the obligation of the Town to provide a defense.

§ 19-3. Responsibility of employee.

The duty to defend or indemnify and save harmless prescribed by this chapter shall be conditioned upon:

- A. Delivery by the employee to the Town Attorney or to the Town Supervisor of a written request to provide for his defense together with the original or a copy of any summons, complaint, process, notice, demand or pleading within 10 days after he is served with such document; and
- B. The full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the public entity based upon the same act or omission, and in the prosecution of any appeal.

§ 19-4. Indemnification.

- A. The Town shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in a state or federal court or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or claim arose occurred while the employee was acting within the scope of his public employment or duties; provided further that in the case of a settlement, the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement by the Town Board.
- B. Except as otherwise provided by law, the duty to indemnify and save harmless prescribed by this section shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.
- C. Nothing in this section shall authorize the Town to indemnify or save harmless an employee with respect to punitive or exemplary damages, fines or penalties or money recovered from an employee pursuant to § 51 of the General Municipal Law; provided, however, that the Town shall indemnify and save harmless its employees in the amount of any costs, attorney's fees, damages, fines or penalties which may be imposed by reason of an adjudication that an employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of this state or of the United States.

- D. Upon entry of a final judgment against the employee, or upon the settlement of the claim, the employee shall serve a copy of such judgment or settlement, personally or by certified or registered mail within 30 days of the date of entry or settlement, upon the Town Supervisor; and if not inconsistent with the provisions of this chapter, the amount of such judgment or settlement shall be paid by the Town.

§ 19-5. Employees affected; effect on worker's compensation law.

The benefits of this chapter will inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party, nor shall any provision of this chapter be construed to affect, alter or repeal any provision of the workers' compensation law.

§ 19-6. Applicability to employees in negotiating units.

The benefits of this chapter shall be extended to an employee of a negotiating unit for which an agreement has been negotiated pursuant to Civil Service Law Article 14, only if such agreement expressly so provides.

§ 19-7. Effect on insurers.

The provisions of this chapter shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

§ 19-8. Notices.

This chapter shall not in any way affect the obligation of any claimant to give notice to the Town under § 10 of the Court of Claims Act, § 51-e of the General Municipal Law or any other provision of law.

§ 19-9. Insurance.

- A. The Town is hereby authorized and empowered to purchase insurance from any insurance company created by or under the laws of this state, or authorized by law to transact business in this state, against any liability imposed by the provisions of this chapter, or to act as a self-insurer with respect thereto.
- B. All payments made under the terms of this chapter, whether for insurance or otherwise, shall be deemed to be for a public purpose and shall be audited and paid in the same manner as other public charges.

§ 19-10. Immunity.

Except as otherwise specifically provided in this chapter, the provisions of this chapter shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity to liability available to or conferred upon any unit, entity, officer or employee of the Town by, in accordance with, or by reason of any other provision of state or federal statutory or common law.

§ 19-11. Sole protection.

Benefits accorded to employees under this chapter shall be in lieu of and take the place of defense or indemnification protections accorded the same employees by any other enactment.

§ 19-12. Applicability to public library.

The provisions of this chapter shall also be applicable to the public library supported in whole or in part by the Town.

§ 19-13. Scope of coverage.

The provisions of this chapter shall apply to all actions and proceedings specified herein which have been commenced, instituted or brought on or after the effective date of this chapter.

Chapter 24**ETHICS, CODE OF****GENERAL REFERENCES**

Definitions — See Ch. 5.

Officers and employees — See Ch. 24.

Defense and indemnification — See Ch. 19.

§ 24-1. Authority and purpose.

Pursuant to the provisions of § 806 of the General Municipal Law, the Town Board of the Town of Mendon recognizes that there are rules of ethical conduct for officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the Town of Mendon. These rules shall serve as a guide for official conduct of the officers and employees of the Town of Mendon. The rules of ethical conduct of this chapter, as adopted, shall not conflict with but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.⁶

§ 24-2. Standards of conduct.

Every officer or employee of the Town of Mendon shall be subject to and abide by the following standards of conduct:

6. Editor's Note: Original § 16-2 of the 1994 Code, Definitions, as amended, which immediately followed this section, was repealed 10-15-2018 by L.L. No. 3-2018. See now the definitions in Ch. 5, Definitions and Word Usage.

- A. Gifts. He shall not, directly or indirectly, solicit any gift or accept or receive any gift having a value as provided in § 805-a of the General Municipal Law, whether in form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part. **[Amended 11-28-1994 by L.L. No. 7-1994]**
- B. Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties, except when required by law, or use such information to further his personal interest.
- C. Representation before one's own agency. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of the Town of Mendon over which he has jurisdiction or to which he has the power to appoint any member, officer or employee.
- D. Representation before any agency for a contingent fee. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his municipality, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- E. Disclosure of interest in legislation. To the extent that he knows thereof, a member of the Town Board and any officer or employee of the Town of Mendon, whether paid or unpaid, who participates in the discussion or gives official opinion to the Town Board on any legislation before said Town Board shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such legislation.
- F. Investments in conflict with official duties. He shall not invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction which creates a conflict with his official duties.
- G. Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.
- H. Future employment. He shall not, after the termination of service or employment with such municipality, appear before any board or agency of the Town of Mendon in relation to any case, proceeding or

application in which he personally participated during the period of his service or employment or which was under his active consideration.

- I. Use of Town of Mendon owned equipment or property. No officer or employee shall request or permit the use of Town of Mendon owned vehicles, equipment, material or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such officer or employee in the conduct of official business.
- J. Obligation to citizens. No officer or employee of the Town of Mendon shall use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others or grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen. An officer or employee of the Town of Mendon should not by his conduct give reasonable basis for the impression that any person can unduly influence him or improperly enjoy his favor in the performance of his official duties or that he is affected by the kinship, rank, position or influence of any party or person.

§ 24-3. Filing of claims.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the Town of Mendon or any agency thereof on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.⁷

§ 24-4. Board of Ethics.

- A. There is hereby created and established a Board of Ethics consisting of three members who shall be residents of the Town of Mendon, to be appointed by the Town Board, and who shall serve without compensation and at the pleasure of said Town Board. A majority of such members shall be persons other than officers or employees of the Town of Mendon, and one member shall be an officer or employee of the Town of Mendon.
- B. The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law and shall render advisory opinions to the officers and employees of the Town of Mendon with respect to Article 18 of the General Municipal Law and this Code of Ethics, adopted pursuant to such article, under such rules and regulations as the Board of Ethics may prescribe. In addition, the Board of Ethics may make recommendations with respect to the drafting and

7. **Editor's Note: Original § 16-5 of the 1994 Code, Distribution of Code of Ethics, as amended, which immediately followed this section, was repealed 10-15-2018 by L.L. No. 3-2018.**

adoption of amendments to the Code of Ethics upon request of the Town Board.

§ 24-5. Penalties for offenses.

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

§ 24-6. Amendments.

This Code of Ethics may be amended from time to time by the Town Board to improve the administration of the Town and protect the public or by supplementing the coverage of this code, to the extent permitted by law.

Chapter 58

OFFICERS AND EMPLOYEES

GENERAL REFERENCES

Definitions — See Ch. 5.

Code of Ethics — See Ch. 24.

Defense and indemnification — See Ch. 19.

ARTICLE I

**Residency Restrictions for Court Clerk
[Adopted 10-17-2011 by L.L. No. 2-2011]**

§ 58-1. Town residency not required.

Pursuant to the relevant provisions of the Municipal Home Rule Law, and notwithstanding any provision of law to the contrary, including, but not limited to, § 3 of the Public Officers Law, the Court Clerk of the Town of Mendon need not be a resident of the Town.

ARTICLE II

**Residency Restrictions for Deputy Town Attorney, Planning Board
Attorney and Assessor
[Adopted 2-11-2013 by L.L. No. 2-2013]**

§ 58-2. Town residency not required.

Pursuant to relevant provisions of the Municipal Home Rule Law, and notwithstanding any provisions of law to the contrary, including, but not limited to, the Town Law and the Public Officers Law, the offices of Deputy Town Attorney, Planning Board Attorney and Assessor may be held by a nonresident of the Town who is a resident of Monroe County.

Chapter 62
OFFICIAL MAP

GENERAL REFERENCES

Definitions — See Ch. 5.

§ 62-1. Map adopted.⁸

The map accompanying and made a part of this chapter and entitled "Town of Mendon Official Town Map," showing the streets, highways and conservation easements heretofore laid out, adopted and established by law, in that part of the Town of Mendon outside the limits of any incorporated village, is hereby established as the Official Map of the Town of Mendon, pursuant to § 270 of the Town Law, and such map shall be final and conclusive with respect to the location and width of streets and highways shown thereon.

Part III: General Legislation

Chapter 105

ANIMALS

GENERAL REFERENCES

Definitions — See Ch. 5.

Noise — See Ch. 184.

Penalties and enforcement — See Ch. 9.

8. Editor's Note: A copy of the Official Map is on file in the Town offices.

ARTICLE I

Dog Control

[Adopted 9-24-1979 by L.L. No. 4-1979; amended in its entirety 4-13-1998 by L.L. No. 6-1998 (Ch. 59, Art. I, of the 1994 Code)]

§ 105-1. Purpose.

The Town Board of the Town of Mendon, by enacting the following article, seeks to preserve the relationship between a dog, the dog's owner and the public and at the same time protect the health, safety and property of others from annoyance and damage caused by dogs running at large or otherwise in violation of this article.

§ 105-2. Authority.

This article is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law of the State of New York.

§ 105-3. Title.

The title of this article shall be the "Dog Control Law of the Town of Mendon."

§ 105-4. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AT LARGE — An unleashed dog off the premises of its owner.

DOG — Includes the plural "dogs" and both male and female, unless the context indicates otherwise.

DOG CONTROL OFFICER (DCO) — The person or persons authorized by the Town Board to enforce the provisions of this article.

HARBOR — To provide food or shelter to any dog.

IMPOUND FACILITY — A municipal impound facility or incorporated humane society.

LEASHED or RESTRAINED BY A LEASH — The dog is equipped with a collar or harness, to which is attached a leash of not more than eight feet in length, both collar or harness and leash of sufficient strength to restrain the dog and which leash is held by a person having the ability to control and restrain the dog by means of the collar or harness and the leash.

OWNER — Any person who is a licensed owner of a dog and/or any person who owns, keeps, feeds, harbors or has the care, custody or control of a dog. The owner need not be a resident of the Town of Mendon; but for a violation to occur, the dog must be within the Town limits of the Town of Mendon. Dogs owned by minors shall be deemed to be in the custody and control of the minor's parents or other head of the household where the minor resides.

§ 105-5. Restrictions. [Amended 5-10-1999 by L.L. No. 3-1999]

It shall be unlawful for any owner or any person harboring any dog to permit or allow such dog, while in the Town of Mendon, to:

- A. Be on private property without the consent of the owner of said property.
- B. Be unleashed, off the premises of the owner.
- C. Chase or run alongside motor vehicles or bicycles.
- D. Chase children, deer or other animals.
- E. Run at large with a pack of other dogs.
- F. Engage in habitual loud howling or barking or conduct itself in such manner so as to habitually and unreasonably annoy any person other than the owner or person harboring such dog. Howling or barking for more than 15 minutes straight or for more than 15 minutes in any continuous sixty-minute period shall constitute "habitual loud howling or barking."
- G. Cause damage or destruction to property or commit a nuisance by defecating or urinating upon the premises of a person other than the owner or person harboring such dog.
- H. Bite, chase or otherwise harass any person in such a manner as to cause intimidation, or put such person in apprehension of bodily harm or injury whereby such dog may be considered to be a dangerous dog.
- I. Enter any public buildings. (Dogs assisting the sight- or hearing-impaired or physically challenged shall be exempt from this restriction.)
- J. Violate other restrictions as set down in Article 7 of the Agriculture and Markets Law of the State of New York.

§ 105-6. Enforcement.

- A. A Dog Control Officer (DCO) shall be appointed annually by the Town Board of the Town of Mendon as authorized and required by the Agriculture and Markets Law of the State of New York. If deemed necessary by the Town Board, a Deputy Dog Control Officer may be appointed to assist the DCO.
- B. This article shall be enforced by the Dog Control Officer of the Town of Mendon or by such other law enforcement officers as are empowered to otherwise act in the Town of Mendon.

§ 105-7. Impoundment.

- A. Any dog which violates § 105-5, or which does not have a license, may be impounded and taken to an impound facility designated by the Town Board and shall there be properly fed and cared for at the expense of

the Town until disposition thereof shall have been made in accordance with the provisions of this article and the Agriculture and Markets Law of the State of New York.

- B. In the event that a dog impounded bears a license tag, the person impounding the dog shall give the owner prompt notice stating that the dog has been impounded, indicating when, where and why the dog was impounded and stating that the dog will be made available for adoption or euthanized unless redeemed or unless a trial is duly demanded within seven days of notification by personal service or within nine days after notification has been sent by certified mail.
- C. In the event that a dog impounded does not bear a current license tag and the owner is unknown or cannot be readily identified, the impound facility shall be authorized to make available for adoption or euthanize such dog within five days after its impoundment, unless the owner of the dog redeems such dog or demands a trial prior to the expiration of said five days.

§ 105-8. Redemption.

In order to obtain an authorization for release form for a dog that has been impounded, the owner shall pay the Town Clerk of the Town of Mendon such fees as are provided by the Agriculture and Markets Law of the State of New York, and/or such other fees or charges as may be established by resolution of the Town Board. Said owner must also show proof that the dog is currently licensed or purchase same.

§ 105-9. Disposition of impounded dogs.

- A. If an impounded dog is not redeemed or a trial is not demanded within the time hereinbefore set forth, the owner shall forfeit title to the dog, and it may thereafter be made available for adoption or euthanized through the Town's impound facility.
- B. In the event that it becomes necessary to make available for adoption or euthanize a dog, the Town's impound facility shall make the necessary arrangements and submit a report to the Town Clerk of such disposition.
- C. The Town Clerk shall keep records of all dog impounds and the subsequent disposition thereof according to the State Department of Agriculture and Markets and keep them according to State Archives and Records Administration guidelines for records retention.
- D. The owner or harbinger of any such dog disposed of, either through adoption or euthanasia, under the provisions of this article shall not be entitled to any compensation for such dog, and no action shall be maintainable thereafter to recover the value of the dog.

§ 105-10. Complaints.

- A. A person impacted by a dog in violation of § 105-5 of this article may file a signed complaint, under oath, with the Town Clerk of the Town of Mendon, and such complaint shall be referred by the Town Clerk to the Town Civil Officer, specifying the objectionable conduct of the dog, the date thereof, the damage caused, a description of the dog and name, if known, and the name of the owner or person harboring said dog.
- B. Upon receipt by the Town Civil Officer of any accusatory instrument concerning violations of § 105-5, in writing, against the conduct of any particular dog, he shall serve the owner or harborer of said dog with a summons to appear in the Town of Mendon Justice Court. If the summons is disregarded, the Town Justice may permit the filing of an information and issue a warrant for the arrest of such person.
- C. In the event that the owner of a dog charged with a violation of § 105-5 of this article appears in Town Justice Court, a properly executed information shall be promptly filed by the Town Clerk with the Justice Court, so that the matter can be heard as expeditiously as possible.

§ 105-11. Penalties for offenses.

- A. A violation of this article shall be deemed an offense, and a person convicted of violation shall be subject to penalties as established by resolution of the Town Board.
- B. The Justice Court may also direct the owner to relinquish ownership of the dog to the Town for disposition through its impound facility.
- C. In addition, a dog declared by a Town Justice to be a dangerous dog may be ordered securely confined or euthanized.⁹

9. Editor's Note: Original § 59-12 of the 1994 Code, establishing fees for dog licenses, which immediately followed this section, was repealed 10-15-2018 by L.L. No. 3-2018. See now Art. II of this chapter.

ARTICLE II
Dog Licensing
[Adopted 2-28-2011 by L.L. No. 1-2011]

§ 105-12. Title.

The title of this article shall be the "Dog Licensing Law of the Town of Mendon, County of Monroe."

§ 105-13. Authority.

This article is enacted pursuant to the provisions of (Chapter 59, Part T, of the Laws of 2010) Article 7 of the Agriculture and Markets Law and the Municipal Home Rule Law of the State of New York.

§ 105-14. Purpose.

The Town Board of the Town of Mendon, County of Monroe hereby finds and declares that the purpose of this article is to provide for the licensing and identification of dogs.

§ 105-15. Definitions.

A. All terms not specifically defined herein shall have the meaning assigned to such terms within § 108 of the Agriculture and Markets Law of the State of New York.

B. As used in this article, the following terms shall have the meanings indicated:¹⁰

AGRICULTURE AND MARKETS LAW — The Agriculture and Markets Law of the State of New York in effect as of the effective date of this article, as amended by this article, and as thereafter amended.

IDENTIFICATION TAG — A tag issued by the Town Clerk which sets forth the identification number together with the name of the Town and state, the telephone number of the Town Clerk, and any other information deemed necessary by the Town Clerk.

OWNER — Any person who harbors or keeps any dog or other animal.

OWNER OF RECORD — The person in whose name a dog was last licensed pursuant to this article.

RESIDENT — An individual who maintains a residence within the Town of Mendon, County of Monroe, State of New York.

RUN AT LARGE — To be in a public place or on private land without the knowledge, consent, and approval of the owner of such lands.

§ 105-16. Licensing required.

10.Editor's Note: This subsection was amended 10-15-2018 by L.L. No. 3-2018 to repeal the definitions of "person" and "Town." See now Ch. 5, Definitions and Word Usage.

- A. No person shall own or possess a dog within the Town unless such dog is licensed and identified as provided in Article 7 of the Agriculture and Markets Law and laws of the Town.
- B. All dogs within the Town that are four months of age or older, unless otherwise exempted, shall be licensed. No license shall be required for any dog which is under the age of four months and which is not at large.
- C. The owner of each dog required to be licensed shall obtain, complete and return to the Town Clerk of the Town a dog license application together with the license application fee, any applicable license surcharges and such additional fees as may be established by the Town.

§ 105-17. Licenses issued by animal shelters and pounds.

The Town does not allow the licensing of dogs by a shelter. The shelter must send the adoptive dog owners to the Town Clerk of the town or city in which the dog will be harbored for licensing or to the town clerk of the town where the shelter is located for the purchase of the license for adoption purposes.

§ 105-18. Grace period for dogs licensed in New York City or outside New York State.

Any dog harbored within the Town which is owned by a resident of New York City or licensed by the City of New York, or which is owned by a nonresident of New York State and licensed by a jurisdiction outside the State of New York, shall, for a period of 30 days, be exempt from the licensing and identification provisions of this article.

§ 105-19. Proof of vaccination against rabies.

Each license application shall be accompanied by proof that the dog has been vaccinated against rabies or a statement from a licensed veterinarian that such vaccination would endanger the dog's life, in which case vaccination shall not be required.

§ 105-20. Term of license.

Each license issued pursuant to this article shall be valid for a period of one year and shall expire on the last day of the last month of the period for which it was issued. No license shall be issued for a period expiring after the last day of the 11th month following the expiration date of the current rabies certificate for the dog being licensed.

§ 105-21. Fees and surcharges. [Amended 10-15-2018 by L.L. No. 3-2018]

- A. Individual dog license fees shall be set from time to time by Town Board resolution.
- B. State-mandated animal population control surcharge.

- (1) Each individual dog license for a spayed or neutered dog shall be subject to an animal population control surcharge in an amount set from time to time by Town Board resolution, payable at the time the dog license application is filed.
 - (2) Each individual dog license for an unspayed or unneutered dog shall be subject to an animal population control surcharge in an amount set from time to time by Town Board resolution, payable at the time the dog license application is filed.
- C. Dog enumeration surcharge. Each dog found to be unlicensed during a Town dog enumeration shall be subject to a dog enumeration surcharge in an amount set from time to time by Town Board resolution, payable at the time the application is filed to license said dog.
- D. Optional replacement tag fee. A replacement tag fee as set from time to time by Town Board resolution shall be charged to offset the costs associated with the provision and replacement of identification tags.
- E. Optional fee exemptions.
- (1) There shall be no fee for any license issued for the following (as defined in Article 7 of the State Agriculture and Markets Law):
 - (a) Guide dog.
 - (b) Hearing dog.
 - (c) Service dog.
 - (d) War dog.
 - (e) Working search dog.
 - (f) Detection dog.
 - (g) Police work dog.
 - (h) Therapy dog.
 - (2) Each copy of any license for such dogs shall be conspicuously marked "Guide Dog," "Hearing Dog," "Service Dog," "Working Search Dog," "War Dog," "Detection Dog," "Police Work Dog," or "Therapy Dog," as may be appropriate, by the Clerk.

§ 105-22. Issuance of license; identification tag.

- A. Upon validation by the Town Clerk of the Town, a dog license shall be issued and a record of its issuance retained in the office of the Town Clerk of the Town. Such record shall be made available upon request to the State Commissioner of Agriculture and Markets, or successor thereof.

- B. No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately apply for a new license for the dog. A license cannot be transferred to another dog.
- C. Change of ownership; lost or stolen dogs.
- (1) Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog. The original issued identification tag shall remain the same for the life of the dog.
 - (2) In the event of a change in ownership of any dog which has been assigned an official identification number or in the event of a change of address of the owner of record of any such dog, the owner of record shall, within 10 days of such change, notify the Town Clerk.
 - (3) If any dog which has been assigned an official identification number is lost or stolen, the owner of record shall, within 10 days of the discovery of such loss or theft, notify the Town Clerk.
 - (4) In the case of a dog's death, the owner of record shall so notify the Town Clerk either prior to renewal of the license or upon the time of such renewal.
- D. Identification tag.
- (1) The Town Clerk shall assign a Town permanent official identification number to a dog when it is first licensed. Such identification number shall be carried by the dog on an identification tag which shall be affixed to the collar of the dog at all times.
 - (2) An identification tag is not required to be worn while the dog is participating in a dog show.
 - (3) The official permanent identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned.
 - (4) No tag carrying an identification number shall be affixed to the collar of any dog other than the one to which the number has been assigned.
 - (5) At the time a dog is first licensed, one identification tag shall be furnished to the owner at no additional charge. Any replacement tag shall be obtained by the owner at the owner's expense. Any person wishing to replace a tag previously issued shall pay to the Town Clerk for a replacement tag the sum set from time to time by Town Board resolution. **[Amended 10-15-2018 by L.L. No. 3-2018]**

§ 105-23. Purebred licenses; fees and surcharges.

- A. The owner of one or more purebred dogs registered by a recognized registry association as defined in Agriculture and Markets Law § 108 may annually make an application for a purebred license, in lieu of or in addition to the individual licenses required by this article. A purebred license shall be valid for a period of one year, beginning with the first day of the month following the date of issuance, and shall be renewable annually thereafter prior to the expiration date.
- B. The purebred dog license application shall state the name, address and telephone number of the owner; the county and town where such dogs are harbored; the sex, breed, registry name and number of each purebred registered dog over the age of four months which is harbored on the premises; and the sex and breed of each purebred dog over the age of four months which is harbored on the premises and which is eligible for registration. The application shall also include a statement by the owner that all purebred dogs over the age of four months which are harbored on the premises have been listed.
- C. The application shall be accompanied by the license fee prescribed by this article and a certificate of rabies vaccination or statement in lieu thereof, as required by this article and article 7 of the State Agriculture and Markets Law.
- D. Upon receipt of the foregoing items, the Clerk shall assign a license number, which shall be reserved for the sole use of the named owner, and shall issue a purebred license. Once a purebred license has been issued, no refund therefor shall be made.
- E. The Town Clerk shall:
 - (1) Provide a copy of the purebred license to the owner;
 - (2) Retain a record of the purebred license in the office of the Town Clerk.
- F. No purebred license shall be transferable. Upon change of ownership of any dog licensed under a purebred license, such dog shall become subject to the licensing provisions of Subsection A of this section, except when the new owner holds a valid purebred license.
- G. Fees for purebred licenses shall be set from time to time by Town Board resolution. Each purebred dog license shall be subject to an animal population control surcharge in an amount set from time to time by Town Board resolution, payable at the time the dog license application is filed. **[Amended 10-15-2018 by L.L. No. 3-2018]**

§ 105-24. Penalties for offenses.

Any person convicted of a violation of this article shall be liable for a civil penalty of \$25 for a first violation; \$50 for a second violation; and \$75 for each subsequent violation.

Chapter 113

BINGO AND GAMES OF CHANCE

GENERAL REFERENCES

Definitions — See Ch. 5.

Penalties and enforcement — See Ch. 9.

ARTICLE I

Games of Chance

[Adopted 3-18-1977 by L.L. No. 2-1977 (Ch. 62, Art. I, of the 1994 Code)]

§ 113-1. Title.

This article shall be known as the "Games of Chance Licensing Law of the Town of Mendon."

§ 113-2. Definitions.

The definitions set forth in Article 9-A of the General Municipal Law of the State of New York are hereby adopted and made a part of this article.

§ 113-3. Authority to conduct; license required. [Amended 10-15-2018 by L.L. No. 3-2018]

Subject to the provisions contained herein, the regulations of the New York State Gaming Commission, the provisions of Article 9-A of the General Municipal Law and of the Constitution of the State of New York, together with all amendments of the aforesaid statutes, laws and regulations, it shall be lawful for any authorized organization, obtaining a license therefor, pursuant to the provisions of this article, to conduct games of chance within the Town of Mendon and it shall further be lawful for games of chance lessors and games of chance suppliers, as defined in said statutes and regulations, to lease land for the conduct of games of chance and to furnish supplies and equipment for said games of chance within the Town of Mendon, pursuant to said statutes and regulations.

§ 113-4. Operating restrictions. [Amended 10-15-2018 by L.L. No. 3-2018]

The provisions of Article 9-A of the General Municipal Law, together with any amendment thereto, as well as such rules and regulations as have been or may be adopted pertaining thereto by the New York State Gaming Commission, shall control the licensing of organizations and the conduct of games of chance in the Town of Mendon, and this article hereby incorporates all of the provisions of said statutes and regulations by reference, as if set forth in full herein.

§ 113-5. Enforcement. [Added 5-12-1980]

The Town Board of the Town of Mendon hereby, pursuant to § 194 of the General Municipal Law and upon the opinion received from the Attorney General, designates the Sheriff of the County of Monroe as the Chief Law Enforcement Officer for the Town of Mendon for the purposes of enforcing this article in the Town of Mendon.

ARTICLE II

Bingo

[Adopted 4-10-1978; amended 11-28-1994 by L.L. No. 7-1994 (Ch. 62, Art. II, of the 1994 Code)]

§ 113-6. Conduct restrictions.

It shall be lawful for any authorized organization, as defined in § 476 of Article 14-H of the General Municipal Law, upon obtaining the required license and paying the appropriate fee, as provided in § 481 of the General Municipal Law, to conduct the game of bingo within the territorial limits of the Town of Mendon, subject to the provisions of this article, Article 14-H of the General Municipal Law and Article 19-B of the Executive Law, and any amendments thereto, and the following restrictions:

- A. No person, firm, association, corporation or organization, other than an authorized organization licensed under the provisions of this article, shall be permitted to conduct such games.
- B. The entire net proceeds of any game shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the game.
- C. No single prize shall exceed the sum set forth in General Municipal Law § 479. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- D. No series of prizes on any one occasion shall aggregate more than the amount set forth in General Municipal Law § 479. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- E. No person, except a bona fide member of any such organization, shall participate in the management or operation of such game.
- F. No person shall receive any remuneration for participating in the management or operation of any such game.
- G. No game of bingo shall be conducted under any license issued pursuant to this article on the first day of the week, commonly known and designated as "Sunday."

§ 113-7. Penalties for offenses.

The unauthorized conduct of a bingo game and any willful violation of any provision of this article shall constitute and be punishable as a misdemeanor.

Chapter 117
BUILDINGS, UNSAFE

GENERAL REFERENCES

Definitions — See Ch. 5.

Uniform code enforcement — See Ch. 241.

Penalties and enforcement — See Ch. 9.

Zoning — See Ch. 260.

Electrical inspections — See Ch. 138.

§ 117-1. Title.

This chapter shall be known as the "Unsafe Buildings and Collapsed Structures Ordinance of the Town of Mendon."

§ 117-2. Legislative intent; applicability.

This chapter, enacted by the Town Board of the Town of Mendon pursuant to Article 9 of the Town Law of the State of New York, is adopted to promote the public health, safety and general welfare of the residents of the Town of Mendon and the conservation of property and property values and shall be effective in the area of the Town outside the incorporated Village of Honeoye Falls.

§ 117-3. Unsafe buildings prohibited.

All buildings or structures which are structurally unsafe, dangerous, unsanitary or not provided with adequate egress or which, in relation to an existing use, constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment are, severally, for the purpose of this chapter, unsafe buildings. All such buildings are hereby declared to be illegal and are prohibited and shall be abated by repair and rehabilitation or by demolition and removal in accordance with the procedure of this chapter.

§ 117-4. Inspection and report. [Amended 10-15-2018 by L.L. No. 3-2018]

When, in the opinion of the Code Enforcement Officer, any structure located in the Town shall be deemed to be unsafe or dangerous to the public, he shall make a formal inspection thereof or as directed by the Town Board and report, in writing, to the Town Board his findings, setting forth the defects thereof and his recommendations in regard thereto.

§ 117-5. Notice of violation; order to abate.

The Town Board shall promptly, at the next regular Town Board meeting subsequent to the receipt of the report mentioned in § 117-4, and by

resolution determine, if in its opinion the report so warrants, that the structure should be declared an unsafe building as defined in this chapter and order its demolition and removal or repair, if such structure can be safely repaired, and further order that a written notice stating the defects thereof shall be served on the owner or other party having a vested or contingent interest in said structure in the manner provided in this chapter. The notice shall require the owner either to complete specified repairs or improvements or to demolish and remove said building or structure or portion thereof within a stated time.

§ 117-6. Emergency measures to vacate. [Amended 10-15-2018 by L.L. No. 3-2018]

If the Code Enforcement Officer determines in his inspection of any building or structure that there is actual and immediate danger of failure or collapse so as to endanger life, he shall promptly require the building, structure or portion thereof to be vacated forthwith and not to be reoccupied until the specified repairs are completed, inspected and approved by the Code Enforcement Officer. For this purpose he may enter such building or structure or land on which it stands or adjoining land or structures with such assistance and at such cost as may be necessary. He may also order adjacent structures to be vacated and protect the public by appropriate barricades or such other means as may be necessary and for this purpose may close a private or public right-of-way. The Code Enforcement Officer shall cause to be posted at each entrance to such building or structure a notice stating, "This building is unsafe and its use or occupancy has been prohibited by the Code Enforcement Officer." Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation or their agents or other persons to remove such notice without written permission of the Code Enforcement Officer or for any person to enter the building except for the purpose of making the required repairs or the demolition thereof.

§ 117-7. Service of notice. [Amended 10-13-1980]

- A. The notice mentioned in § 117-5 shall be served on the owner of the building or structure or some one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in same, as shown by the records of the Receiver of Taxes or in the office of the Monroe County Clerk.
- B. The notice may be served personally or by registered mail.
- C. If the notice is served by registered mail, a copy thereof shall be posted upon the premises.

§ 117-8. Contents of notice. [Amended 10-13-1980]

The notice mentioned in §§ 117-5 and 117-7 shall contain the following:

- A. A description of the premises.

- B. A statement of the particulars in which the building or structure is unsafe or dangerous.
- C. An order requiring that the unsafe or dangerous building or structure be made safe and secure or removed.
- D. The time and place of a hearing concerning the unsafe or dangerous building or structure.
- E. The statement that the building or structure will be removed by the Town in the event that the owner fails or refuses to repair or remove the same within the time provided.
- F. A statement that the land on which the building or structure is located will be assessed for all of the costs and expenses incurred by the Town in connection with the proceeding to remove or secure the building or structure, including the cost of actually removing said building or structure, which assessment will be against the land on which said building or structure is located.

§ 117-9. Filing of notice. [Added 10-13-1980]

- A. A copy of the notice mentioned herein above shall be filed in the office of the Monroe County Clerk.
- B. A notice so filed with the Monroe County Clerk shall have the same effect as a notice of pendency as provided by law.
- C. Said filed notice shall remain effective one year from the date of filing; however, it may be vacated upon the order of a judge or justice of a court of record or upon consent of the Town Attorney.

§ 117-10. Hearing. [Added 10-13-1980]

The Town Board shall hold a hearing on the date, time and at the place specified in the notice, as set forth hereinabove, at which time the owner of the premises or such persons interested in the property or structure may appear and present their testimony.

§ 117-11. Failure to comply with notice. [Amended 10-13-1980]

In the event that the owner fails or refuses to repair or remove the dangerous or unsafe building or structure, as stated in the aforementioned notice or upon such date as may be set by the Town Board following the hearing, the Town may remove such building or structure and assess the cost and expenses incurred in connection with proceeding to remove or secure, including the costs of actually removing said building or said structure, against the land on which said building or structure is located.

§ 117-12. Penalties for offenses. [Amended 10-13-1980]

- A. Any person who neglects, refuses or fails to comply with any notice or order issued hereunder shall be subject to penalties provided in Chapter 9, Penalties and Enforcement, of the Town Code. Each week's continued violation of this chapter shall constitute a separate additional offense. **[Amended 11-28-1994 by L.L. No. 7-1994]**
- B. The Town Board may elect to utilize any other available remedies that may be available, pursuant to law, relevant to a violation of this chapter.

Chapter 121

BURNING, OUTDOOR

GENERAL REFERENCES

Definitions — See Ch. 5.

Penalties and enforcement — See Ch. 9.

§ 121-1. Authority.

This chapter is adopted pursuant to state law regulations set forth in 6 NYCRR 215.3.

§ 121-2. Permissible burning.

Burning in an open fire, provided it is not contrary to other law or regulation, will be allowed as follows:

- A. On-site burning of downed limbs and branches (including branches with attached leaves or needles) less than six inches in diameter and eight feet in length between May 15 and the following March 15.
- B. Barbecue grills, maple sugar arches and similar outdoor cooking devices when actually used for cooking or processing food.
- C. Small fires used for cooking and camp fires, provided that only charcoal or untreated wood is used as fuel and the fire is not left unattended until extinguished.
- D. On-site burning of agricultural wastes as part of a valid agricultural operation on contiguous agricultural lands larger than five acres actively devoted to agricultural or horticultural use, provided such waste is actually grown or generated on those lands and such waste is capable of being fully burned within a twenty-four-hour period.
- E. The use of liquid petroleum fueled smudge pots to prevent frost damage to crops.
- F. Ceremonial or celebratory bonfires where not otherwise prohibited by law, provided that only untreated wood or other agricultural products are used as fuel and the fire is not left unattended until extinguished.

- G. Small fires that are used to dispose of a flag or religious item, and small fires or other smoke-producing process where not otherwise prohibited by law that are used in connection with a religious ceremony.
- H. Burning on an emergency basis of explosive or other dangerous or contraband materials by police or other public safety organization.
- I. Prescribed burns performed according to 6 NYCRR Part 194.
- J. Fire training, including firefighting, fire rescue, and fire/arson investigation training, performed under applicable rules and guidelines of the New York State Department of State's Office of Fire Prevention and Control. For fire training performed on acquired structures, the structures must be emptied and stripped of any material that is toxic, hazardous or likely to emit toxic smoke (such as asbestos, asphalt shingles and vinyl siding or other vinyl products) prior to burning and must be at least 300 feet from other occupied structures. No more than one structure per lot or within a three-hundred-foot radius (whichever is bigger) may be burned in a training exercise.
- K. Individual open fires as approved by the Director of the New York State Division of Air Resources as may be required in response to an outbreak of a plant or animal disease upon request by the Commissioner of the Department of Agriculture and Markets, or for the destruction of invasive plant and insect species.
- L. Individual open fires that are otherwise authorized under the Environmental Conservation Law, or by rule or regulation of the Department of Environmental Conservation.

Chapter 128

CEMETERIES AND BURIALS

GENERAL REFERENCES

Definitions — See Ch. 5.

Penalties and enforcement — See Ch. 9.

ARTICLE I
Cemeteries

[Adopted 4-28-2003 by L.L. No. 5-2003 (Ch. 57 of the 1994 Code)]

§ 128-1. Purpose.

The purpose of this article is to regulate activities within those cemeteries which the Town of Mendon is required to govern and maintain pursuant to the provisions of § 291 of the Town Law.

§ 128-2. Prohibited activities.

No person shall dig, excavate or in any manner disturb the earth in any such cemetery, or destroy, mutilate, deface, injure or remove any tomb, monument or gravestone or other structure placed in such cemetery, or destroy, mutilate, deface, injure or remove any fence, railing or other work for the protection or ornamentation of such cemetery or any tomb, monument, gravestone or other structure in such cemetery, or destroy, remove, cut, break or injure any tree within such cemetery, or shoot or discharge any gun or other firearm within such cemetery.

§ 128-3. Penalties for offenses.

A person convicted of a violation of this article shall be subject to penalties as provided in Chapter 9, Penalties and Enforcement, for each such conviction.

ARTICLE II

Burials**[Adopted 4-28-2003 by L.L. No. 6-2003 (Ch. 72 of the 1994 Code)]****§ 128-4. Purpose.**

The purpose of this article is to regulate the burial of human remains within the Town of Mendon.

§ 128-5. Prohibited activities.

No person shall cause the remains of a human being to be buried, or establish a burial ground for such purpose, in the Town of Mendon in any ground not set apart and recognized as a municipal, religious, or not-for-profit corporation cemetery.

§ 128-6. Penalties for offenses.

A person convicted of a violation of this article shall be subject to penalties as provided in Chapter 9, Penalties and Enforcement, for each such conviction.

Chapter 134**ELECTRICAL INSPECTIONS****GENERAL REFERENCES****Definitions — See Ch. 5.****Unsafe buildings — See Ch. 117.****Penalties and enforcement — See Ch. 9.****Uniform code enforcement — See Ch. 241.**

§ 134-1. Inspectors.

The Town of Mendon Code Enforcement Officer and each electrical inspector as the Town may deem qualified to conduct inspections are hereby authorized and deputized as agents of the Town of Mendon to make inspections and reinspections of all electrical installations heretofore and hereafter described and to approve or disapprove the same. In no event, however, will the cost or expense of such inspections and reinspections by inspectors not employed by the Town be a charge against the Town of Mendon.

§ 134-2. Duties of inspectors.

- A. It shall be the duty of the Electrical Inspectors to report in writing to the Town of Mendon Code Enforcement Officer, whose duty it shall be to enforce all provisions of this code, all violations or deviations from or omissions of the electrical provisions of the building code applicable to the Town of Mendon, and all other local laws, ordinances and the building code as referred to in this chapter insofar as any of the same apply to electrical wiring. The inspectors shall make inspections and reinspections of electrical installations in and on properties in the Town of Mendon upon the written request of an authorized official of the Town of Mendon or as herein provided. The inspector is authorized to make inspections and reinspections of electrical wiring, installations, devices, appliances and equipment in or on properties within the Town of Mendon where he deems it necessary for the protection of life and property. In the event of an emergency, it is the duty of the inspector to make electrical inspections upon the oral request of an official or officer of the Town of Mendon.
- B. Electrical inspectors deemed qualified by the Town may only perform such duties as electrical inspectors upon the express request of the Code Enforcement Officer of the Town of Mendon or upon the request of the owner of the premises that are to be inspected.
- C. It shall be the duty of the inspector to furnish written reports to the proper officials of the Town of Mendon and owners and/or lessees of property where defective electrical installations and equipment are found upon inspection. He shall authorize the issuing of a certificate of

compliance when electrical installations and equipment are in conformity with this chapter. He shall direct that a copy of the certificate of compliance be sent to the Town of Mendon, to the attention of the Code Enforcement Officer.

§ 134-3. Penalties for offenses.

It shall be a violation of this chapter for any person, firm or corporation to install or cause to be installed or to alter electrical wiring for light, heat or power in or on properties of the Town of Mendon until an application for inspection has been filed with an electrical inspector deemed qualified by the Town or, in such instances where it is authorized, with the Code Enforcement Officer of the Town of Mendon. It shall be a violation of this chapter for a person, firm or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat or power, to any source of electrical energy supply, prior to the issuance of a temporary certificate or a certificate of compliance by an electrical inspector deemed qualified by the Town or of the Code Enforcement Officer of the Town of Mendon. Any person who violates this chapter shall be subject to penalties provided in Chapter 9, Penalties and Enforcement, of the Town Code.

Chapter 138

ENVIRONMENTAL PROTECTION OVERLAY DISTRICTS

GENERAL REFERENCES

Definitions — See Ch. 5.

Stormwater management — See Ch. 217.

Freshwater wetlands — See Ch. 150.

Subdivision of land — See Ch. 226.

Preservation of historic areas — See Ch. 159.

Zoning — See Ch. 260.

Mining and excavations — See Ch. 178.

ARTICLE I
General Provisions

§ 138-1. 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.

§ 138-2. 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).

§ 138-3. Districts established.

In order to implement the purpose and intent set forth above in this chapter, the following EPODs are hereby established:

EPOD 1	Wetland Protection Overlay District
EPOD 2	Steep Slope Protection Overlay District
EPOD 3	Watercourse Protection Overlay District
EPOD 4	Scenic Vista Protection Overlay District
EPOD 5	Historic and Archeological Site Protection Overlay District
EPOD 6	Waste Disposal Site Protection Overlay District
EPOD 7	Woodlot and Timber Harvesting Protection Overlay District
EPOD 8	Flood Damage Prevention Overlay District
EPOD 9	Soils Susceptible to Ponding Overlay District
EPOD 10	Geological Feature Protection Overlay District

§ 138-4. 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.

§ 138-5. 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.

§ 138-6. 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 260, Zoning, § 260-24, 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 260, 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 260, 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 260, 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.

§ 138-7. 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.

§ 138-8. 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.

§ 138-9. Conservation restrictions.

- 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.

§ 138-10. 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**§ 138-11. 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.

§ 138-12. 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.

§ 138-13. 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**§ 138-14. 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.

§ 138-15. 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.

§ 138-16. 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**§ 138-17. 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.

§ 138-18. 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 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.

§ 138-19. 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.

§ 138-20. Development standards and permits.

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:
- (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 as 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.
- (9) New structures shall be designed and constructed in accordance with erosion control standards and stormwater control standards contained in the Best Management Practices for Stormwater Runoff Management and Stormwater Management Guidelines for New Development, as found in Chapter 6 of the New York State Department of Environmental Conservation's Stream Corridor Management Manual.

ARTICLE V

EPOD 4: Scenic Vista Protection Overlay District**§ 138-21. 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.

§ 138-22. 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.

§ 138-23. 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 § 138-6B.
 - (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.

§ 138-24. Standards of review.

- A. When a person proposes to undertake any of the activities identified in § 138-23 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.
- 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.

§ 138-25. 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 approved 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.

§ 138-26. Buildings and structures.

- A. Screening. To the extent the required buffer in § 138-25 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 § 138-24.
- 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.

ARTICLE VI

EPOD 5: Historic and Archeological Site Protection Overlay District**§ 138-27. 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.

§ 138-28. Delineation of district boundaries.

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 159, Historic Areas, Preservation of, 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.

§ 138-29. 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.

§ 138-30. 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**§ 138-31. 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.

§ 138-32. 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 (MCDPH), 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.

§ 138-33. Review of waste disposal sites.

- A. The MCDPH is involved in the review of realty subdivision, on-site sewage disposal installation, water main extensions and sanitary sewer extensions. The MCDPH 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 MCDPH 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.

§ 138-34. 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 MCDPH 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 MCDPH 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.
- (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 MCDPH.
- (2) The MCDPH 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**§ 138-35. Purpose and intent; plan required.**

The purpose of the Woodlot and Timber Harvesting Protection 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.

§ 138-36. 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.
- 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**§ 138-37. 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.

§ 138-38. 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.

§ 138-39. Objectives.

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 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.

§ 138-40. Definitions.

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 5, 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 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."

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."

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 § 138-44B.

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.

§ 138-41. 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.
- 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:
 - (a) Flood Insurance Rate Map Panel Numbers 36055C0362G, 36055C0363G, 36055C0364G, 36055C0366G, 36055C0367G, 36055C0368G, 36055C0369G, 36055C0386G, 36055C0388G, 36055C0484G, 36055C0501G, 36055C0502G, 36055C0503G, 36055C0504G, 36055C0506G, 36055C0507G, 36055C0508G, 36055C0509G, 36055C0526G, 36055C0528G.
 - (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 260, 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 of 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 § 138-52 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 hazards 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.

§ 138-42. 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.

§ 138-43. 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 § 138-41B above, without a valid Flood Damage Prevention EPOD development permit.
- B. Fees and costs. 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 § 138-48, Utilities.
- (4) A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 138-50, 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 § 138-41B, 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.

§ 138-44. 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 § 138-43, 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 § 138-45, Construction standards, and, in particular, § 138-45A, 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 § 138-45, 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 § 138-43C(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 § 138-41D.
- (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 § 138-41D.

G. Certificate of compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in § 138-41B, 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 § 138-52, Variance procedures.
 - (5) Notices required under Subsection C, Alteration of watercourses.

§ 138-45. 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 § 138-41B.

- 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.

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 § 138-41B, 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.

§ 138-46. 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.

§ 138-47. 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 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.

§ 138-48. Utilities.

- 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.

§ 138-49. Elevation of residential structures.

The following standards, in addition to the standards in § 138-45A, Subdivision proposals, § 138-45B, Encroachments, and § 138-46, 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 § 138-41B above (at least two feet if no depth number is specified).
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§ 138-50. Nonresidential structures.

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in § 138-45A, Subdivision proposals, § 138-45B, Encroachments, and § 138-46, 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.

§ 138-51. Manufactured homes and recreational vehicles.

- A. The following standards, in addition to the standards in § 138-45, Construction standards, and § 138-46, 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
 - (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 § 138-41B (at least two feet if no depth number is specified).

§ 138-52. 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 260, 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.
 - (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 §§ 138-38 and 138-39, 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 § 138-44H.

ARTICLE X

EPOD 9: Soils Susceptible to Ponding Overlay District**§ 138-53. 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.

§ 138-54. 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.

§ 138-55. 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**§ 138-56. 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").

§ 138-57. 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.

§ 138-58. Regulated activities.

No person may conduct any development activity within any Geological Feature Protection EPOD in the Town.

Chapter 142**FARMING****GENERAL REFERENCES****Definitions — See Ch. 5.****Subdivision of land — See Ch. 226.****Environmental Protection
Districts — See Ch. 138.****Overlay Zoning — See Ch. 260.****§ 142-1. Title.**

This chapter shall be known as the "Right to Farm Law of the Town of Mendon."

§ 142-2. Declaration of policy and purpose.

- A. The Town Board of the Town of Mendon hereby finds, declares and determines that farming is an essential activity in the Town and that agricultural lands are irreplaceable assets. Farming reinforces the special quality of life enjoyed by residents of the Town, provides the visual benefit of open space and generates economic benefits and social well-being within the community.
- B. The Town Board finds and determines that farmers must be secure in their ability to earn a livelihood and utilize customary farming procedures and techniques.
- C. The Town Board further finds that whatever burden may be caused to neighboring property owners is offset by the benefits from farming to the Town, county and state, as well as by the preservation of open space areas within the Town.
- D. It is the general purpose and intent of this chapter to maintain and preserve the rural tradition and character of the Town of Mendon, to permit the continuation of agricultural practices and the business of farming, to protect the existence and operation of farms and to encourage the initiation and expansion of farms and agricultural businesses; and, in recognition of the fact that there are many practices and activities which are inherent to and necessary for the business of farming, it is the specific purpose and intent of this chapter to attain the aforementioned goals and objectives by providing that such practices and activities may proceed and be undertaken free of unreasonable and unwarranted interference or restrictions.
- E. The Town Board finds, declares and determines that Chapter 797 of the Laws of 1992 of the State of New York (see Agriculture and Markets Law § 308) provides an important foundation for achieving the right-to-farm protection sought in the Town and that, in order to address the

unique circumstances facing agriculture in the Town, it is necessary and desirable to provide for more comprehensive local right-to-farm protection.

- F. The Town Board, in an effort to promote and foster a harmonious relationship between the residents of the Town of Mendon, and to conserve, protect and encourage the development and improvement of agricultural land for the production of food and other products, hereby declares that it shall be the policy of the Town of Mendon to provide reasonable notice to prospective landowners that farming activities may occur on neighboring lands.

§ 142-3. Right to farm.

- A. Farmers, as well as those employed or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within the Town of Mendon at any and all such times and at all such locations as are reasonably necessary to carry on an agricultural farm operation or agricultural practices. In determining the reasonableness of the time, place and methodology of such operation, due weight and consideration shall be given both to traditional customs and procedures in the agricultural industry as well as to advances resulting from increased knowledge or improved technologies.
- B. A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation alleged to be a nuisance conforms to generally accepted agricultural best-management practices according to policy as determined by the Department of Agriculture and Markets.

§ 142-4. Interference prohibited.

No person, group, entity, association, partnership or corporation shall engage in any conduct or act in any manner so as to unreasonably, intentionally, knowingly or deliberately interfere with, prevent or in any way deter the practice of farming within the Town of Mendon.

§ 142-5. Notice to prospective neighbors.

- A. For the purpose of giving due notice of nearby farming uses to proposed new residential areas adjacent to unimproved land then being farmed or suitable therefor, the Planning Board shall require any applicant for an adjacent subdivision, as a condition of approval of such application, to include in each and every deed conveying all or any portion of the lands thereby subdivided the following notice to and waiver by grantees of such present or future proximate farming uses, which provision shall be made to run with the land:

"The grantee hereby acknowledges notice that agricultural operations exist throughout the Town of Mendon and that there are presently or may in the future be uses adjacent to or in close proximity to the within described premises. The grantee acknowledges that farmers have the right to undertake farm practices which may generate dust, odor, fumes, noise and vibration associated with agricultural practices, and that these practices are permitted under the Town of Mendon Right to Farm Law, and by acceptance of this conveyance, the grantee does hereby waive objection to such activities."

- B. The following notice shall appear on either the final subdivision plat or the final site plan:

"It is the policy of the Town of Mendon to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural ecological value. This notice is to inform prospective grantees that the property depicted on this plat or site plan is adjacent to unimproved land now being farmed or suitable for farming, and that farming activities may include, but not be limited to, activities that cause noise, dust and odors."

- C. Noncompliance with these provisions shall not affect title to real property nor prevent the recording of any document.
- D. The risk of any impact of these agricultural uses upon the purchase of property is specifically to be borne by the purchaser of that property.¹¹

§ 142-6. Penalties for offenses.

- A. Violation of any provision of this chapter shall constitute an offense punishable by the maximum fine and/or imprisonment permitted by Town Law § 268(1) and, in addition, violators may be ordered to pay all costs and expenses involved in the case.
- B. In addition, an action to restrain or enjoin any violation of this chapter may be brought in a court of competent jurisdiction by any aggrieved entity and/or the Town of Mendon.

Chapter 146

FIRE ALARM SYSTEMS

GENERAL REFERENCES

Definitions — See Ch. 5.

Uniform code enforcement — See Ch. 241.

Noise — See Ch. 184.

11. Editor's Note: Original § 97A-6 of the 1994 Code, Resolution of disputes, which immediately followed this section, was repealed 10-15-2018 by L.L. No. 3-2018.

§ 146-1. Purpose.

It is the purpose of this chapter to protect and promote the health, safety and general welfare of the residents of the Town of Mendon by reducing the number of avoidable alarms to emergency agencies. Avoidable alarms contribute to ineffective utilization of public safety manpower and equipment. In addition, avoidable alarms require emergency responses which may contribute to a high accident rate and delayed responses to genuine emergencies. This chapter seeks to ensure that fire communications facilities will be available to dispatch fire personnel for actual emergencies.

§ 146-2. Definitions.

For the purpose of this chapter, certain words and phrases shall be construed herein as set forth in this section:

AVOIDABLE ALARM — The activation of a fire alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner, user, custodian or lessee of a fire alarm system or his employees or agents or through any other cause which, through direct connection to an emergency agency, or which, through notification of an emergency agency by a private answering point of automatic dialing device, or which, through notification to an emergency agency by any other second-party means, indicates that an emergency situation exists requiring an emergency response within the Town of Mendon, when, in fact, an emergency situation does not exist. An avoidable alarm also includes the knowing or intentional activation of an alarm to an emergency agency when the activator knows that an emergency situation does not exist. "Avoidable alarm" does not include alarms activated by violent conditions of nature, such as hurricanes, tornadoes, earthquakes or any similar cause beyond the control of the user of an alarm system. Activation of a fire alarm system under any circumstances in which the activator reasonably believes that an emergency situation exists is not an avoidable alarm.

FIRE ALARM SYSTEM — Any mechanical or electrical device which is designed or used for the detection of fire and which emits a sound or transmits a signal or message when activated. Fire alarm systems include, but are not limited to, direct-dial telephone devices, audible alarms and proprietor alarms. Devices which are not designed or used to register alarms that are audible, visible or perceptible outside of the protected building, structure or facility are not included within this definition, nor are auxiliary devices installed by the telephone company or a cable television company to protect its systems which might be damaged or disrupted by the use of an alarm system.

FIRE MARSHAL — The Fire Marshal or any Code Enforcement Officer of the Town.

NOTICE — Written notice, given by personal service upon the addressee, or given by United States mail, postage prepaid, addressed to the person to be notified at his last known address. Service of such "notice" shall be effective upon the completion of personal service or upon the placing of the same in the custody of the United States Postal Service.

OWNER — Any person who owns, leases, contracts for or otherwise obtains a fire alarm system.

§ 146-3. Avoidable alarms; notice to owner.

- A. The Fire Marshal shall obtain on a weekly basis from the Fire Department the avoidable alarms received by the Fire Department.
- B. The Fire Marshal shall notify the owner in writing of the fact of the avoidable alarm and that subsequent avoidable alarms will result in fines as provided in this chapter.
- C. The Fire Marshal shall maintain a file of all such written notices to owners concerning the first avoidable alarm.

§ 146-4. Penalties for offenses; issuance of appearance tickets. [Amended 10-15-2018 by L.L. No. 3-2018]

- A. For the second avoidable alarm within two years of the first avoidable alarm, the owner shall be subject to a fine of \$100.
- B. For the third avoidable alarm within two years of the first avoidable alarm, the owner shall be subject to a fine of \$200.
- C. For each avoidable alarm thereafter within two years of the first avoidable alarm, the owner shall be subject to a fine of \$300.
- D. The Fire Marshal shall issue appearance tickets to owners in violation of this chapter.

§ 146-5. Permit required for fire alarm systems. [Amended 10-15-2018 by L.L. No. 3-2018]

No fire alarm system shall be installed in any building in the Town of Mendon without having been issued previously a permit by the Town Code Enforcement Officer authorizing such installation.

Chapter 150

FRESHWATER WETLANDS

GENERAL REFERENCES

Definitions — See Ch. 5.

Stormwater management — See Ch. 217.

Environmental Protection
Districts — See Ch. 138.

Overlay Subdivision of land — See Ch. 226.

Zoning — See Ch. 260.

§ 150-1. Legislative authority; scope; intent.

- A. Pursuant to § 24-0501 of the New York State Freshwater Wetlands Act (Article 24 of the New York Environmental Conservation Law), the Town of Mendon shall fully undertake and exercise its regulatory authority with regard to activities subject to regulation under the Act in freshwater wetlands, as shown on the Freshwater Wetlands Map, as such Act may from time to time be amended, filed by the Department of Environmental Conservation pursuant to the Act and in all areas adjacent to any such freshwater wetlands up to 100 feet from the boundary of such wetlands.
- B. Such regulatory authority shall be undertaken and exercised in accordance with all of the procedures, concepts and definitions set forth in Article 24 of the New York Environmental Conservation Law and Title 23 of Article 71 of such law relating to the enforcement of Article 24, as such law may from time to time be amended, with certain exceptions, additions and modifications to be determined as follows: 24-0501.3. provides for a specification of any exception, addition and modification to the procedures of Article 24. Refer to the Department's August 6, 1976, document entitled "Criteria for Reviewing Local Freshwater Wetlands Protection Ordinances and Laws pursuant to the Freshwater Wetlands Act (Article 24 of the New York Environmental Conservation Law)" prior to making any exception, addition or modification to the provisions of Article 24. **[Amended 11-28-1994 by L.L. No. 7-1994]**

§ 150-2. When effective.

This chapter, adopted on the date set forth herein, shall take effect upon the filing with the Clerk of the Town of Mendon of the final Freshwater Wetlands Map by the New York State Department of Environmental Conservation pursuant to § 24-0301 of the Freshwater Wetlands Act applicable to any or all lands within the Town of Mendon.

Chapter 159**HISTORIC AREAS, PRESERVATION OF****GENERAL REFERENCES****Definitions — See Ch. 5.****Zoning — See Ch. 260.****Environmental Protection Overlay
Districts — See Ch. 138.****§ 159-1. Title.**

This chapter shall be known and cited as the "Historic Preservation Ordinance" of the Town of Mendon.

§ 159-2. Authority.

In accordance with § 96-a of the General Municipal Law of the State of New York, entitled "Protection of historical places, buildings, et al," the Town Board of the Town of Mendon has authority to provide, by regulation, special conditions and restrictions for the protection, enhancement, perpetuation and use of places, buildings, sites and structures or other objects having special character or special historic or other aesthetic interest or value. Pursuant to that authority, the Town Board has prepared and adopted this chapter, setting forth standards to be followed in historic preservation.

§ 159-3. Purpose and intent.

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks is necessary to promote the economic, cultural, education and general welfare of the public. Inasmuch as the identity of the people is founded on its past, and inasmuch as Mendon has many historic resources which constitute its heritage, this chapter is intended to:

- A. Protect and enhance the landmarks which represent distinctive elements of Mendon's heritage.
- B. Foster civic pride in the accomplishments of the past.
- C. Protect and enhance Mendon's attractiveness to visitors and the support and stimulus to the economy thereby provided.
- D. Ensure the harmonious, orderly and efficient growth and development of the Town of Mendon.
- E. Stabilize and improve property values.

§ 159-4. Historic Preservation Commission.

There is hereby created a commission to be known as the "Mendon Historic Preservation Commission."

- A. The Commission shall consist of five members to be appointed by the Town Board. In addition, the Town Historian shall serve as an ex-officio nonvoting member, except that the Historian shall exercise the right to vote on matters before the Commission when there is a vacancy and there are not five voting members appointed. **[Amended 3-24-1997 by L.L. No. 2-1997; 1-7-2014 by L.L. No. 1-2014; 10-15-2018 by L.L. No. 3-2018]**
- B. Commission members shall serve for a term of two years. **[Amended 3-24-1997 by L.L. No. 2-1997; 1-7-2014 by L.L. No. 1-2014; 10-15-2018 by L.L. No. 3-2018]**
- C. The Chairperson of the Commission shall be appointed annually by the Town Board, and the Vice Chairperson shall be elected by and from among the members of the Commission.
- D. The responsibilities of the Commission shall include: **[Amended 10-15-2018 by L.L. No. 3-2018]**
 - (1) Recommendations to the Town Board for the identification of significant historic, architectural and cultural landmarks.
 - (2) Recommendations to the Town Board for the designation of identified structures or resources as landmarks; agreement to accept for such designation those structures or landmarks that qualify for such designation, should the owner(s) so request it, and maintenance of a public register thereof.
- E. The Commission shall only meet to review applications referred from the Town Board, Planning Board or Zoning Board of Appeals. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- F. Any action of the Commission shall require the affirmative vote of at least three voting members. **[Amended 1-12-1998 by L.L. No. 2-1998; 1-7-2014 by L.L. No. 1-2014]**
- G. All voting members shall have inspected the property concerned before voting on such certificates of appropriateness or acceptance of any qualifying landmark for designation.

§ 159-5. Designation of landmarks. [Amended 7-14-2003 by L.L. No. 9-2003]

- A. The Commission may accept for designation an individual historic, architectural or cultural landmark if:
 - (1) The Commission determines that said property meets the standards as established by this chapter, in that:

- (a) The property possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation;
 - (b) It is identified with historic personages;
 - (c) It embodies the distinguishing characteristics of an architectural style;
 - (d) It is the work of a designer whose work has significantly influenced an age; or
 - (e) Because of a unique location or singular physical characteristic, it represents an established and familiar visual feature of the neighborhood.
- (2) A property owner(s) agrees in writing to the Commission that his/her/their building, site, structure or landmark be permanently designated for inclusion as historic or culturally significant and such owner(s) agrees to abide by the rules as provided for in this chapter.
- B. The owner(s) of the property shall execute a declaration of conditions and restrictions in recordable form and the Town Clerk shall arrange to have the declaration recorded in the Monroe County Clerk's office.
- C. The Town Clerk shall maintain a master list in which all designated properties are recorded and shall provide copies of the declaration of conditions and restrictions to the Town Assessor and to the Town Code Enforcement Officer. **[Amended 10-15-2018 by L.L. No. 3-2018]**

§ 159-6. Certificate of appropriateness.

Once a property is determined to be a landmark, no person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark, nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street which shall affect the appearance, without first obtaining a certificate of appropriateness from the Commission.

§ 159-7. Criteria for approval of application.

- A. In passing on an application for a certificate of appropriateness for private residences or structures, the Historic Preservation Commission shall not consider changes to the interior spaces or to the exterior architectural features not considered visible from a public street or a public right-of-way. However, such public interior space and interior architectural features of commercial buildings or places of public assembly shall be subject to review unless exempted in the Declaration of Conditions and Restriction papers filed with the County Clerk. If

approving any other type of landmark, the Commission shall consider its effect on the purpose for which the landmark was designated. All certificates shall terminate after one year unless significant progress has been made. **[Amended 2-27-2006 by L.L. No. 4-2006; 10-15-2018 by L.L. No. 3-2018]**

- B. In applying the principle of compatibility for a landmark, the Commission shall consider the following factors:
- (1) The general design, character and appropriateness to the property of the proposed alteration or new construction.
 - (2) The scale of the proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood.
 - (3) Texture and materials similar in appearance to the original.
 - (4) Visual compatibility with surrounding properties, including proportion of the property's front facade, roof shape and the rhythm of spacing of properties on the street, including setback.
 - (5) The importance of historic, architectural or other features of the property.

§ 159-8. Application and decision procedures.

- A. Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such certificate with the Commission. Such filing is to take place in the Town Code Enforcement Officer's office. The application shall contain at least the following information: **[Amended 10-15-2018 by L.L. No. 3-2018]**
- (1) Name, address and telephone number of the applicant.
 - (2) Location and photographs of the property.
 - (3) Elevation drawings of proposed changes.
 - (4) Perspective drawings, including the relationship to adjacent properties, if available.
 - (5) Samples of materials to be used, if required.
 - (6) Where the proposal includes signs or lettering, a scale drawing showing the types of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination and a plan showing the sign's location on the property.
 - (7) Any other information the Commission may deem necessary in order to visualize the proposed work.
- B. No building permit may be issued for such proposed work until a certificate of appropriateness has been first issued by the Commission.

The certificate of appropriateness required by this chapter shall be in addition to, and not in lieu of, any building permit that may be required by any other code of the Town of Mendon. The certificate of appropriateness shall be in such form and contain such information and documentation as shall be prescribed by the Town Board from time to time.

- C. The Commission shall approve, approve with modifications or deny the application within 60 days from the receipt of a completed application. The Commission may also hold a public hearing on the application, at which an opportunity will be provided for proponents and any opponents of the application to present their views. The applicant will be required to post a sign provided by the Town in the front yard of the property subject to the application, for a ten-day period, immediately prior to the public hearing. **[Amended 2-28-2000 by L.L. No. 4-2000]**
- D. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant via certified mail and a copy filed with the Code Enforcement Officer and the Town Clerk. The Commission's decisions shall also state its reasons therefor. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- E. A fee, as established by the Town Board, may be required and shall accompany the application.

§ 159-9. Hardship criteria.

An applicant whose certificate of appropriateness has been denied may apply for a relief from landmark designation on the grounds that such designation constitutes a hardship. In order to prove the existence of a hardship, the applicant shall establish one or more of the following criteria:

- A. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.
- B. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return.
- C. Substantial efforts to find a purchaser interested in acquiring and preserving the property have failed.
- D. Financial inability to perform the required repairs or restoration.

§ 159-10. Hardship application and decision procedures.

- A. After receiving written notification from the Commission of the denial of certificate of appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists.

- B. The Commission shall hold a public hearing on the hardship application, at which an opportunity will be provided for proponents and opponents of the application to present their views. The hardship application shall be in such form and shall contain such information and documentation as shall be prescribed by the Town Board from time to time.
- C. The applicant shall consult in good faith with the Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- D. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by certified mail and a copy filed with the Town Clerk and the Code Enforcement Officer. The Commission's decision shall state the reasons for granting or denying the hardship application. **[Amended 10-15-2018 by L.L. No. 3-2018]**

§ 159-11. Enforcement. [Amended 10-15-2018 by L.L. No. 3-2018]

All work performed pursuant to a certificate of appropriateness issued under this chapter shall conform to any requirements included therein. It shall be the duty of the Code Compliance Officer to inspect periodically and, upon completion of any such work, to assure compliance. If work is found that is not being performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Commission, the Code Compliance Officer shall issue a stop-work order, and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop-work order is in effect.

§ 159-12. Maintenance and repair required.

- A. Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark which does not involve a change of design or outward appearance.
- B. No owner or person with an interest in real property designated as a landmark shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Historic Preservation Commission, produce a detrimental effect upon the life and character of the property itself. Examples of deterioration include:
 - (1) Deterioration of exterior walls or other vertical supports.
 - (2) Deterioration of roofs or other horizontal members.
 - (3) Deterioration of exterior chimneys.
 - (4) Deterioration or crumbling of exterior stucco or mortar.

- (5) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
- (6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

§ 159-13. Penalties for offenses.

- A. Failure to comply with any of the provisions of this chapter shall result in the termination of any permits issued or any proceedings commenced under the provisions of this chapter, and penalties for offenses thereof shall be under the Enforcement Procedures Law. Penalties shall be consistent with the Town Zoning Ordinance¹² for violations, as an offense.
- B. Any person who demolishes or alters a designated property or allows it to fall into a serious state of disrepair in violation of this chapter shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the Town Board. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty.

§ 159-14. Appeals.

Any person aggrieved by a decision of the Commission relating to hardship or a certificate of appropriateness may, within 30 days of the filing of the decision in the Town Clerk's office, file a written application with the Town Board for a review of the decision. The Town Board shall schedule a public hearing on the matter without unnecessary delay.

§ 159-15. Conflict with other provisions.

Where this chapter imposes greater restrictions than are imposed by the provisions of any law, ordinance, regulation or private agreement, the provisions of this chapter shall control. Where greater restrictions are imposed by any law, ordinance, regulation or private agreement than are imposed by this chapter, such greater restrictions shall not be affected by this chapter.

§ 159-16. Compliance with provisions required.

No decision to carry out or approve an action subject to the provisions of this chapter shall be rendered by any department, board, commission, officer or employee of the Town of Mendon until there has been full compliance with all requirements of this chapter. This shall not prohibit environmental, engineering, economic feasibility or other studies, preliminary planning or budgetary processes nor the granting of an application relating only to the technical specifications and requirements

12. Editor's Note: See Ch. 260, Zoning.

but not authorizing commencement of action until full compliance with this chapter has been met.

§ 159-17. Jurisdiction.

This chapter shall apply to the entire area of the Town of Mendon, excluding that area within the corporate limits of the Village of Honeoye Falls.

§ 159-18. Amendments.

The Town Board may from time to time amend, supplement, change, modify or repeal this chapter pursuant to the provisions of the Town Law and the General Municipal Law applicable thereto.

Chapter 178

MINING AND EXCAVATIONS

GENERAL REFERENCES

Definitions — See Ch. 5.

Farming — See Ch. 142.

Penalties and enforcement — See Ch. 9.

Stormwater management — See Ch. 217.

**Environmental Protection
Districts** — See Ch. 138.

Overlay Zoning — See Ch. 260.

ARTICLE I

Mining**[Adopted 8-13-2001 by L.L. No. 7-2001 (Ch. 138 of the 1994 Code)]****§ 178-1. Purpose and findings.**

- A. This article is enacted in order that land may be mined and excavated in the Town in an orderly and reasonable manner while protecting the value of property, the health, safety and general welfare of the public and the natural beauty and aesthetic values in affected areas.
- B. The New York State Mined Land Reclamation Law (Environmental Conservation Law § 23-2701 et seq.) reserves to the state permit-granting authority, reclamation standards and certain other authority over the extractive mining industry in the state which exceeds a certain volume of production. That state law allows for the exercise of certain powers by local governments over mining and excavational activities.
- C. The Town Board finds that the only extractive mining operation within the Town is a sand and gravel operation, which is a preexisting, nonconforming use in a residential zone, and further finds the volume of production of that operation is such as to bring it within the state regulatory authority.
- D. This article is enacted to supplement the provisions of state law governing that sand and gravel operation.

§ 178-2. Expansion of existing mining operations prohibited.

- A. The sand and gravel operation existing within the Town is Tax Account Nos. 221.01-2-1 and 214.03-2-6 (commonly called "Hanson Aggregates BRD"), which comprises about 105.43 acres of land as shown on the Town of Mendon Tax Map. This operation is a preexisting, nonconforming use and is the only mining and excavation activity in the Town.
- B. This sand and gravel operation may not expand onto adjacent or other parcels of land.
- C. In the event that these tax account numbers are amended or altered to include additional land, then mining or extractive activity is prohibited on such additional land.

§ 178-3. Referral of permit application to Town by state.

- A. The state is required by state law to refer to the Town for comment all permit applications for mining activities within the Town over which the state has jurisdiction. The Town is required to comment, if it decides to do so, within 30 days.
- B. The Town Supervisor is required by state law to make the comments on behalf of the Town. The Supervisor shall consult with the Town Board

before making such comments, except that if mining activities are prohibited by Town law at the proposed site, the Supervisor shall promptly so notify the state in writing.

- C. State law permits comments by the Town as to appropriate setbacks from property boundaries or public rights-of-way, man-made or natural barriers to restrict access, control of dust and hours of operation. The Town Board finds, based on past experience and previous Town Board legislative standards, that the following are reasonable and necessary minimum requirements that ought to attach to any such permit granted by the state in this Town:
- (1) Setbacks: at least 75 feet from property boundaries or public rights-of way.
 - (2) Barriers to restrict access: a four-strand barbed-wire fence adjacent to any portion of the excavation face reasonably accessible to the public, whether the excavation face is active or inactive. The fence shall be at least 10 feet back from the excavation face or, if the excavation face is less than 10 feet from the property line, the fence shall be of equal distance from the excavation face and the property line. The four strands of barbed wire shall be at one-foot horizontal intervals with the lowest being one foot above the ground; and poles or stakes supporting such barbed wire shall be at intervals not greater than 10 feet.
 - (3) Dust control. A vegetative buffer zone shall exist between all excavation faces and adjacent property lines, unless the existing topography provides a natural buffer.
 - (4) Hours of operation: from 7:00 a.m. to 6:00 p.m. local time.

§ 178-4. Inspection and enforcement.

- A. The Town Code Enforcement Officer shall have the authority and responsibility for inspection of all mining operations in the Town and shall report to the Town Board any violations of state or Town laws regulating the same, including violations of any conditions attached to state permits.
- B. Violations of state law or state permit conditions shall also be promptly communicated to the appropriate state authority.
- C. The Town Board may take such legal action as it deems appropriate to enforce state and Town law and permit violations.

ARTICLE II
Excavations

[Adopted 8-13-2001 by L.L. No. 8-2001 (Ch. 97 of the 1994 Code)]

§ 178-5. Purpose.

It is the purpose of these regulations to provide for excavations which are associated with approved site development(s) in the Town of Mendon. This article does not apply to extractive mining operations, which are governed by Article I of this chapter.

§ 178-6. Intent.

It is hereby declared to be the intent of these regulations to remove the danger to the health, safety and general welfare of Town residents that may otherwise be caused by excavations by regulating the manner of removal of natural site materials.

§ 178-7. Agricultural operations.

Nothing contained in this article shall require any person engaged in farming operations to obtain a permit for the purpose of moving topsoil or earth from one location to another on the same land for grading, improving or draining of said land, provided that such removal is necessary for or accessory to the farming operations.

§ 178-8. Permit application; fees and security.

- A. Before any excavation is commenced, an application for an excavation permit from the Town Board shall have been filed with the Town Clerk and approved by the Town Board pursuant to the provisions of this article.
- B. Upon filing an application for an excavation permit, a fee in the amount set by the Town Board in the fee schedule shall be paid by the applicant.
- C. In addition to said fee, the applicant may be required to post with the Town a letter of credit in an amount sufficient to permit the Town to reclaim the excavated area. The amount of said letter of credit shall be determined by the Town Board in consultation with the Town Engineer, Town Attorney and Town Supervisor.

§ 178-9. Extent of excavation.

- A. The Code Enforcement Officer shall determine from the application for an excavation permit the number of yards proposed to be excavated or removed and shall certify this amount to the Town Clerk. The fee for said permit shall be established, at a rate per cubic yard of excavated material, by resolution of the Town Board.

- B. No excavation may be conducted by the permit holder beyond the terms of the original permit, until such time as an amended permit has been approved by the Town Board.
- C. At the end of the permit period, the permit holder shall have a duly licensed engineer certify as to the amount of material excavated during the permit, and certify a copy of said engineer's report. Said report shall be filed with the Town Clerk within 60 days of the end of the permit period and affixed to the permit file.
- D. In the event that it is determined by the Town Engineer, upon review of the engineer's report cited above, that more material has been excavated than authorized by the permit, the permit holder shall be subject to a penalty not less than twice nor more than four times the amount of the original permit fee. Said penalty shall be payable within 30 days after receiving notification from the Code Enforcement Officer of said violation.

§ 178-10. Application materials.

- A. Five copies of each application for an excavation permit shall be signed by the applicant and/or property owner and shall include the following:
 - (1) The name and address of the applicant.
 - (2) The name and address of each owner of the premises.
 - (3) A certification that all property taxes are paid to date for the premises.
- B. For each excavation site, the applicant shall submit five copies of an approved subdivision or site plan for development of the site which shows the area to be excavated and all lands and improvements thereon within 300 feet from such area to be excavated.
- C. Each excavation site shall include a surveyor's sketch of existing and proposed topography, a recent aerial photograph delineating the area to be excavated and identifying all existing physical features within the area depicted. In addition, said application shall identify all adjacent land use, including private wells operating within 1,000 feet of the excavated area.
- D. In addition, each application shall include five copies of a natural features and improvements map prepared by a licensed engineer or surveyor at a scale no smaller than one inch equals 50 feet. The map shall show the following, both within the site where excavation is to occur and within 500 feet of the boundary of said site:
 - (1) Existing topography at contour intervals of five feet.
 - (2) Areas of trees and forest.
 - (3) Average thickness of overburden.

- (4) Surface drainage pattern.
 - (5) Depth to groundwater.
 - (6) Existing improvements.
- E. Each application shall include five copies of an operations map, presented as an overlay to the natural features map. The following features, including the area devoted to each, shall be shown:
- (1) Existing and proposed excavation areas.
 - (2) Existing and proposed appurtenant activities, identified by type.
 - (3) Existing and proposed access roads, identified by width and surface material.
 - (4) The area where topsoil will be temporarily stored for use in site restoration, including measures to prevent erosion into nearby streams, if any.
 - (5) The location, size and type of erosion and sedimentation controls to be used.
- F. Each application shall include five copies of a restoration plan presented as an overlay to the natural features map and consisting of whatever supplementary descriptive materials are deemed appropriate. The restoration plan shall include the following:
- (1) Boundaries of the area proposed for restoration.
 - (2) The final topography of the area proposed for restoration at contour intervals of five feet.
 - (3) The final surface drainage pattern and the location and characteristics of artificial drainage facilities in the area proposed for restoration and in contiguous areas.
 - (4) The depth and composition of topsoil proposed to be used in restoration.
 - (5) The types of vegetation proposed to be used in restoration.

§ 178-11. General considerations.

In considering an excavation permit, the Town Board shall consider the Planning Board's record on the proposed subdivision or site plan; the environmental effects of said excavation operation on such matters as groundwater impacts, erosion potential, sedimentation impacts, reuse of the area for agricultural purposes, impairment to the aesthetic or natural environment of the excavation area or surrounding area; effects on adjacent land use; nuisances; and whether the area excavated can be effectively restored and revegetated.

§ 178-12. Standards for excavation operations.

- A. The area to be excavated shall not exceed 10% of the total site area approved for development by the Planning Board.
- B. No excavation shall be conducted closer than 200 feet to a public right-of-way or to any adjoining property line. No stockpiled materials shall be located closer than 200 feet to any property line.
- C. All access roads shall be designed to take advantage of buffers and to include curves or other features to screen, as much as feasible, excavation and appurtenant activities from public view. All access to a public road shall meet standards set forth in the Town of Mendon Design Criteria.
- D. All topsoil shall be stripped from the active excavation area and shall be stockpiled for use upon the premises in accordance with the restoration plan. All stockpiles so established shall be promptly measured by the permit holder's duly licensed engineer, and a certified statement as to the volume of said topsoil shall be filed with the Town Clerk. All such stockpiles shall be seeded, covered or otherwise treated to minimize the effects of erosion by wind or water upon the public roads, streams or other water bodies or upon adjacent property. No topsoil shall be removed from the site until the Code Enforcement Officer has verified the volume of said topsoil stockpiled and all owners of the proposed sites have first been offered the opportunity to purchase said topsoil for reuse elsewhere on the original site.
- E. Existing hills, trees and ground cover fronting along and within 200 feet of a public road or adjacent property shall be preserved, maintained or supplemented by selective cutting, transplanting and addition of new trees, shrubs and other ground cover for the purpose of providing a buffer.
- F. An adequate drainage system shall be provided to convey stormwater runoff originating on or crossing the area to be excavated. No excavation shall be located closer than 200 feet to a stream or other natural water body or to a federal or state freshwater wetland. Soil erosion, sedimentation and groundwater seepage shall be controlled so as to prevent any negative effects on bodies of water, public roads and neighboring properties. No ponds or pools of water shall be created or allowed to remain in any excavated area, unless said ponds or pools are specifically authorized as an accessory use.
- G. Hours of excavation and appurtenant activities, including the operation of any machinery, shall be conducted only between 7:00 a.m. and 6:00 p.m. and shall not be allowed on Sunday. Loaded trucks shall leave the premises only within the hours permitted for the excavation and appurtenant activities.

- H. Noise from excavation, appurtenant activities and related operations shall not be such as to unduly interfere with the quiet enjoyment of neighboring properties.
- I. No excavation shall occur below the average annual groundwater level, nor below a depth that is above the groundwater level and is more than 20 feet below the average level of said area prior to any excavation. Where an excavation is proposed in an area that has been previously excavated, the applicant's engineer shall determine the level of the natural, unexcavated terrain, and no excavation greater than a depth of 20 feet below said natural level or below the average annual groundwater level will be allowed.
- J. No excavation shall occur where a slope greater than one to three is created. All slopes greater than 15% shall be surrounded by fencing acceptable to the Town Board.

§ 178-13. Standards for restoration.

- A. No slopes shall remain with a slope steeper than one foot of vertical rise to three feet of horizontal distance.
- B. All stumps, boulders and other debris resulting from the excavation, appurtenant activities or related operations shall be disposed of by approved methods. If allowed to be disposed of on site, such debris shall be covered with a minimum of three feet of topsoil.
- C. Topsoil shall be spread over the reclaimed excavated area to a minimum depth of four inches or to the average original (preexcavation) topsoil depth, whichever is greater. The soil shall be restored to a condition that is as fertile or more fertile than it was prior to excavation.
- D. The restored area shall be planted with trees, shrubs, grass or other vegetation so as to provide for screening, natural beauty and soil stability. The planting shall follow acceptable conservation practices.
- E. Restoration shall occur such that natural and storm drainage, where it enters and leaves the site, shall be altered only to the minimal degree necessary to carry out excavation and appurtenant activities. Any alterations of natural and storm drainage shall not adversely affect public roads or neighboring properties.
- F. Restoration shall be a continuous operation during the time that an area is being excavated. Topsoil grading and planting of the area designed for restoration during the permit period shall be properly completed.
- G. Within six months of completion, all equipment and evidence of the operation shall be removed from the premises or disposed of by approved methods and all restoration shall have been completed.

- H. All stockpiled materials remaining upon any excavated area shall be removed within one year following the termination of the excavation operation and the land used for the stockpiles restored in a manner which complements the remainder of the site.

§ 178-14. Ponds or artificial lakes.

A pond, artificial lake or other man-made excavation for the purpose of collecting or diverting surface water, such as a wildlife marsh or drainage ditch, shall be deemed to be an excavation and subject to the requirements of this article. All such excavations shall be subject to approval by the Monroe County Soil and Water Conservation District and, where applicable, the New York State Department of Environmental Conservation. All ponds shall be considered structures which shall comply with the minimum setback requirements as established by Chapter 260, Zoning, of the Town Code.

§ 178-15. Turf farming; turf removal.

A. Operation.

- (1) A permit is required to allow the removal of turf from any lands in the Town of Mendon. Said permit shall require the owner and operator of the area being so excavated to leave at least four inches of topsoil upon the completion of turf removal.
- (2) No permit to remove turf shall be granted for any land which is subject to flooding or which will adversely affect the drainage of any adjacent lands unless specific plans are presented for proper controls and said plans have been approved by the Monroe County Soil and Water Conservation District.
- (3) Adequate measures shall be taken to prevent dust conditions during excavation.

B. Restoration. Any area from which turf has been removed and not replanted shall, between the period commencing April 1 and ending September 15, be prepared into a loose seed bed, limed, fertilized and seeded in the following manner:

- (1) Apply necessary ground limestone to raise the pH factor to 6.5 (acidity measurement).
- (2) Apply 10-20-10 fertilizer or equivalent at the rate of 500 pounds per acre.
- (3) Disc area to work limestone and fertilizer into soil to a depth of at least three inches.
- (4) Smooth area with smoothing harrow.
- (5) Sow a minimum of the following mixture per acre: eight pounds bird's-foot trefoil and eight pounds timothy or other mixture

approved by the Monroe County Soil and Water Conservation District.

- (6) Roll firm with ground roller or cultipacker.
- C. The Town Board shall establish fees for each crop of turf raised.
- D. A letter of credit shall be provided in an amount set by the Town Supervisor and in a form approved by the Town Attorney. This letter of credit shall remain in effect to the Town during the permit, until such time as the restoration of the excavated areas has been completed.

§ 178-16. Penalties for offenses.

Any person, firm, company or corporation operating or conducting any excavation in violation of any of the provisions of this article and any person, firm, company or corporation assisting in the commission of any violation of this article or of any conditions imposed by the Town Board pursuant to this article and any person, firm, company or corporation who or which shall omit, neglect or refuse to do any act required by this article shall be guilty of an offense and shall be subject to penalties as provided elsewhere in the Code of the Town of Mendon.

§ 178-17. Suspension or revocation of permit.

Upon the violation of any provisions of this article or any other provisions of the Code of the Town of Mendon, the Town Board may suspend for 30 days any permit issued hereunder and, following a public hearing, may revoke any said permit.

§ 178-18. Conflict with other regulations.

Where this article imposes greater restrictions than are imposed by the provision of any law, ordinance, regulation or private agreement, this article shall control. Where greater restrictions are imposed by law, ordinance, regulation or private agreement than are imposed by this article, such greater restrictions shall control.

Chapter 184**NOISE****GENERAL REFERENCES****Definitions — See Ch. 5.****Peddling and soliciting — See Ch. 194.****Penalties and enforcement — See Ch. 9.****Zoning — See Ch. 260.**

§ 184-1. Findings and intent; interpretation.

Making and creating disturbing, excessive or offensive noises within the Town of Mendon (called "the Town") is persisting, and the level and frequency of noise continues to increase. It is hereby declared the policy of the Town Board to prevent all such noises, which are detrimental to the public health, comfort, safety and welfare of the residents of the Town. Every resident is entitled to an environment which is free from disturbing, excessive or offensive noise which is detrimental to the quiet, peaceful enjoyment of property and lawful activities. This chapter is to be construed literally, but it is not intended to be construed to discourage normal, reasonable or usual activities or property use.

§ 184-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ALL-TERRAIN VEHICLE or ATV — Any motor vehicle designed for off-highway use and designed to travel on not less than three low-pressure tires, having a seat or saddle designed to be straddled by the operator and handlebars for steering control. As used in this chapter, "all-terrain vehicles" shall mean all-terrain vehicles and utility-terrain vehicles.

A-WEIGHTED SOUND LEVEL — The sound pressure level in decibels as measured on a sound level meter using the A-weighting network, the level of which so read is designated "dB(A)" or "dBA."

MOTORCYCLE — An unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including but not limited to motor scooters and mini-bikes.

MUFFLER OR SOUND-DISSIPATIVE DEVICE — A device for abating the sound of escaping gases of an internal combustion engine.

NOISE — Any sound that annoys or disturbs humans or causes or tends to cause an adverse psychological or physiological effect on humans.

NOISE DISTURBANCE — Any sound that endangers or injures the safety or health of humans or animals, annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property. A

sound level in excess of 85 dB(A) measured at a residential property line shall be considered a noise disturbance.

UTILITY-TERRAIN VEHICLE — Any motor vehicle with four or more low-pressure tires designed for off-highway use having bench or bucket seating for each occupant and a steering wheel for control. As used in this chapter, "all-terrain vehicles" shall mean all-terrain vehicles and utility-terrain vehicles.

§ 184-3. Prohibited acts.

The following acts are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive, namely:

- A. Sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, except as a danger signal; the sounding of a multitoned or musical horn; the creation by means of any such signal device of any unreasonably loud or harsh sound and the sounding of such device for an unnecessary and unreasonable period of time, except that this subsection shall not apply to vehicles of the Fire Department, law enforcement agencies, other municipal departments or emergency vehicles of public service corporations or ambulances.
- B. Playing of any radio, television, musical instrument or other machine or device for the producing, reproducing or amplification of sound in such a manner or with such volume, particularly between the hours of 11:00 p.m. and 7:00 a.m., as to annoy the quiet, comfort or repose of persons in any dwelling. It shall be prima facie evidence of a violation of this section if the sound emanating from such machine or device is:
 - (1) Audible beyond the property line of the premises upon which it is being used between the hours of 11:00 p.m. and 7:00 a.m.
 - (2) Audible at a distance of 50 feet beyond the property line of the premises upon which it is being used between the hours of 7:00 a.m. and 11:00 p.m.
 - (3) Audible at a distance of 50 feet from such machine or device if operated from a motor vehicle on a public street, parking lot or other public property.
- C. Keeping of any animal or bird which, by causing frequent or long-continued noise, disturbs the comfort and repose of any person in the vicinity.
- D. Using any motor vehicle so as to create any loud or unnecessary grating, grinding, rattling or any other noise which disturbs the comfort and repose of any person in the vicinity.
- E. Discharging into the open air the exhaust of any steam engine, stationary internal-combustion engine, air compressor or motor vehicle or motorboat engine or the making of a mechanical noise by a

compressor or refrigeration unit, except through a muffler or other device which will effectively prevent loud or explosive noises.

- F. Operating of power equipment (except the operation of snow removal equipment or emergency power equipment) in residential zones between the hours of 9:00 p.m. and 7:00 a.m.
- G. Any unnecessary noise from any sources which is of such character, intensity and duration as to be detrimental to the life or health of any individual or contrary to public welfare, especially between the hours of 9:00 p.m. and 7:00 a.m. "Unnecessary" shall be defined as that which is not required by usual circumstances.
- H. The erection, alteration or repair of any building, including excavation and demolition, other than between 7:00 a.m. and 7:00 p.m., except in matters involving public safety or emergencies.
- I. The operation of a generator for residential use where public services are available, except in the case of emergency when public services are shut down.
- J. Motor vehicle or motorboat repairs and testing. No person shall repair, rebuild, modify, idle, run, accelerate or test any motor vehicle or any auxiliary equipment attached to such vehicle, motorboat or aircraft in such a manner as to cause a noise disturbance across a residential real-property boundary between the hours of 11:00 p.m. and 7:00 a.m.
- K. ATV and motorcycle. No person shall operate or permit the operation of powered motor vehicles so as to create a noise disturbance across a residential property boundary. Maximum sound levels for ATVs and motorcycles shall not exceed 85 dB(A) and shall be measured at a distance of 50 feet (15 meters) from any point on the path of the vehicle.
- L. No person shall operate or cause or allow to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound-dissipative device in good working order and in constant operation. No person shall remove or render inoperative or cause or allow to be removed or rendered inoperative, other than for purposes of maintenance, repair or replacement, any muffler or sound-dissipative device on a motor vehicle or motorcycle.

§ 184-4. Exceptions.

The provisions of this chapter shall not apply to the following acts:

- A. The emission of sound for the purpose of alerting persons to the existence of an emergency.
- B. Noise from Town-sponsored celebrations or events.
- C. Noise from non-Town-sponsored events that have been authorized by the Town Board of the Town of Mendon.

- D. Operation or use of any organ, radio, bell chimes or other instrument, apparatus or device by a church, synagogue or school licensed or chartered by the State of New York.
- E. Noise generated by the installation and maintenance of utilities.
- F. Noise generated by any use from commercial or industrial zoned property that existed prior to the adoption of this chapter. However, if said use is terminated, abandoned or discontinued for a continuous period of six months, then said use shall be subject to the provisions of this chapter.
- G. Noise from emergency construction for which a permit has been issued by the Town Code Enforcement Officer.
- H. Normal or emergency Town equipment operated by the Town or equipment operated by its contractual vendees.
- I. Agricultural activities.
- J. Discharging of firearms for the purpose of hunting during the hours and locations permitted by state and local law.

§ 184-5. Enforcement.

Violations of this chapter may be enforced by the designated Town Code Enforcement Officer or members of the Monroe County Sheriff's Department, New York State Police or other peace officers in connection with their duties imposed by law.

§ 184-6. Penalties for offenses.

- A. Any person who commits or permits any act in violation of this chapter shall be subject to penalties as provided in Chapter 9, Penalties and Enforcement, of the Town Code.
- B. Each act committed in violation of any provision of this chapter shall constitute a separate additional violation.

Chapter 190

PARKS AND RECREATION

GENERAL REFERENCES

Definitions — See Ch. 5.

Penalties and enforcement — See Ch. 9.

§ 190-1. Title.

This chapter shall be known as the "Parks and Recreation Ordinance of the Town of Mendon."

§ 190-2. Purpose.

The purpose of this chapter shall be to preserve the public peace and good order in areas owned, leased or otherwise controlled by the Town of Mendon and designated or operated as public parks or recreation areas and to contribute to the safety and enjoyment of the users thereof by regulating the hours of use, by regulating the use of motorized vehicles and by prohibiting certain activities incidental to customary park and recreation uses.

§ 190-3. Hours of operation. [Amended 1-11-1999 by L.L. No. 1-1999; 10-15-2018 by L.L. No. 3-2018]

- A. Unless otherwise provided by resolution of the Town Board, Town parks and recreation areas will be open to the general public from 7:00 a.m. to sunset each day and otherwise will be closed.
- B. Areas or facilities of Town parks and recreation areas which are illuminated by the Town will be open to the general public as long as they are illuminated.

§ 190-4. Prohibited acts.

The following acts or activities are prohibited, and no person shall:

- A. Operate any motorized vehicle, such as an automobile, minibike, motorcycle, snowmobile and the like, within the area of the park lands; provided, however, that the operation of licensed vehicles for the transportation of the public to and from park lands is permitted within designated roadways, and the parking of such vehicles is also permitted within designated parking areas.
- B. Discharge any firearm, spring gun or air gun, slingshot or bow and arrow or carry any concealed weapons considered to be dangerous within the park.
- C. Injure, deface or disturb any part of the park or any building, sign, equipment or any other property therein or remove, injure or destroy any tree, flower, shrub, rock or mineral therein.
- D. Set fire or assist others to set fire to any timber, trees, shrubs, grass, leaves, shelters, buildings, equipment or any other combustible material or suffer any fire upon other lands to extend onto any part of any park.
- E. Throw, cast, lay, drop, discharge, deposit, bring into or leave in any part of the park land any garbage, containers for food or liquids, other waste or other obnoxious material otherwise than in containers provided for such purpose.
- F. Drive or propel, or cause to be driven, any permitted vehicle at a rate of speed greater than that speed so designated.

- G. Use unreasonably loud or obscene language, obscene gestures, fight, perform acts intended to cause public inconvenience, annoyance or alarm, or interfere with any officer of the Town, county or state in the performance of his or her duty.
- H. Consume or be in possession of alcoholic beverages of any type or variety.
- I. Be in an intoxicated condition within any Town park or recreation area.
- J. Introduce into any Town park a dog, cat or other household pet or any other animal which may be injurious or destructive to birds, fish, animals or other wildlife, plant life or other natural features within a park or which may be dangerous, injurious or offensive to users of a park, except that dogs and cats shall be permitted within a park if controlled by a leash. Under no circumstances may horses be permitted within any Town park, except upon the approval of the Town Board, or within areas specifically designated therefor.
- K. Cause or allow the overnight parking or storage of automobiles, motorcycles, boats, recreational vehicles, etc., within any Town park.
- L. Swim, wade in water or bring any boat or flotation device into any body of water within any Town park.
- M. Cause or permit live bands or disc jockeys to perform in any Town park, without the prior approval of the Town Board.
- N. Camp overnight.

§ 190-5. Exceptions. [Amended 10-15-2018 by L.L. No. 3-2018]

Areas within such parks or recreation areas which are so designated may be used for otherwise prohibited activities. If any such areas, such as minibike trails, snowmobile or horseback riding trails, etc., are so designated, they shall be conspicuously posted by signs or otherwise.

§ 190-6. Administration.

The Town Board or its designee is charged with the administration of this chapter.

§ 190-7. Enforcement.

- A. Members of the New York State Police, Monroe County Sheriff's Department or any other peace officer shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.
- B. Members of the New York State Police, Monroe County Sheriff's Department or other peace officers shall have the authority to eject from the park lands any person acting in violation of this chapter.

- C. Members of the New York State Police, Monroe County Sheriff's Department, Town Civil Officer or Code Enforcement Officer shall have the authority to issue citations returnable in the Town of Mendon Justice Court for violations of this chapter.

§ 190-8. Penalties for offenses; liability for damages.

- A. Violations of any provisions or regulations of this chapter shall be punishable by a fine of not less than \$100 and not greater than \$250 for each violation, pursuant to Chapter 9, Penalties and Enforcement, of the Mendon Town Code.
- B. Any person convicted of a violation as set forth in this chapter shall be subject to the provisions of § 65.10 of the New York State Penal Law and § 758-a of the New York State Family Court Act relative to the making of restitution, reparation for loss or damages and the performing of services for a public agency or for the public good, which, in such case, shall include appropriate services for the Recreation Commission of the Town of Mendon.
- C. Parents or legal guardians of infants over 10 years of age and less than 18 years of age shall be liable for damages or destruction caused in Town parks by such infants, up to the sum of \$1,000, pursuant to the provisions of § 3-112 of the New York State General Obligations Law.
- D. In addition to any penalties described herein, any persons causing damage to park property, real or personal, shall be liable to the Town of Mendon for such damage in a civil action.

§ 190-9. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ORGANIZATION — Any business, corporation, partnership, association, school, church, benevolent order or any other group, whether created by statute, contract or by informal arrangement.

PARK — The grounds, buildings thereon, waters therein and any other property necessary for the operation thereof and constituting a part thereof which is now or may thereafter be maintained or operated and controlled by the Town of Mendon and shall include recreation areas and playgrounds.

Chapter 194

**PEDDLING AND SOLICITING; PARADES AND
PERFORMANCES**

GENERAL REFERENCES

Definitions — See Ch. 5.

Noise — See Ch. 184.

Penalties and enforcement — See Ch. 9.

ARTICLE I
Peddling and Soliciting

§ 194-1. Legislative intent.

This chapter is enacted for the area of the Town of Mendon outside the territorial limits of the Village of Honeoye Falls for the purpose of preserving the peace, health, safety, welfare and good order of the Town and its inhabitants by regulating the activities of itinerant merchandising, soliciting, peddling or hawking.

§ 194-2. Definitions and word usage. [Amended 11-10-1997 by L.L. No. 8-1997]

All word usage and definitions used in this chapter are contained in Chapter 5, Definitions and Word Usage, of the Town Code.

§ 194-3. License or permit required.

It shall be unlawful for any person within the jurisdiction of this chapter to act as a hawker, peddler or solicitor, as herein defined, without first having obtained from the Town Clerk and paid for and having in force and effect a permit or license therefor.

§ 194-4. Exemptions.

- A. The provisions of this chapter shall not apply to the following:
- (1) Any honorably discharged veteran who is disabled as a result of injuries received while in the military services of the United States. **[Amended 10-15-2018 by L.L. No. 3-2018]**
 - (2) The holder of a license or permit granted pursuant to the General Business Law of the State of New York.
 - (3) Any person soliciting at the express invitation of the person solicited or serving an established customer.
 - (4) A wholesaler selling articles to dealers or merchants who have an established place of business within the Town of Mendon outside of the territorial limits of the Village of Honeoye Falls.
 - (5) A resident gardener or farmer who, himself or through his employees, sells or disposes of products of his own farm or garden.
 - (6) Auction sales held pursuant to law by a law enforcement officer authorized by law to conduct such sale or held by a licensed auctioneer.
 - (7) Any person selling goods, wares, commodities or services regularly to those who are his established customers, patrons or purchasers.

- (8) A child regularly attending any public or parochial or private school located within the Town of Mendon, including all students who are residents of said Town, or a representative of any established church maintaining a place of worship within the Town, or a member of a veteran's organization and/or volunteer fire department, provided that such organization has and maintains a chapter, post, lodge, camp or other group within the Town, or a member of a fraternal organization or civic group, provided that such fraternal organization or civic group maintains a chapter or local organization within the Town; and further provided that any person coming within the provisions of this exemption shall only peddle, hawk or solicit in connection with an authorized activity of the organization of which he is a member or the school which he attends.

B. Interstate commerce; records.

- (1) This chapter shall not apply so as to interfere unlawfully with interstate commerce.
- (2) All persons and organizations soliciting funds or engaging in hawking, peddling or soliciting solely for charitable or other purposes who are excepted from the license or permit requirements under this chapter shall maintain and keep records identifying all persons connected with such activity within the Town, and such records shall contain at least the name and the address of the person(s) engaged in such activity, the activity area and the date or dates of activity. Said records shall be made available for inspection by any law enforcement officer or member of the Town Board of the Town of Mendon.

§ 194-5. Application for permit or license.

Every applicant for a license or permit is required to submit to the Town Clerk a written application supplying, under oath, the following information:

- A. The name, permanent home residence address and address of his current place of sojourn if different from his home address.
- B. The age of the applicant and physical characteristics.
- C. The name and address of the firm represented, if any, and business telephone number of the firm, together with the person of such firm to be contacted if need be.
- D. The length of time for which the permit is required.
- E. An itemized statement of all goods, services, wares or commodities to be offered for sale or for which he intends to solicit orders.
- F. A list of all municipalities located within the County of Monroe, State of New York, in which the applicant has carried on the business of

hawking, peddling or soliciting during the six months immediately preceding this application.

- G. A copy of all forms for orders and receipts to be used by the applicant relating to this application.
- H. A letter of authorization from each entity supplying any goods, services, wares or commodities to be offered for sale or for which orders are to be solicited by the applicant.

§ 194-6. Issuance of permit.

Upon receipt of the application and the permit fee, and upon compliance with all of the requirements of this chapter, and if reasonably satisfied with the applicant's qualifications, the Town Clerk shall issue a permit to the applicant specifying the particular business authorized and area wherein it may be conducted. This permit shall be nontransferable and shall be in the continuous possession of the licensee while engaged in the business licensed. The permit shall be produced upon demand and shall be exhibited to any law enforcement officer or member of the Town Board of the Town of Mendon or any prospective buyer or person solicited.

§ 194-7. Fees.

The Town Board of the Town of Mendon shall establish, by a Town Board resolution, a schedule of fees for permits to engage in the above occupations hereinabove described, which shall be subject to change by said Town Board.

§ 194-8. Refusal or revocation of permit.

- A. Any applicant who shall have been refused such a permit by the Town Clerk or the Supervisor of the Town of Mendon may then apply, in writing, to the Town Board therefor at a regular meeting thereof, and the same shall be granted or refused by such Town Board.
- B. Permits issued under the provisions of this chapter may be revoked by written personal notice or by written notice by certified mail to the licensee, by the Town Clerk or the Supervisor of the Town of Mendon, for any of the following causes:
 - (1) Fraud, misrepresentation or false statement contained in the application for a license or permit.
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on his business as a hawker, peddler or solicitor.
 - (3) Complaints of Town residents of the licensee conducting the hawking, peddling or soliciting in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or welfare of the public or the good order of the Town.

- (4) Any violation of this chapter or the arrest of any licensee for any alleged crime or misdemeanor.
- C. Any licensee whose permit has been revoked under the provisions of this section may apply, in writing, to the Town Board for a hearing at a regular meeting thereof for the reinstatement of such revoked permit.

§ 194-9. Restrictions and requirements.

A licensed person shall:

- A. Not willfully misstate any fact, quantity or quality of any article or service offered for sale.
- B. Not willfully offer for sale any article of an unwholesome or defective nature.
- C. Not frequent any street or highway so as to cause a private or public nuisance.
- D. Not hawk, peddle or solicit except between the hours of 9:00 a.m. and 9:00 p.m. on weekdays, nor on Sundays, except that the Sunday restriction shall not be applicable to peddlers of ice cream and ice cream products for immediate consumption.
- E. Not call attention to his goods or services by blowing a horn, ringing a bell other than a house doorbell, shouting or crying or by any loud or unusual noise, except that peddlers of ice cream and ice cream products for immediate consumption are exempted from the foregoing prohibition of the use of a bell.
- F. Keep any vehicle and/or receptacles used by him in the furtherance of his licensed business in a sound, clean and sanitary condition.
- G. Keep any edible articles offered for sale well protected from dirt, dust and insects.
- H. Deliver to every person to whom a sale is made, or from whom an order is taken, a legibly written receipt, signed and dated by the licensee, setting out the total price, a description of the goods or services sold or ordered, a statement of any payment received by the licensee and the name and address of the company or person that is to furnish the goods or services to the buyer; except that the foregoing does not apply to peddlers of ice cream and ice cream products.
- I. Leave all premises promptly upon the request of any occupant of such premises.
- J. Conduct himself or herself in a courteous and respectful manner.

ARTICLE II
Parades and Performances

§ 194-10. Permit required for parades and exhibitions; exception.

It shall be unlawful for any person to hold or conduct a parade or exhibition or for any band of music to play upon the streets and highways or public grounds of the Town of Mendon in the area of the Town of Mendon outside the territorial limits of the Village of Honeoye Falls without first having obtained a permit to do so from the Town Clerk, except that a veteran's, volunteer fire department, fraternal or civic organization which maintains a chapter, post, lodge or camp within the Town of Mendon is exempt from the foregoing prohibition.

§ 194-11. Permit required for circuses, theaters and other exhibitions; exception.

Circuses, theaters, shows or other exhibitions or performances and other similar places of amusement are hereby prohibited in the area of the Town of Mendon outside the territorial limits of the Village of Honeoye Falls without first having obtained a permit from the Town Clerk to hold such other activities. The giving of exhibitions, performances or entertainment in any place where a beverage is offered for sale requiring a license from the State of New York is hereby prohibited in the area of the Town of Mendon outside the territorial limits of the Village of Honeoye Falls without first having obtained a permit from the Town Clerk for such purpose. A veteran's, volunteer fire department or civic organization which maintains a chapter, post, lodge or camp within the Town of Mendon is exempt from the foregoing prohibitions of other activities.

ARTICLE III
Penalties

§ 194-12. Penalties for offenses.

- A. A person convicted of a violation of this chapter shall be subject to penalties as provided in Chapter 9, Penalties and Enforcement, for each such conviction. **[Amended 11-28-1994 by L.L. No. 7-1994]**
- B. Each day upon which any violation against this chapter shall be continued shall constitute a separate additional violation.

Chapter 200

RECORDS

GENERAL REFERENCES

Definitions — See Ch. 5.

ARTICLE I

Public Access

[Adopted 10-28-1974 (Ch. 160, Art. I, of the 1994 Code); amended in its entirety 10-15-2018 by L.L. No. 3-2018]

§ 200-1. Purpose and scope.

- A. The people's right to know the process of government decision-making and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy of confidentiality.
- B. These regulations provide information concerning the procedures by which records may be obtained.
- C. Personnel shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law.
- D. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

§ 200-2. Designation of records access officer.

- A. The Town Board is responsible for ensuring compliance with the regulations herein, and designates the Town Clerk and Town Supervisor as records access officers.
- B. The records access officer is responsible for ensuring appropriate agency response to public requests for access to records. The designation of a records access officer shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.
- C. The records access officer shall ensure that agency personnel:
 - (1) Maintain an up-to-date subject matter list.
 - (2) Assist persons seeking records to identify the records sought, if necessary, and when appropriate, indicate the manner in which the records are filed, retrieved or generated to assist persons in reasonably describing records.
 - (3) Contact persons seeking records when a request is voluminous or when locating the records involves substantial effort, so that personnel may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of records requested.
 - (4) Upon locating the records, take one of the following actions:
 - (a) Make records available for inspection; or

- (b) Deny access to the records in whole or in part and explain in writing the reasons therefor.
- (5) Upon request for copies of records:
 - (a) Make a copy available upon payment or offer to pay established fees, if any, in accordance with § 200-8; or
 - (b) Permit the requester to copy those records.
- (6) Upon request, certify that a record is a true copy; and
- (7) Upon failure to locate records, certify that:
 - (a) The Town of Mendon is not the custodian for such records; or
 - (b) The records of which the Town is a custodian cannot be found after diligent search.

§ 200-3. Location.

Records shall be available for public inspection and copying at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY 14472.

§ 200-4. Hours for public inspection.

Requests for public access to records shall be accepted and records produced during all hours regularly open for business. These hours are 8:00 a.m. to 4:00 p.m., Monday through Thursday; and 8:00 a.m. to 1:00 p.m. Friday.

§ 200-5. Requests for public access to records.

- A. A written request for records may be required, but oral requests may be accepted when records are readily available.
- B. If records are maintained on the internet, the requester shall be informed that the records are accessible via the internet and in printed form either on paper or other information storage medium.
- C. A response shall be given within five business days of receipt of a request by:
 - (1) Informing a person requesting records that the request or portion of the request does not reasonably describe the records sought, including direction, to the extent possible, that would enable that person to request records reasonably described;
 - (2) Granting or denying access to records in whole or in part;
 - (3) Acknowledging the receipt of a request in writing, including an approximate date when the request will be granted or denied in whole or in part, which shall be reasonable under the circumstances of the request and shall not be more than 20

business days after the date of the acknowledgment, or if it is known that circumstances prevent disclosure within 20 business days from the date of such acknowledgment, providing a statement in writing indicating the reason for inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part; or

- (4) If the receipt of request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within 20 business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement in writing within 20 business days of such acknowledgment specifying the reason for the inability to do so and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part.
- D. In determining a reasonable time for granting or denying a request under the circumstances of a request, personnel shall consider the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the agency, and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.
- E. A failure to comply with the time limitations described herein shall constitute a denial of a request that may be appealed. Such failure shall include situations in which an officer or employee:
- (1) Fails to grant access to the records sought, deny access in writing or acknowledge the receipt of a request within five business days of the receipt of a request;
 - (2) Acknowledges the receipt of a request within five business days but fails to furnish an approximate date when the request will be granted or denied in whole or in part;
 - (3) Furnishes an acknowledgment of the receipt of a request within five business days with an approximate date for granting or denying access in whole or in part that is unreasonable under the circumstances of the request;
 - (4) Fails to respond to a request within a reasonable time after the approximate date given or within 20 business days after the date of the acknowledgment of the receipt of a request;
 - (5) Determines to grant a request in whole or in part within 20 business days of the acknowledgment of the receipt of a request, but fails to do so, unless the agency provides the reason for its inability to do so in writing and a date certain within which the request will be granted in whole or in part;

- (6) Does not grant a request in whole or in part within 20 business days of the acknowledgment of the receipt of a request and fails to provide the reason in writing explaining the inability to do so and a date certain by which the request will be granted in whole or in part; or
- (7) Responds to a request, stating that more than 20 business days are needed to grant or deny the request in whole or in part and provides a date certain within which that will be accomplished, but such date is unreasonable under the circumstances of the request.

§ 200-6. Subject matter list.

- A. The records access officer shall maintain a reasonably detailed current list by subject matter of all records in its possession, whether or not records are available pursuant to Subdivision 2 of § 87 of the Public Officers Law.
- B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- C. The subject matter list shall be updated annually. The most recent update shall appear on the first page of the subject matter list.

§ 200-7. Denial of access to records.

- A. Denial of access to records shall be in writing stating the reason therefor and advising the requester of the right to appeal to the Town Board.
- B. If requested records are not provided promptly, as required in § 200-5 of these regulations, such failure shall also be deemed a denial of access.
- C. The Town Board shall determine appeals regarding denial of access to records under the Freedom of Information Law.
- D. Any person denied access to records may appeal within 30 days of a denial.
- E. The time for deciding an appeal by the Town Board shall commence upon receipt of a written appeal identifying:
 - (1) The date and location of requests for records;
 - (2) A description, to the extent possible, of the records that were denied; and
 - (3) The name and return address of the person denied access.
- F. A failure to determine an appeal within 10 business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal.

- G. The Town Board shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to:

Committee on Open Government

Department of State

One Commerce Plaza

99 Washington Avenue, Suite 650

Albany, NY 12231

- H. The Town Board shall inform the appellant and the Committee on Open Government of its determination in writing within 10 business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth Subsection F of this section.

§ 200-8. Fees.

- A. There shall be no fee charged for:
- (1) Inspection of records;
 - (2) Search for records; or
 - (3) Any certification pursuant to this article.
- B. Copies may be provided without charging a fee.
- C. Fees for copies may be charged, provided that:
- (1) The fee for copying records shall not exceed \$0.25 per page for photocopies not exceeding nine inches by 14 inches. This section shall not be construed to mandate the raising of fees where agencies or municipalities in the past have charged less than \$0.25 for such copies;
 - (2) The fee for photocopies of records in excess of nine inches by 14 inches shall not exceed the actual cost of reproduction; or
 - (3) An agency has the authority to redact portions of a paper record and does so prior to disclosure of the record by making a photocopy from which the proper redactions are made.
- D. The fee an agency may charge for a copy of any other record is based on the actual cost of reproduction and may include only the following:
- (1) An amount equal to the hourly salary attributed to the lowest paid employee who has the necessary skill required to prepare a copy of the requested record, but only when more than two hours of the employee's time is necessary to do so; and

- (2) The actual cost of the storage devices or media provided to the person making the request in complying with such request; or
 - (3) The actual cost to the agency of engaging an outside professional service to prepare a copy of a record, but only when an agency's information technology equipment is inadequate to prepare a copy, and if such service is used to prepare the copy.
- E. When an agency has the ability to retrieve or extract a record or data maintained in a computer storage system with reasonable effort, or when doing so requires less employee time than engaging in manual retrieval or redactions from non-electronic records, the agency shall be required to retrieve or extract such record or data electronically. In such case, the agency may charge a fee in accordance with Subsection D(1) and (2) above.
- F. An agency shall inform a person requesting a record of the estimated cost of preparing a copy of the record if more than two hours of an agency employee's time is needed, or if it is necessary to retain an outside professional service to prepare a copy of the record.
- G. An agency may require that the fee for copying or reproducing a record be paid in advance of the preparation of such copy.
- H. An agency may waive a fee in whole or in part when making copies of records available.

§ 200-9. Public notice.

A notice containing the title or name and business address of the records access officers and appeals body and the location where records can be seen or copies shall be posted in a conspicuous location wherever records are kept and/or published in a local newspaper of general circulation.

ARTICLE II

Management

[Adopted 1-9-1989 by L.L. No. 1-1989 (Ch. 160, Art. II, of the 1994 Code)]

§ 200-10. Establishment of program; Records Management Officer.

There shall be a Records Management Program established under the aegis of the Town Board and headed by a Records Management Officer (RMO). The Officer will be responsible for administering the noncurrent and archival public records and storage areas for the Town of Mendon in accordance with local, state and federal laws and guidelines.

§ 200-11. Powers and duties of Officer.

The Officer shall have all the necessary powers to carry out the efficient administration, determination of value, use, preservation, storage and disposition of the noncurrent and archival public records kept, filed or received by the offices and departments of the Town of Mendon.

- A. The Records Management Officer shall continually survey and examine public records to recommend their classification so as to determine the most suitable methods to be used for the maintaining, storing and servicing of archival material:
- (1) Obsolete and unnecessary records according to New York State Records and Disposition Schedules thereby subject to disposition;
 - (2) Information containing administrative, legal, fiscal, research, historical or educational value which warrant their permanent retention; or
 - (3) Records not subject to disposition according to state law.
- B. The Officer shall establish guidelines for proper records management in any department or agency of the Town of Mendon in accordance with local, state and federal laws and guidelines.
- C. The Officer shall report annually to the chief executive official and the governing body on the powers and duties herein mentioned, including but not limited to the cost-benefit ratio of programs effectuated by the department.
- D. The Officer shall operate a Records Management Center for the storage, processing and servicing of all noncurrent and archival records for all Town of Mendon departments and agencies.
- E. The Officer shall establish a Town of Mendon Archives and perform the following functions:

- (1) Advise and assist the Town of Mendon departments in reviewing and selecting material to be transferred to the Town of Mendon Archives for preservation.
- (2) Continually survey and examine public records to determine the most suitable methods to be used for creating, maintaining, storing and servicing of archival materials.
- (3) Establish and maintain an adequate repository for the proper storage, conservation, processing and servicing of archival records.
- (4) Promulgate rules governing public access to and use of records in the archives, subject to the approval of the Records Advisory Board.
- (5) Develop a confidentiality policy for archival records designated confidential, provided that such policy does not conflict with any federal or state statutes.
- (6) Provide information services to other Town of Mendon offices.
- (7) Collect archival materials which are not official Town of Mendon records but which have associational value to the Town of Mendon or a close relationship to the existing archival collection. Such collecting shall be subject to archive space, staff and cost limitations and to the potential endangerment of such materials if they are not collected by the archives.
- (8) Develop a procedure whereby historically important records are to be identified at the point of generation.

§ 200-12. Records Advisory Board; membership; duties.

- A. There shall be a Records Advisory Board designated to work closely with and provide advice to the Records Management Officer.
- B. The Board shall consist of no fewer than three and no more than seven members.
- C. The Board shall meet periodically and have the following duties:
 - (1) Provide advice to the Records Management Officer on the development of the Records Management Program.
 - (2) Review the performance of the program on an ongoing basis and propose changes and improvements.
 - (3) Review retention periods proposed by the Records Management Office for records not covered by State Archives' Schedules.
 - (4) Provide advice on the appraisal of records for archival value and to be the final sign-off entity as to what is or is not archival.

§ 200-13. Custody of records.

- A. A Town of Mendon department is the legal custodian of its records and shall retain custody of records deposited in the Records Center. Records transferred to or acquired by the archives shall be under the custody and control of the archives rather than the department which created or held them immediately prior to being transferred to the archives.
- B. Records shall be transferred to the archives upon the recommendation of the RMO, with the approval of the head of the department which has custody of the records and the approval of the Records Advisory Board.
- C. Records may be permanently removed from the archives at the request of the RMO or the head of the department which had custody of the records immediately prior to the transfer of those records to the archives, subject to the approval of the Records Advisory Board.

§ 200-14. Recovery of records.

The Legal Department may take steps to recover local government records which have been alienated from proper custody and may, when necessary, institute actions of replevin.

§ 200-15. Disposal of records.

No records shall be destroyed or otherwise disposed of by a department of the Town of Mendon unless approval has been obtained from the Records Management Officer. No records shall be destroyed or otherwise disposed of by the Records Management Officer without the express written consent of the department head having authority.

§ 200-16. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ARCHIVES — Those official records which have been determined by the Officer and Advisory Committee to have sufficient historical or other value to warrant their continued preservation by the local government.

RECORDS — Any documents, books, papers, photographs, sound recordings, microforms or any other materials regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official Town of Mendon business.

RECORDS CENTER — An establishment maintained by the Town of Mendon primarily for the storage, servicing, security and processing of records which must be preserved for varying periods of time and need not be retained in office equipment or space.

RECORDS DISPOSITION —

- A. The removal by the Town of Mendon, in accordance with approved records control schedules, of records no longer necessary for the

conduct of business by such agency through removal which may include:

- (1) The disposal of temporary records by destruction or donation; or
- (2) The transfer of records to the Record Center/Archives for temporary storage of inactive records and permanent storage of records determined to have historical or other sufficient value warranting continued preservation.

B. The transfer of records from one Town of Mendon agency to any other Town of Mendon agency.

RECORDS MANAGEMENT — The planning, controlling, directing, organizing, training, promotion and other managerial use and records disposition, including records preservation, records disposal and records centers or other storage facilities.

SERVICING — Making information in records available to any Town of Mendon agency for official use or to the public.

Chapter 206

SEWERS

GENERAL REFERENCES

Definitions — See Ch. 5.

Subdivision of land — See Ch. 226.

Stormwater management — See Ch. 217.

Zoning — See Ch. 260.

ARTICLE I

**Illicit Discharges and Connections to Storm Sewers
[Adopted 12-10-2007 by L.L. No. 11-2007 (Ch. 167, Art. I, of the
1994 Code)]****§ 206-1. Purpose and intent.**

The purpose and intent of this article is to ensure the health, safety and general welfare of citizens and protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. § 1251 et seq.) by:

- A. Reducing pollutants in stormwater discharges to the maximum extent practicable;
- B. Prohibiting nonstormwater discharges to the storm drain system; and
- C. Prohibiting stormwater discharges to sanitary sewers.

§ 206-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

BEST MANAGEMENT PRACTICES (BMPS) — Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters or stormwater conveyance systems. BMPs also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal or drainage from raw materials storage.

CLEAN WATER ACT — The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY — Activities subject to SPDES construction permits. Currently, these include construction projects resulting in land disturbance of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition.

DISCHARGER — Any individual, association, organization, partnership, firm, corporation or other entity discharging stormwater to the municipal storm sewer.

HAZARDOUS MATERIALS — Any material, including any substance, waste or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

ILLEGAL DISCHARGE — Any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in § 206-7 of this article, and

any stormwater discharges to the sanitary sewer, except as permitted by the Town of Mendon.

ILLICIT CONNECTIONS — Either of the following:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including, but not limited to, any conveyances which allow any nonstormwater discharge, including sewage, process wastewater and wash water, to enter the storm drain system and any connection to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by a government agency; or
- B. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps or equivalent records and approved by the Town of Mendon.
- C. Any stormwater discharge to a sanitary sewer unless approved by the Town of Mendon.

INDUSTRIAL ACTIVITY — Activities subject to SPDES industrial permits as defined in 40 CFR 122.26(b)(14).

INDUSTRIAL WASTES — Any liquid, gaseous or solid substance, or a combination thereof, which is an undesired by-product waste resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resources, except garbage.

MS4 — A municipal separate storm sewer system as designated under the Environmental Protection Agency's Stormwater Phase II rule.

NONSTORMWATER DISCHARGE — Any discharge to the storm drain system that is not composed entirely of stormwater.

PERSON — Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT — Anything which causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, so that same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES — Any building, lot, parcel of land or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

PRIVATE SEWAGE DISPOSAL SYSTEM — A facility serving one or more parcels of land or residential households, or a private, commercial or

institutional facility, that treats sewage or other liquid wastes for discharge into the groundwaters of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

SANITARY SEWER — A sewer which transports sewage and to which storm-, surface and groundwaters are not intentionally admitted.

SEWAGE — A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground-, surface and stormwater as may be inadvertently present. The admixture of sewage with industrial wastes as defined above or other wastes also shall be considered "sewage" within the meaning of this definition.

SPECIAL CONDITIONS —

- A. Discharge compliance with water quality standards: the condition that applies where a municipality has been notified that the discharge of stormwater authorized under its municipal separate storm sewer system (MS4) permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition, the Town of Mendon must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
- B. 303(d)-listed waters: the condition in the Town of Mendon's MS4 permit that applies where the Town of Mendon discharges to a 303(d)-listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d)-listed water.
- C. Total maximum daily load (TMDL) strategy: The condition in the Town of Mendon MS4 permit where a TMDL, including requirements for control of stormwater discharges, has been approved by the EPA for a water body or watershed into which the Town of Mendon discharges. If the discharge from the Town of Mendon did not meet the TMDL stormwater allocation prior to September 10, 2003, the Town of Mendon was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
- D. The condition in the Town of Mendon's MS4 permit that applies if a TMDL is approved in the future by the EPA for any water body or watershed into which the Town of Mendon discharges. Under this condition, the Town of Mendon must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If the Town of Mendon is not meeting the TMDL stormwater allocations, the Town of Mendon must, within six months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) STORMWATER DISCHARGE PERMIT — A permit issued by NYSDEC [under authority delegated pursuant to 33 U.S.C. § 1342(b)] that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual or general areawide basis.

STORM DRAINAGE SYSTEM — Publicly owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels (i.e., ditches), reservoirs and other drainage structures.

STORMWATER — Any surface flow, runoff or drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

STORMWATER POLLUTION PREVENTION PLAN — A document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems and/or receiving waters to the maximum extent practicable.

303(D) LIST — A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat and industrial use) are impaired by pollutants, prepared periodically by the Department of Environmental Conservation as required by Section 303(d) of the Clean Water Act. Section 303(d)-listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

TOTAL MAXIMUM DAILY LOAD (TMDL) — The maximum amount of a pollutant to be allowed to be released into a water body so as not to impair uses of the water, allocated among the sources of that pollutant.

WASTEWATER — Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

WATERCOURSE — Waters of the United States as defined at 40 CFR 122.2.

WATERS OF THE UNITED STATES — Surface watercourse and water bodies as defined at 40 CFR 122.2, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons.

§ 206-3. Applicability.

This article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Town of Mendon. This article also applies to stormwater entering the sanitary sewers.

§ 206-4. Administration and enforcement.

The Town of Mendon shall administer, implement and enforce the provisions of this article. Any powers granted or duties imposed upon the Town of Mendon may be delegated in writing by the Town of Mendon to persons or entities acting in the beneficial interest of or in the employ of the Town.

§ 206-5. Limitations on liability.

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore, this article does not intend or imply that compliance by any person will ensure that there will not be contamination, pollution nor unauthorized discharge of pollutants.

§ 206-6. Powers and authority of inspectors; confidentiality of information; access to premises.

- A. The authorized representative(s) of the Town of Mendon bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, records examination and copying, observation, measurements, sampling, and testing pertinent to discharge or potential to discharge, and for repair and maintenance to the municipal separate storm sewer system.
- B. Availability of information to public; confidentiality.
 - (1) Information and data on a nondomestic source obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction, unless the nondomestic source specifically requests and is able to demonstrate to the satisfaction of the Town of Mendon that the release of such information would divulge information, processes or methods of production entitled to protection as confidential information according to the criteria set forth in 40 CFR 2.208 and 2.302, as may be amended from time to time.
 - (2) When requested by the person furnishing a report, the portions of a report which might disclose confidential information shall not be made available for inspection by the public. Stormwater constituents and characteristics will not be recognized as confidential information.
 - (3) Information accepted by the Town of Mendon as confidential shall be made available upon request to any agency meeting the requirements of Section 308 of the Clean Water Act, including officers, employees or authorized representatives of the United States concerned with carrying out the Clean Water Act, bound by the confidentiality rules in 40 CFR Part 2, as may be amended from time to time.

- C. While performing the necessary work on private properties referred to in § 206-7A, the Town of Mendon shall observe all safety rules applicable to the premises established by the person, and the person shall be held harmless for injury or death to the authorized representative(s), and the Town of Mendon shall indemnify the person against loss or damage to its property by Town of Mendon employees and against liability claims and demands for personal injury or property damage asserted against the person by Town of Mendon employees and growing out of the inspection and sampling operation, except as such may be caused by negligence or failure of the person to maintain safe conditions.
- D. Unreasonable delays in allowing the Town of Mendon access to the premises or other interference with the activities of the Town of Mendon shall be a violation of this article. Access to property and/or records of a nondomestic source may not be refused on the basis that the Town of Mendon refuses to sign any waiver, access agreement, or similar document.
- E. If the Town of Mendon has been refused access to a building, structure or property or any part thereof, and if the Town of Mendon has demonstrated probable cause to believe that there may be a violation of this article or that there is a need to inspect as part of a routine inspection program of the Town of Mendon to verify compliance with this article or any permit or order issued hereunder or to protect the overall public health, safety and welfare of the community, then the Town of Mendon will make an application to a court of competent jurisdiction for a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant application shall specify what, if anything, may be searched and/or seized on the property described. If granted by the court, such warrant shall be served at reasonable hours by the Town of Mendon in the company of a uniformed officer of the law enforcement agency with jurisdiction over the property. In the event of an emergency affecting public health and safety, inspections may be made without the issuance of a warrant.

§ 206-7. Discharge and connection prohibitions; exceptions.

- A. Prohibition of illegal discharges.
 - (1) No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. Such activities include failing private sewage disposal systems as defined in § 206-2, improper management of animal waste or any other activity that causes or contributes to violations of the municipality's municipal separate storm sewer system (MS4) SPDES permit authorization.

- (2) Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that it no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.
- B. Prohibition exceptions. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:
- (1) The following discharges are exempt from discharge prohibitions established by this article: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated and nonsediment-laden pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, typically less than one ppm chlorine), fire-fighting activities and any other water source not containing pollutants. Regardless of exemption, best management practices should be implemented to reduce impacts from the above activities.
 - (2) Discharges specified in writing by the Town of Mendon as being necessary to protect public health and safety.
 - (3) Dye testing is an allowable discharge but requires a verbal notification to the Town of Mendon prior to the time of the test.
 - (4) The prohibition shall not apply to any nonstormwater discharge permitted under an SPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the New York State Department of Environmental Conservation, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system by the Town of Mendon.
- C. Prohibition of illicit connections.
- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
 - (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- (3) A person is considered to be in violation of this article if the person connects a pipe or line conveying sewage to the municipal separate storm sewer system (MS4) or allows such a connection to continue.
- D. Waste disposal prohibitions. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drainage system, or water of the United States, any refuse, rubbish, yard/lawn waste, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.
- E. Prohibition against failing private sewage disposal systems. No person shall construct or maintain any cesspool, sewage disposal system, pipe or drain so as to expose or discharge the sewage contents or other deleterious liquids or matter therefrom to the atmosphere or on the ground surface or into any storm sewer or drain or as to endanger any watercourse or body of water unless a permit for such discharge shall have been issued by the Monroe County Department of Public Health or by the State Department of Health or the State Department of Environmental Conservation, and such discharge shall be made in accordance with the requirements thereof. Owners or operators of private sewage disposal systems shall operate, maintain and inspect such systems in accordance with the Monroe County Sanitary Code.
- F. Prohibition of stormwater discharge to sanitary sewer. Stormwater shall not be discharged into the sanitary sewer without written permission to do so from the Town of Mendon.

§ 206-8. Suspension of MS4 access.

- A. Suspension due to illicit discharges in emergency situations. The Town of Mendon may, without prior notice, suspend discharge access into the MS4 to a person when such a suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment; to the health or welfare of persons; to the storm drainage system, including but not limited to pipes, manholes, outfall structures and storm laterals; or the waters of the United States. If the violator fails to comply with a suspension order, the Town of Mendon may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States or to minimize danger to persons.
- B. Suspension due to detection of illicit discharge. Any person discharging to the MS4 in violation of this article may have its MS4 access suspended or terminated if such action would abate or reduce an illicit discharge. The Town of Mendon will notify a violator of the proposed suspension or termination of its MS4 access. The violator may petition

the Town of Mendon to reconsider the suspension or termination of MS4 access by requesting a hearing.

- C. It shall be unlawful for any person to reinstate MS4 access to premises suspended or terminated pursuant to this section without the prior approval of the Town of Mendon.

§ 206-9. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town of Mendon prior to discharge or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

§ 206-10. Monitoring of discharges.

- A. Applicability. This section applies to all facilities that the Town of Mendon must inspect to enforce any provision of article, or whenever the Town of Mendon has cause to believe that there exists, or potentially exists, in or upon any premises, any condition which constitutes a violation of this article.
- B. Access to facilities.
- (1) The Town of Mendon shall be permitted to enter and inspect, at any time, facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Town of Mendon.
 - (2) Facility operators shall allow the Town of Mendon ready access to all parts of the premises for the purpose of inspection, sampling and examination of the private storm drainage system. Persons or facility operators must supply copies, if requested by Town of Mendon, of all records kept under the conditions of the SPDES stormwater discharge permit. Persons or facility operators must also identify the performance of any additional duties as defined by state and federal law.
 - (3) The Town of Mendon shall have the right to place or position on any permitted facility such devices as are necessary in the opinion of the Town of Mendon to conduct monitoring and/or sampling of the facility's discharge to the storm sewer system.
 - (4) The Town of Mendon has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe

and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated as necessary and recommended by the manufacturer to ensure their accuracy.

- (5) Any temporary or permanent obstruction to the facility which allows for unsafe access or difficulty in monitoring, inspecting or sampling of the storm drainage system shall be promptly removed by the discharger at the written or verbal request of the Town of Mendon and shall not be replaced. All costs associated with clearing such access restrictions shall be borne by the discharger in full.
- (6) Unreasonable delays, as determined by the Town of Mendon, in allowing the Town of Mendon access to a facility, which is permitted under the New York State Department of Environmental Conservation SPDES Program, for the purposes of conducting any activity authorized or required by the permit are considered a violation of said program and of this article.
- (7) If the Town of Mendon has been refused access to any part of the premises from which a discharge or conveyance to the storm sewer system exists and the Town of Mendon is able to demonstrate probable cause to believe that there may be a violation of this article or that there is a need to further inspect and/or sample the private stormwater system to verify compliance with this article or any order issued hereunder or to protect the overall public health, safety and welfare of the community, then the Town of Mendon may seek issuance of a search warrant from any court of competent jurisdiction.

§ 206-11. Use of best management practices to prevent, control and reduce stormwater pollutants.

- A. Best management practices. The Town of Mendon will adopt requirements identifying best management practices (BMPs) for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at his own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of structural and nonstructural BMPs. Further, any person responsible for a property or premises which is, or may be, the source of an illicit discharge may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal storm drainage system. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the maximum extent practicable, shall be deemed compliant with the provisions of this section. Appropriately designed structural/

nonstructural BMPs shall be included as part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the SPDES permit.

- B. Private sewage disposal systems. Where private sewage disposal systems are contributing to the Town of Mendon being subject to the special conditions as defined in § 206-2 of this article, the owner or operator of such private sewage disposal system shall be required to maintain and operate the system as follows:
- (1) Private sewage disposal systems should be operated, maintained and inspected in accordance with the Monroe County Sanitary Code.
 - (2) Septic tank additives shall not be used.
 - (3) Private sewage disposal systems should be repaired or replaced as follows:
 - (a) In accordance with Monroe County sewage design standards.
 - (b) No person shall alter, repair or extend a private sewage disposal system unless a permit is obtained from the Monroe County Public Health Director or his authorized representative.

§ 206-12. Watercourse protection.

- A. No person shall alter a stormwater practice on private or publicly owned land such that it alters the stormwater practice from its intended use.
- B. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property in a manner which prevents illicit discharges and keeps the watercourse free of trash, debris, yard/lawn waste, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

§ 206-13. Notification of spills.

Notwithstanding other requirements of law, as soon as any person i) responsible for a facility or operation or ii) responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in the illegal discharge of pollutants into stormwater, the public or private storm drain system or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of any

such release. In the event a release of hazardous materials occurs, said person shall immediately notify the NYSDEC Region 8 Spill Response Team and/or call the New York State Spill Hotline within the time frame established by law as well as notify the Town of Mendon of the occurrence. In the event of a release of nonhazardous materials, said person shall notify the Town of Mendon in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town of Mendon, postmarked within three business days of the date of the in-person or phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least five years.

§ 206-14. Notice of violation; abatement or restoration.

- A. Whenever the Town of Mendon finds that a person has violated a prohibition or failed to meet a requirement of this article, the Town of Mendon may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:
- (1) The performance of monitoring, analyses and reporting.
 - (2) The elimination of illicit connection or discharges.
 - (3) That violating discharges, practices or operations shall cease and desist.
 - (4) The abatement or remediation of stormwater pollution or contamination hazards, and the restoration of any affected property.
 - (5) Payment of a fine to cover administrative and remediation costs.
 - (6) The implementation of source control or treatment BMPs.
- B. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

§ 206-15. Penalties for offenses.

In addition to or as an alternative to any penalty or remedy provided herein or by law, any violation of this article shall be a misdemeanor and punishable by a fine and/or imprisonment as set forth in relevant provisions of the Penal Law of the State of New York. Each day's continued violation shall constitute a separate additional violation.

§ 206-16. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the Town of Mendon. The notice of appeal must be received within 10 days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or his or her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or his or her designee shall be made within 15 days and be final.

§ 206-17. Enforcement measures after appeal.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation or, in the event of an appeal, within five days of the decision of the municipal authority upholding the decision of the Town of Mendon, its representatives and/or employees may enter upon the subject private property with the consent of the owner or with a valid search and/or seizure warrant and are authorized to take any and all measures necessary to abate the violation and/or restore the property.

§ 206-18. Cost of abatement of violation.

Within 10 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protection claim objecting to the amount of the assessment within 10 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the Town of Mendon by reason of such violation.

§ 206-19. Injunctive relief.

It shall be unlawful for any person to violate any provision of or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the Town of Mendon may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

§ 206-20. Compensatory action.

In lieu of enforcement proceedings, penalties and remedies authorized by this article, the Town of Mendon may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

§ 206-21. Violations deemed public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety and welfare and is declared and deemed a nuisance and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken.

§ 206-22. Criminal prosecution; recovery of costs.

- A. For the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this article shall be deemed misdemeanors, and only all provisions of law relating to misdemeanors shall apply to such violations. Any person that has violated or continues to violate this article shall be liable to criminal prosecution to the fullest extent of the law and, upon conviction, shall be guilty of a misdemeanor and subject to penalties as set forth in § 206-15 of this article.
- B. The Town of Mendon may recover all attorney fees, court costs and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

§ 206-23. Remedies not exclusive.

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the Town of Mendon to seek cumulative remedies.

Chapter 212
SOLID WASTE

GENERAL REFERENCES

Definitions — See Ch. 5.

Outdoor burning — See Ch. 121.

Penalties and enforcement — See Ch. 9.

Parks and recreation — See Ch. 190.

ARTICLE I
Solid Waste Management
[Adopted 8-12-1991 (Ch. 165, Art. I, of the 1994 Code)]

§ 212-1. Title.

This article shall be known as the "Solid Waste Management Ordinance."

§ 212-2. Findings.

The Town of Mendon finds that:

- A. Removal of certain materials from the solid waste stream will decrease the flow of solid waste to landfills, aid in the conservation of valuable resources and reduce the required capacity of existing and proposed resource facilities.
- B. The New York Solid Waste Management Act of 1988 requires that municipalities adopt a local law or ordinance by September 1, 1992, to require that solid waste which has been left for collection or which is delivered by the generator of such waste to a solid waste management facility shall be separated into recyclable, reusable or other components for which economic markets for alternate uses exist.

§ 212-3. Authority and purpose.

This article is adopted pursuant to Chapter 541 of the Laws of 1976, as amended, and Chapter 552 of the Laws of 1980 of the State of New York, as amended,¹³ to:

- A. Institute a plan for the management of recyclable materials generated or originated in the Town of Mendon, to promote the safety, health and well-being of persons and property within said Town; and
- B. Implement the express policy of the State of New York encouraging solid waste reduction through recycling.

§ 212-4. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ADMINISTRATOR — The Solid Waste Administrator of Monroe County.

AUTHORIZED HAULER — Any person licensed by the municipality under contract with the county to collect and transport recyclable materials generated or originated within the county.

AUTHORIZED RECYCLING FACILITY OR FACILITIES — A permitted facility or facilities for processing recyclable materials specified in the rules

13. Editor's Note: See § 120-w of the General Municipal Law and § 27-0101 et seq. of the Environmental Conservation Law, respectively.

and regulations promulgated pursuant to the County of Monroe Solid Waste Reuse and Recycling Local Law of 1991 and any amendments thereto. This term shall exclude incinerating facilities, waste-to-energy facilities and landfills.

CONTAINER — A county-provided blue box container or a like container with a county logo for recyclable materials or any other durable container for recyclable materials readily identifiable by the hauler as a container for recyclable materials.

COUNTY — The County of Monroe.

EXECUTIVE — The County Executive of Monroe County.

FACILITY — Any solid waste management resource recovery facility employed beyond the initial solid waste collection process which is to be used, occupied or employed for or is incidental to the receiving, transportation, storage, processing or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom, including recycling centers, transfer stations, processing systems, resource recovery facilities, sanitary landfills, plants and facilities for composting or landspreading of solid wastes, secure land burial facilities, reprocessing and recycling facilities, surface impoundments and waste oil storage, incinerators and other solid waste disposal, reduction or conversion facilities.

HAZARDOUS WASTE — Any hazardous waste as defined under the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., or hazardous substance as defined under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., or hazardous waste as defined under New York Environmental Conservation Law § 27-0901 et seq., as each such law may be amended from time to time, and the regulations promulgated thereunder and any analogous or succeeding federal, state or local law, rule or regulation and any regulations promulgated thereunder and any other material which any governmental agency or unit having appropriate jurisdiction shall determine from time to time cannot be processed at the facility because it is harmful, toxic or dangerous.

OTHER RECOVERABLE MATERIALS — Any material, substance, by-product, compound or any other item generated or originated within the county and separated from solid waste at the point of generation for separate collection, sale, external reuse or reprocessing and/or disposition other than by disposal in landfills, sewage treatment plants or incinerators. "Other recoverable materials" do not include recyclable materials, as defined herein.

PERSON — Any natural person, partnership, association, joint venture, corporation, estate, trust, association, county, city, town, village, improvement district, governmental entity or other legal entity.

RECYCLABLE MATERIALS — Include but are not limited to the following:

- A. ALUMINUM — Aluminum products and containers fabricated primarily of aluminum and commonly used for soda, beer, beverages or other food or drink products and other aluminum products.
- B. BOXBOARD — Woodpulp-based material which is usually smooth on both sides but with no corrugated center; excludes material with wax coating.
- C. CORRUGATED — Woodpulp-based material which is usually smooth on both sides with a corrugated center and commonly used for boxes; excludes material with wax coating.
- D. CONSTRUCTION AND DEMOLITION DEBRIS — Material resulting from the construction, renovation, equipping, remodeling, repair and demolition of structures and roads and material consisting of vegetation resulting from land clearing and grubbing, utility line maintenance and seasonal storm-related cleanup. Such material includes but is not limited to bricks, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, nonasbestos insulation, roofing, shingles, asphaltic pavement, glass, plastics, electrical wiring and components, carpeting, foam padding, linoleum and metals that are incidental to any of the above.
- E. GLASS BOTTLES — New and used glass food and beverage containers which have been rinsed and are free of food contamination, including clear (flint), green and brown (amber) colored glass bottles. "Glass" shall not include ceramics, plate glass, auto glass, Pyrex, leaded glass, mirrored glass or flat glass.
- F. MAGAZINES — Magazines, glossy catalogs and other glossy paper.
- G. HIGH-GRADE PAPER — White and colored office bond, duplicating paper, computer paper and other high-quality paper.
- H. LARGE APPLIANCES — Stoves, refrigerators, dishwashers, dryers, washing machines, water heaters and other large appliances and scrap metal, and excluding air conditioners, microwaves and televisions.
- I. METAL CANS — Containers fabricated primarily of steel or tin or bimetal cans of steel, tin and/or aluminum, but not including aluminum cans.
- J. NEWSPRINT — Common, inexpensive machine-finished paper made chiefly from woodpulp and used for newspapers. This term excludes magazines.
- K. PLASTICS — Includes high-density polyethylene (HDPE), low-density polyethylene (LDPE), polystyrene and polyethylene terephthalate (PET); commonly used for soda, milk and other containers.
- L. WOOD WASTE — Includes logs, pallets and other wood materials.

M. YARD WASTE — Grass clippings, leaves, branches up to four inches in diameter and other like vegetable garden materials.

RECYCLING or RECYCLED — Any method, technique or process utilized to separate, process, modify, convert, treat or otherwise prepare solid waste so that its component materials or substances may be beneficially used or reused as raw materials.

SOLID WASTE — All putrescible and nonputrescible solid wastes generated or originated within the county, including but not limited to materials or substances discarded or rejected, whether as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection or for any other reason, or which are being accumulated, stored or physically, chemically or biologically treated prior to being discarded, have served their intended use or are a manufacturing by-product, including but not limited to garbage, refuse and other discarded solid materials, including solid waste materials resulting from industrial, commercial and agricultural operations and from community activities, sludge from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form or hazardous waste as defined in this article.

SOURCE SEPARATION — The segregation of recyclable materials and other recoverable materials from solid waste at the point of generation for separate collection, sale or other disposition.

WASTE STREAM REDUCTION PROGRAM — Includes source separation, recycling programs, changes to the packaging portion of the waste stream to reduce solid waste generated, the activities and enterprises of scrap dealers, processors and consumers and other programs designed to reduce the volume of solid waste or enhance reclamation and recovery of solid waste or recyclable materials otherwise destined for the municipal waste stream. For purposes of this definition, such reduction programs shall not include the processing of waste for incineration or disposal by other means.

§ 212-5. Separation of waste.

A. Solid waste generated or originated within the Town of Mendon, outside the Village of Honeoye Falls, which has been left for collection or which is delivered by the generator of such waste to a solid waste management facility shall be disposed of as follows:

- (1) Prior to initial collection or transport, such solid waste shall be source-separated into recyclable, reusable or other components for which economic markets exist as provided in the rules and regulations promulgated hereunder.
- (2) Recyclable materials shall not be commingled with other solid waste during collection, transportation or storage following

collection. The Town of Mendon may order such exceptions as it determines are in the public interest.

- (3) All recyclable materials generated or originated within the Town of Mendon, outside the Village of Honeoye Falls, must be delivered to an authorized recycling facility or handled through a waste stream reduction program.
 - (4) No authorized recycling facility or waste stream reduction program shall receive recyclable materials generated or originated within the Town of Mendon, outside the Village of Honeoye Falls, except as permitted by law.
- B. Disposal of solid waste which is barred from all authorized facilities by rules, regulations or orders promulgated pursuant to the County of Monroe Solid Reuse and Recycling Local Law of 1991 and any amendments thereto or any other law, regulation or ordinance shall not be regulated by this article.
 - C. No hazardous waste may be delivered to an authorized recycling facility.

§ 212-6. Collection of recyclables.

- A. Only persons who are acting under the authority of the county or an authorized hauler shall collect, pick up, remove or cause to be collected, picked up or removed any solid waste recyclable materials so placed for collection; each such unauthorized collection, pick up or removal shall constitute a separate violation of this article; provided, however, that where the county or an authorized hauler has refused to collect certain recyclable materials because they have not been separated, placed or treated in accord with the provisions of this article, the person responsible for initially placing those materials for collection may and shall remove those materials from any curb, sidewalk or streetside.
- B. Nothing herein shall prevent any person from making arrangements for the private collection, sale or donation of recyclable materials, provided that recyclable materials to be privately collected, sold or donated shall not be placed curbside on or immediately preceding the day for collection of such recyclable materials. Any and all recyclable materials placed in a county-supplied container at curbside or any designated collection place shall immediately become the property of the county.

§ 212-7. Authorized haulers; licensed collection.

The following regulations shall apply:

- A. All authorized haulers must enter into an authorized hauler contract with the county.

- B. An authorized hauler sticker shall be prominently displayed on each vehicle operated by or on behalf of the authorized hauler.
- C. Authorized hauler applications may be denied if the applicant or licensee has been adjudged or administratively determined to have committed one or more violations of this article during the preceding calendar year.
- D. All authorized haulers licensed shall defend, indemnify and hold harmless the Town of Mendon from any pending, threatened or actual claims, liability or expenses arising from waste disposal by the authorized hauler in violation of this article.
- E. Authorized haulers shall offer collection services for all recyclable materials to all residential customers for whom they provide solid waste collection services at the same times and on the same days as services are provided to their customers for solid waste collection.
- F. Each hauler shall develop and submit for county approval a generic collection plan for collecting recyclable materials from its commercial, industrial and institutional customers.
- G. Authorized haulers shall not accept for collection solid waste which has not been source-separated in conformity with the regulations promulgated under Monroe County's Solid Waste Management Local Law.

§ 212-8. Enforcement; penalties for offenses.

- A. Inspections and appearance tickets.
 - (1) All portions of vehicles and containers used to haul, transport or dispose of recyclable materials, including such containers placed outside of residences, shall be subject to inspection to ascertain compliance with this article, the County Solid Waste Management Law and the rules, regulations or orders promulgated pursuant to the county law by any police officer, peace officer, Code Enforcement Officer and any other public official designated by the county or the Town of Mendon.
 - (2) Police officers, peace officers, Code Enforcement Officers and the specified public servants are hereby authorized and directed to issue appearance tickets for violations of this article.
- B. Penalties.
 - (1) Civil sanctions. The Town of Mendon may commence a civil action to enjoin or otherwise remedy any failure to comply with this article.
 - (2) Criminal penalties. In addition to the civil sanctions provided herein, failure to comply with this article or the rules and regulations promulgated hereunder shall be a violation as defined

in § 55.10 of the Penal Law and shall be subject to penalties as provided in Chapter 9, Penalties and Enforcement, of the Town Code.

- (3) Any penalties or damages recovered or imposed under this article are in addition to any other remedies available at law or equity.
- (4) No penalties, fines, civil sanctions or other enforcement actions will be commenced prior to June 1, 1992, in order to permit persons regulated hereunder to come into compliance with this article.

§ 212-9. Applicability.

This article is effective throughout the Town of Mendon, outside the Village of Honeoye Falls.

ARTICLE II

Littering

[Adopted 10-22-2001 by L.L. No. 10-2001 (Ch. 136 of the 1994 Code)]

§ 212-10. Findings and intent.

It is hereby declared and found that litter deposited in the Town of Mendon causes unsightly conditions and is a health, fire and safety hazard and pollutant; that litter cleanup is costly to the Town; that litter is a matter affecting the public interest and consequently should be subject to supervision and control for the purpose of safeguarding the public health, safety and general welfare of the people of the Town of Mendon.

§ 212-11. Prohibited acts.

No person shall throw, drop, put or place or, having accidentally dropped, fail to pick up any bag, bottle, bottlecap, box, can, container, garbage, paper, wrapper or any other trash or litter in or upon any public park, place, playground, cemetery, street, sidewalk, building or upon private property, except in receptacles provided for such purposes.

§ 212-12. Depositing snow into highways prohibited.

No person shall throw, put or place or cause to be thrown, put or placed any snow or ice into any public highway, street, public place or thoroughfare in the Town.

§ 212-13. Depositing debris or rubbish into highways prohibited.

- A. No person shall sweep, throw or deposit or cause to be swept, thrown or deposited any ashes, dirt, stone, brick, leaves, grass, weeds or any other debris or rubbish of any kind or any water or liquid of any kind except for purposes of cleansing the same into any public highway, street, gutter or public place or on any sidewalk within the Town.
- B. This section shall not apply to water or liquids running into streets as a result of fire fighting or flushing of fire hydrants by authorized personnel.

§ 212-14. Littering by trucks or other vehicles prohibited.

No truck or other motor vehicle or trailer or other mode of conveyance shall be operated or loaded in such a manner that any part or portion of its load, whether sand, gravel, stone, dirt, rubbish, paper, boxes, trash or other material, shall be dropped, blown or caused to fall or drop upon any public highway, street, public place, or thoroughfare or private property in the Town.

§ 212-15. Penalties for offenses. [Amended 10-15-2018 by L.L. No. 3-2018]

Any person, firm, company or corporation who or which shall violate any of the provisions of this article shall be guilty of an offense punishable by the maximum fine and/or imprisonment permitted by Chapter 9, Penalties and Enforcement, of the Town Code; and, in addition, may be ordered to pay all costs and expenses involved in the case. Every such person, firm, company or corporation shall be deemed guilty of a separate offense for each day such violation shall continue.

Chapter 217

STORMWATER MANAGEMENT

GENERAL REFERENCES

Definitions — See Ch. 5.

Freshwater wetlands — See Ch. 150.

Penalties and enforcement — See Ch. 9.

Sewers — See Ch. 206.

**Environmental Protection
Districts — See Ch. 138.**

Overlay

Subdivision of land — See Ch. 226.

Zoning — See Ch. 260.

ARTICLE I

Definitions**[Adopted 10-15-2018 by L.L. No. 3-2018]****§ 217-1. Terms defined.**

As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURAL ACTIVITY — The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

APPLICANT — A property owner or agent of a property owner who has filed an application for a land disturbance activity.

CHANNEL — A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING — Any activity which removes the vegetative surface cover.

DEDICATION — The deliberate appropriation of property by its owner for general public use.

DESIGNATED AGENT — Individual(s) directed by the Town of Mendon to conduct site inspections and/or perform other municipal duties.

EARTHWORK — Construction activities, including clearing, grading, excavating, soil disturbance or placement of fill, that result in land disturbance.

EROSION CONTROL — Measures that minimize erosion.

FEE IN LIEU — A payment of money in place of meeting all or part of the stormwater performance standards required by this chapter.

FINAL STABILIZATION — All soil-disturbing activities at the site have been completed and a uniform perennial vegetative cover with density of 80% has been established or equivalent measures such as the use of mulches or geotextiles have been employed on all unpaved areas and areas not covered by permanent structures.

GRADING — Excavation or fill of material, including the resulting conditions thereof.

HOTSPOT — An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

IMPERVIOUS COVER — Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INFILTRATION — The process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND — An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

LAND DISTURBANCE ACTIVITY — Construction activity, including clearing, grading, excavating, soil disturbance or placement of fill, that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land disturbance activities may take place at different times on different schedules.

LANDOWNER — The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

LETTER OF CREDIT — A document issued by a bank which guarantees the payment of a customer's drafts for a specified period and up to a specified amount.

LICENSED/CERTIFIED PROFESSIONAL — A person currently licensed to practice engineering in New York State, a registered landscape architect or a certified professional in erosion and sediment control (CPESC).

MAINTENANCE AGREEMENT — A legally recorded document that acts as a property deed restriction and which provides for long-term maintenance of stormwater management practices.

NEW YORK STANDARDS AND SPECIFICATIONS FOR EROSION AND SEDIMENT CONTROL — The most recent version of this publication, which is commonly known as the "Blue Book."

NEW YORK STATE STORMWATER MANAGEMENT DESIGN MANUAL — The New York State Stormwater Management Design Manual, most recent version, including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

OFF-SITE FACILITY — A stormwater management measure located outside the subject property boundary.

PERFORMANCE BOND — A bond underwritten by a surety in the contract amount to guarantee that the contractor will perform the required work according to the contract specifications.

PHASING — Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.

QUALIFIED PROFESSIONAL — A person knowledgeable in the principles and practices of erosion and sediment controls, such as a licensed professional engineer, registered landscape architect, certified professional in erosion and sediment control (CPESC), or soil scientist.

RECHARGE — The replenishment of underground water reserves.

REDEVELOPMENT — Reconstruction or modification to any existing, previously developed land, such as residential, commercial, industrial, institutional or road/highway, which involves soil disturbance. "Redevelopment" is distinguished from "development" or "new development" in that "new development" refers to construction on land where there had not been previous construction. Redevelopment specifically applies to construction areas with impervious surface.

RESPONSIBLE INDIVIDUAL — As related to inspection of construction site erosion controls, any person with an in-depth understanding of the principles and practices of erosion and sediment control, stormwater management and the proper procedures and techniques for the installation and maintenance of erosion and sediment control features.

SEDIMENT CONTROL — Measures that prevent eroded sediment from leaving the site.

SILVICULTURAL ACTIVITY — Activities that control the establishment, growth, composition, health and quality of forests and woodlands.

SITE — A parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

SITE PLAN APPROVAL — The examination and subsequent authorization to proceed with a project based upon a drawing prepared to specifications and containing necessary elements which show the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

STABILIZATION — The use of practices that prevent exposed soil from eroding.

START OF CONSTRUCTION — The first land disturbance activity associated with a development, including land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

STOP-WORK ORDER — An order issued which requires that all construction activity on a site be stopped.

STORMWATER MANAGEMENT — The use of structural or nonstructural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

STORMWATER MANAGEMENT OFFICER — An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) — A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF — The flow on the surface of the ground, resulting from precipitation.

STORMWATER TREATMENT PRACTICES — Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

SURFACE WATERS OF THE STATE OF NEW YORK — Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

WATER QUALITY STANDARD VIOLATION — An increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

WATERWAY — A channel that directs surface runoff to a watercourse or to the public storm drain.

WETLAND — An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

ARTICLE II

Construction Stormwater Pollution Prevention and Erosion and Sediment Control**[Adopted 11-26-2007 by L.L. No. 9-2007 (Ch. 168, Art. I, of the 1994 Code)]****§ 217-2. Findings and purpose.**

- A. Land disturbance activities and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition. This stormwater runoff contributes to increased quantities of water-borne pollutants. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.
- B. During the construction process, soil is the most vulnerable to erosion by wind and water. This eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates maintenance and/or repair of sewers and ditches and the dredging of waterways. In addition, clearing and/or grading during construction tends to increase soil erosion and causes the loss of native vegetation necessary for terrestrial and aquatic habitat, both of which provide a healthy living environment for citizens of the Town of Mendon. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff, thereby increasing streambank erosion and sedimentation. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow. Regulation of land disturbance activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.
- C. As a result, the purpose of this article is to safeguard public health, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth on land in the Town of Mendon. It seeks to meet those purposes by achieving the following objectives:
- (1) Meet the requirements of minimum measures 4 and 5 of the SPDES general permit for stormwater discharges from municipal separate stormwater sewer systems (MS4s), Permit No. GP-02-02, or as amended or revised;

- (2) Require land disturbance activities to conform to the substantive requirements of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities or as amended or revised;
- (3) Minimize increases in stormwater runoff from land disturbance activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- (4) Minimize increases in pollution caused by stormwater runoff from land disturbance activities which would otherwise degrade local water quality;
- (5) Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- (6) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices, and ensure that these management practices are properly maintained and eliminate threats to public safety.¹⁴

§ 217-3. Applicability.

This article shall be applicable to all land disturbance activities that will disturb more than one acre of land unless exempted under § 217-7C of this article. The article also applies to land disturbance activities that are less than one acre if such activities are part of a larger common plan of development or sale that will disturb more than one acre, even though multiple separate and distinct land disturbance activities may take place at different times on different schedules.

§ 217-4. Compatibility with other permits and requirements.

- A. Compliance with this article does not relieve the applicant of the obligation and responsibility to obtain separate coverage under the NYSDEC SPDES general permit for construction activities if required. For projects also applying for coverage under the NYSDEC SPDES general permit for stormwater discharges from construction activity, the applicant shall submit a copy of the stormwater pollution prevention plan (SWPPP), a notice of intent (NOI) with a certification statement including the date demonstrating submission to the NYSDEC, a letter of permission from the NYSDEC granting approval to disturb five acres or more of land at one time (if applicable) and any related documents to the Town of Mendon for review and approval.

14. Editor's Note: Original § 168-2 of the 1994 Code, Definitions, which immediately followed this section, was repealed 10-15-2018 by L.L. No. 3-2018. See now Art. I of this chapter.

Prior to the start of any work, the applicant must provide the Town of Mendon with a copy of the NYSDEC's acknowledgement letter stating that the NYSDEC has received the applicant's notice of intent (NOI).

- B. The requirements of this article should be considered minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other federal, state, or local ordinance, rule or regulation, or other provision of law, the provisions that are more restrictive or impose more stringent requirements shall take precedence.
- C. Construction activities that involve land disturbance may also require additional compliance measures detailed in other regulations and/or ordinances such as Article III of this chapter, Design and Management of Postconstruction Stormwater Pollution Prevention Measures.

§ 217-5. Legislative authority.

In accordance with Chapter 1 of the Code of the Town of Mendon of the State of New York, the Town of Mendon Town Board has the authority to enact laws for the purpose of promoting the health, safety, or general welfare of the Town of Mendon, including the protection and preservation of the property of its inhabitants. By the same authority, the Town of Mendon Town Board may include in any such law provisions for the appointment of any municipal employees to effectuate and administer such law.

§ 217-6. Technical standards for construction activities.

- A. The Town of Mendon requires the use of technical standards for erosion and sediment controls. These are detailed in the Town of Mendon's Design Criteria and the New York State Department of Environmental Conservation's Standards and Specifications for Erosion and Sediment Control. For the design of water quality and water quantity controls (postconstruction stormwater runoff control practices), the NYSDEC's technical standards are detailed in the New York State Stormwater Management Design Manual.
- B. Where stormwater management practices are not in accordance with the aforementioned technical standards, the applicant or developer must demonstrate equivalence to these technical standards, and the SWPPP shall be prepared by a licensed/certified professional.

§ 217-7. Land disturbance activity approval process.

- A. Requirements of application.
 - (1) Any applicant requesting site plan approval or a permit for land disturbance activity which would require the disturbance of more than one acre of land shall also include with a submission an SWPPP that shall be reviewed and approved by the Town of Mendon prior to issuance of the final site plan approval or a permit.

- (2) No applicant shall be granted site plan approval or a permit which would require the disturbance of more than one acre of land without the review and approval of an SWPPP by the Town of Mendon.
 - (3) Furthermore, prior to the issuance of a permit or site plan approval, all projects that would result in the disturbance of more than one acre of land will be required to comply with all applicable provisions of Article III, Design and Management of Postconstruction Stormwater Pollution Prevention Measures, of this chapter. As part of the SWPPP, the applicant shall include a signed statement that all applicable requirements of Article III of this chapter have been met to the satisfaction of the Town of Mendon.
 - (4) Each application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm, and shall be accompanied by a filing fee as set forth in § 217-13.
 - (5) Each application shall include a comprehensive and complete SWPPP that shall be prepared in accordance with § 217-9 of this article.
 - (6) Each application shall include a statement that any land clearing, construction, or development involving the movement of land shall be in accordance with the submitted SWPPP.
 - (7) All land disturbance activities, as defined in Article I of this chapter, not subject to site plan or permit approval shall be required to submit an SWPPP to the Stormwater Management Officer designated by the Town of Mendon, who shall approve the SWPPP if it complies with the requirements of this article.
- B. Review and approval of application. Review and approval of the application will be conducted during the Town of Mendon Planning Board site plan approval process and/or the permit process as specified in the Code of the Town of Mendon.
- C. Exemptions from article. The following activities are exempt from review under this article:
- (1) Any emergency activity which is immediately necessary for the protection of public health, property or natural resources.
 - (2) Agricultural activity as defined in Article I of this chapter.
 - (3) Silvicultural activity, except that landing areas and log haul roads are subject to this article.

- (4) Routine maintenance activities that disturb fewer than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- (5) Repairs to any stormwater treatment practice deemed necessary by the Town of Mendon.

§ 217-8. Financial guarantees.

The Town of Mendon may, at its discretion, require the applicant to submit a financial guarantee in a form acceptable to the Town of Mendon prior to issuance of site plan approval or a permit in order to insure that the stormwater pollution prevention and erosion and sediment control practices are implemented and maintained by the applicant as required by the approved SWPPP. The amount of the financial guarantee shall be the total estimated construction cost of the stormwater pollution prevention and erosion and sediment control practices approved, plus a contingency. The financial guarantee shall contain forfeiture provisions for failure to complete work specified in the SWPPP. The financial guarantee shall be released in full only upon satisfaction of the requirements listed in § 217-11 of this article. At its discretion, the Town of Mendon may allow for a partial release of the financial guarantee based on the completion of various development stages.

§ 217-9. Designation of Stormwater Management Officer; stormwater pollution prevention plan requirements; modification of plan.

- A. The Town of Mendon shall designate a Stormwater Management Officer, who shall accept and review all SWPPPs and forward such plans to the applicable municipal board. A consultant cannot be appointed as a Stormwater Management Officer. The Stormwater Management Officer may:
 - (1) Review the plans;
 - (2) Upon approval by the Town Board, engage the services of a New York State licensed professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board; or
 - (3) Accept the certification of a licensed/certified professional that the plans conform to the requirements of this article.
- B. Prior to final approval of a land disturbance activity, an SWPPP shall be prepared by the applicant in accordance with the specifications outlined by the Town of Mendon and submitted to the Stormwater Management Officer designated by the Town of Mendon for review by the appropriate board. This plan must be prepared in accordance with sound engineering practices by a qualified professional as defined in Article I of this chapter. The final plan must be signed by a New York

State licensed professional engineer (PE), who will certify that the design of all stormwater pollution prevention and erosion and sediment control practices meets the requirements outlined in the Town of Mendon's design criteria and the New York Standards and Specifications for Erosion and Sediment Control and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the Town of Mendon.

- C. The requirements to have an SWPPP prepared by a qualified professional and to have the final plan signed and certified by a New York State licensed professional engineer (PE) are not applicable to land disturbance activities that meet technical standards and are five acres or less occurring on a single-family residence, which is not part of a larger common plan of development, or an agricultural property. In addition, these land disturbance activities must not discharge directly to a 303(d)-impaired water body or must not be located in a total maximum daily load (TMDL) watershed.
- D. Minimum requirements. All SWPPPs shall provide the following background information and erosion and sediment controls:
 - (1) Background information about the scope of the project, including location, type and size of project and contact information that includes the name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the subject property or properties.
 - (2) Site map/construction drawing(s) for the project, including a general location map and a topographic base map of the site at a scale of one inch equals 100 feet which extends a minimum of 100 feet beyond the limits of the proposed development. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s), including receiving waters (name of the water), streams, ponds, culverts, ditches, and wetlands, as well as drainage patterns that could be affected by the construction activity; existing and final slopes; locations of utilities, roads, soil types, forest cover, and significant natural and man-made features not otherwise shown; locations of off-site material, waste, borrow or equipment storage areas, proposed concrete cleanout basin(s) and construction entrance; and location(s) of the stormwater discharge(s); and resources protected under other chapters of this code or by easements.
 - (3) Description of the soil(s) present at the site.
 - (4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation, final grading and landscaping, and any other activity at the site that results in soil disturbance. Sequencing shall identify the expected date on

which clearing will begin and the estimated duration of exposure of cleared areas. Consistent with the New York State Standards and Specifications for Erosion and Sediment Control, not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP and a letter of permission from the NYSDEC.

- (5) A description of the pollution prevention measures that will be used to control litter and prevent construction chemicals and construction debris from becoming a pollutant source in the stormwater discharges; a description of construction and waste materials expected to be stored on site, with updates as appropriate; a description of controls that will be implemented to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater; and a description of spill prevention and response measures.
- (6) A description of the temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project, from initial land disturbance to project closeout, including who will be responsible for the maintenance and implementation of said features at the site and what practices will be employed to ensure that adequate vegetative cover is established and preserved. For temporary and permanent vegetative control measures, the seeding mixtures and rates, types of sod, method of seedbed preparation, depth of topsoil, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching shall be provided.
- (7) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice.
- (8) Illustration of all necessary erosion and sediment control measures, including the siting and sizing of any temporary sediment basins, and provide the dimensions, material specifications and installation details for each throughout all phases of construction and completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
- (9) Identification of all temporary practices that will be converted to permanent control measures.
- (10) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and the duration that each practice should remain in place.
- (11) Identification of the parts or components of the SWPPP that require maintenance. Furthermore, it shall also provide a schedule of required maintenance and identify the party responsible for such work.

- (12) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
- (13) Any existing data that describes the stormwater runoff at the site.
- (14) Assurance that all other applicable environmental permits have been acquired for the site prior to initial land disturbance. Copies of the applicable environmental permits shall be provided to the Town of Mendon.
- (15) Assurance that the applicant or its "responsible individual" shall be on site at all times when earthwork takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.
- (16) Certification.
 - (a) Assurance that all contractors and subcontractors involved in soil disturbance and/or stormwater management practice installation and maintenance shall be identified in the SWPPP. All such contractors and subcontractors shall sign a copy of the following certification statement before undertaking any land disturbance activity at the site:

"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the SWPPP. I also understand that it is unlawful for person to cause or contribute to a violation of the water quality standards."
 - (b) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made. The certification statement must be included in the SWPPP.

E. Modifications to the plan after approval.

- (1) Major amendments of the SWPPP shall be submitted to the Town of Mendon and shall be approved or disapproved.
 - (a) The applicant shall amend the SWPPP whenever:
 - [1] There is a significant change in design, construction, operation, or maintenance which may have a significant effect on the potential for the discharge of pollutants to the waters of the United States and which has not otherwise been addressed in the SWPPP; or
 - [2] The SWPPP proves to be ineffective in providing the proper stormwater pollution prevention and erosion and sediment control as required by this article. Amendments

to the SWPPP may be reviewed by the Town of Mendon. A copy of the newly amended SWPPP must be provided to the Town of Mendon within five business days.

- (b) Additionally, the SWPPP shall be amended to identify any new contractor or subcontractor who will implement any measure of the SWPPP. The Town of Mendon may request copies of signed contractor certification statements from new contractors/subcontractors working on the site.
- (2) Field modifications of a minor nature may be authorized by the Town of Mendon by written authorization to the applicant.

§ 217-10. Inspections.

A. Town of Mendon inspections.

- (1) The Town of Mendon, or designated agent as defined in Article I of this chapter, shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the applicant that the work fails to comply with the SWPPP. In addition, the Town of Mendon reserves the right to enter the work site at any reasonable time for purposes of inspection. The SWPPP and the records of any inspections completed by the owner or his agent shall be maintained at the site in the site logbook from the date of initiation of construction activities to the date of final stabilization. To obtain inspections, the applicant shall notify the Town of Mendon at least 48 hours before the following activities occur:
- (a) Start of construction.
 - (b) Erosion and sediment control measures have been installed and stabilized.
 - (c) Site clearing has been completed.
 - (d) Rough grading has been completed.
 - (e) Final grading has been completed.
 - (f) Close of the construction season.
 - (g) Final landscaping.
 - (h) Closeout inspection.
- (2) The above inspection timetable does not relieve the owner of the obligation under this or any other permit or regulation to conduct regular inspections as set forth in said permit and/or regulation.
- (3) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further earthwork shall be conducted on the

site, except for site stabilization, until the violations are corrected and approved by the Town of Mendon.

B. Property owner/developer inspections.

- (1) The applicant shall employ a responsible individual, as defined in Article I of this chapter, who will oversee the implementation of the SWPPP on a daily basis. The responsible individual shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. The applicant shall also employ the services of a qualified professional in erosion and sediment control who will inspect and document the effectiveness of all erosion and sediment control practices. The documentation will be kept in a site logbook. Inspection reports will be completed every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. A monthly summary of reports will be copied to the site logbook and delivered to the Town of Mendon within five days after the month's end.
- (2) The requirement to employ a qualified professional to inspect and document the effectiveness of all erosion and sediment control practices is not applicable to land disturbance activities of five acres or less occurring on a single-family residence, which is not part of a larger common plan of development, or on an agricultural property. In addition, these land disturbance activities must not discharge directly to a 303(d)-impaired water body or must not be located in a total maximum daily load (TMDL) watershed.

§ 217-11. Duration, maintenance and closeout.

A. Duration.

- (1) For a project that requires a NYSDEC SPDES permit, the SWPPP approved by the Town of Mendon shall be in effect until:
 - (a) The site has been finally stabilized;
 - (b) A notice of termination (NOT) is submitted to the NYSDEC in accordance with the general permit; and
 - (c) A final inspection has been completed by the Town of Mendon.
- (2) For projects that do not require a NYSDEC NOT, the SWPPP is in effect until a final inspection is conducted and the Town of Mendon has issued the applicant written approval.

B. Maintenance.

- (1) The applicant shall at all times properly operate and maintain all stormwater management facilities and erosion and sediment control measures which are installed or used by the applicant to achieve compliance with the conditions of this article. Sediment

shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%. The land disturbance activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

- (2) At the end of the construction season when soil disturbance activities will be finalized or suspended until the following spring, it may be desirable to reduce the frequency of the required weekly site inspections to monthly inspections. In order to reduce inspection frequencies, the applicant must complete stabilization activities before proper installation is precluded by snow cover or frozen ground. If vegetation is used as a stabilization method, seeding, planting, and/or sodding must be scheduled to avoid fall frosts and to allow for proper germination/establishment. Installations and maintenance must be done according to the New York State Standards and Specifications for Erosion and Sediment Control.
- C. Closeout. The applicant must satisfy the following project closeout requirements:
- (1) Reestablish the grade of all permanent stormwater facilities.
 - (2) Inspect grading of all drainage structures and provide elevation as-builts to the Town of Mendon.
 - (3) Establish perennial vegetative cover to a density of 80% over 100% of the site.
 - (4) Remove all debris and temporary erosion and sediment control practices.
 - (5) Provide a written certification by a New York State licensed/certified professional that the site has undergone final stabilization (as defined in Article I of this chapter) and that all temporary erosion and sediment controls not needed for long-term erosion control have been removed.
 - (6) Complete any other measure deemed appropriate and necessary by the Town of Mendon to stabilize the project site.

§ 217-12. Enforcement; penalties for offenses.

- A. Stop-work orders. The Town of Mendon may issue a stop-work order for violations of this article. Persons receiving a stop-work order shall be required to halt all land disturbance activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Town of Mendon confirms that the land disturbance activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a

timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this article.

- B. Notice of violation. When the Town of Mendon determines that an activity is not being carried out in accordance with the requirements of this article, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:
- (1) The name and address of the owner or applicant.
 - (2) The address, when available, or a description of the building, structure or land upon which the violation is occurring.
 - (3) A statement specifying the nature of the violation.
 - (4) A description of the remedial measures necessary to bring the development activity into compliance with this article, and a time schedule for the completion of such remedial action.
 - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
 - (6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of a notice of violation.
- C. Violations and penalties. In addition to or as an alternative to any penalty or remedy provided herein or by law, any violation of this article shall be a misdemeanor and punishable by a fine and/or imprisonment as set forth in relevant provisions of the Penal Law of the State of New York. Each day's continued violation shall constitute a separate additional violation.
- D. Withholding of certificate of occupancy. Occupation permits may not be granted until corrections to all stormwater management practices have been made and accepted by the Town of Mendon.

§ 217-13. Fees.

Fees are established by the Town Board and are part of the Town of Mendon Fee Schedule.

ARTICLE III

Design and Management of Postconstruction Stormwater Pollution Prevention Measures**[Adopted 11-26-2007 by L.L. No. 10-2007 (Ch. 168, Art. II, of the 1994 Code)]****§ 217-14. Findings and purpose.**

- A. Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition. This stormwater runoff contributes to increased quantities of water-borne pollutants. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.
- B. The purpose of this article is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in the watersheds within the Town of Mendon. Therefore, the Town of Mendon establishes this set of water quality and quantity policies to provide reasonable guidance for the regulation of stormwater runoff and to, in addition to the above, safeguard persons, protect property, prevent damage to the environment in Town of Mendon, and comply with the NYSDEC State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4s), for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety.¹⁵

§ 217-15. Applicability; exemptions.

- A. This article shall be applicable to land disturbance activities as defined in Article I of this chapter and those activities meeting Condition A, B, C or D below shall include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth in § 217-21 as applicable unless eligible for an exemption or granted a waiver by the Town of Mendon in accordance with § 217-19 of this article.
- (1) Condition A: Stormwater runoff from land disturbance activities discharging a pollutant of concern to either an impaired water

15. Editor's Note: Original § 168-15 of the 1994 Code, Definitions, which immediately followed this section, was repealed 10-15-2018 by L.L. No. 3-2018. See now Art. I of this chapter.

identified on the Department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

- (2) Condition B: Stormwater runoff from land disturbance activities disturbing five or more acres.
 - (3) Condition C: Stormwater runoff from land disturbance activity disturbing between one acre and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.
 - (4) Condition D: Stormwater runoff from land disturbance activities that are smaller than one acre of disturbance if such activities are part of a larger common plan of development, even though multiple separate and distinct land disturbance activities may take place at different times on different schedules.
- B. All plans, documents and information required by this article must be reviewed by the Town of Mendon to ensure that established water quality standards will be maintained during and after development of the site and that postconstruction runoff levels are consistent with any local and regional watershed plans.
- C. When a site development plan is submitted that qualifies as a redevelopment project as defined in Article I of this chapter, decisions on permitting and on-site stormwater requirements shall be governed by special stormwater sizing criteria found in the current New York State Stormwater Management Design Manual. Final authorization of all redevelopment projects will be determined after a review by the Town of Mendon.
- D. This applies to all redevelopment projects that are greater than or equal to 25,000 square feet.
- E. The following activities may be exempt from the requirements of this article:
- (1) Any emergency activity which is immediately necessary for the protection of life, property or natural resources.
 - (2) Agricultural activity as defined in Article I of this chapter.
 - (3) Silvicultural activity, except that landing areas and log haul roads are subject to this article.
 - (4) Routine maintenance activities that disturb fewer than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
 - (5) Repairs to any stormwater treatment practice deemed necessary by the Town of Mendon.

§ 217-16. Compatibility with other permits and requirements.

- A. This article is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this article should be considered minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health and/or the environment shall be considered to take precedence.
- B. Construction activities that involve land disturbance may also require additional compliance measures detailed in other regulations and/or ordinances.

§ 217-17. Legislative authority.

In accordance with Chapter 1 of the Code of the Town of Mendon of the State of New York, the Town of Mendon Town Board has the authority to enact laws for the purpose of promoting the health, safety, or general welfare of the Town of Mendon, including the protection and preservation of the property of its inhabitants. By the same authority, Town of Mendon Town Board may include in any such law provisions for the appointment of any municipal employees to effectuate and administer such law.

§ 217-18. Compliance required.

- A. No person(s) shall receive any of the building, grading or other land disturbance approvals or permits required for land disturbance activities without first meeting the requirements of this article to the satisfaction of the Town of Mendon.
- B. Unless specifically excluded by this article, any landowner or operator desiring approval or a permit for a land disturbance activity shall comply with all applicable provisions of this article and shall submit all required plans, documentation and information as required under this article to the Town of Mendon for review and approval.
- C. Unless otherwise accepted by this article, the following items shall be submitted prior to the issuance of a permit or site plan approval:
 - (1) Stormwater pollution prevention plan (SWPPP) (see § 217-22).
 - (2) Maintenance easement(s) (see § 217-23).
 - (3) Maintenance agreement(s) (see § 217-23).
 - (4) Any applicable fees (see § 217-28).
- D. The SWPPP shall be prepared to meet the requirements of §§ 217-21 through 217-23 of this article. The maintenance agreement shall be prepared to meet the requirements of § 217-23 of this article, and applicable fees shall be those as set forth in § 217-28 of this article.

- E. The SWPPP and all other documents required by this article must be reviewed by the Town of Mendon to ensure that established water quality standards will be maintained after development of the site and that postconstruction runoff levels are consistent with any local and regional watershed plans. Information shall be submitted as a single, logical package, with all information bound together.

§ 217-19. Waivers and mitigation requirements.

- A. All persons shall comply with the requirements of this article, unless a written request is filed to waive the requirements in part or whole for land disturbance activities that disturb less than one acre of land. Requests to waive any requirements of this article shall be submitted to the Town of Mendon for approval.
- B. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:
- (1) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this article.
 - (2) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater pollution prevention plan that has been approved by the Town of Mendon and the implementation of the plan is required by local ordinance. These practices are encouraged in order to minimize the reliance on structural practices. Credit in the form of reductions in the amount of stormwater that must be managed can be earned through the use of nonstructural practices that reduce the generation of stormwater from the site. These nonstructural practices are explained in detail in the manual Better Site Design: A Handbook for Changing Development Rules in Your Community. Applicants wishing to obtain credit for use of nonstructural practices must ensure that these practices are documented and remain unaltered by subsequent property owners.
 - (3) Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.
 - (4) The Town of Mendon finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.
 - (5) Nonstructural practices will be used on the site that reduce:
 - (a) The generation of stormwater from the site;

- (b) The size and cost of stormwater storage; and
 - (c) The pollutants generated at the site.
- C. In instances where one of the conditions above applies, the Town of Mendon may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the Town of Mendon that the variance will not result in the following impacts to downstream waterways:
 - (1) Deterioration of existing culverts, bridges, dams, and other structures.
 - (2) Degradation of biological functions or habitat.
 - (3) Accelerated streambank or streambed erosion or siltation.
 - (4) Increased threat of flood damage to public health, life, property.
- D. Furthermore, where compliance with minimum requirements for stormwater management is waived, the applicant will satisfy the minimum requirements by meeting one of the mitigation measures selected by the Town of Mendon. Mitigation measures may include, but are not limited to, the following:
 - (1) The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation (dedication or easement of land, see § 217-20B below). These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat.
 - (2) The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this article.
 - (3) Monetary contributions (fee in lieu of, see § 217-20A below) to a dedicated fund for stormwater management activities.
- E. No waivers or mitigation plans will be considered for land disturbance activity that disturbs one acre or greater of land.

§ 217-20. Fee in lieu; dedication of land or easements.

- A. Fee in lieu. Where the Town of Mendon waives all or part of the minimum stormwater management requirements or where the waiver is based on the provision of adequate stormwater facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount as determined by the Town of

Mendon. All monetary contributions shall be made to a dedicated fund for stormwater management activities. The fee structure shall be based on the cubic feet of storage required for stormwater management of the development in question. All of the monetary contributions shall be made by the applicant prior to the issuance of any permit or approval for the development.

- B. Dedication of land or easements. In lieu of a monetary contribution, an applicant may obtain a waiver of the required stormwater management by entering into an agreement with the Town of Mendon for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site stormwater management facility. The agreement shall be entered into by the applicant and the Town of Mendon prior to the recording of plats or, if no record plat is required, prior to the issuance of the permit.

§ 217-21. General design and performance criteria for stormwater management.

- A. The applicant shall consult the Town of Mendon's Design Criteria, the New York State Stormwater Management Design Manual and the New York Standards and Specifications for Erosion and Sediment Control for standards and specifications related to stormwater management design criteria. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this article. If there is a conflict between any of the standards, the more stringent standard shall apply. Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in this section (§ 217-21) and § 217-22 of this article, and the SWPPP shall be prepared by a licensed/certified professional.
- B. The following design and performance criteria shall be addressed for stormwater management at all sites:
 - (1) All site designs shall establish stormwater management practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practicable to provide treatment for both water quality and quantity.
 - (2) All stormwater runoff generated from new development shall not discharge untreated stormwater directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the Town of Mendon. In no case shall the impact on

functional values be any greater than that allowed by the Army Corps of Engineers (COE) or the NYSDEC responsible for natural resources.

- (3) An attempt shall be made to maintain annual groundwater recharge rates, by promoting infiltration through the use of structural and nonstructural methods. At a minimum, an attempt shall be made for annual recharge from the postdevelopment site to mimic the annual recharge from predevelopment site conditions.
- (4) In order to protect stream channels from degradation, a specific channel protection criterion shall be provided as prescribed in the Town of Mendon's Design Criteria and/or the New York State Stormwater Management Design Manual.
- (5) Stormwater discharges to critical areas with sensitive resources may be subject to additional performance criteria or may need to utilize or restrict certain stormwater management practices.
- (6) Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as "hotspots," may require the use of specific structural stormwater treatment practices and pollution prevention practices.
- (7) Prior to design, applicants are required to consult with the Town of Mendon to determine if they are subject to additional stormwater design requirements.
- (8) The calculations for determining peak flows (WQv), as found in the New York State Stormwater Management Design Manual, shall be used for sizing all stormwater management practices.

§ 217-22. Stormwater pollution prevention plan requirements.

- A. An SWPPP is required as part of compliance with this article. This plan must be prepared by a qualified professional and must indicate whether stormwater will be managed on site or off site and, if on site, the general location and type of practices and shall also include sufficient information (e.g., maps, hydrologic calculations, etc.) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The plan must be signed by a New York State licensed professional engineer (PE), who will verify that the design of all stormwater management practices meet the submittal requirements outlined in the New York State Stormwater Management Design Manual. No building or grading permit or site plan approval shall be issued until a satisfactory stormwater pollution prevention plan, or a waiver thereof, has undergone a review and been approved by the Town of Mendon

after determining that the plan or waiver is consistent with the requirements of this article.

- B. The applicant shall employ a responsible individual, as defined in Article I of this chapter, who will oversee the implementation of the SWPPP on a daily basis. The applicant shall also employ the services of a qualified professional in erosion and sediment control, who will inspect and document the effectiveness of all erosion and sediment control practices. The documentation will be kept in a site logbook. Inspection reports will be completed every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. A monthly summary of reports will be copied to the site logbook and delivered to Town of Mendon within five days after the month's end.
- C. All SWPPPs shall provide the following information:
- (1) All information listed in § 217-9 of Article I of this chapter, Construction Stormwater Pollution Prevention and Erosion and Sediment Control.
 - (2) Description of each postconstruction stormwater management practice.
 - (3) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses. A written description of the site plan and justification of proposed changes in natural conditions may also be required.
 - (4) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms, including calculations such as a description of the design storm frequency, intensity and duration; time of concentration; soil curve numbers or runoff coefficients; peak runoff rates and total runoff volumes for each watershed area; infiltration rates, where applicable; culvert capacities; flow velocities; data on the increase in rate and volume of runoff for the design storms referenced in the New York State Stormwater Management Design Manual and documentation of sources for all computation methods and field test results.
 - (5) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions.
 - (6) Dimensions, material specifications and installation details for each postconstruction stormwater management practice.
 - (7) The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures, including a schedule to ensure their continued function. These plans will identify the parts or components of a stormwater

management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

- (8) The applicant must ensure access to all stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property. See § 217-23 of this article for additional information.
- (9) The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by the on-site stormwater management measure(s) in accordance with the specifications of this article. See § 217-23 of this article for additional information.
- (10) The SWPPP shall be prepared by a qualified professional, and the final plan must be signed by a New York State licensed professional engineer, who shall certify that the design of all stormwater management practices meets the requirements in this article.
- (11) A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project, and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.
- (12) The Town of Mendon may also require a concept plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.
- (13) The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect or by the Soil and Water Conservation District and in compliance with landscaping specifications outlined in the New York State Stormwater Management Design Manual.
- (14) The applicant shall assure that all other applicable environmental permits have been acquired for the site prior to approval of the final stormwater design plan.

§ 217-23. Maintenance of stormwater management facilities.

- A. Maintenance easement. The applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Mendon, or its contractor or agent, to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article and to, if necessary, implement emergency repairs to protect the health, safety and welfare of the public. The easement dimensions shall be as directed by the Town of Mendon, and the easement agreement shall be recorded in the office of the County Clerk, with a copy provided to the Town of Mendon.
- B. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this article shall ensure they are operated and maintained to achieve the goals of this article. Proper operation and maintenance also includes, as a minimum, the following:
- (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this article.
 - (2) Written procedures for operation and maintenance and training new maintenance personnel.
 - (3) Discharges from the stormwater management practices shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Article I of this chapter.
- C. Maintenance agreements.
- (1) The maintenance and proper operation of all privately owned stormwater management facilities, including nonstructural practices, shall be ensured through the creation of a formal and enforceable maintenance agreement that must be approved by the Town of Mendon and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. This agreement will include any and all maintenance easements required to access and inspect the stormwater management practices and will outline the procedures and schedule to be followed to perform routine maintenance as necessary to ensure proper functioning of the stormwater management practice. In addition, the legally binding agreement shall identify the parties responsible for the proper maintenance of all stormwater treatment practices and include plans for periodic inspections by the owners, or their designated agent, to ensure proper performance of the facility. The maintenance agreement shall be

consistent with the terms and conditions of the "Stormwater Control Facility Maintenance Agreement."

- (2) The Town of Mendon, in lieu of a maintenance agreement, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.
- D. Requirements of maintenance agreements. All stormwater management facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs to ensure compliance with the requirements of this article and accomplishment of its purposes. These needs may include removal of silt, litter and other debris from all catch basins, inlets and drainage pipes; grass cutting and vegetation removal; and necessary replacement of landscape vegetation. Any maintenance needs found must be identified in writing, along with the schedule and methods to be employed to complete the maintenance. The maintenance repairs and restoration schedule are to be approved by the Town of Mendon prior to commencing the work, and the Town of Mendon shall inspect the facility upon completion of the work. The inspection and maintenance requirement may be increased by the Town of Mendon as deemed necessary to ensure proper functioning of the stormwater management facility.
- E. Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs and shall retain the records for at least five years. These records shall be made available to the Town of Mendon during inspection of the facility and at other reasonable times upon request.
- F. Maintenance guarantees for privately owned stormwater facilities. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the applicant or by a corporation that owns or manages a commercial or industrial facility, the applicant, prior to construction, may be required to provide the Town of Mendon with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction and until the Town of Mendon acknowledges compliance with all details of an approved site plan. If the applicant or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Mendon may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs, until the Town of Mendon acknowledges compliance with all details of the approved site plan.

§ 217-24. Inspections; right of entry.

- A. The Town of Mendon or designated agent shall make inspections at any reasonable time for purposes of inspecting the construction of the stormwater management facilities. Inspections may include, but are not limited to, routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher-than-typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices. The applicant must notify the Town of Mendon in advance before the commencement of construction. If any violations are found, the property owner shall be notified of the nature of the violation and the required corrective actions. No added work shall proceed until any violations are corrected and all work previously completed has received approval by the Town of Mendon.
- B. Furthermore, when any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, or combined sewer, the property owner shall grant to the Town of Mendon the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this article is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation of this article.

§ 217-25. As-built plans and project closeout.

All applicants are required to submit actual as-built plans for any stormwater management practices located on site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a New York State licensed professional engineer. A final inspection by the Town of Mendon is required before the release of any performance securities can occur.

§ 217-26. Landscape alterations.

All applicants are responsible for maintaining the grading of the site so that it is consistent with the certified as-built plans. Any postconstruction alterations to the landscape shall receive prior approval from the Town of Mendon. Temporary landscape alterations, such as those associated with utility excavations and landscaping activities, must be restored to conditions that are consistent with the certified "as-built" plans.

§ 217-27. Enforcement; penalties for offenses.

- A. Failure to maintain practices. If a responsible party fails or refuses to meet the requirements of the maintenance agreement, the Town of Mendon, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the Town of Mendon shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have two days to effect maintenance and repair of the facility in an approved manner. (When the Town of Mendon determines that a condition exists that immediately threatens the public safety or public health, it shall have the right to make all necessary repairs to the facility in question without waiting for notification of the owner.) After proper notice, the Town of Mendon may assess the owner(s) of the facility for the cost of repair work and any penalties, and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the county.
- B. Violations. Any development activity that is commenced or is conducted contrary to this article may be restrained by injunction or otherwise abated in a manner provided by law.
- C. Notice of violation. When the Town of Mendon determines that an activity is not being carried out in accordance with the requirements of this article, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:
- (1) The name and address of the owner or applicant.
 - (2) The address, when available, or a description of the building, structure or land upon which the violation is occurring.
 - (3) A statement specifying the nature of the violation.
 - (4) A description of the remedial measures necessary to bring the development activity into compliance with this article, and a time schedule for the completion of such remedial action.
 - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
 - (6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of the notice of violation.
- D. Stop-work orders. Persons receiving a notice of violation will be required to halt all construction and/or maintenance activities. This

stop-work order will be in effect until the Town of Mendon confirms in writing that the activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this article.

- E. Civil and criminal penalties. In addition to or as an alternative to any penalty or remedy provided herein or by law, any violation of this article shall be a misdemeanor and punishable by a fine and/or imprisonment as set forth in relevant provisions of the Penal Law of the State of New York. Each day's continued violation shall constitute a separate additional violation.
- F. Holds on occupation permits. Occupation permits may not be granted until corrections to all stormwater management practices have been made and accepted by the Town of Mendon.

§ 217-28. Fees.

Fees are established by the Mendon Town Board and are included in the Town of Mendon Fee Schedule.

§ 217-29. Performance bond or security.

The Town of Mendon may, at its discretion, require the submittal of a performance security or bond prior to approval in order to insure that the stormwater practices are installed as required by the approved stormwater pollution prevention plan. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management practices approved by the Town of Mendon, plus 25%. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater pollution prevention plan. The installation performance security shall be released in full only upon submission of as-built plans and written certification by a New York State licensed professional engineer that the stormwater practice has been installed in accordance with the approved plan and other applicable provisions of this article. The Town of Mendon will make a final inspection of the stormwater practice to ensure that it is in compliance with the approved plan and the provisions of this article. Provisions for a partial pro rata release of the performance security based on the completion of various development stages can be done at the discretion of the Town of Mendon.

Chapter 222
STREETS AND SIDEWALKS

GENERAL REFERENCES

Definitions — See Ch. 5.

ARTICLE I

Prior Notice of Defects

[Adopted 3-24-1975 by L.L. No. 2-1975 (Ch. 170, Art. I, of the 1994 Code)]

§ 222-1. Prior notice of highway defects required. [Amended 10-15-2018 by L.L. No. 3-2018]

No civil action shall be maintained against the Town of Mendon (hereinafter referred to as "the Town") or the Town Superintendent of Highways of the Town or against any improvement district in the Town for damages or injuries to persons or property (including those arising from the operation of snowmobiles) sustained by reason of any highway, tree(s) and other vegetation within the highway right-of-way, bridge, culvert, highway marking, sign or device or any other property owned, operated or maintained by the Town or any property owned, operated or maintained by any improvement district therein being defective, out of repair, unsafe, dangerous or obstructed, unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, tree(s) and other vegetation within the highway right-of-way, bridge, culvert, highway marking, sign or device or any other property owned, operated or maintained by the Town or any property owned, operated or maintained by any improvement district was actually given to the Town Clerk of the Town or the Town Superintendent of Highways of the Town, and that there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of, or, in the absence of such notice, unless such defective, unsafe, dangerous or obstructed condition existed for so long a period that the same should have been discovered and remedied in the exercise of reasonable care and diligence; and no such action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert or any other property owned by the Town or any property owned by any improvement district in the Town unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the Town or the Town Superintendent of Highways of the Town and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 222-2. Prior notice of sidewalk defects required.

No civil action will be maintained against the Town and/or the Town Superintendent of Highways of the Town for damages or injuries to persons or property sustained by reason of any defect in the sidewalks of the Town or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the Town or the Superintendent of Highways of the Town pursuant to statute, nor shall any action be maintained for damages or injuries to persons or property sustained by reason of such defect or in consequence of such existence of snow or ice unless written notice thereof, specifying the

particular place, was actually given to the Town Clerk of the Town or to the Town Superintendent of Highways of the Town and there was a failure or neglect to cause such defect to be remedied, such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 222-3. Transfer of notices received; corrective action. [Amended 10-15-2018 by L.L. No. 3-2018]

The Town Superintendent of Highways of the Town shall transmit in writing to the Town Clerk of the Town within 10 days after receipt thereof all written notices received by him pursuant to this article, and he shall take any and all corrective action with respect thereto as soon as practicable.

§ 222-4. Record of notices. [Amended 10-15-2018 by L.L. No. 3-2018]

The Town Clerk of the Town shall keep an indexed record, in a separate book, of all written notices which the Town Clerk shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon or of an accumulation of ice and snow upon any Town highway, tree(s) and other vegetation within the highway right-of-way, bridge, culvert or a sidewalk or any other property owned by the Town or by any improvement district, which record shall state the date of the receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record of such notice shall be preserved for a period of five years from the date it is received. The Town Clerk, upon receipt of such written notice, shall immediately and in writing notify the Town Superintendent of Highways of the Town of the receipt of such notice. All such written notices shall be indexed according to the location of the alleged defective, unsafe, dangerous or obstructed condition, or the location of accumulated snow or ice.

§ 222-5. Conflict with other requirements; extent of liability.

Nothing contained in this article shall be held to repeal or modify or waive any existing requirement or statute of limitations which is applicable to these causes of action but, on the contrary, shall be held to be additional requirements to the rights to maintain such action; nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence nor to impose upon the Town, its officers and employees and/or any of its improvement districts any greater duty or obligations than that it shall keep its streets, highways, sidewalks and public places in a reasonably safe condition for public use and travel.

Chapter 226

SUBDIVISION OF LAND

GENERAL REFERENCES

Definitions — See Ch. 5.

Freshwater wetlands — See Ch. 150.

**Environmental Protection
Districts — See Ch. 138.**

Overlay Preservation of historic areas — See Ch. 159.

Farming — See Ch. 142.

Stormwater management — See Ch. 217.

Zoning — See Ch. 260.

ARTICLE I
General Provisions

§ 226-1. Authority.

- A. The Town Board of the Town of Mendon has, pursuant to §§ 276, 277 and 279 of Article 16 of the Town Law of the State of New York and by resolution, authorized and empowered the Planning Board to approve plats showing lots, blocks or sites, with or without streets or highways, and to approve preliminary plans, within that part of the Town outside the limits of the Incorporated Village of Honeoye Falls. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- B. The Town Board, pursuant to § 278 of Article 16 of the Town Law of the State of New York and by resolution, authorized and empowered the Planning Board, simultaneously with the approval of a plat or plats, to modify applicable provisions of Chapter 260, Zoning, within that portion of the Town outside the limits of the Incorporated Village of Honeoye Falls.

§ 226-2. Purpose and intent.

The purpose of establishing this subdivision chapter is to provide for the future growth and development of the Town and to afford adequate facilities for the housing, transportation, distribution, comfort, convenience, health, safety and welfare of the Town's population and provide for flexibility in design and preserve the natural and scenic qualities of open land. The review and approval procedures contained herein are designed to safeguard the community and assure that the requirements and standards for land subdivision contained herein are fulfilled and that the public health, safety and welfare are protected.

§ 226-3. Title and applicability.

In order that land may be subdivided in accordance with this purpose, this chapter is hereby adopted and shall be known and may be cited as the "Subdivision Ordinance of the Town of Mendon." Upon the approval of this chapter by the Town Board, subdivisions within the Town of Mendon shall be designed and submitted for approval in compliance with the standards and procedures set forth herein.

§ 226-4. General policy for subdivision design and review.

It is declared to be the policy of the Planning Board to consider land subdivisions as part of a plan for the orderly, efficient and economical development of the Town and in a manner that is reasonable and in the best interests of the community. The Planning Board will be guided in its consideration of an application for the subdivision of land by the following general requirements:

- A. Land must be buildable and free of hazard. The physical characteristics of the land to be subdivided shall be such that it can be used for building purposes without danger to health and safety or peril from fire, flood, erosion or other menace. Proper provisions shall be made for stormwater drainage, water supply, sewage disposal and other needed improvements.
- B. Natural and historic features shall be preserved. Insofar as possible, all existing features of the landscape such as large trees, unusual glacial formations, water- and flood courses, historic sites and other such irreplaceable assets shall be preserved.
- C. Subdivisions shall be in conformance with all other local ordinances, except as provided for elsewhere by Town Law or this chapter, and shall be properly related to the formally adopted Town planning documents and the Town of Mendon design criteria used by the Planning Board. Streets shall be of such width, grade and location as to accommodate the prospective traffic, to afford adequate light and air and to facilitate fire protection. Park areas of suitable location, size and character for playground or other recreational or open space purposes shall be shown on the subdivision plat in proper cases and when required by the Planning Board.
- D. The Planning Board, in reviewing subdivision applications, shall take into account the provisions of Chapter 260, Zoning, of the Town of Mendon Code and shall make use of the powers provided therein where appropriate.

§ 226-5. Subdivisions straddling municipal boundaries.

Whenever access to a subdivision can be had only across land in another municipality, the Planning Board may request assurance from its counsel that access is legally established and from the Town Engineer that the access road is adequately improved or that a performance bond has been duly executed and filed with the Town of Mendon and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal boundary lines or zoning district lines.¹⁶

§ 226-6. Waiver of requirements.

The Planning Board may waive, subject to appropriate conditions, the provision of any and all improvements and requirements as, in its judgment of the special circumstances of a particular plat or plats, are not required in the interest of public health, safety and general welfare or which, in its judgment, are inappropriate because of inadequacy or lack of connecting facilities adjacent to or in proximity to the subdivision.

16. Editor's Note: Original § 174-6 of the 1994 Code, Resubdivision, which immediately followed this section, was repealed 10-15-2018 by L.L. No. 3-2018. See now § 226-22.

§ 226-7. Conflict with design and construction specifications.

In the event of any conflict or inconsistency between this chapter and the Design Criteria and Construction Specifications for Land Development in the Town of Mendon, it is the responsibility of the subdivider to bring such alleged inconsistency or conflict to the Planning Board's attention, in writing, for a decision, and its decision shall be final and binding.

§ 226-8. Cluster development.

- A. Legislative authority. The Town Board of the Town of Mendon enacts this section of the Code of the Town of Mendon pursuant to its authority under New York State Town Law § 278.
- B. Legislative intent. It is the intent and purpose of this section to enable and encourage flexibility in the design and development of land in such a way as to promote the most appropriate and safe use of land, to facilitate the adequate and economical provision of streets and utilities, to identify contaminated sites, to preserve the natural and scenic qualities of open space and contiguous open space, to protect local ecology, including freshwater wetlands, woodlots, steep slopes, geological features, stream corridors and other areas of environmental value, scenic vistas, scenic corridors, and historic sites.
- C. Modifications authorized. The Planning Board is authorized, simultaneously with the approval of a plat or plats pursuant to Article 16 of the New York State Town Law, to modify applicable provisions of Chapter 260, Zoning, of the Town of Mendon Code.
- D. Number of dwelling units permitted.
 - (1) The maximum permitted number of dwelling units or building lots shall be determined by dividing the land area of the subject property by the normal minimum required lot area for the zoning district in which it lies. This will provide the maximum number of dwelling units or building lots that could theoretically be placed upon the site. However, prior to determining the number of dwelling units or building lots that the site can accommodate, the parcel to be developed shall have its total developable gross area adjusted as follows:
 - (a) Lands used by public structures or rights-of-way may not be considered as part of the total developable gross area.
 - (b) The Planning Board shall reduce the total developable gross area if the parcel contains lands in Environmental Protection Overlay Districts (EPODs). The reduction to the total developable gross area would be determined by the subtraction of undevelopable EPOD acreages (see the list of EPODs in Chapter 138, § 138-3). In determining the adjusted total developable gross area of the parcel, emphasis shall be placed upon avoiding or, if avoidance is not possible,

minimizing disturbance to the sensitive areas identified as EPODs while preserving contiguous areas of important environmental features. **[Amended 10-15-2018 by L.L. No. 3-2018]**

- (2) The adjusted total developable gross area of the parcel, as determined in Subsection D(1)(a) and (b) above, shall then be used to compute the maximum number of dwelling units or building lots permitted. For each calculation submitted, the applicant shall prepare a table which shows the total acreage of the site, the total developable acreage, the total acreage involving land in each EPOD and the net developable acreage. In no case shall the number of building plots or dwelling units exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements and EPOD restrictions of Chapter 138, Environmental Protection Overlay Districts, of the Town Code. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- (3) The minimum lot size shall be 0.75 acre in the RA-1 Zoning District(s) and 2.0 acres in the RA-5 Zoning District(s).

E. Applicability.

- (1) The provisions of this section shall apply to applications for division of land parcels containing a total land area of appropriate size and dimension which can accommodate building lots according to the standards of this chapter and which can be classified as subdivisions under this chapter.
- (2) An owner of property or contract vendee within any residential zoning district may make an application as provided in this chapter.
- (3) The Planning Board may require that a land parcel, meeting the minimum requirements under this section, be developed in a cluster design, provided that the parcel possesses any of the following site characteristics:
 - (a) An area of special flood hazard as delineated on the Federal Insurance Agency's Flood Insurance Rate Maps for the Town of Mendon.
 - (b) Environmentally sensitive areas or other areas of concern raised by the Planning Board.
 - (c) Environmental Protection Overlay Districts as designated in Chapter 138 of the Town Code. **[Amended 10-15-2018 by L.L. No. 3-2018]**
 - (d) Other environmentally sensitive features identified in this chapter and Chapter 260, Zoning, of the Town Code.

F. Procedures.

- (1) These procedures may be followed at the discretion of the Planning Board, if, in the Board's judgment, the application of these procedures would benefit the Town.
- (2) The applicant, if requested by the Planning Board under this section, shall present two sketches. One shall be a layout of a conventional subdivision in strict compliance with the rules and regulations contained within this chapter and Chapter 260, Zoning, of the Town of Mendon Code. The other shall be a layout outlining development of the parcel in the form of a cluster development in accordance with the four-step process outlined in § 226-16. The Planning Board may require the applicant to present an environmental assessment form for the development of the land parcel under both scenarios at such time or defer it until such time as a concept has been developed by the Planning Board and the applicant.
- (3) The applicant shall present all information required by the Town of Mendon Code, supplemented by evidence of the consistency of the proposed cluster development with the criteria to be used by the Planning Board in rendering its decision. Such evidence shall include a written statement describing the natural features to be preserved or enhanced by the cluster approach. The statement should also compare the impacts upon the Town from a conventional subdivision layout to the impacts of the cluster development for which application is being sought.

G. General design requirements.

- (1) A cluster development shall meet all requirements for a subdivision in accordance with prevailing Town Law and any other federal, state and local law, with the exception of the minimum lot size and required front, side and rear setbacks.
- (2) The minimum distance between structures on separate lots which make up a cluster development shall be based upon the minimum lot sizes and setbacks required by the Monroe County Department of Public Health for the operation of private wells, if applicable, and septic systems and the location of houses on adjacent lots. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- (3) The minimum lot widths for the lots in a cluster development shall conform to those specified in Chapter 260, Zoning, of the Town Code.
- (4) Each building in a cluster development shall be an integral element of an overall concept for the site. The concept should take into consideration all requirements of this section and all other relevant sections of this chapter and other Town legislation.
- (5) The overall development shall be designed in such a way as to maximize the preservation of the site's contiguous environmentally

sensitive, cultural or recreational resource features by providing a design that avoids disturbance of, or results in minimal disturbance to, these features.

- (6) The area(s) to be preserved for open space purposes, including playgrounds and parks, shall be in an amount, location, quality and contiguous shape as is desirable for accessibility to all developed properties and open space preservation, as determined by the Planning Board.
 - (7) Where possible, all land not contained within the lots, road rights-of-way or designated preserve land shall be contiguous and of such size and shape as to be usable for recreation and/or open space.
- H. Permitted uses. Permitted uses in a cluster development shall be the same as those allowed in Chapter 260, Zoning, of the Town of Mendon Code where the development is proposed to be located. The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in Chapter 260, Zoning.
- I. Open space.
- (1) All land not included in building lots or road rights-of-way shall be designated as open space. At minimum, open space within a development shall equal or exceed the difference between the total land area required for building lots under a conventional subdivision and the total land area required for building lots under the proposed cluster development.
 - (2) Where a cluster development abuts a body of water, a usable portion of the shoreline should be a part of the open space.
- J. Action by the Planning Board.
- (1) The Planning Board may approve a voluntary application for cluster development, or mandate cluster development under a required application, if the proposed development complies with the standards of this chapter and other relevant laws and if, in its opinion, based on review of evidence about the site, traditional site layout would result in the elimination or permanent alteration of any portion of a site that contains unique environmental features, including, but not limited to, eskers, drumlins, kames, kettles, freshwater wetlands, woodlots, landfill sites, steep slopes or drain tiles on adjacent farmland.
 - (2) In the event that the criteria listed above are not met by the proposed development, the Planning Board may approve a voluntary application for cluster development if, in its opinion, the development of the site in a cluster design shall achieve one or more of the following objectives:

- (a) The proposed cluster development shall avoid disturbance or minimize disturbance to natural and scenic resources on, adjacent to or near the site better than conventional site layout.
- (b) The proposed cluster development shall contribute to Town-wide open space planning by creating or complementing a system of permanently preserved open spaces.
- (c) Sufficient evidence has been presented by the applicant to document that the proposed cluster development shall foster housing for special sectors of the community, including those groups identified in the Comprehensive Plan as populations which may require special housing initiatives to meet their particular needs (e.g., elderly residents, first-time homebuyers, etc.).

K. Reservation of open space lands.

- (1) As a condition of final plat approval of a cluster development, the Planning Board, after consultation with the Town Board, may require dedication of open space areas to the Town. The Planning Board may also require dedication of open space areas to be held in common through a homeowners' association (HOA) or other legal entity acceptable to the Town Planning Board Attorney. Finally, the Planning Board may require a perpetual conservation restriction and/or other rights to property shall be placed on open space land which have the minimum effect of restricting development permanently and allowing use of such open land only for agriculture, forest management, active or passive recreation, watershed protection, wildlife habitat or other open space use and prohibiting residential, industrial or commercial use, pursuant to the open space requirements of this chapter.
- (2) Open space created by the use of cluster development shall be clearly labeled on the final plat as to its shape, use, ownership, management, method of preservation and the rights to such land, if any, of the property owners of the subdivision and the general public. The plat should clearly identify that the open space is permanently reserved for open space purposes and shall not be platted for building lots or other development. It shall indicate the liber and page of any conservation restriction(s) or deed restrictions required to be filed to implement such reservation of open space. If the open space is to be owned in common with others, the applicant shall provide for the ownership, management and rights to such lands by means of an entity acceptable by the Planning Board.¹⁷

17. Editor's Note: Original § 174-10, Word usage, of the 1994 Code, which immediately followed this section, was repealed 10-15-2018 by L.L. No. 3-2018. See now Ch. 5, Definitions and Word Usage.

§ 226-9. Definitions and word usage. [Amended 10-15-2018 by L.L. No. 3-2018]

For the purpose of this chapter, word usage and interpretation and certain words and terms used herein are defined in Chapter 5, Definitions and Word Usage, of the Mendon Town Code.

§ 226-10. Planning Board.¹⁸

For the purpose of initiating a Planning Board under this chapter, the normal continuance of the existing Planning Board is established. The Planning Board shall have power to pursue all those duties established for it by the Town and this chapter. It shall establish such rules and regulations as are necessary for the transaction of its business and may amend, modify and repeal the same.

§ 226-11. Interpretation of provisions.

Where the conditions imposed by any provision of this chapter are more restrictive than comparable conditions imposed by any other provisions which are part of the Mendon Town Code or of any other ordinance, resolution or regulation, the provisions which are more restrictive shall govern.

§ 226-12. Penalties for offenses. [Amended 10-15-2018 by L.L. No. 3-2018]

Any person, firm, company or corporation owning, controlling or managing any property or premises whereon there shall be 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 Planning Board or who or which shall build contrary to the plans or specifications submitted and certified as complying with this chapter, 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 subject to penalties as provided in Town Law § 268. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter or of such ordinance or regulation shall be deemed misdemeanors, and for such purposes only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

§ 226-13. Additional remedies.

In case of any violation of any of the provisions of this chapter or conditions imposed by the Planning Board, in addition to the remedies herein provided, the Town Board may institute any appropriate action or proceeding to

18. Editor's Note: See also Ch. 260, Zoning, Art. XIV, Zoning Board of Appeals and Planning Board.

abate such violation, to prevent any illegal act conducted on or about such premises.

§ 226-14. When effective.

This chapter shall become effective 10 days after publishing and posting in the manner provided by law, but such chapter shall take effect from the date of its service as against a person served with a copy thereof, certified by the Town Clerk, and showing the date of its passage and entry in the minutes, pursuant to the statutes of the State of New York.

ARTICLE II

Preapplication and Application Procedure and Approval Process**§ 226-15. Application.**

- A. General procedure. Whenever a subdivision of land is proposed and before any permit for the erection of a permanent building in such proposed subdivision shall be granted and before any subdivision plat may be filed in the office of the Monroe County Clerk, the subdivider shall apply for and secure approval of such proposed subdivision in accordance with the following procedures. Prior to submitting an application and a sketch plan, an applicant shall prepare and submit a written description of the applicant's proposed intentions for the property, together with an Existing Resources and Site Analysis Map and a Site Context Map, a minimum of 21 days prior to a scheduled Planning Board meeting.
- B. Submission of Existing Resources and Site Analysis Map. The purpose of the Existing Resources and Site Analysis Map is to familiarize officials with existing conditions and provide a complete and factual reference for a site inspection. The Existing Resources and Site Analysis Map shall generally be prepared at the scale of one inch equals 100 feet or one inch equals 200 feet, whichever best fits on a single standard-size sheet (24 inches by 36 inches). The following information shall be included:
- (1) A vertical aerial photograph enlarged to the map scale, with the site boundaries clearly marked.
 - (2) The location of the proposed subdivision and/or development within neighboring context.
 - (3) North directional arrow.
 - (4) General topography of the land, determined by photogrammetry and interpolated from USGS published maps. The Planning Board may specify the desired contours for sketch plan review.
 - (5) The location and delineation of ponds, streams, ditches, drains, and natural drainage swales, as well as the one-hundred-year floodplains and wetlands. Additional areas of wetlands on the proposed development parcel, specifically including vernal pools (which are only seasonally wet), shall also be indicated, as evident from testing, visual inspection, or the presence of wetland vegetation.
 - (6) Vegetative cover conditions on the property according to general cover type, including cultivated land, permanent grassland, meadow, pasture, hedgerow, woodland and wetland, and the actual canopy line of existing trees and woodlands. The Planning Board may waive tree locational requirements within wetlands, floodplains, significant slopes or in other areas proposed to be

conserved in their natural state. Vegetative cover types shall be described by plant community, relative age and condition.

- (7) Soil series, types and phases, as mapped by the U.S. Department of Agriculture Natural Resources Conservation Service in the published soil survey for the county, and accompanying data published for each soil relating to its suitability for construction and septic (if applicable).
 - (8) Ridgelines and watershed boundaries shall be identified.
 - (9) Geologic formations, including rock outcroppings, cliffs, sinkholes, and fault lines.
 - (10) All existing man-made features, including but not limited to streets, driveways, farm roads, woods roads, trails, buildings, foundations, stone walls, wells, drainage fields, dumps and waste disposal areas (existing and abandoned), utilities, storage tanks (above and below the ground), fire hydrants, and storm and sanitary sewers.
 - (11) Locations of all historically significant or potentially significant sites or structures on the tract, including but not limited to structures, stone walls, earthworks, and graves.
 - (12) Locations of trails that have been in public use (pedestrian, equestrian, bicycle, etc.).
 - (13) All easements and other encumbrances of property which are, or have been, filed of record with the Monroe County Clerk shall be shown on the plan.
 - (14) Real property tax identification and acreage data of the site.
 - (15) Environmental Protection Overlay Districts.
- C. Site context map. A map showing the location of the proposed subdivision within its neighborhood context shall be submitted. For sites under 100 acres in area, such maps shall be at a scale of not less than one inch equals 200 feet and shall show the relationship of the subject property to natural and man-made features existing within 1,000 feet of the site. For sites of 100 acres or more, the scale shall be one inch equals 400 feet and shall show the above relationships within 2,000 feet of the site. The features that shall be shown on Site Context Maps include topography (from USGS maps), stream valleys, wetland complexes (from maps published by the U.S. Fish and Wildlife Service or the USDA Natural Resources Conservation Service), woodlands (from aerial photographs), ridgelines, public roads and trails, utility easements and rights-of-way, public land, and land protected under conservation easements.
- D. Preapplication meeting.
- (1) Purpose; site visit.

- (a) A preapplication meeting is required between the applicant, the site designer and the Planning Board (and/or its planning consultant or designee). The purpose of the preapplication meeting is to familiarize the Planning Board, local officials and the public with the property's existing conditions and special features, to identify potential site design issues, to provide an informal opportunity to discuss site design concepts, including the general layout of designated conservation lands (if applicable) and/or a cluster development, and potential locations for proposed buildings and street alignments, and to develop a mutual understanding on the general approach for subdividing and/or developing the site.
 - (b) Prior to the preapplication meeting, the applicant and Planning Board members are encouraged to coordinate a site visit and/or meeting with the applicant, the property owner, and other municipal officials, as appropriate, to familiarize local officials with the site's existing conditions and special features, to identify potential site design issues, to provide an informal opportunity to discuss site design concepts, including the general layout of designated conservation lands (if applicable), and potential locations for proposed buildings and street alignments, and to develop a mutual understanding on the general approach for subdividing and/or developing the site. Comments made by municipal officials or their staff and consultants shall be interpreted as being only suggestive. It should be understood by all parties that no formal recommendations can be offered, and no official decisions can be made, at any such site visit.
- (2) All subdivision concepts shall include the following design process in determining the layout of conservation and/or environmentally protected lands, house sites, streets and lot lines, as described below. The Planning Board and the applicant will review the design process at the preapplication meeting and draw in potential subdivision lines on the Existing Resources and Site Analysis Map. The details of the design process are presented below:
 - (a) Step one: site characterization. Delineation of agricultural lands and areas subject to potential and existing conservation restrictions ("conservation areas") and Environmental Protection Overlay Districts (EPODs) as set forth under Chapter 138 of the Town Code. **[Amended 10-15-2018 by L.L. No. 3-2018]**
 - (b) Step two: house locations and possible clustering requirement. Potential house locations shall be broadly identified on the Existing Resources and Site Analysis Map, giving consideration to avoidance of existing and potential EPODs and conservation areas. House positioning on lots will consider the most favorable view.

- (c) Step three: alignment of streets and trails. Upon designating potential housing positions, a street plan, if applicable, shall be designed to provide vehicular access to each house, bearing a logical relationship to topographic conditions. Impacts of the street (private road or driveway) plan on conservation areas and EPODs shall be avoided wherever possible. Street connections shall minimize the number of new culs-de-sac.
 - (d) Step four: drawing in the lot lines. To the extent possible, property lot lines shall be drawn as required to delineate the boundaries of individual residential lots.
- (3) It is intended that the preapplication meeting will result in a conceptual sketch that the applicant can formalize into a sketch plan (see § 226-17 below).

§ 226-16. Sketch layout review.

- A. Requirements. Before preparing a sketch layout, the subdivider will have had the preapplication meeting with the Planning Board (and/or officials) regarding the general requirements as to design of streets, reservations of land, Town frontage road policy, flood protection, drainage and erosion control and slope stabilization measures, water retention facilities, sewerage, water supply, fire protection and other improvements, as well as procedural matters. A sketch layout may be prepared and submitted, along with an amount equal to 1/2 the fee required for revision review and processing as adopted by resolution of the Town Board and posting in the Town Clerk's office. Copies as required by the Planning Board shall be submitted to the Planning Board and shall comply with the requirements set forth in this chapter. One copy of the sketch layout shall be returned to the subdivider with the Planning Board's comments, one copy shall be retained by the Planning Board and additional copies shall be used for coordination with other consultants or agencies. Subdividers of land adjoining public highways are advised to consult with either the Resident Engineer of the New York State Department of Transportation, the County Director of Public Works or the Town Highway Superintendent at the sketch layout stage in order to resolve problems of street openings or stormwater drainage at the earliest possible stage in the design process. Where public utilities are involved, the subdivider's engineer should contact the agencies for connection specifications, capacities and any other requirements of the respective agencies. The Planning Board shall study the sketch layout of a proposed subdivision in relation to existing or potential development of the adjacent area and the Town's and county's relevant planning documents and, in the course of its review under the provisions of the state environmental quality review (SEQR) regulations, consult with other involved and interested agencies. In addition, the Planning Board may refer a copy of the sketch layout to the Town Engineer for his review and report.

- B. County Department of Planning and Development review. Upon receipt of the complete application for sketch plan approval, certified as such by the Planning Board, the Board may refer said application to the Monroe County Department of Planning and Development for an advisory review and report which shall be made to the Planning Board.
- C. Conservation Board review. Upon receipt of the application for sketch layout or preliminary plan review and approval, the Planning Board shall refer a copy of said application to the Town of Mendon Environmental Conservation Board for its review and report, in all instances where the proposed development is located in whole or in part within an area designated by said Board as being in the Open Space Index of the Town of Mendon, pursuant to § 239-y, Designation of Council as Conservation Board, of the General Municipal Law of the State of New York. The Environmental Conservation Board, in its review of said sketch layout plan, may recommend to the Planning Board whether an environmental impact statement should be prepared in order to complete the environmental record for the application.
[Amended 10-15-2018 by L.L. No. 3-2018]
- D. Notification of results of sketch plan layout review. Not later than 45 days following the submission of a complete application for sketch plan layout, as certified by the Clerk of the Planning Board, the Planning Board shall convey a written report to the subdivider containing its comments concerning the design of the proposed subdivision, including, in appropriate cases, suggestions as to coordination with the design of adjacent subdivisions or compliance with requirements of other interested public agencies. Copies of Planning Board minutes of the relevant meetings shall be considered a sufficient written report.

§ 226-17. Sketch layout specifications.

A rough-scaled sketch layout shall be drawn on paper or other suitable material at a standard scale of not more than 200 feet to one inch, together with an overlay sheet. It shall show the following information:

- A. The name of the proposal, including the name and address of the subdivider or subdividers, and a written clear statement of the subdivider's intent and letter of disclosure.
- B. North point, scale, date and general location map. The North point should be in the upper right-hand corner of each sheet, and the direction of north should be either at the top of each page or at the right-hand side of each page.
- C. Boundaries of the tract to be subdivided, plotted to scale. If the subdivider intends to develop the tract in stages, the entire tract shall nevertheless be included in the sketch layout with anticipated stages and timing indicated and estimates of population and dwelling units by type for each stage and an equivalent population estimate for areas not proposed for residential development.

- D. A topographic survey showing ground contours for the parcel and parcels adjacent to and within 200 feet of the tract to be subdivided, at intervals of not more than five feet of elevation, and all pertinent topographic features within the site and the adjoining tract or tracts, including existing buildings, watercourses and their one-hundred-year-floodplain limits, water bodies, swamps, wooded areas and individual large trees. Features to be retained in the subdivision should be so indicated.
- E. A statement as to the proposed source of water supply and method of sewage disposal, including a statement as to who will own the water and sewer systems and a conceptual layout of each system. If the proposal is not to be served by a public sewer system, then percolation test results administered by the Monroe County Department of Public Health and conceptual layout of the proposed sewerage system shall be provided. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- F. The approximate lines of proposed streets, sidewalks, lots and neighborhood recreation areas or other permanent open space.
- G. A schematic indication of the proposed system for stormwater drainage using the following design levels for stormwater engineering:
 - (1) Basin of 20 square miles: one-hundred-year frequencies.
 - (2) Basin of four square miles to 20 square miles: fifty-year frequencies.
 - (3) Basin under four square miles: twenty-five-year frequencies.
 - (4) Subdivision's drainage: ten-year frequencies.
- H. An indication of the zoning of the tract and any other legal restrictions of use.
- I. The name or names of the licensed professional engineer responsible for the preparation of the sketch layout and preliminary information.
- J. The names of owners of adjacent lands or names of adjacent subdivisions.
- K. A location map showing the boundaries of the tract in relation to adjoining streets; schematically, the locations of the nearest elementary school; water and sewer lines, electric service and parks and playgrounds within 1/2 mile of the proposed subdivision; and other public facilities, such as shopping, churches and public transportation routes, as appropriate, and land uses adjacent to the proposed subdivision.
- L. The proposal's relationship to municipal Comprehensive Plans or open space plans.

- M. The location of all lands identified as open areas in the Town of Mendon Open Space Index or shown on the Town of Mendon Official Zoning Map as an Environmental Protection Overlay District.
- N. Approximate locations of building envelopes where construction of buildings may occur.

§ 226-18. Preliminary plan review.

A preliminary plan, along with a complete environmental assessment form and, where deemed appropriate, a draft environmental impact statement, shall be prepared and submitted to the Planning Board for all proposed subdivisions.

- A. Requirements. The preliminary plan shall be clearly marked "preliminary plan" and shall satisfy the requirements for preliminary layouts as described in § 226-19 and should comply with the recommendations made by the Planning Board in its report on the sketch layout, if any, and shall be accompanied by either the complete environmental assessment form(s) or a completed draft environmental impact statement, along with the remaining portion of the fee required for subdivision review. In the event that a sketch layout review procedure is not used by the subdivider, 1/2 of the fee shall be submitted with the preliminary plan and the remaining 1/2 of the fee shall be submitted with the final plat. Copies of the preliminary plan and supplementary material as required by the Planning Board shall be submitted to the Planning Board. Additional copies of the preliminary plan may be required for involved and interested agencies, as defined under SEQRA, as part of any environmental review and determination of significance process. The Planning Board shall study the preliminary plan in connection with the identified environmental impacts of the action, existing requirements of Chapter 260, Zoning, the planning goals, objectives and policies and any other plans of the Town and the Town Official Map, if any, and shall take into consideration the general requirements of the Town. In reviewing a preliminary plan, the Planning Board shall consult with the Town Engineer and such other officials or agencies as may be appropriate in each case. The Town Engineer shall report to the Planning Board concerning the adequacy of engineering features shown on the preliminary plan. As directed by the Planning Board, the Town Engineer shall receive a copy of the complete application for review at least two weeks prior to the date of the public hearing on the preliminary plan.
- B. County Department of Planning and Development review and establishing a public hearing date. Upon receipt of a complete and satisfactory preliminary plan application, as certified by the Clerk of the Planning Board, the Planning Board shall, pursuant to § 239-n of the New York State General Municipal Law, refer seven copies of said plan to the Monroe County Department of Planning and Development for its review and report and schedule a public hearing within the time limit specified in § 276 of the Town Law, from the date of receipt of the

complete application by the Planning Board. (See Appendix A for this and subsequent time limits specified in § 276 of the Town Law that are alluded to in this chapter.¹⁹) The hearing shall be advertised at least once in a newspaper of general circulation in the Town within the time limit specified in § 276 of the Town Law, before the date of the scheduled hearing. **[Amended 10-15-2018 by L.L. No. 3-2018]**

- C. Action by Planning Board. Upon compliance with the SEQR procedures, and within the time limit specified in § 276 of the Town Law after the date of such hearing, the Planning Board shall approve, with or without modification, or disapprove such preliminary plan. The grounds for modification, if any, or the grounds for disapproval shall be stated in the records of the Planning Board. Notwithstanding the foregoing provisions of this chapter, the time in which the Planning Board must take action on such plan may be extended by mutual consent of the subdivider and the Planning Board. When approving a preliminary plan, the Planning Board shall state in writing any modification it deems necessary prior to submission of the plat in final form.
- D. Notification of decision. Within the time limits specified in § 276 of the Town Law, the approval of such preliminary plan shall be so certified by the Clerk of the Planning Board as having been granted preliminary approval and a copy thereof filed in the Town offices and mailed to the subdivider. In the event that the Planning Board fails to take action on a preliminary plan within the time prescribed therefor, such plat shall be granted preliminary approval by default. The certification of the Town Clerk as to the date of submission of a complete application and the failure of the Planning Board to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required. **[Amended 10-15-2018 by L.L. No. 3-2018]**

§ 226-19. Preliminary layout specifications. [Amended 10-15-2018 by L.L. No. 3-2018]

The preliminary layout shall be drawn on one or more sheets of tracing material not more than 34 inches by 44 inches in size and shall be clearly marked "preliminary plan." The preliminary plan shall be drawn at a standard scale of not more than 50 feet to one inch and shall include the information listed below with a contour interval of two feet. If more than one sheet is required to show an entire tract, an index map shall be provided.

- A. The items in Subsections A through N of § 226-17.
- B. A system for stormwater drainage using the following design levels for stormwater engineering:
- (1) Basin of 20 square miles: one-hundred-year frequencies.

19. Editor's Note: Appendix A is included as an attachment to this chapter.

- (2) Basin of four square miles to 20 square miles: fifty-year frequencies.
 - (3) Basin under four square miles: twenty-five-year frequencies.
 - (4) Subdivision's drainage: ten-year frequencies.
- C. Existing streets immediately adjoining and within the tract to be subdivided and the distance to the nearest major street intersection.
 - D. Existing drains, water lines and sanitary sewers nearby and within the tract to be subdivided, with their location, size, type and approximate elevations and gradients, using mean sea level as datum plane. Existing easements for such facilities shall also be shown.
 - E. A statement as to the proposed source of water supply and method of sewage disposal, to include a statement as to who will own the water and sewer systems, a conceptual layout of each system, whether necessary districts are formed or are in process, the receiving sewage treatment plant and the ultimate disposition of the effluent from the plant, the lines, dimensions and purpose of all utility easements, including properly placed fire hydrants, and preliminary design of bridges and culverts. (Note: Sanitary sewer and water service must be in public ownership.) Where water mains are not looped, blowoff valves shall be provided also.
 - F. A tracing overlay showing all soils areas and their classification and those areas, if any, with moderate to high susceptibility to erosion. For areas with potential erosion problems, the subdivider shall also include any description and outline of existing vegetation.
 - G. A separate drainage report, including calculations for runoff and pipe and channel sizing, which will clearly indicate the basis of design and the intended method of all stormwater disposal, flood hazard prevention, how all runoff will be handled during grading and development operations and erosion and sedimentation prevention measures. The design of stormwater retention facilities shall be included in the report.
 - H. The approximate lines and gradients of proposed streets and sidewalks, and the suggested names of proposed streets.
 - I. A preliminary grading plan of the site at a contour interval of two feet, showing locations and approximate size of cuts and fills and a cross section for any final grading steeper than three horizontal to one vertical, or where the cut or fill will be more than five feet.
 - J. The approximate lines of proposed lots, the acreage or square footage contained in each lot and individual lot numbering. If a lot contains one or more existing buildings, the yard dimensions for such building shall be indicated.

- K. The approximate locations and dimensions of areas proposed for neighborhood parks or playgrounds or other permanent open space.
- L. The location of any municipal boundary lines, existing special service district lines and zoning district lines within the tract.
- M. An indication of any nonconforming lots, showing the required and actual areas, yards and setbacks, as applicable, as well as the need for any special permits.
- N. The type and location of any potentially hazardous materials of any nature.
- O. The location and quality of water bodies directly affected by and adjacent to the project and finish or design water levels.
- P. The requirement for any local, state or federal permit and, if so, what type of permit and why.
- Q. The location of buffers required either during or after construction is completed and the reason for the buffer, and the location of other proposed vegetation.
- R. The location, size and type of proposed lighting and any anticipated signs.
- S. The method of fire protection.
- T. Any federal, state or local environmental impact statement.

§ 226-20. Final subdivision plat review. [Amended 10-15-2018 by L.L. No. 3-2018]

After receiving approval, with or without modifications, from the Planning Board on a preliminary plan, the subdivider may prepare his final subdivision plat and submit it to the Planning Board for approval; except that if more time has elapsed between the time of the Planning Board's decision on the preliminary plan and submission of the final subdivision plat than is permitted in § 276 of the Town Law, and the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary plan for further review and possible revision prior to accepting the proposed final subdivision plat for review.

- A. Requirements. The final subdivision plat shall conform substantially to the preliminary plan as approved by the Planning Board. It should incorporate any modifications or other features that may have been recommended by the Planning Board at the preliminary plan stage, and all such compliances shall be clearly indicated by the subdivider on the appropriate submission. If the subdivider wishes to develop the subdivision in stages, he may prepare and submit a subdivision plat for a portion of the area encompassed by the preliminary plan, provided that the proposed development stages were indicated on the

preliminary plan reviewed by the Planning Board. However, no more than two individual sections of a subdivision shall be in process or under construction at the same time.

- B. Application for subdivision plat. A tracing on linen, plus copies of the tracing and other exhibits required for approval, as specified in § 226-21, shall be submitted with the application for approval. When submitting a subdivision plat for approval, the subdivider shall also file with the Planning Board formal offers of dedication to the Town or other appropriate public agencies of all streets, parks and playgrounds and other permanent open spaces for community use, as shown in the subdivision plat. The approval of the plat does not constitute an acceptance by the Town of the dedication of those facilities. Also, evidence of all necessary easements for stormwater discharge, sanitary sewer and water, petitions for creation of any needed special districts or any other legal documents that may be requested by the Planning Board should be submitted for approval along with the final subdivision plat.
- C. Public hearing. Within the time limits specified in § 276 of the Town Law from the date of the submission of a plat in final form for approval by the Planning Board, the Board may conduct a public hearing on the final plat. In the event that a public hearing is required, notice of said hearing shall be advertised at least once in a newspaper of general circulation in the Town within the time limits specified in § 276 of the Town Law. When the Planning Board deems the final plat to be in substantial agreement with the approved preliminary plan or modified in accordance with any recommendation accompanying such approval, the Planning Board may decide not to conduct a public hearing.
- D. Notification of decision.
 - (1) In the event that such hearing shall not be held or in the event that such hearing is held the Planning Board shall, by resolution, conditionally approve, with or without modifications, disapprove or grant final approval of the plat in final form and authorize the signing of such plat, within the time limits prescribed in § 276 of the Town Law of its receipt by the Clerk of the Planning Board. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board. In the event that the Planning Board fails to take action on a plat within the time prescribed therefor, the plat shall be approved. A certificate of the Town Clerk as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.
 - (2) In reviewing a subdivision plat, the Planning Board shall consult with the Town Engineer and such other officials or agencies as may be appropriate in each case. The Town Engineer shall report to the

Planning Board concerning the adequacy of engineering features shown on the subdivision plat. The action of the Planning Board shall be recorded in the Board's minutes, and the subdivider shall be notified of such action in writing, which may include transmittal of these minutes and a copy of the map submitted. In case of disapproval of a proposed subdivision plat, the Planning Board shall notify the applicant in writing and setting forth therein its reasons for disapproval. No construction of any sort, site improvements or building permit for any permanent building within the subdivision shall be issued by the municipality until after the record sheet of the subdivision plat has been approved by the Planning Board and has been filed in the office of the Monroe County Clerk and liber and page numbers have been assigned by the County Clerk. Where a permit is desired for the occupancy of a building in the subdivision prior to the completion of all the improvements shown on the approval construction sheet of the subdivision plat, in addition to other requirements of the Town, the street serving the building shall be completed to a degree satisfactory to the Town Engineer.

- E. Conditional approval. Upon resolution of conditional approval of such final plat, the Planning Board shall empower a duly authorized officer to sign the plat subject to completion of such requirements as may be stated in the resolution. Within the time limits specified in § 276 of the Town Law from the passage of such resolution, the plat shall be certified by the Clerk of the Board as conditionally approved and a copy filed in the Town Clerk's office and a certified copy mailed to the subdivider, including a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of such requirements, the plat shall be signed by said duly authorized officer of the Planning Board. Conditional approval of a final plat shall expire within the time limits specified in § 276 of the Town Law, after the date of the resolution granting conditional approval, unless such requirements have been certified as completed. Notwithstanding the foregoing provisions of this chapter, the Planning Board may extend the time in which a conditionally approved plat in final form must be submitted for signature if, in its opinion, such extension is warranted by the particular circumstances thereof, but not to exceed the time limits specified in § 276 of the Town Law.
- F. Expiration of approval. An approved plat must be filed in the County Clerk's office within the time period specified in § 276 of the Town Law. If it is not, the approval expires. In the event that the owner shall file only a section of the approved plat, the entire approved plat shall be filed in the Town Clerk's office within the time specified in § 276 of the Town Law, after the filing of the section with the County Clerk. The section shall encompass the required number of lots as a percentage of the total plat, as specified in § 276 of the Town Law; provided, further, that the approval of the remaining sections shall expire unless said

sections are filed before the expiration of the exemption period pursuant to § 265-a of the Town Law.

- G. Letter of credit. A letter of credit shall be submitted for construction and improvements, as specified in the Design Criteria and Construction Specifications for the Town of Mendon, and shall be approved as to form by the Town Attorney and as to amount by the Town Engineer. The member of the Planning Board designated to sign plats shall not sign a plat until a letter of credit, if required, has been received by the Town Clerk and approved by the Town Supervisor.

§ 226-21. Subdivision plat specifications.

The subdivision plat shall be drawn in ink on tracing cloth or material equally acceptable for filing with the Monroe County Clerk and shall give sufficient survey data to readily determine the location, bearing and length of all lines shown thereon to permit the reproduction of such lines upon the ground. The subdivision plat submission shall be composed of three parts, namely, construction sheet, record sheet and drainage report, as described in the subsections that follow.

- A. Subdivision plat construction sheet. The construction sheet shall not be larger than 34 inches by 44 inches in size and shall be drawn at a scale of 50 feet to one inch and show the information listed below. Where more than one sheet is required to show the entire development, a key sheet shall be provided. All data shown on the construction sheet shall be in accordance with the requirements of the Design Criteria and Construction Specifications for Land Development in the Town of Mendon.
- (1) The items in Subsections A, B and C of § 226-19.
 - (2) The lines of existing and proposed streets and sidewalks immediately adjoining and within the subdivision.
 - (3) The names of existing and suggested names of proposed streets.
 - (4) Typical cross sections of proposed streets.
 - (5) The profiles of proposed streets at suitable vertical scale showing finished grades in relation to existing ground elevation.
 - (6) The layout of proposed lots, including lot numbers.
 - (7) The location and size of any existing and proposed stormwater or sanitary sewers, water mains and pipes on the property or into which any connection is proposed.
 - (8) Provisions for water supply and sewage disposal, and evidence that such provisions have received approval of the Monroe County Department of Public Health. **[Amended 10-15-2018 by L.L. No. 3-2018]**

- (9) The locations of survey monuments. Before acceptance of the dedication of the highways, a certificate by a licensed land surveyor must be filed certifying that the above monuments have been placed where indicated on the map.
 - (10) A plan and typical cross sections of proposed sidewalks where required by the Planning Board.
 - (11) A development plan, including landscaping, for any proposed neighborhood park or playground within the subdivision.
 - (12) A planting plan for street trees, indicating the location, varieties and minimum size of trees to be planted and of existing trees to be preserved as street trees.
 - (13) Brief specifications or reference to Town standards for all facilities to be constructed or installed within the subdivision.
 - (14) Certification by a licensed professional engineer and/or licensed landscape architect and a licensed land surveyor as evidence of professional responsibility for the preparation of the construction sheet.
- B. Subdivision plat record map. Unless the Monroe County Clerk specifies otherwise, the record sheet shall be 17 inches by 22 inches or 22 inches by 34 inches or 34 inches by 44 inches in size and shall be drawn on linen at a scale of 50 feet to one inch and show the information listed below. Where more than one sheet is required to show the entire development, a key map showing all sections shall be provided.
- (1) The items in Subsections A and B of § 226-17.
 - (2) The boundaries of the subdivision, a legal description of the entire parcel of property and information to show the location of the subdivision in relation to surrounding property and streets, including the names of owners of adjacent land or names of adjacent subdivisions. In whatever manner that is practical, the subdivision boundary shall be referenced from two directions to establish United States Coast and Geodetic Survey monuments or New York State Plane Coordinate monuments. In the event that such monuments have been obliterated, the subdivision boundary shall be referenced to the nearest highway intersections or previously established monuments of subdivisions or public lands. Any combination of types of reference points may be accepted which would fulfill the requirements of exact measurements from the subdivision boundary to reference points previously established for or by a public agency.
 - (3) The lines of existing and proposed streets and sidewalks within the subdivision and their names and the lines of existing proposed streets and sidewalks on adjoining properties.

- (4) The lines and dimensions of proposed lots, which shall be numbered. If a proposed lot contains one or more existing buildings, the yard dimensions for such building shall be indicated. Existing buildings outside the limits of the plat but within 75 feet of any proposed street or 25 feet of any proposed lot line shall also be shown.
- (5) The lines and purposes of existing and proposed easements immediately adjoining and within the subdivision.
- (6) The lines, dimensions and areas, in square feet, of all property that is proposed to be reserved by deed covenant for the common use of the property owners of the subdivision.
- (7) The location of monuments to be placed within the subdivision and in compliance with the Monroe County Monumentation Control Law.
- (8) The locations of existing and proposed water supply lines, storm sewers and sanitary sewers within the subdivision.
- (9) The locations of any municipal and zoning boundary lines within the subdivision.
- (10) Written statements as to:
 - (a) The zoning of the property within the subdivision.
 - (b) Compliance of the proposed lots with zoning requirements. If any lots do not comply but are covered by zoning variances, the statement should include reference to such variance, or if variances are needed, such should be stated, along with the nature of the variance or variances and location or locations. If any lots were approved under the cluster development provisions of this chapter,²⁰ including the lot size, setbacks and any other pertinent information shall be provided for each lot.
- (11) Seal and certification by a licensed professional engineer or a licensed land surveyor as evidence of professional responsibility for the preparation of the record sheet.
- (12) To facilitate the filing of the subdivision or resubdivision maps with the County of Monroe, the following are required:
 - (a) If there are any new streets, the form entitled "Application for Approval of Plat" shall be submitted.²¹
 - (b) A tax search shall be made as required by the Monroe County Treasurer's office.

20. Editor's Note: See § 226-8.

21. Editor's Note: This application is on file in the Town offices.

- (c) The required number of prints of the map.
 - (d) The required filing fee payable to the Monroe County Clerk.
 - (e) A statement that all other necessary county and state departments have been contacted.
- (13) If required by the Planning Board, the lines and dimensions of proposed building envelopes within each lot, together with a notation stating that permanent structures greater than 100 square feet in footprint must be erected within the building envelope.
- (14) If required by the Planning Board, pursuant to Chapter 260, Zoning, liber and page references to any conservation restrictions or restrictive covenants are required as conditions of approval of the subdivision plat. Such documents shall be reviewed and approved by a Town Attorney prior to final plat approval by the Planning Board, and their execution shall be made conditions of final plat approval.
- C. Subdivision plat drainage report. When requested by the Town Engineer, this report shall expand upon the report submitted at the preliminary layout stage and shall present plans and supporting data for stormwater control drainage provisions within the subdivision, including:
- (1) A plan, profiles and typical and special cross sections of proposed stormwater drainage facilities.
 - (2) Supporting final design data and copies of computation used as a basis for the design capacities and performance of the drainage facilities.
 - (3) A subdivision grading plan developed to suitable contour interval with grading details to indicate proposed street grades and building site grades and elevation through the subdivision. The contour interval of the grading plan shall be one, two or five feet vertical, the selection to result in a horizontal distance between contour lines of not more than 100 feet.
 - (4) An erosion/sedimentation control plan if required.
 - (5) If the subdivision is within or adjacent to a delineated one-hundred-year floodplain, a detailed analysis of the area with respect to floodplain management and land use, as well as the need for development permits, will be included in the subdivision plat drainage report.
 - (6) Any requirements concerning drainage that are now in or are from time to time incorporated in Chapter 260, Zoning, of the Town of Mendon Code are hereby incorporated by reference.

§ 226-22. Resubdivision and lot line adjustments.

For a resubdivision, the same procedure shall apply as for a subdivision. If the proposed resubdivision consists solely of the simple alteration of lot lines where no additional lots would be created, then the need for the normal subdivision procedures may be waived at the written discretion of the Planning Board Chairperson. A statement indicating such shall be part of the Board's record on the subdivision. Notification of the purpose for the division (i.e., lot line adjustment) shall be shown on the plat and in the deeds. Tax numbers shall be reassigned to the new legal descriptions.

§ 226-23. Lot line adjustments not involving resubdivision.

For an action that involves the simple alteration of lot lines not involving a filed subdivision plat map and where a property owner owns two contiguous parcels and no additional lots would be created, then normal subdivision procedures may be waived at the written discretion of the Planning Board Chairperson. A statement indicating such shall be part of the Board's record on the combining of two contiguous parcels. Notification of the purpose of the division (i.e., lot line adjustment) shall be shown in the deeds. Tax numbers shall be reassigned to the new legal descriptions.

§ 226-24. Waiver of requirements.

The Planning Board may waive any data requirement for any proposed subdivision if it finds in its initial review, or in the initial review of other consultants, that such data is not necessary to make a decision on the request. A list of the requirements waived, and the reasons therefor, shall become a part of the Town's written record on the subdivision.

ARTICLE III
Design Standards and Required Improvements

§ 226-25. Review criteria; adherence to standards.

The Planning Board, in reviewing an application for approval of a subdivision plat, shall be guided by the considerations and standards presented in this chapter and the recommendations of the Conservation Board on such application. In addition, all design shall be in accordance with the Design Criteria and Construction Specifications for Land Development in the Town of Mendon.

§ 226-26. Lot size and arrangement.

The dimensions and arrangements of lots shall be such that there will be no foreseeable difficulties, for reasons of topography, reservations, dedications or other conditions, in providing access to buildings on such lots or in securing building permits to build on the lots in compliance with Chapter 260, Zoning, or other requirements. In general, side lot lines should be at right angles or radial to street lines, unless a variation from this can be shown to result in a better plan.

- A. Access. Lots abutting streets contained in the major street plan for the county as adopted by the Monroe County Legislature, or until such adoption of streets named in a resolution by the Town Board, shall not derive direct access to these streets but rather should have access to a marginal access street or other streets within the subdivision. All lots shall abut a street, other than an alley, for at least the minimum width required in Chapter 260, Zoning. Where reverse frontage is employed, a cross-access easement shall be required along the rear portion of the lot next to and parallel to the highway right-of-way line. Where a watercourse separates the buildable area of a lot from the street to which it has access, provision shall be made for installation of a culvert or other structure, when required, which shall be subject to the same design criteria and review as all other stormwater drainage facilities in the subdivision and the Town's flood damage prevention regulations.²²
- B. Prevention of landlocked parcels. No division of land shall result in any parcel not having at least one access point to at least one public road.
- C. Buffers and berms.
 - (1) A berm may be required along the boundary of any lot with a public thoroughfare.
 - (2) Berms shall be provided along the rear lot lines of reverse-frontage lots adjacent to other public thoroughfares. The berm shall be one which provides a visual buffer as well as being based upon decibel

22. Editor's Note: See Ch. 138, Environmental Protection Overlay Districts, Art. IX, EPOD 8: Flood Damage Prevention Overlay District.

measurements obtained by the subdivider from a responsible private or public agency that can provide this service.

- (3) Landscape buffers should be provided between marginal access roads and major streets.
- D. Streams and drainageways. Subdivision lots should be laid out so that side or rear lot lines follow the center line of a stream or drainageway which may be within the subdivision.
- E. Length of streets. Streets should not generally be less than 400 feet nor greater than 1,200 feet in length, with the optimum length being 800 feet.
- F. Location of buildings and planting of trees. As much as is possible, consideration should be given to noise sources, privacy, prevailing wind directions and seasonal sun movements when locating structures, patios and open spaces on lots as well as when selecting locations for and type of vegetation to be planted on the lot.

§ 226-27. Neighborhood parks and playgrounds; fee in lieu of recreation area.

- A. Pursuant to § 277 of the Town Law, subdivision plats shall show, in proper case and when required by the Planning Board, suitable areas for neighborhood parks or playgrounds. The proposed neighborhood parks or playgrounds should either be identified in the Town of Mendon Open Space, Parks and Recreation Master Plan or they should have physical characteristics and locations which render them readily usable for appropriate recreation purposes. Their locations shall be selected with a view to minimizing hazards from vehicular traffic for children walking between such facilities and their homes in the neighborhood. The subdivision plat should include a detailed site development plan for each neighborhood park or playground. The site plan shall show how the entire area is to be graded, drained and landscaped to make it a useful and attractive feature of the neighborhood. All improvements shown on the site development plan shall be made by the subdivider as part of the required improvements of the subdivision as a whole. If the Planning Board does not require the subdivider to provide recreation areas as above, it may require the subdivider to pay a playground or recreation site and development fee at a rate per lot to be set by the Town Board.
- B. Final approval of a subdivision plat by the Planning Board shall be subject to receipt by the Town Supervisor of such fees as provided for in Subsection A of this section, which fees shall be deposited in a trust fund to be used by the Town exclusively to purchase, acquire, maintain, develop and equip parks and playgrounds and for other recreational purposes.

Chapter 230

TAXATION

GENERAL REFERENCES

Definitions — See Ch. 5.

ARTICLE I
Senior Citizens Tax Exemption
[Adopted 3-13-1967 (Ch. 182, Art. I, of the 1994 Code)]

§ 230-1. Exemption granted.

Pursuant to the authority granted by § 467 of the Real Property Tax Law, real property in the Town of Mendon, County of Monroe, owned by one or more persons, each of whom is 65 years of age or over, shall be exempt from taxation by the Town of Mendon to the extent of 50% of the assessment valuation thereof.

§ 230-2. Amount of exemption. [Amended 10-9-1982; 2-26-1984; 11-27-1989; 10-9-1990; 12-9-1991; 12-28-1992]

No exemption shall be granted:

- A. If the income of the owner or the combined income of the owners of the property, for the income tax year immediately preceding the date of making application for exemption, exceeds the sum of \$26,000, except that if the aforesaid income is more than \$26,000, then such real property shall be exempt to the extent provided in the following schedule: **[Amended 11-28-1994 by L.L. No. 7-1994; 2-12-1996 by L.L. No. 1-1996; 10-28-1996 by L.L. No. 6-1996; 2-8-1999 by L.L. No. 2-1999; 3-26-2001 by L.L. No. 4-2001; 1-27-2003 by L.L. No. 1-2003; 2-23-2004 by L.L. No. 1-2004; 2-26-2007 by L.L. No. 2-2007; 10-15-2007 by L.L. No. 8-2007]**

(1) Exemption schedule.

Annual Income	Percentage of Assessed Valuation Exempt From Taxation
Less than \$26,000	50%
Equals \$26,000 but less than \$27,000	45%
\$27,000 or more but less than \$28,000	40%
\$28,000 or more but less than \$29,000	35%
\$29,000 or more but less than \$29,900	30%
\$29,900 or more but less than \$30,800	25%
\$30,800 or more but less than \$31,700	20%
\$31,700 or more but less than \$32,600	15%

Annual Income	Percentage of Assessed Valuation Exempt From Taxation
\$32,600 or more but less than \$33,500	10%
\$33,500 or more but less than \$34,400	5%

- (2) The eligible income levels will then increase \$1,000 annually through 2009, such that in 2009 there will be a 50% exemption for incomes up to \$29,000 and a graduated reduction in exemption for incomes more than \$29,000 but less than \$37,400.
 - (3) Income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid by insurance and long-term care insurance premiums actually paid by the owner.
 - (4) Such income shall not include the proceeds of a reverse mortgage, as authorized by § 6-h of the Banking Law, and §§ 280 and 280-a of the Real Property Law; provided, however, that monies used to repay a reverse mortgage may not be deducted from income, and provided additionally that any interest or dividends realized from the investment of reverse mortgage proceeds shall be considered income. **[Added 10-15-2018 by L.L. No. 3-2018]**
 - (5) The provisions of this subsection notwithstanding, such income shall not include veterans disability compensation, as defined in Title 38 of the United States Code. **[Added 10-15-2018 by L.L. No. 3-2018]**
- B. Unless the title of the property shall have been vested in the owner or all of the owners of the property for at least 60 consecutive months prior to the date of making application for exemption.
 - C. Unless the property is used exclusively for residential purposes.
 - D. Unless the real property is the legal residence of and is occupied in whole or in part by the owner or by all the owners of the property.

§ 230-3. Application for exemption.

Application for such exemption must be made by the owner, or all of the owners of the property, on forms to be furnished by the Town Assessor's office and shall furnish the information and be executed in the manner required or prescribed in such forms and shall be filed in such Assessor's office at least 90 days before the date for filing the final assessment roll.

§ 230-4. Fraudulent applications.

Any conviction of having made any willful false statement in the application for such exemption shall be punishable by fine of not more than \$100 and shall disqualify the applicant or applicants from further exemption for a period of five years.

§ 230-5. Applicability.

Such exemption shall be applicable for the assessment roll occurring after January 1, 1993, and subsequent rolls, provided that any eligible person may apply for the exemption after the effective date of this article.

§ 230-6. Deadline extended for renewal applications. [Added 2-25-1986 by L.L. No. 1-1986; amended 11-28-1994 by L.L. No. 7-1994]

In the event that the owner or all of the owners of real property which has received an exemption pursuant to § 467 of the Real Property Tax Law on the next preceding assessment roll failed to file an application for an exemption as required pursuant to said § 467 of the Real Property Tax Law on or before the taxable status date, such owner or owners may file the application, executed as if such application had been filed on or before the taxable status date, with the Assessor of the Town of Mendon on or before the date of the hearing of complaints. Upon said owner or owners' filing an application for renewal of tax exemption on or before the date for the hearing of complaints as aforesaid, the Assessor is authorized to accept that application.

§ 230-7. Eligibility for partial exemption. [Amended 2-12-1990]

A person who turns 65 anytime during the calendar year shall be eligible to file for such exemption on the Town tax by March 1 each year.

§ 230-8. Extensions for first-time applicants with medical reason. [Amended 12-28-1992]

The time allowed for filing by first-time applicants for partial exemption for real property tax shall be extended beyond the regular taxable status date, currently March 1, to the annual date of Grievance Day, currently the fourth Tuesday in May, provided that such applicant has an allowable and verified medical hardship which prevented the applicant from filing by the taxable status date. This amendment shall be effective on the assessment rolls after January 1, 1993.

ARTICLE II

Agricultural Assessments for Fire and Ambulance Districts
[Adopted 4-13-1992 by L.L. No. 1-1992 (Ch. 182, Art. II, of the 1994 Code)]

§ 230-9. Benefit assessment or special ad valorem levy.

Whenever an agricultural assessment is established for real property in accordance with the Agriculture and Markets Law of the State of New York, such assessment shall be used for a benefit assessment or a special ad valorem levy of a fire, fire protection or ambulance district.

§ 230-10. When effective; applicability.

This article shall take effect immediately upon filing with the Secretary of State, and shall apply to assessment rolls prepared pursuant to a taxable status date occurring on or after January 1, 1992.

§ 230-11. Filing of certified copy.

The Town Clerk shall file a certified copy of this article with the Clerk of the Monroe County Legislature.

ARTICLE III

Veterans Tax Exemption

[Adopted 2-12-1996 by L.L. No. 2-1996 (Ch. 182, Art. III, of the 1994 Code)]

§ 230-12. Eligibility under Real Property Tax Law § 458.

Owners of real property who are eligible to receive a veterans exemption pursuant to § 458 of the Real Property Tax Law shall be eligible to apply for said exemption under Real Property Tax Law § 458, Subdivision 5, Paragraph (a), or § 458, Subdivision 5, Paragraph (b).

§ 230-13. Eligibility under Real Property Tax Law § 458-a. [Added 3-10-1997 by L.L. No. 1-1997; amended 2-27-2006 by L.L. No. 3-2006]

Owners of real property who are eligible to receive a veterans exemption pursuant to § 458-a of the Real Property Tax Law shall be eligible to apply for an exemption under Paragraph (a), (b) or (c) of Subdivision 2 of § 458-a, which exemption shall not exceed \$36,000, \$60,000 and \$120,000, respectively.

§ 230-14. Eligibility under Real Property Tax Law § 458-b. [Added 12-29-2008 by L.L. No. 2-2008]

- A. Owners of real property who are eligible to receive a veterans exemption pursuant to § 458-b of the Real Property Tax Law shall be eligible to apply for an exemption under Paragraph (a) or (b) of Subdivision 2 of § 458-b. Under Paragraph (a), such exemption shall be equal to 10% of the qualified parcel's assessed value, but will not exceed \$8,000. Under Paragraph (b), such exemption shall be equal to 1/2 of the disability rating multiplied by the assessed value, but will not exceed \$40,000.
- B. The ten-year limitation on real property tax exemptions for Cold War veterans is eliminated. **[Added 1-8-2018 by L.L. No. 1-2018]**

ARTICLE IV

Assessment of Condominium Conversions**[Adopted 12-8-1997 by L.L. No. 9-1997 (Ch. 182, Art. IV, of the 1994 Code)]****§ 230-15. Purpose and authority.**

The purpose of this article is to eliminate the requirements of Paragraph (a) of Subdivision 1 of § 581 of the Real Property Tax Law and the requirements of Paragraph (b) of Subdivision 1 of § 339-y of the Real Property Law, which presently require that the aggregate assessment of converted condominium units plus their common interest cannot exceed the total valuation of the property assessed as one parcel. This article is made possible by and is made pursuant to Senate Bill 3641, which provides that a municipality may, by local law, eliminate the effect of the above-referenced provisions of the Real Property Tax Law and the Real Property Law, as these laws affect condominium units not previously subject to those provisions.

§ 230-16. Nonapplicability of statutory provisions.

The provisions of Paragraph (a) of Subdivision 1 of § 581 of the Real Property Tax Law and the provisions of Paragraph (b) of Subdivision 1 of § 339-y of the Real Property Law shall not apply to any converted condominium unit within the Town of Mendon which was not previously subject thereto. The term converted "condominium unit" shall have the same meaning as that used in Paragraph (c) of Subdivision 1 of § 581 of the Real Property Tax Law and Paragraph (f) of Subdivision 1 of § 339-y of the Real Property Law.

ARTICLE V

Exemption for Historic Property

[Adopted 2-9-1998 by L.L. No. 4-1998 (Ch. 182, Art. V, of the 1994 Code)]

§ 230-17. Exemption granted.

Pursuant to the authority granted by § 444-a of the Real Property Tax Law, a real property tax exemption may be granted on the terms and conditions contained in said section of the Real Property Tax Law of the State of New York.

ARTICLE VI
Exemption for Persons With Disabilities and Limited Incomes
[Adopted 11-23-1998 by L.L. No. 8-1998 (Ch. 182, Art. VI, of the
1994 Code)]

§ 230-18. Authority and intent.

The purpose of this article is to provide a partial exemption from taxation imposed by the Town of Mendon upon real property situated within the Town of Mendon owned by persons with disabilities whose income is limited by such disabilities, and used as the legal residence of such persons, pursuant to the authority vested in the Town by § 459-c of the Real Property Tax Law of the State of New York as amended or changed.

§ 230-19. Incorporation of statute.

Provisions of § 459-c of the Real Property Tax Law, as amended or changed, through the effective date of this article, together with any further acts of legislation amendatory thereof or supplemental thereto, shall apply to and govern the determination of the exemption of taxation permitted by this article to the extent specified in this article as if such § 459-c had been more particularly set forth herein and as the same may be determined from time to time by Town Board resolution.

§ 230-20. Amount of exemption. [Amended 3-26-2001 by L.L. No. 3-2001; 11-27-2003 by L.L. No. 2-2003; 2-23-2004 by L.L. No. 2-2004; 2-26-2007 by L.L. No. 3-2007]

- A. No exemption shall be granted if the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of \$26,000, except that if the aforesaid income is more than \$26,000, then such real property shall be exempt to the extent provided in the following schedule:

Annual Income	Percentage of Assessed Valuation Exempt From Taxation
Up to \$26,000	50%
More than \$26,000 but less than \$27,000	45%
\$27,000 or more but less than \$28,000	40%
\$28,000 or more but less than \$29,000	35%
\$29,000 or more but less than \$29,900	30%
\$29,900 or more but less than \$30,800	25%
\$30,800 or more but less than \$31,700	20%
\$31,700 or more but less than \$32,600	15%

Annual Income	Percentage of Assessed Valuation Exempt From Taxation
\$32,600 or more but less than \$33,500	10%
\$33,500 or more but less than \$34,400	5%

- B. The eligible income levels will then increase \$1,000 annually through 2009, such that in 2009 there will be a 50% exemption for incomes up to \$29,000 and a graduated reduction in exemption for incomes more than \$29,000 but less than \$37,400.

ARTICLE VII

Gold Star Parents Exemption

[Adopted 3-26-2001 by L.L. No. 5-2001 (Ch. 182, Art. VII, of the 1994 Code)]

§ 230-21. Statutory authority.

This article is being enacted pursuant to the new Subdivision 7 of § 458-a of the Real Property Tax Law of the State of New York.

§ 230-22. Definitions.

As used in this article, the following terms shall have the meanings indicated:

GOLD STAR PARENT — The parent of a child who died in the line of duty while serving in the United States Armed Forces during a period of war.

§ 230-23. Application of veterans exemption.

- A. A Gold Star Parent is hereby included within the definition of "qualified owner," as provided in Paragraph (c) of Subdivision 1 of § 458-a of the Real Property Tax Law, and property owned by a Gold Star Parent is hereby included within the definition of "qualified residential real property" as provided in Paragraph (d) of Subdivision 1 of § 458-a of the Real Property Tax Law, provided that such property shall be the primary residence of the Gold Star Parent.
- B. The additional exemption provided for in Paragraph (c) of Subdivision 2 of § 458-a of the Real Property Tax Law shall not apply to real property owned by a Gold Star Parent.

§ 230-24. Effect on veterans exemption.

An exemption under this article shall not add to or increase any veterans exemption which the Gold Star Parent presently has or would have in the future on the same parcel of real property.

ARTICLE VIII

**Exemption for Living Quarters for Parents and Grandparents
[Adopted 3-26-2001 by L.L. No. 6-2001 (Ch. 182, Art. VIII, of the
1994 Code)]**

§ 230-25. Statutory authority.

This article is being enacted pursuant to the new § 469 of the Real Property Tax Law of the State of New York.

§ 230-26. Exemption granted; qualifications.

- A. Subject to the qualifications and regulations set forth herein, an exemption from real property taxes is hereby granted to the extent of any increase in assessed value of residential property resulting from the construction or reconstruction of such property for the purpose of providing living quarters for a parent or grandparent who is 62 years of age or older.
- B. This exemption shall not exceed the increase in assessed value resulting from construction or reconstruction of such property, or 20% of the total assessed value of such property as improved, or 20% of the median sale price of residential property as reported in the most recent sales statistical summary published by the Commissioner of Taxation and Finance for Monroe County, whichever is less. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- C. No such exemption shall be granted unless:
 - (1) The property is within the geographical area in which such construction or reconstruction is permitted; and
 - (2) The residential property so constructed or reconstructed is the principal place of residence of the owner.
- D. Such exemption from taxation shall be applicable only to construction or reconstruction which occurred subsequent to the effective date of this article and shall only apply during taxable years during which at least one such parent or grandparent maintains a primary place of residence in such living quarters.
- E. Such exemption from taxation shall be granted only upon an application made annually, upon a form promulgated by the Commissioner of Taxation and Finance, by the owner of such property to the Assessor of the Town, on or before the taxable status date. If the Assessor is satisfied that the property is entitled to an exemption pursuant to this article, the Assessor shall approve the application, and such residential improvements shall be exempt from taxation and special ad valorem levies as provided herein. **[Amended 10-15-2018 by L.L. No. 3-2018]**

- F. For the purposes of this exemption, the term "parent or grandparent" shall be deemed to include the birth or adoptive grandparents or parents of the owner or the spouse of the owner. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- G. Any conviction of having made any willful false statement in the application for such exemption shall result in the revocation thereof; shall be punishable by a civil penalty of not more than \$100; and shall disqualify the applicant or applicants from further exemption for a period of five years.
- H. This article shall apply to real property having a taxable date on or after the first day of January next succeeding the date on which this article shall have become effective.

ARTICLE IX

Exemption for Property Improvements to Assist Physically Disabled Persons**[Adopted 4-10-2006 by L.L. No. 5-2006 (Ch. 182, Art. IX, of the 1994 Code)]****§ 230-27. Purpose; statutory authority.**

This article is enacted pursuant to the provisions of § 459 of the Real Property Tax Law of the State of New York to grant partial exemption from taxation to certain residential property located in the Town of Mendon used solely for residential purposes as a one-, two- or three-family residence to the extent of any increase in value attributable to improvements for the purpose of facilitating and accommodating use of the property by those physically disabled.

§ 230-28. Exemption granted.

Improvements to any real property used solely for residential purposes as a one-, two- or three-family residence shall be exempt from taxation to the extent of any increase in value attributable to improvements used for the purpose of facilitating and accommodating the use and accessibility of such real property by a resident owner of the real property who is physically disabled or a member of the resident owner's household who is physically disabled, if such member resides in the real property. This exemption shall apply to all such improvements, whether constructed prior to or after the effective date of this article.

§ 230-29. Application for exemption. [Amended 10-15-2018 by L.L. No. 3-2018]

- A. To qualify as physically disabled for the purposes of this exemption, an individual shall submit to the Assessor a certified statement from a physician licensed to practice in the state on a form prescribed and made available by the Commissioner of Taxation and Finance which states that the individual has a permanent physical impairment which substantially limits one or more of such individual's major life activities, except that an individual who has obtained a certificate from the State Commission for the Blind stating that such individual is legally blind may submit such certificate in lieu of a physician's certified statement.
- B. Such exemption shall be granted only upon application by the owner or all of the owners of the real property on a form prescribed and made available by the Commissioner of Taxation and Finance. The applicant shall furnish such information as the Commissioner shall require. The application shall be filed, together with the appropriate certified statement of physical disability or certificate of blindness, with the Assessor on or before the taxable status date.

- C. If the Assessor is satisfied that the improvement is necessary to facilitate and accommodate the use and accessibility by a resident who is physically disabled and that the applicant is entitled to an exemption pursuant to this section, the Assessor shall approve the application and enter the taxable assessed value of the parcel for which an exemption has been granted pursuant to this section on the assessment roll with the taxable property, with the amount of the exemption as determined pursuant to § 230-28 of this article in a separate column. Once granted, the exemption shall continue on the real property until the improvement ceases to be necessary to facilitate and accommodate the use and accessibility of the property by the resident who is physically disabled.

ARTICLE X

**Solar, Wind and Farm Waste Energy Systems
[Adopted 5-8-2017 by L.L. No. 2-2017]****§ 230-30. Authority.**

This article is enacted pursuant to the authority contained in Real Property Tax Law § 487.

§ 230-31. Opt out of exemption.

The Town of Mendon opts out of the tax exemptions provided by § 487 of the Real Property Tax Law for solar or wind energy systems or farm waste energy systems constructed after the effective date of this article.

§ 230-32. When effective.

This article shall take effect immediately upon filing in the office of the Secretary of State, the New York State Department of Taxation and Finance and the New York State Energy Research and Development Authority.

ARTICLE XI

Microhydroelectric Energy Systems, Fuel Cell Electric Generating Systems, Microcombined Heat and Power Generating Systems and Electric Energy Storage Systems
[Adopted 3-12-2018 by L.L. No. 2-2018]

§ 230-33. Authority.

This article is enacted pursuant to the authority contained in Real Property Tax Law § 487.

§ 230-34. Opt out of exemption.

The Town of Mendon opts out of the tax exemptions provided by § 487 of the Real Property Tax Law for microhydroelectric energy systems, fuel cell electric generating systems, microcombined heat and power generating systems and electric energy storage systems constructed after the effective date of this article.

§ 230-35. When effective.

This article shall take effect immediately upon filing in the office of the Secretary of State, the New York State Department of Taxation and Finance and the New York State Energy Research and Development Authority.

Chapter 234**TRAILERS****GENERAL REFERENCES****Definitions — See Ch. 5.****Penalties and enforcement — See Ch. 9.**

§ 234-1. Short title.

This chapter shall be known as the "Trailer Ordinance of the Town of Mendon, Monroe County, New York."

§ 234-2. Purpose.

The purpose of this chapter is to regulate the use of automobiles and auto trailers for residential purposes.

§ 234-3. Definitions. [Amended 11-10-1997 by L.L. No. 8-1997]

All word usage and definitions used in this chapter are contained in Chapter 5, Definitions and Word Usage, of the Town Code.

§ 234-4. Permit required; conditions for issuance. [Amended 10-15-2018 by L.L. No. 3-2018]

No automobile or auto trailer shall be used for a residence or house for humans for a period longer than 48 hours unless a permit for such use is first obtained from the Town Clerk. Such permit for such longer use shall not be issued unless the automobile or auto trailer for which a permit is sought shall be provided with adequate water closets, properly lighted and ventilated, which are connected with adequate water service and adequate sanitary service. Such connections with water service and sanitary service shall be considered adequate only if approved by the Code Enforcement Officer of the Town of Mendon. Such permit shall provide that it may be revoked by the Code Enforcement Officer at any time and that it is subject to such other regulations as the Town Board may prescribe.

§ 234-5. Penalties for offenses. [Amended 11-28-1994 by L.L. No. 7-1994]

A violation of this chapter shall be punishable by a penalty as provided in Chapter 9, Penalties and Enforcement, of the Town Code.

Chapter 241
UNIFORM CODE ENFORCEMENT

GENERAL REFERENCES

Definitions — See Ch. 5.

Electrical inspections — See Ch. 134.

Unsafe buildings — See Ch. 117.

Zoning — See Ch. 260.

§ 241-1. Purpose, authority and applicability.

This chapter provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in the Town of Mendon. This chapter is adopted pursuant to § 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this chapter, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this chapter.

§ 241-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BUILDING PERMIT — A permit issued pursuant to § 241-4 of this chapter. The term "building permit" shall also include a building permit which is renewed, amended or extended pursuant to any provision of this chapter.

CERTIFICATE OF OCCUPANCY/CERTIFICATE OF COMPLIANCE — A certificate issued pursuant to § 241-7B of this chapter.

CODE ENFORCEMENT OFFICER — The Code Enforcement Officer appointed pursuant to § 241-3B of this chapter.

CODE ENFORCEMENT PERSONNEL — The Code Enforcement Officer and all inspectors.

COMPLIANCE ORDER — An order issued by the Code Enforcement Officer pursuant to § 241-15A of this chapter.

ENERGY CODE — The State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

INSPECTOR — An inspector appointed pursuant to § 241-3D of this chapter.

OPERATING PERMIT — A permit issued pursuant to § 241-10 of this chapter. The term "operating permit" shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this chapter.

PERMIT HOLDER — The person to whom a building permit has been issued.

PERSON — An individual, corporation, limited-liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

STOP-WORK ORDER — An order issued pursuant to § 241-6 of this chapter.

TEMPORARY CERTIFICATE — A certificate issued pursuant to § 241-7D of this chapter.²³

UNIFORM CODE — The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

§ 241-3. Code Enforcement Officer; inspectors.

- A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this chapter. The Code Enforcement Officer shall have the following powers and duties:
- (1) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;
 - (2) Upon approval of such applications, to issue building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and to include in building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
 - (3) To conduct construction inspections, inspections to be made prior to the issuance of certificates of occupancy/certificates of compliance, temporary certificates and operating permits, firesafety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this chapter;
 - (4) To issue stop-work orders;
 - (5) To review and investigate complaints;
 - (6) To issue orders pursuant to § 241-15A, Compliance orders, of this chapter;
 - (7) To maintain records;

23. Editor's Note: The definition of "Town," which immediately followed this definition, was repealed 10-15-2018 by L.L. No. 3-2018. See now Ch. 5, Definitions and Word Usage.

- (8) To collect fees as set by the Town Board of this Town;
 - (9) To pursue administrative enforcement actions and proceedings;
 - (10) In consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this chapter, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this chapter; and
 - (11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this chapter.
- B. The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this chapter.
- D. One or more inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this chapter. Each inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- E. The compensation for the Code Enforcement Officer and inspectors shall be fixed from time to time by the Town Board of this Town.

§ 241-4. Building permits.

- A. Building permits required. Except as otherwise provided in Subsection B of this section, a building permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid-fuel-

burning heating appliance, chimney or flue in any dwelling unit. No person shall commence any work for which a building permit is required without first having obtained a building permit from the Code Enforcement Officer.

- B. Exemptions. No building permit shall be required for work in any of the following categories:
- (1) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (2) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
 - (3) Construction of retaining walls, unless such walls support a surcharge or impound Class I, II or IIIA liquids;
 - (4) Construction of temporary motion-picture, television and theater stage sets and scenery;
 - (5) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (6) Installation of partitions or movable cases less than five feet nine inches in height;
 - (7) Painting, wallpapering, tiling, carpeting, or other similar finish work;
 - (8) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
 - (9) Replacement of any equipment, provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
 - (10) Repairs, provided that such repairs do not involve:
 - (a) The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;
 - (b) The removal or change of any required means of egress; or the rearrangement of parts of a structure in a manner which affects egress;
 - (c) The enlargement, alteration, replacement or relocation of any building system; or

- (d) The removal from service of all or part of a fire protection system for any period of time.
- C. Exemption not deemed authorization to perform noncompliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in Subsection B of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.
- D. Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or by an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:
 - (1) A description of the proposed work;
 - (2) The Tax Map number and the street address of the premises where the work is to be performed;
 - (3) The occupancy classification of any affected building or structure;
 - (4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
 - (5) At least two sets of construction documents (drawings and/or specifications) which:
 - (a) Define the scope of the proposed work;
 - (b) Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
 - (c) Indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - (d) Substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and
 - (e) Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.
- E. Construction documents. Construction documents will not be accepted as part of an application for a building permit unless they satisfy the

requirements set forth in Subsection D(5) of this section. Construction documents which are accepted as part of the application for a building permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the code enforcement personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued.

- F. Issuance of building permits. An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.
- G. Building permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- H. Work to be performed in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.
- I. Time limits. Building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 12 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this subsection may be renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.
- J. Revocation or suspension of building permits. If the Code Enforcement Officer determines that a building permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a building permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the building permit or suspend the building permit until such time as the permit holder demonstrates that all work then completed is in compliance with

all applicable provisions of the Uniform Code and the Energy Code and all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

- K. Fee. The fee specified in or determined in accordance with the provisions set forth in § 241-16, Fees, of this chapter must be paid at the time of submission of an application for a building permit, for an amended building permit, or for renewal of a building permit.

§ 241-5. Construction inspections.

- A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an inspector authorized by the Code Enforcement Officer. The permit holder shall notify the Code Enforcement Officer when any element of work described in Subsection B of this section is ready for inspection.
- B. Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:
- (1) Work site prior to the issuance of a building permit;
 - (2) Footing and foundation;
 - (3) Preparation for concrete slab;
 - (4) Framing;
 - (5) Building systems, including underground and rough-in;
 - (6) Fire-resistant construction;
 - (7) Fire-resistant penetrations;
 - (8) Solid-fuel-burning heating appliances, chimneys, flues or gas vents;
 - (9) Energy Code compliance; and
 - (10) A final inspection after all work authorized by the building permit has been completed.
- C. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.
- D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 241-16, Fees, of this chapter must be paid prior to or at the time of each inspection performed pursuant to this section.

§ 241-6. Stop-work orders.

- A. Authority to issue. The Code Enforcement Officer is authorized to issue stop-work orders pursuant to this section. The Code Enforcement Officer shall issue a stop-work order to halt:
- (1) Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
 - (2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
 - (3) Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.
- B. Content of stop-work orders. Stop-work orders shall be in writing, be dated and signed by the Code Enforcement Officer, state the reason or reasons for issuance, and, if applicable, state the conditions which must be satisfied before work will be permitted to resume.
- C. Service of stop-work orders. The Code Enforcement Officer shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.
- D. Effect of stop-work order. Upon the issuance of a stop-work order, the owner of the affected property, the permit holder and any other person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the stop-work order.
- E. Remedy not exclusive. The issuance of a stop-work order shall not be the exclusive remedy available to address any event described in Subsection A of this section, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under § 241-15, Enforcement; penalties for offenses, of this chapter or under any other applicable local law or state law. Any such

other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

§ 241-7. Certificates of occupancy/certificates of compliance.

- A. Certificates of occupancy/certificates of compliance required. A certificate of occupancy/certificate of compliance shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy/certificate of compliance.
- B. Issuance of certificates of occupancy/certificates of compliance. The Code Enforcement Officer shall issue a certificate of occupancy/certificate of compliance if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a certificate of occupancy/certificate of compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the certificate of occupancy/certificate of compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of occupancy/certificate of compliance:
- (1) A written statement of structural observations and/or a final report of special inspections; and
 - (2) Flood hazard certifications.
- C. Contents of certificates of occupancy/certificates of compliance. A certificate of occupancy/certificate of compliance shall contain the following information:
- (1) The building permit number, if any;
 - (2) The date of issuance of the building permit, if any;
 - (3) The name, address and Tax Map number of the property;
 - (4) If the certificate of occupancy/certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy/certificate of compliance is issued;

- (5) The use and occupancy classification of the structure;
 - (6) The type of construction of the structure;
 - (7) The assembly occupant load of the structure, if any;
 - (8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
 - (9) Any special conditions imposed in connection with the issuance of the building permit; and
 - (10) The signature of the Code Enforcement Officer issuing the certificate of occupancy/certificate of compliance and the date of issuance.
- D. Temporary certificate. The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Code Enforcement Officer issue a temporary certificate unless the Code Enforcement Officer determines that the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely, that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a temporary certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed six months, which shall be determined by the Code Enforcement Officer and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.
- E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a certificate of occupancy/certificate of compliance or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- F. Fee. The fee specified in or determined in accordance with the provisions set forth in § 241-16, Fees, of this chapter must be paid at the time of submission of an application for a certificate of occupancy/certificate of compliance or for a temporary certificate.

§ 241-8. Notification regarding fire or explosion.

The chief of any fire department providing fire-fighting services for a property within this Town shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent.

§ 241-9. Unsafe buildings and structures.

Unsafe structures and equipment in this Town shall be identified and addressed in accordance with the procedures established by Chapter 117, Unsafe Buildings, of the Town Code, as now in effect or as hereafter amended from time to time.

§ 241-10. Operating permits.**A. Operating permits required.**

(1) Operating permits shall be required for conducting the activities or using the categories of buildings listed below:

- (a) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Table 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR 1225.1;
- (b) Hazardous processes and activities, including but not limited to commercial and industrial operations which produce combustible dust as a by-product, fruit and crop ripening, and waste handling;
- (c) Use of pyrotechnic devices in assembly occupancies;
- (d) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
- (e) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of this Town.

(2) Any person who proposes to undertake any activity or to operate any type of building listed in this Subsection A shall be required to obtain an operating permit prior to commencing such activity or operation.

B. Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that

tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

- C. Inspections. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an operating permit.
- D. Multiple activities. In any circumstance in which more than one activity listed in Subsection A of this section is to be conducted at a location, the Code Enforcement Officer may require a separate operating permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single operating permit to apply to all such activities.
- E. Duration of operating permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any operating permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each operating permit shall be specified in the operating permit. An operating permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.
- F. Revocation or suspension of operating permits. If the Code Enforcement Officer determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.
- G. Fee. The fee specified in or determined in accordance with the provisions set forth in § 241-16, Fees, of this chapter must be paid at the time of submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

§ 241-11. Firesafety and property maintenance inspections.

- A. Inspections required. Firesafety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at the following intervals:
 - (1) Firesafety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every 12 months.
 - (2) Firesafety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every 12 months.

- (3) Firesafety and property maintenance inspections of all multiple dwellings not included in Subsection A(1) or (2), and all nonresidential buildings, structures, uses and occupancies not included in Subsection A(1) or (2), shall be performed at least once every 24 months.
- B. Inspections permitted. In addition to the inspections required by Subsection A of this section, a firesafety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at any time upon the request of the owner of the property to be inspected or an authorized agent of such owner; receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subsection shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

§ 241-12. Complaints.

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this chapter, or any other legislation or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 241-15, Enforcement; penalties for offenses, of this chapter;
- C. If appropriate, issuing a stop-work order;
- D. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

§ 241-13. Recordkeeping.

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all code enforcement personnel, including records of:
- (1) All applications received, reviewed and approved or denied;
 - (2) All plans, specifications and construction documents approved;
 - (3) All building permits, certificates of occupancy/certificates of compliance, temporary certificates, stop-work orders, and operating permits issued;
 - (4) All inspections and tests performed;
 - (5) All statements and reports issued;
 - (6) All complaints received;
 - (7) All investigations conducted;
 - (8) All other features and activities specified in or contemplated by §§ 241-4 through 241-12, inclusive, of this chapter; and
 - (9) All fees charged and collected.
- B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.

§ 241-14. Program review and reporting.

- A. The Code Enforcement Officer shall annually submit to the Town Board of this Town a written report and summary of all business conducted by the Code Enforcement Officer and the inspectors, including a report and summary of all transactions and activities described in § 241-13, Recordkeeping, of this chapter and a report and summary of all appeals or litigation pending or concluded.
- B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town, on a form prescribed by the Secretary of State, a report of the activities of this Town relative to administration and enforcement of the Uniform Code.
- C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Town is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Town in connection with administration and enforcement of the Uniform Code.

§ 241-15. Enforcement; penalties for offenses.

- A. Compliance orders. The Code Enforcement Officer is authorized to order, in writing, the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this chapter. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a compliance order. The compliance order shall be in writing; be dated and signed by the Code Enforcement Officer; specify the condition or activity that violates the Uniform Code, the Energy Code, or this chapter; specify the provision or provisions of the Uniform Code, the Energy Code, or this chapter which is/are violated by the specified condition or activity; specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; direct that compliance be achieved within the specified period of time; and state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the compliance order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.
- B. Appearance tickets. The Code Enforcement Officer and each inspector are authorized to issue appearance tickets for any violation of the Uniform Code.
- C. Civil penalties. In addition to those penalties prescribed by state law, any person who violates any provision of the Uniform Code, the Energy Code or this chapter, or any term or condition of any building permit, certificate of occupancy/certificate of compliance, temporary certificate, stop-work order, operating permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of this Town.
- D. Injunctive relief. An action or proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this chapter, or any term or condition of any building permit, certificate of occupancy/certificate of compliance, temporary certificate, stop-work order, operating permit, compliance order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter. In particular, but not by way of limitation, where the construction or use of

a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this chapter, or any stop-work order, compliance order or other order obtained under the Uniform Code, the Energy Code or this chapter, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Town Supervisor of this Town.

- E. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in § 241-6, Stop-work orders, of this chapter, in any other section of this chapter, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in § 241-6, Stop-work orders, of this chapter, in any other section of this chapter, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of § 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of § 382 of the Executive Law.

§ 241-16. Fees.

A fee schedule shall be established by resolution of the Town Board of this Town. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of building permits, amended building permits, renewed building permits, certificates of occupancy/certificates of compliance, temporary certificates, operating permits, firesafety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this chapter.

§ 241-17. Intermunicipal agreements.

The Town Board may, by resolution, authorize the Town Supervisor to enter into an agreement, in the name of this Town, with other governments to carry out the terms of this chapter, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

Chapter 247

VEHICLES AND TRAFFIC

GENERAL REFERENCES

Definitions — See Ch. 5.

Trailers — See Ch. 234.

Penalties and enforcement — See Ch. 9.

ARTICLE I

Abandoned Vehicles**[Adopted 4-2-1973 by L.L. No. 1-1973 (Ch. 194 of the 1994 Code)]****§ 247-1. Title.**

This article shall be known and entitled "Abandoned and Junk Vehicles Local Law No. 1 of 1973 of the Town of Mendon."

§ 247-2. Findings and purpose.

The outdoor storage of abandoned, junked, discarded or unlicensed vehicles on privately owned property within the Town of Mendon is detrimental to the health, safety and general welfare of the community and constitutes a detriment to a clean, wholesome, safe and attractive environment that is important to the community. The storage of such vehicles endangers the person and property of members of the community and constitutes a potential nuisance to the children of the community. The fuel tanks of abandoned or junk vehicles contain gasoline or petroleum fumes and constitute an ever-present danger of explosion. The abandoned or junk vehicles often contain broken glass and sharp metal edges and usually are stored or abandoned with batteries containing harmful acids. The control of the outdoor storage of abandoned or junk vehicles on privately owned property in the Town of Mendon, outside the Village of Honeoye Falls, is, therefore, regulated for the preservation of the health, safety and general welfare of the community.

§ 247-3. Definitions and word usage. [Amended 11-10-1997 by L.L. No. 8-1997]

All word usage and definitions used in this article are contained in Chapter 5, Definitions and Word Usage, of the Town Code.

§ 247-4. Outdoor storage on private property.

It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise, of property within the Town of Mendon, to store or deposit, or cause or permit to be stored or deposited, an abandoned, junk or discarded vehicle or part or piece thereof on any private property within the Town of Mendon, outside the Village of Honeoye Falls, unless:

- A. Such vehicle is stored or deposited in a completely enclosed building;
- B. Such vehicle is under repair, reconstruction or refurbishing by the owner thereof, who must actually be residing upon the premises. Such vehicle must be so maintained and protected so as not to create any safety hazard or nuisance to surrounding property owners and shall not remain on the premises for more than six months; or

- C. Such vehicle is temporarily stored in compliance with Chapter 260, Zoning, on the premises of a duly authorized motor vehicle service station or body repair shop within the Town of Mendon, outside the Village of Honeoye Falls, and shall not remain on the premises for more than six months.

§ 247-5. Notice, hearing and removal. [Amended 1-12-1998 by L.L. No. 1-1998; 10-15-2018 by L.L. No. 3-2018]

Any vehicle that is abandoned, junk, discarded or unlicensed, as defined in Chapter 5, Definitions and Word Usage, may be removed from the premises on which it is located by the Town of Mendon in the manner hereinafter provided.

- A. The Code Enforcement Officer, upon detecting an abandoned, junk, discarded or unlicensed vehicle, shall serve written notice on the person owning the premises on which the same is located ordering such person to remove the same or cause the same to be removed therefrom within 10 days of the date of such service or file written notification that the vehicle has been abandoned on his property by another. Such notice shall also contain a description of the premises, a statement as to the location thereon of the vehicle, reference to this article and to the fact that the location of such vehicle on such premises is in violation of this article. If such premises are owned by more than one person, personal service on any one of such owners shall suffice. However, as to any owner not personally served with such notice or if no owner can be located upon whom to make personal service, the Code Enforcement Officer shall mail such notice to owners not personally served, or to the owner and to all the owners if no owner was personally served, by registered mail to their or his last known address as shown on the latest completed assessment roll of such Town. In addition, such Code Enforcement Officer shall post conspicuously a copy of such notice on the premises upon which such vehicle is located.
- B. At the expiration of 10 days after the service or mailing and posting of such notice if such abandoned, junk, discarded or unlicensed vehicle has not been removed or if the property owner has not, in writing, informed the Code Enforcement Officer that the vehicle was abandoned on his property by another, the Code Enforcement Officer shall report such fact to the Town Board in writing. Such report shall recite the violation, the notices given as required hereunder and the failure to comply therewith, and may include or refer to photographs of such vehicle and of the premises upon which it is located. Such report shall be entered in the official minutes of the Town Board by the Town Clerk and any such photographs shall be filed in the Town Clerk's office. The Town Board shall thereafter hold a public hearing on 10 days' prior notice published in the official newspaper of the Town, if there is one, or otherwise in a newspaper having general circulation in the Town and posted on the signboard of the Town maintained pursuant to Subsection 6 of § 30 of the Town Law. Such notice of hearing shall include a

statement that the purposes of the hearing are to give the property owner where the vehicle is located and the person owning such vehicle an opportunity to be heard as to why the same has not been removed and also for the Town Board to receive proposals for the removal of such vehicle.

- C. After the hearing, the Town Board may contract for the removal of such abandoned, junk, discarded or unlicensed vehicle. Any expense to the Town in accomplishing such removal may be assessed by the Town Board on the real property from which such vehicle was removed, and the expense so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged as other Town charges.
- D. Upon notification from the property owner within the ten-day period that the abandoned, junk, discarded or unlicensed vehicle was abandoned on his property by another, the Code Enforcement Officer shall make an inquiry in an attempt to identify the last registered owner of the vehicle so that said vehicle owner can be joined in all subsequent proceedings, as set forth herein:
 - (1) Vehicle with number plates affixed, to the jurisdiction which issued the number plates.
 - (2) Vehicle with no number plates affixed, to the Department of Motor Vehicles.
- E. Following identification of the last owner of the vehicle, the Code Enforcement Officer shall report in writing to the Town Board describing the location of the vehicle, along with information identifying the last registered owner, who shall be sent a written notice, as set forth in § 247-5A hereinabove, by certified mail, to his last known postal address.
- F. The Town Board shall thereafter hold a public hearing on 10 days' prior notice published in the official newspaper of the Town, if there is one, or otherwise in a newspaper having general circulation in the Town and posted on the signboard of the Town maintained pursuant to Subsection 6 of § 30 of the Town Law. Such notice of hearing shall include a statement that the purposes of the hearing are to give the person identified as the last registered owner, as well as the property owner where the vehicle is located, an opportunity to be heard as to why they should not be charged directly, or as a lien and charge against the property, for the removal of said vehicle and also for the Town Board to receive proposals for the removal of such vehicle.
- G. If the Code Enforcement Officer has received proper notification from the property owner within the ten-day period, set forth in Subsection A hereinabove, that the vehicle was abandoned on his property by another and has been unable to identify the last registered owner, the cost of removal of the vehicle shall become a charge against the property owner, as set forth in Subsection C hereinabove.

- H. In all cases, after proper notice to all interested parties and a hearing before the Town Board as provided above, the Town Board may order any of the following:
- (1) That the vehicle in question be removed from the property by a contractor of the Town's selection to a location of which the property owner and/or vehicle owner shall be notified in writing, in which case the Town shall thereafter have the right to sell the vehicle at public or private sale to the highest bidder. The Town shall be deemed to own the vehicle and convey, by quit claim bill of sale, all rights, title and interest thereto to a buyer. The Town shall provide an affidavit along with its bill of sale, stating that the Town has complied with all provisions of Town Code Chapter 247, Article I. The Town shall have no obligation to cause or attempt to cause the New York State Department of Motor Vehicles to issue a certificate of title to the Town or to the purchaser.
 - (2) That the Code Enforcement Officer of the Town shall issue a code violation citation to the property owner and/or the vehicle owner, said citation returnable in Town Court, and upon which the property owner and/or the vehicle owner shall be subject to the provisions of § 247-6 below.

§ 247-6. Penalties for offenses. [Added 5-26-1992 by L.L. No. 2-1992; amended 11-28-1994 by L.L. No. 7-1994]

A violation of § 247-4 shall be deemed an offense, and a person violating such section shall, upon conviction, be subject to penalties as provided by Chapter 9, Penalties and Enforcement, of the Town Code. Each day's continued offense shall constitute a separate violation. This penalty shall be in addition to any costs of removal of a vehicle.

ARTICLE II

Overnight Parking**[Adopted 1-24-1994 by L.L. No. 1-1994 (Ch. 150 of the 1994 Code)]****§ 247-7. Findings and purpose.**

The Town Board of the Town of Mendon hereby finds that vehicles parked on public highways during periods of snowfall create a public nuisance and safety hazard by interfering with proper plowing, sanding, salting and snow removal and by creating significantly increased hazards of vehicular accidents, thereby threatening the health, safety and welfare of residents of the Town and those who travel on its streets and highways. It is the specific purpose and intent of this article to empower the Town to deal effectively with this problem in the manner following, notwithstanding any general or local law to the contrary.

§ 247-8. Overnight parking restricted.

No owner or operator of a motor vehicle shall park the same unattended on any Town or county street or highway within the Town of Mendon outside the Village of Honeoye Falls between the hours of 2:00 a.m. and 7:00 a.m. from November 15 to April 15 of each year or on any state highway in violation of regulations duly issued by the New York State Department of Transportation.

§ 247-9. Signs to be maintained.

The Highway Superintendent shall maintain appropriate signs at all main entrances to the Town of Mendon between November 15 and April 15 of each year stating "No parking on streets and highways within the Town of Mendon between the hours of 2:00 a.m. and 7:00 a.m."

§ 247-10. Towing and impoundment.

The motor vehicles in violation of this article may be towed away by or at the direction of the Highway Superintendent of the Town of Mendon and impounded until reasonable towing and storage costs are paid.

§ 247-11. Penalties for offenses. [Amended 10-15-2018 by L.L. No. 3-2018]

Any person violating any of the provisions of this article shall be guilty of a traffic infraction and may be punished, upon conviction thereof, in accordance with Vehicle and Traffic Law § 1800. A notice of violation for a violation of this article may be issued by the Highway Superintendent or his designee or any other person authorized by law to issue appearance tickets. Such notice of violation shall be served in the manner provided in § 238 of the Vehicle and Traffic Law. Owners of vehicles in violation of this article shall be liable for penalties imposed in the same manner as set forth in § 239 of the Vehicle and Traffic Law.

Chapter 260

ZONING

GENERAL REFERENCES

Definitions — See Ch. 5.

Unsafe buildings — See Ch. 117.

**Environmental Protection
Districts — See Ch. 138.**

Farming — See Ch. 142.

Freshwater wetlands — See Ch. 150.

Preservation of historic areas — See Ch. 159.

Overlay Mining and excavations — See Ch. 178.

Stormwater management — See Ch. 226.

Subdivision of land — See Ch. 226.

ARTICLE I
Enactment and Purpose

§ 260-1. Title.

This chapter shall be known and may be cited as the "Zoning Law of the Town of Mendon."

§ 260-2. 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.

§ 260-3. 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.

§ 260-4. 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.

§ 260-5. 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. ²⁴Public 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.
- D. 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.
- E. 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.

24. Editor's Note: Original Subsection C, Referral to Planning Board, was repealed 10-15-2018 by L.L. No. 3-2018.

ARTICLE II
Terminology

§ 260-6. Definitions and word usage.

For the purpose of this chapter, certain words and terms used herein shall be defined in Chapter 5, Definitions and Word Usage, of the Town Code.

ARTICLE III

General Provisions Applicable to All Districts**§ 260-7. 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.

§ 260-8. 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.²⁵ 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 all districts shall not exceed 2% of the total area of the lot. **[Amended 10-15-2018 by L.L. No. 3-2018]**
 - (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

25. Editor's Note: See Ch. 226, Subdivision of Land.

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 feet in an RA-5 District and a minimum of 50 feet in all other districts. 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. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- 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. 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. **[Amended 10-15-2018 by L.L. No. 3-2018]**

- 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. Substantially damaged structures. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- (1) 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 of damage.

- (2) If a structure is to be demolished, the owner must obtain a demolition permit within three months of the date of the damage, and the structure must be completely demolished within six months of the date of the event, to the satisfaction of the Code Enforcement Officer.

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 parcel shall be used to keep more than three dogs which are three months of age or older unless a special use permit for a kennel has been issued. **[Amended 10-15-2018 by L.L. No. 3-2018]**

N. Raising, harboring or housing of animals.

- (1) Hoofed animals and ratites.

- (a) 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:

Number of Animals	Minimum Acreage
1 to 3	3
4 to 10	1 additional per animal
11 to 25	10, plus 2 additional per each animal over 10
Over 25	40, plus 4 additional for each animal over 25

- (b) 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.

- (c) 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.

- (2) Poultry, pigeons, gamebirds and rabbits.

(a) Minimum lot size.

[1] The keeping of poultry, pigeons, gamebirds and rabbits shall require a minimum lot size according to the following schedule:

Number of Animals	Minimum Acreage
6 or fewer	1

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

(b) A minimum of three acres are required for one rooster. Each additional rooster requires an additional three acres. Any structure housing a rooster shall be located not less than 150 feet from any property line. **[Amended 10-15-2018 by L.L. No. 3-2018]**

(c) 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.
- (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

§ 260-9. Establishment of districts. [Amended 10-15-2018 by L.L. No. 3-2018]

The Town is hereby divided into the following zoning districts:

- RA-5 Residential Agricultural District (maximum of 1 lot per 5 acres)
- RA-2 Residential Agricultural District (maximum of 1 lot per 2 acres)
- RA-1 Residential Agricultural District (maximum of 1 lot per 1 acre)
- RS-30 Residential Suburban District (maximum of 1 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

§ 260-10. 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 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.

§ 260-11. 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 138, Environmental Protection Overlay 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.

ARTICLE V
District Regulations

§ 260-12. Applicability of 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.

§ 260-13. RA-5 Residential Agricultural 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:
 - (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) Windmills 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.
 - (19) Solar farms. **[Added 5-8-2017 by L.L. No. 1-2017]**
- 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.

§ 260-14. 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 § 260-13B.
- C. Permitted accessory uses and structures. Permitted accessory uses and structures shall consist of all of the uses listed and regulated in § 260-13C.
- D. Special permitted uses: all of the uses listed in § 260-13D, 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.

§ 260-15. 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 § 260-13C.
- D. Special permitted uses: all of the uses listed in § 260-13D, except major home occupations and solar farms, may be permitted consistent with the provisions of Article VII, provided that a special use permit is approved. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- 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.

§ 260-16. 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 Residential Suburban District: **[Amended 10-15-2018 by L.L. No. 3-2018]**
- (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.

§ 260-16.1. 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.

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-streetlighting, 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.
- (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 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-streetlighting, 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.

- (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 Natural Resources Conservation Service and any other public or private consultants that it feels are necessary to provide a sound review of the proposal. **[Amended at time of adoption of Code (see Ch. 1)]**
- (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:
 - [1] The proposal conforms to the Comprehensive Plan.
 - [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 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.
 - [3] Boundaries of the property, plotted to scale.
 - [4] Existing watercourses.
 - [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.
 - [d] Location of outdoor storage, if any.
 - [e] Location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
 - [f] A description of the method of sewage disposal.
 - [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.
 - [6] A detailed landscaping plan.
- (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-detering 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.
- [8] The adequacy of stormwater and sanitary waste disposal facilities.
- [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.

(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 Natural Resources 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.

[Amended at time of adoption of Code (see Ch. 1)]

- (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 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 62 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. **[Amended at time of adoption of Code (see Ch. 1)]**
 - (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.
- K. Improvements and 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 insure 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.

§ 260-17. Business District.

- 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 stores.
- 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) Two-family dwellings. **[Added 10-15-2018 by L.L. No. 3-2018]**
 - (2) Apartments.
 - (3) Commercial outdoor recreational and/or athletic facilities.
 - (4) Essential services.
 - (5) Fuel-dispensing units.
 - (6) Funeral homes.
 - (7) Hotels or motels.
 - (8) Motor vehicle service stations and auto repair shops.
 - (9) Nursery and day-care centers.
 - (10) Public and semipublic uses and buildings.

- (11) Restaurants.
 - (12) Special for-profit entertainment uses and events.
 - (13) Tourist homes and bed-and-breakfast establishments.
 - (14) Vehicle wash establishments.
 - (15) Veterinary clinics for small animals.
 - (16) Solar farms. **[Added 5-8-2017 by L.L. No. 1-2017]**
- 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.

§ 260-18. 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.

- (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 §§ 260-19 and 260-26.
 - (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.
 - (7) Solar farms. **[Added 5-8-2017 by L.L. No. 1-2017]**
- 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.
 - (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.

§ 260-19. 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 shall provide buffering in addition to landscaping as part of any site plan application.
 - (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 5, Definitions and Word Usage, 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, Structures and Lots**§ 260-20. Nonconforming uses. [Amended 10-15-2018 by L.L. No. 3-2018]**

Any use of land or of a structure which was lawful at the time this chapter became effective, or any amendment thereto, 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 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.

§ 260-21. Nonconforming structures. [Amended 10-15-2018 by L.L. No. 3-2018]

The use or occupancy of a nonconforming structure which was a lawful structure at the time this chapter became effective, or any amendment thereto, 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.

§ 260-22. Nonconforming lots. [Amended 10-15-2018 by L.L. No. 3-2018]

Any lot which was lawful at the time this chapter became effective, or any amendment thereto, but does not comply with all of the provisions of this chapter may continue in use. The change in use of 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.

§ 260-23. Restoration.

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

§ 260-24. General provisions.

- 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 § 260-25 et seq. 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, 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 to and egress from 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 § 260-65, 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 and neighboring municipalities in accordance with the provisions of General Municipal Law § 239-nn. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- (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 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 § 260-25 et seq.

(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.

§ 260-25. General requirements.

- 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.

§ 260-26. Adult use entertainment establishments.

- A. Notwithstanding anything contained in this chapter, adult use entertainment establishments as defined in Chapter 5, Definitions and Word Usage, 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 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.

- (4) The date of initiation of the adult use entertainment establishment.
 - (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.
 - (3) Allow gambling to occur on the premises.
 - (4) Allow the possession, use of or 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.

§ 260-27. Apartment houses, multiple dwellings, condominiums and cooperatives. [Amended 10-15-2018 by L.L. No. 3-2018]

The following conditions and criteria must be met for apartment houses, multiple dwellings, 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.

§ 260-28. Cemeteries and related customary uses.

The following conditions and criteria must be met for 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 a 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.
- E. Each cemetery shall maintain and post the hours of operation, including a phone number for information or to report an incident.

§ 260-29. Commercial outdoor recreational and/or athletic facilities.

The following conditions and criteria must be met for 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.

§ 260-30. Commercial storage buildings and mini-warehouses.

The following conditions and criteria must be met for commercial storage buildings and mini-warehouses:

- A. The minimum lot size shall be two acres.
- B. The maximum length of individual storage bays allowed for each mini-warehouse structure shall not exceed 100 feet in linear building length. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- 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-warehouse unit shall be clearly identified, and the owner shall maintain records of all occupied units. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- 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.

§ 260-31. Continuum care.

The following conditions and criteria must be met for 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).

§ 260-32. Essential services.

The following conditions and criteria must be met for 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.

§ 260-33. 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.

§ 260-34. Funeral homes.

The following conditions and criteria must be met for 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.
- 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.

§ 260-35. Home occupations.

- A. It is the intent of this section 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 section, it is the primary purpose of this section 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 section 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 5, Definitions and Word Usage, 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.
- (f) 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.
- (g) 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.
- (h) 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.
- (i) Hours of operation.
- (j) Accessory structure. No major home occupation shall be permitted in an accessory structure located in front of the principal dwelling.

- (9) All signage shall conform to the Town's sign law.²⁶
- (10) 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.
- (11) 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.
- C. 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:
- (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 floor area of the principal dwelling unit, excluding any accessory building or structure, or 350 square feet, whichever is 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; **[Amended 10-15-2018 by L.L. No. 3-2018]**

26. Editor's Note: See Art. X, Sign Regulations.

- (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
 - (6) Violation of a condition of the permit.
- 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
 - (3) Accompanied by an application fee in the amount established by the Mendon Town Board.

§ 260-36. Hotels or motels.

The following conditions and criteria must be met for 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.

§ 260-37. Kennels.

The following conditions and criteria must be met for 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.

§ 260-38. 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.

- 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.

§ 260-39. 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 service 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.

§ 260-40. Motor vehicle service stations and auto repair shops.

The following conditions and criteria must be met for 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.
- 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.

§ 260-41. Nonprofit membership corporations.

The following conditions and criteria must be met for 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:
 - (1) Buildings and parking facilities.
 - (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.

§ 260-42. Nursery or day-care centers.

The following conditions and criteria must be met for 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.

§ 260-43. Permanent farm markets.

Permanent structures for the display and sale of agricultural and nursery products are subject to the following provisions:

- A. One structure shall be devoted to sale of produce. Said structure shall not exceed 2,400 square feet of floor area. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- B. Such structures shall conform to the minimum setback requirements for accessory buildings.

§ 260-44. Personal wireless communications facilities.

The following conditions and criteria must be met for 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 special use permit) exists. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- 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 L810 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 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 its 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 shall be submitted, which shall: **[Amended 10-15-2018 by L.L. No. 3-2018]**
 - (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:
 - [1] Availability of alternative, less-intrusive sites or opportunities for collocation by others.
 - [2] 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.
 - [3] Distance from existing and planned residential structures and public rights-of-way.

- [4] Suitability and adaptability of the site for the proposed structure, considering, for example, site topography, natural buffers, screening and security fencing.
 - [5] 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.
 - [6] Noise, glare, vibration, electrical disturbance or other objectionable consequences of the proposed installation and operation of the facility.
 - [7] 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 is being used.
 - [8] Demonstrate that the proposed tower design is structurally sound.
 - [9] 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.
 - [10] Demonstrate that the site can contain substantially all ice-fall or debris from tower failure.
 - [11] Include a copy of the applicant's FCC construction permit, including any requirements from the FAA.
 - [12] A copy of the certificate of need issued by the Public Service Commission.
 - [13] 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.
 - (b) Computer-enhanced photo simulations of the site of the proposed tower, both before and after construction, from all adjacent public rights-of-way.
- AA. 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.
- BB. 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.
- CC. The following communications towers are exempted from the provisions of this section:
- (1) Satellite dish antennas as regulated elsewhere in the Code.
 - (2) 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.
 - (3) New uses which are accessory to residential uses, so long as the height of any such use does not exceed 30 feet.
 - (4) Approved uses existing prior to the effective date of these regulations.

§ 260-45. Public and semipublic uses and buildings.

The applicant for a special use permit for public and semipublic uses and buildings 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.

§ 260-46. Rental of automobiles, trucks, trailers and recreational vehicles.

The following conditions and criteria must be met for 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.
- E. All open storage of rental vehicles shall be in either the side or rear yard of the site. All open storage areas shall also be screened from any adjacent noncommercial site.
- F. Any rental vehicle may be offered for sale to the public at any time. However, in no event shall the sale of trucks, trailers or recreational vehicles be allowed to become the principal use of the site without first obtaining a permit and site plan approval for the sale, lease or rental of vehicles.

§ 260-47. 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.
 - (2) For one-bedroom units: 550 square feet.
 - (3) For two-bedroom units: 800 square feet.
 - (4) For three-bedroom units: 900 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.

§ 260-48. Restaurants.

The following conditions and criteria must be met for 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.

§ 260-49. Solar farms. [Added 5-8-2017 by L.L. No. 1-2017]

The following conditions and criteria must be met for solar farms:

- A. The minimum lot size for the placement of a solar farm shall be 20 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 special use permit) exists. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- B. Not more than one solar farm shall be permitted on any parcel of land.
- C. The minimum setback for each solar farm from any property line shall be 200 feet.
- D. No solar farm shall exceed 16 feet in height above finished grade.
- E. No solar farm 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.
- F. 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 solar farm 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 solar farm shall be prohibited.
- G. A minimum radius of 2,000 feet shall be maintained between any proposed solar farm and any existing solar farm, whether located in the Town or in any adjacent municipality.

- H. All solar farms 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.
- I. No solar farm shall contain any signage except that identifying a health, safety or general welfare message, including but not limited to the owner of the solar farm, an emergency telephone number and solar farm site identification (i.e., solar farm number) and address.
- J. Each solar farm and accessory structure(s) shall be adequately screened from any adjacent property and 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 16 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.
- K. 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.
- L. If a solar farm becomes obsolete, or not used for a period of 90 days for the purpose specified in the original approval, the solar farm 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.
- M. The applicant shall provide the Town with an automatically renewing security bond which shall be in an amount adequate to guarantee that the solar farm and 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.
- N. Access to the solar farm and facilities shall be obtained from a public right-of-way.
- O. Each application for a special use permit and site plan approval for a solar farm facility shall be accompanied by a plan which shall reference all existing solar farm facilities that are either located within the Town or whose area extends into the Town. Include in the plan shall be:

- (1) A report from a licensed professional engineer specializing in solar farms shall be submitted, which shall:
 - (a) Describe the need for the facilities on the proposed site in the Town, the solar farm and facilities designs and the intended use.
 - (b) Describe the appropriateness of the proposed site, including factors such as the following:
 - [1] Availability of alternative, less-intrusive sites.
 - [2] 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.
 - [3] Distance from existing and planned residential structures and public rights-of-way.
 - [4] Suitability and adaptability of the site for the proposed structure, considering, for example, site topography, natural buffers, screening and security fencing.
 - [5] Noise, glare, vibration, electrical disturbance or other objectionable consequences of the proposed installation and operation of the facility.
 - (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.
 - (b) Computer-enhanced photo simulations of the site of the proposed solar farm, both before and after construction, from all adjacent public rights-of-way.
- P. All building permits for the erection and maintenance of a solar farm 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.

§ 260-50. Special for-profit entertainment uses and events.

The following conditions and criteria must be met for 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.²⁷

- 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 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 § 260-25:
- (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.
 - (7) Detailed plans of any overnight accommodations.
 - (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.
- 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.

§ 260-51. Stables or riding academies.

The following conditions and criteria must be met for 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.
 - (3) Rides on horses by the public.
 - (4) Rental of horse vans.

- (5) Riding lessons to the public.
- (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 of 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 Subsection B above.
- D. The number of horses that may be boarded and/or trained at such property shall meet the requirements of § 260-8N.
- E. A stable shall be located as specified in § 260-8N. The storage of manure shall be located as specified in § 260-8I. 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.
- 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.²⁸

§ 260-52. Tourist homes and bed-and-breakfast establishments.

The following conditions and criteria must be met for 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.

28. Editor's Note: Original Subsection (i), regulating exterior loudspeakers, which immediately followed this subsection, was repealed 10-15-2018 by L.L. No. 3-2018.

E. All parking shall be located outside of the highway right-of-way.

§ 260-53. 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.
 - (3) Individual dwelling unit lot size.
 - (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.
- 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.
- (5) The provision for pro rata sharing of costs and assessments.
- (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.
- (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.

- (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.

§ 260-54. Truck and freight terminals.

The following conditions and criteria must be met for 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.
- 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 yard 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.

§ 260-55. Two-family dwelling units.

The following conditions and criteria must be met for 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.

§ 260-56. Vehicle wash establishments.

The following conditions and criteria must be met for 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.
- 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 §§ 260-33 and 260-40. 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.

§ 260-57. Veterinary clinics for small animals.

The following conditions and criteria must be met for veterinary clinics 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.
- 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.

§ 260-58. Windmills or wind generators.

The following conditions and criteria must be met for 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.

- 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

§ 260-59. 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 article, 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 article. The application procedures for special use permits are contained in Article VII of this chapter.

§ 260-60. 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.
 - (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 and Development Department and other Town and county officials, as well as with representatives of federal and state agencies. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- 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 62 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 five 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. **[Amended 10-15-2018 by L.L. No. 3-2018]**

§ 260-61. Action on preliminary site plan.

- A. Within 62 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 sixty-two-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. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- 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 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.

§ 260-62. 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.

§ 260-63. Action on final detailed 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.

§ 260-64. Supplemental site plan regulations.

- 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 226, Subdivision of Land, the Planning Board shall attempt to integrate, as appropriate, site plan

review as required by this article 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 article shall apply.

ARTICLE IX
Off-Street Parking and Loading

§ 260-65. Off-street parking and loading requirements.

A. Off-street parking. The off-street parking requirements shall be as follows: **[Amended 10-15-2018 by L.L. No. 3-2018]**

Type of Use	Minimum Number of Off-Street Parking Spaces Required
Residential	
Single- and two-family dwellings	2 per dwelling
Multiple-family developments, garden apartments and townhouses	2 per dwelling
Home-operated barbershops and beauty shops	2 per beauty or barber chair, plus 1 for each nonresident employee, in addition to the off-street parking spaces required for the dwelling
Home occupations and professional offices	3 for client use, plus 1 for each nonresident employee, in addition to the off-street parking spaces required for the dwelling
Home-operated doctor or dentist offices	5 for clients, plus 1 for each nonresident employee, in addition to the off-street parking spaces required for the dwelling
Business	
Motels, hotels and auto courts	1 for every 150 square feet of gross floor area or major fraction thereof, but not less than 1 per sleeping or dwelling unit
Business and professional offices	1 for every 150 square feet of gross floor area or major fraction thereof
Banking offices	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.
Retail and service shops, except when otherwise specifically covered herein	1 for every 150 square feet of gross floor area or major fraction thereof

Type of Use	Minimum Number of Off-Street Parking Spaces Required
Stores for the retail sale of furniture, appliances or hardware	1 for every 500 square feet of gross floor area or major fraction thereof
Supermarkets and self-service food stores	1 for every 100 square feet of gross floor area or major fraction thereof
Laundromats	1 for every 2 washing machines
Motor vehicle service stations	1 for every 100 square feet of gross floor area or fraction thereof
Motor vehicle sales, including used car sales	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 fewer than 10 off-street parking spaces exclusively for customer use.
Car wash establishments (coin-operated)	4 entering each washing bay and 3 exiting each washing bay, plus 1 for each employee
Car wash establishments (automatic)	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
Commercial storage buildings (includes mini-warehouses)	1 for every 1,000 square feet of gross floor area
Restaurants, cafeterias, taverns and bars	1 for every 2 seats for customers, or 1 for every 25 square feet of floor area available to patrons, whichever is higher
Restaurants, fast-food	1 for every 100 square feet of gross floor area or fraction thereof
Funeral homes and mortuaries	15 per parlor, plus 1 for each employee
Medical or dental clinics or offices	5 for each doctor or dentist, plus 1 for each employee
Farm stands	3
Nursery or day-care centers	1 for each 2 children of capacity, plus 1 for each employee

Type of Use	Minimum Number of Off-Street Parking Spaces Required
Flea markets	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 booths, stands or outside display areas
Tourist homes, bed-and-breakfast establishments and rooming houses	2 for the family residing on the premises, plus 1 additional space for each lodging room
Industrial	
Industry; includes truck terminals	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.
Public and other uses	
Non-office public utility installations	5; except for box substations, where no off-street parking spaces shall be required
Parks and other outdoor recreation sites	5 for each gross acre of land up to 50 acres, and 1 per gross acre of land above 50 acres
Country clubs and golf courses	1 for each 200 square feet of floor area occupied by principal and accessory structures, except those used for parking purposes
Nursing and convalescing homes	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.

Type of Use	Minimum Number of Off-Street Parking Spaces Required
Auditoriums, churches, theaters, assembly halls and similar places of public and quasi-public assembly having fixed seating facilities	1 for every 3 seats in the main assembly hall
Auditoriums, exhibition halls, assembly halls, community centers, places of public and quasi-public and similar assembly not having fixed seating facilities	1 for every 150 square feet of gross floor area
Schools	4 for each classroom or 1 for every 3 seats in the auditorium, whichever is greater

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.
 - (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 two loading spaces. **[Amended 10-15-2018 by L.L. No. 3-2018]**
 - (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 shall 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 inches' 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.
- 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

§ 260-66. Purpose. [Amended 10-15-2018 by L.L. No. 3-2018]

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 structures in the Town, excluding the Village of Honeoye Falls and planned unit developments.

§ 260-67. 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.

§ 260-68. Permit required.

Except as indicated under § 260-71C, 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.

§ 260-69. 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.

§ 260-70. 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 ensure 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 § 260-73A 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 furthestmost 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 to 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, do not obstruct the view of, or cannot 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 § 260-71B(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.

§ 260-71. Permitted signs; 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 § 260-70D(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 § 260-70D(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 § 260-70D(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 subsections describe types of signs which shall be exempt from the permit process, provided such signs comply with the general requirements of this article and other conditions imposed by these regulations. Where uncertainty exists, the Code Enforcement Officer shall be consulted prior to proceeding. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- (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 shall be removed within 24 hours after such sale. In no case shall the total sign display 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.
- (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 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) 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.

§ 260-72. Administration and 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 § 260-70D(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.

§ 260-73. Application and appeal procedures.

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; 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 erector 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

§ 260-74. 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, except for a gate, which cannot exceed six feet in height. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- 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.
- 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

§ 260-75. 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 Electrical 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 capable of containing of water depth measuring more than 24 inches deep. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- G. Pools are to be used in such a manner so as not to create an annoyance or disturbance to neighboring residential properties. **[Amended 10-15-2018 by L.L. No. 3-2018]**

ARTICLE XIII
Lighting Regulations

§ 260-76. 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 the night sky.

§ 260-77. Applicability.

All private outdoor lighting shall be in conformance with the requirements of this article.

§ 260-78. 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 § 260-79.
- 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 5, Definitions and Word Usage, of the Town Code.

§ 260-79. Shielding requirements.

Shielding requirements shall be as follows:

Fixture/Lamp Type	Shielding Required
Low-/high-pressure sodium, metal halide and fluorescent over 50 watts	Fully
Incandescent over 160 watts	Fully
Incandescent 160 watts or less	None
Fossil fuel	None
Any light source of 50 watts or less	None

§ 260-80. Exceptions.

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.

§ 260-81. 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.

§ 260-82. Lighting standards.

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 Engineering Society of North America (IESNA) shall be observed.

§ 260-83. 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 article. 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.

§ 260-84. 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 Engineering 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.²⁹ 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.

§ 260-85. Light source visibility.

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

29. Editor's Note: See Banking Law Art. II-AA, § 75-a et seq.

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.

§ 260-86. 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.

§ 260-87. Mounting heights.

- A. Roof-mounted area lighting is prohibited.
- B. Mounting heights shall be no higher than 30 feet.

§ 260-88. 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.

§ 260-89. Nonconforming lighting.

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 luminaires 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.

ARTICLE XIV

Zoning Board of Appeals and Planning Board**§ 260-90. Creation, appointment and organization of Zoning Board of Appeals.**

- 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. No person who is a member of the Town Board shall be eligible for membership on such Zoning Board of Appeals. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- 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 a 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.

§ 260-91. 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.
- (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.

§ 260-92. 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. ³⁰A copy of the complete variance appeal or application and supporting documents shall also be transmitted to the Monroe County Department of Planning and Development for review when required under Article 12-B, §§ 239-l and 239-m, of the General Municipal Law and to neighboring municipalities when required under General Municipal Law § 239-nn. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- G. 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 to the applicant of the time set for the hearing.
 - (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.
- H. In its review, the Zoning Board of Appeals may consult with any other Town, county and state officials or boards.
- I. 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.

30. Editor's Note: Original Subsection F, regarding appeals for a use variance or applications for variances to parking or sign provisions, was repealed 10-15-2018 by L.L. No. 3-2018.

- J. 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.

§ 260-93. Zoning Board of Appeals office; minutes and records.

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 determinations, its examinations and other official actions.

§ 260-94. Lapse of authorization.

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.

§ 260-95. 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.

§ 260-96. 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. No person who is a member of the Town Board shall be eligible for membership on such Planning Board. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- 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.

§ 260-97. 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 the 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.

§ 260-98. Planning Board office; minutes and records.

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 determinations, its examinations and other official actions.

ARTICLE XV

Administration and Enforcement**§ 260-99. Code Enforcement Officer.**

The duty of administering and enforcing the provisions of this chapter is hereby conferred upon the Code Enforcement Officer (CEO), who shall have such powers as are conferred upon him by this chapter. The CEO shall 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.

§ 260-100. 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.

§ 260-101. 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.
 - (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.

§ 260-102. 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 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 and temporary 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 and to the Clerk of any adjacent municipality for review when required. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- (4) The application for a 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 62 days following the receipt of a complete application. Within 62 days from the date of such public hearing, the board shall, by resolution, either approve or disapprove the application so heard. The sixty-two-day period available to make a determination may be extended by mutual agreement of the applicant and the board. **[Amended 10-15-2018 by L.L. No. 3-2018]**
- (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.

§ 260-103. Application details.

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:

- 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**§ 260-104. 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 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.

§ 260-105. 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

§ 260-106. Zoning requirements by district. [Amended 10-15-2018 by L.L. No. 3-2018]

The zoning requirements according to district are as follows:

		Setback				
		(feet)				
District	Lot Size	Habitable Floor Area (square feet) or Lot Coverage	Front	Side	Rear	Building Height
RA-5	1 lot per 5 acres	1 story: 1,200	Town and county roads: 60	20	20	2 1/2 stories or 35 feet
	Lot width at ROW: 100 feet	Other: 1,500	State roads: 80			
	Lot width at building line: 300 feet					
RA-2	1 lot per 2 acres	1 story: 1,200	Town and county roads: 60	20	20	2 1/2 stories or 35 feet
	Lot width at ROW: 50 feet	Other: 1,500	State roads: 80			
	Lot width at building line: 200 feet					
RA-1	1 lot per acre	1 story: 1,200	Town and county roads: 60	20	20	2 1/2 stories or 35 feet
	Lot width at ROW: 50 feet	Other: 1,500	State roads: 80			
	Lot width at building line: 150 feet					

		Setback (feet)				
District	Lot Size	Habitable Floor Area (square feet) or Lot Coverage	Front	Side	Rear	Building Height
RS-30	1 lot per 30,000 square feet Lot width at ROW: 50 feet Lot width at building line: 100 feet	1 story: 1,000 Other: 1,200 25% coverage of lot	Town and county roads: 60 State roads: 80	15	20	2 1/2 stories or 35 feet
PUD	50 contiguous acres	See § 260-16.1				
B	Minimum to provide required setback plus structure	Structure not to exceed 40% coverage of lot and 30% green space required	Minimum 10 from ROW and generally in line with adjacent structure Side adjacent to residential district: 100	30	30	2 1/2 stories or 35 feet
I	Minimum to provide required setback plus structure	Structure not to exceed 40% coverage of lot or 40,000 square feet	Town and county roads: 60 State roads: 80	30	30	2 1/2 stories or 35 feet, excluding required antennas and towers

District	Lot Size	Habitable Floor Area (square feet) or Lot Coverage	Setback (feet)			Building Height
			Front	Side	Rear	
			Side adjacent to residential district: 150			

Derivation Table**Chapter DT****DERIVATION TABLE****§ DT-1. Derivation Table of 1994 Code to 2018 Code.**

REP = Repealed effective with adoption of Code; see Ch. 1.

NI = Not included in Code but saved from repeal.

Chapter/Title from 1994 Code	Location in 2018 Code
Part I, Administrative Legislation	
Ch. 1, General Provisions	
Art. I, Adoption of Code	See Ch. 1
Art. II, General Penalty	Ch. 9
Ch. 10, Defense and Indemnification	Ch. 19
Ch. 12, Environmental Conservation Board	Ch. 12, Art. I
Ch. 14, Employee Suggestion Program	REP
Ch. 16, Ethics, Code of	Ch. 24
Ch. 26, Investment Policy	NI
Ch. 38, Ordinances, Publication of	REP
Ch. 50, Recreation Commission	REP
Part II, General Regulations	
Ch. 57, Abandoned Cemeteries	Ch. 128, Art. I
Ch. 59, Animals	
Art. I, Dogs	Ch. 105, Art. I
Ch. 62, Bingo and Games of Chance	
Art. I, Games of Chance	Ch. 113, Art. I
Art. II, Bingo	Ch. 113, Art. II
Ch. 70, Buildings, Unsafe	Ch. 117
Ch. 72, Burials	Ch. 128, Art. II
Ch. 74, Burning, Outdoor	Ch. 121
Ch. 86, Definitions and Word Usage	Ch. 5
Ch. 91, Electrical Inspections	Ch. 134
Ch. 94, Environmental Protection Overlay Districts	Ch. 138
Ch. 97, Excavations	Ch. 178, Art. II
Ch. 97A, Farming	Ch. 142

Chapter/Title from 1994 Code	Location in 2018 Code
Ch. 98, Fees	Ch. 7
Ch. 99, Fire Alarm Systems	Ch. 146
Ch. 111, Freshwater Wetlands	Ch. 150
Ch. 121, Historic Areas, Preservation of	Ch. 159
Ch. 135, Landfills	REP
Ch. 136, Littering	Ch. 212, Art. II
Ch. 138, Mining and Excavation	Ch. 178, Art. I
Ch. 144, Noise	Ch. 184
Ch. 148, Official Map	Ch. 62
Ch. 150, Overnight Parking	Ch. 247, Art. II
Ch. 153, Parks and Recreation	Ch. 190
Ch. 156, Peddling and Soliciting	Ch. 194
Ch. 160, Records	
Art. I, Public Access	Ch. 200, Art. I
Art. II, Management	Ch. 200, Art. II
Ch. 165, Solid Waste	
Art. I, Solid Waste Management	Ch. 212, Art. I
Ch. 167, Storm Sewers	
Art. I, Illicit Discharges and Connections	Ch. 206, Art. I
Ch. 168, Stormwater Management	
Art. I, Construction Stormwater Pollution Prevention and Erosion and Sediment Control	Ch. 217, Art. II
Art. II, Design and Maintenance of Postconstruction Stormwater Pollution Prevention Measures	Ch. 217, Art. III
Ch. 170, Streets and Sidewalks	
Art. I, Prior Notice of Defects	Ch. 222, Art. I
Ch. 174, Subdivision of Land	Ch. 226
Ch. 182, Taxation	
Art. I, Senior Citizens Tax Exemption	Ch. 230, Art. I
Art. II, Agricultural Assessment for Fire and Ambulance Districts	Ch. 230, Art. II
Art. III, Veterans Tax Exemption	Ch. 230, Art. III
Art. IV, Assessment of Condominium Conversions	Ch. 230, Art. IV
Art. V, Exemption for Historic Property	Ch. 230, Art. V

Chapter/Title from 1994 Code	Location in 2018 Code
Art. VI, Exemption for Persons With Disabilities and Limited Incomes	Ch. 230, Art. VI
Art. VII, Gold Star Parents Exemption	Ch. 230, Art. VII
Art. VIII, Exemption for Living Quarters of Parents and Grandparents	Ch. 230, Art. VIII
Art. IX, Exemption for Property Improvements to Assist Physically Disabled Persons	Ch. 230, Art. IX
Ch. 187, Trailers	Ch. 234
Ch. 190, Uniform Code Enforcement	Ch. 241
Ch. 194, Vehicles, Abandoned	Ch. 247, Art. I
Ch. 200, Zoning	Ch. 260

Disposition List

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition List.

L.L. No.	Adoption Date	Subject	Disposition
1-1994	1-24-1994	Vehicles and Traffic: Overnight Parking	Ch. 247, Art. II
2-1994	2-14-1994	Subdivision of Land Amendment	Ch. 226
3-1994	3-14-1994	Preservation of Historic Areas	Ch. 159
4-1994	6-13-1994	Zoning Moratorium	NCM
5-1994	6-13-1994	Zoning Amendment	Repealed by L.L. No. 5-2000
6-1994	6-27-1994	Zoning Moratorium	NCM
7-1994	11-28-1994	Adoption of 1994 Code	Superseded by L.L. No. 3-2018
1-1995	4-24-1995	Fire Alarm Systems	Ch. 146
2-1995	5-22-1995	Employee Suggestion Program	Repealed by L.L. No. 3-2018
3-1995	6-26-1995	Zoning Amendment	Repealed by L.L. No. 7-1998 and by L.L. No. 5-2000

L.L. No.	Adoption Date	Subject	Disposition
4-1995	8-28-1995	Retirement Incentive Program	NCM
5-1995	10-10-1995	Subdivision of Land Amendment; Zoning Amendment	Superseded by L.L. No. 6-2007 and L.L. No. 6-2000
6-1995	12-11-1995	Zoning Amendment	Repealed by L.L. No. 5-2000
7-1995	12-28-1995	Zoning Amendment	Repealed by L.L. No. 5-2000
1-1996	2-12-1996	Taxation: Senior Citizens Tax Exemption Amendment	Ch. 230, Art. I
2-1996	2-12-1996	Taxation: Veterans Tax Exemption	Ch. 230, Art. III
3-1996	5-28-1996	Planning Board Amendment	Repealed by L.L. No. 3-2004
4-1996	7-22-1996	Retirement Incentive Program	NCM
5-1996	9-23-1996	Zoning Moratorium	NCM
6-1996	10-28-1996	Taxation: Senior Citizens Tax Exemption Amendment	Ch. 230, Art. I
1-1997	3-10-1997	Taxation: Veterans Tax Exemption Amendment	Ch. 230, Art. III
2-1997	3-24-1997	Preservation of Historic Areas Amendment	Ch. 159
3-1997	4-14-1997	Zoning Moratorium Extension	NCM
4-1997	6-23-1997	Excavations Amendment	Ch. 178, Art. II
5-1997	6-23-1997	Subdivision of Land Amendment; Zoning Amendment	Superseded by L.L. No. 10-1997
6-1997	7-14-1997	General Penalty Amendment	Ch. 9
Ord.	7-14-1997	Parks and Recreation	Ch. 190
7-1997	10-14-1997	Definitions and Word Usage Amendment; Zoning Amendment	Superseded by L.L. No. 8-1997; repealed by L.L. No. 5-2000

L.L. No.	Adoption Date	Subject	Disposition
8-1997	11-10-1997	Excavations; Landfills (repealed); Peddling and Soliciting; Subdivision of Land; Trailers; and Abandoned Vehicles Amendment	Ch. 178, Art. II; Ch. 194; Ch. 226; Ch. 234; Ch. 247, Art. I
9-1997	12-8-1997	Taxation: Assessment of Condominium Conversions	Ch. 230, Art. IV
10-1997	12-8-1997	Subdivision of Land Amendment	Superseded by L.L. No. 6-2007
1-1998	1-12-1998	Vehicles and Traffic: Abandoned Vehicles Amendment	Ch. 247, Art. I
2-1998	1-12-1998	Preservation of Historic Areas Amendment	Ch. 159
3-1998	1-12-1998	Landfills Amendment	Repealed by L.L. No. 3-2018
4-1998	2-9-1998	Taxation: Exemption for Historic Property	Ch. 230, Art. V
5-1998	2-23-1998	Zoning Amendment	Repealed by L.L. No. 5-2000
6-1998	4-13-1998	Animals: Dog Control Amendment	Ch. 105, Art. I
7-1998	7-13-1998	Zoning Amendment	Repealed by L.L. No. 5-2000
8-1998	11-23-1998	Taxation: Exemption for Persons with Disabilities and Limited Incomes	Ch. 230, Art. VI
1-1999	1-11-1999	Parks and Recreation Amendment	Ch. 190
2-1999	2-8-1999	Taxation: Senior Citizens Tax Exemption Amendment	Ch. 230, Art. I
3-1999	5-10-1999	Animals: Dog Control Amendment	Ch. 105, Art. I
4-1999	9-13-1999	Defense and Indemnification Amendment	Ch. 19
1-2000	1-3-2000	Fees	Ch. 7
2-2000	1-10-2000	Procurement Policy Repealer	Repealer only

L.L. No.	Adoption Date	Subject	Disposition
3-2000	2-15-2000	Taxation: Exemption for Persons with Disabilities and Limited Incomes Amendment	Ch. 230, Art. VI
4-2000	2-28-2000	Preservation of Historic Areas Amendment	Ch. 159
5-2000	12-11-2000	Repeal of Former Zoning Law (former Ch. 19)	Repealer only
6-2000	12-11-2000	Zoning	Superseded by L.L. No. 4-2007
7-2000	12-11-2000	Zoning Map Amendment	NCM
1-2001	1-8-2001	Farming	Ch. 142
2-2001	3-26-2001	Farming Amendment	Ch. 142
3-2001	3-26-2001	Taxation: Exemption for Persons with Disabilities and Limited Incomes Amendment	Ch. 230, Art. VI
4-2001	3-26-2001	Taxation: Senior Citizens Tax Exemption Amendment	Ch. 230, Art. I
5-2001	3-26-2001	Taxation: Gold Star Parents Exemption	Ch. 230, Art. VII
6-2001	3-26-2001	Taxation: Exemption for Living Quarters for Parents and Grandparents	Ch. 230, Art. VIII
7-2001	8-13-2001	Mining	Ch. 178, Art. I
8-2001	8-13-2001	Excavations	Ch. 178, Art. II
9-2001	8-13-2001	Boards and Commissions: Environmental Conservation Board	Ch. 12, Art. II
10-2001	10-22-2001	Solid Waste: Littering	Ch. 212, Art. II
1-2002	2-11-2002	Official Map	Ch. 62
2-2002	5-1-2002	Board of Assessment Review Meeting Dates for 2002	NCM
3-2002	6-10-2002	Zoning Amendment	Superseded by L.L. No. 4-2007
4-2002	6-10-2002	Definitions and Word Usage Amendment	Superseded by L.L. No. 5-2007
5-2002		Retirement Incentive	NCM

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6-2002	10-28-2002	Meetings and Public Hearings Repealer	Repealer only
1-2003	1-27-2003	Taxation: Senior Citizens Tax Exemption Amendment	Ch. 230, Art. I
2-2003	1-27-2003	Taxation: Exemption for Persons with Disabilities and Limited Incomes Amendment	Ch. 230, Art. VI
3-2003	4-14-2003	Fire Prevention and Building Construction Repealer	Repealer only
4-2003	4-14-2003	Uniform Code Enforcement	Superseded by L.L. No. 7-2007
5-2003	4-28-2003	Cemeteries and Burials: Abandoned Cemeteries	Ch. 128, Art. I
6-2003	4-28-2003	Cemeteries and Burials: Burials	Ch. 128, Art. II
7-2003	5-12-2003	Boards and Commissions: Environmental Conservation Board Amendment	Ch. 12, Art. I
8-2003	7-14-2003	Subdivision of Land Amendment	Superseded by L.L. No. 6-2007
9-2003	7-14-2003	Preservation of Historic Areas Amendment	Ch. 159
10-2003	7-14-2003	Moratorium	NCM
1-2004	2-23-2004	Taxation: Senior Citizens Tax Exemption Amendment	Ch. 230, Art. I
2-2004	2-23-2004	Taxation: Exemption for Persons with Disabilities and Limited Incomes Amendment	Ch. 230, Art. VI
3-2004	3-8-2004	Planning Board Repealer	Repealer only
4-2004	3-8-2004	Planning Board	Repealed by L.L. No. 1-2006
5-2004	3-8-2004	Zoning Amendment	Superseded by L.L. No. 4-2007
6-2004	4-26-2004	Board of Assessment Review Meeting Date	NCM

L.L. No.	Adoption Date	Subject	Disposition
7-2004	8-9-2004	Definition and Word Usage Amendment	Superseded by L.L. No. 5-2007
8-2004	8-9-2004	Zoning Amendment	Superseded by L.L. No. 4-2007
9-2004	10-25-2004	Zoning Amendment	Superseded by L.L. No. 4-2007
10-2004	11-8-2004	Zoning Map Amendment	NCM
1-2006	1-9-2006	Zoning Amendment; Planning Board Repealer	Superseded by L.L. No. 4-2007
2-2006	1-23-2006	Moratorium on Approval of Residential Subdivisions	NCM
3-2006	2-27-2006	Taxation: Veterans Tax Exemption Amendment	Ch. 230, Art. III
4-2006	2-27-2006	Preservation of Historic Areas Amendment	Ch. 159
5-2006	4-10-2006	Taxation: Exemption for Property Improvements to Assist Physically Disabled Persons	Ch. 230, Art. IX
6-2006	7-10-2006	Extension of Moratorium on Approval of Residential Subdivisions	NCM
7-2006	9-11-2006	Zoning Map Amendment	NCM
1-2007	1-22-2007	Extension of Moratorium on Approval of Residential Subdivisions	NCM
2-2007	2-26-2007	Taxation: Senior Citizens Tax Exemption Amendment	Ch. 230, Art. I
3-2007	2-26-2007	Taxation: Exemption for Persons with Disabilities and Limited Incomes Amendment	Ch. 230, Art. VI
4-2007	3-26-2007	Zoning	Repealed by L.L. No. 3-2013
5-2007	3-26-2007	Definitions and Word Usage	Repealed by L.L. No. 3-2013
6-2007	4-23-2007	Subdivision of Land	Ch. 226
7-2007	5-14-2007	Uniform Code Enforcement	Ch. 241

L.L. No.	Adoption Date	Subject	Disposition
8-2007	10-15-2007	Taxation: Senior Citizens Tax Exemption Amendment	Ch. 230, Art. I
9-2007	11-26-2007	Stormwater Management: Construction Stormwater Pollution Prevention and Erosion and Sediment Control	Ch. 217, Art. II
10-2007	11-26-2007	Stormwater Management: Design and Management of Postconstruction Stormwater Pollution Prevention Measures	Ch. 217, Art. III
11-2007	12-10-2007	Sewers: Illicit Discharges and Connections to Storm Sewers	Ch. 206, Art. I
1-2008	8-11-2008	Definitions and Word Usage Amendment; zoning Amendment	Repealed by L.L. No. 3-2013
2-2008	12-29-2008	Taxation: Veterans Tax Exemption Amendment	Ch. 230, Art. III
1-2010	4-26-2010	Dissolving Mendonshire Lighting District	NCM
1-2011	2-28-2011	Animals: Dog Licensing	Ch. 105, Art. II
2-2011	10-17-2011	Officers and Employees: Residency Restrictions for Court Clerk	Ch. 58, Art. I
1-2012	2-13-2012	Moratorium on Hydraulic Fracturing	NCM
2-2012	10-15-2012	Boards and Commissions: Environmental Conservation Board Amendment	Ch. 12, Art. I
3-2012	10-15-2012	Board and Commissions: Library Board of Trustees	Ch. 12, Art. III
1-2013	2-11-2013	Moratorium on Hydraulic Fracturing	NCM
2-2013	2-11-2013	Officers and Employees: Residency Restrictions for Deputy Town Attorney, Planning Board Attorney and Assessor	Ch. 58, Art. II

L.L. No.	Adoption Date	Subject	Disposition
3-2013	10-7-2013	Definitions and Word Usage; Environmental Protection Overlay Districts; Zoning	Ch. 5; Ch. 138; Ch. 260
1-2014	1-7-2014	Preservation of Historic Areas Amendment	Ch. 159
1-2017	5-8-2017	Definitions and Word Usage Amendment; Zoning Amendment	Ch. 5; Ch. 260
2-2017	7-17-2017	Taxation: Solar, Wind and Farm Waste Energy Systems	Ch. 230, Art. X
1-2018	1-8-2018	Taxation: Veterans Tax Exemption Amendment	Ch. 230, Art. III
2-2018	3-12-2018	Taxation: Microhydroelectric Energy Systems, Fuel Cell Electric Generating Systems, Microcombined Heat and Power Generating Systems and Electric Energy Storage Systems	Ch. 230, Art. XI
3-2018	10-15-2018	Adoption of Code	Ch. 1
1-2019	7-29-2019	Adoption of Code	Ch. 1